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# federal register

Wednesday
February 1, 1989

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**WHO:** The Office of the Federal Register.

**WHAT:** Free public briefings (approximately 3 hours) to present:

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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:** February 28, at 9:00 a.m.
**WHERE:** Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC
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### AUSTIN, TX

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**WHERE:** Lyndon Baines Johnson Library 8th Floor, 2313 Red River Street, Austin, TX
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# Presidential Documents

Title 3—

The President

Presidential Determination No. 89–10 of January 18, 1989

## Determination To Authorize Assistance for the United Nations Peacekeeping Forces for Namibia and Angola

**Memorandum for the Secretary of State**

By virtue of the authority vested in me by Section 451 of the Foreign Assistance Act of 1961, as amended (the Act), I hereby:

(1) authorize the use of up to $10 million in funds made available under Chapter 4 of Part II of the Act in each of the Fiscal Years 1985 and 1986, and up to $5 million of funds made available under such chapter in Fiscal Year 1988, for emergency assistance to the United Nations Transition Assistance Group for Namibia and the United Nations Angola Verification Mission, in an aggregate amount not to exceed $25 million; and

(2) authorize the furnishing of such assistance in accordance with the provisions of Chapter 6 of Part II of the Act.

You are requested to report this determination to the Speaker of the House of Representatives and the Senate Committees on Foreign Relations and Appropriations immediately. The assistance provided herein shall be furnished only after such report has been made. This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
*Washington, January 18, 1989.*

[FR Doc. 89–2502
Filed 1–30–89; 4:52 pm]
Billing code 3195–01–M

# Rules and Regulations

Federal Register
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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### 7 CFR Part 1

### Administrative Regulations; Privacy Act Regulations

**AGENCY:** Office of the Secretary, USDA.
**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) hereby amends 7 CFR 1.123 by adding one system of records to those exempted from certain sections of the Privacy Act of 1974 (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(k). Notice of the amendments, inviting public comments, was published as a proposed rule in the **Federal Register** on August 12, 1988, at 53 FR 30435. No public comments were received. The final rule, as published, is identical to the proposed rule, except for technical corrections.

**DATE:** The amendments are effective March 3, 1989.

**FOR FURTHER INFORMATION CONTACT:** Barbara S. Good, Office of the General Counsel, USDA (202) 447–3564.

**SUPPLEMENTARY INFORMATION:** These amendments are necessary to provide for exemption of a proposed new Privacy Act system of records entitled "FCIC Compliance Review Cases, USDA/FCIC–2."

A separate notice regarding USDA/FCIC–2 was published on December 23, 1988, at 53 FR 51867. The proposed new system will contain detailed information pertaining to cases in which the Federal Crop Insurance Corporation (FCIC) Office of Compliance is involved. The information is collected during the course of reviews and investigations conducted by the Office of Compliance and includes investigative notes, signed statements, affirmations and affidavits, correspondence, case history and status, contractual information, financial data and other related information, and reported findings by the Office of Compliance and other entities such as the Office of Inspector General, USDA.

The authority for maintenance of this system is found at 7 U.S.C. 1501–1520. That legislation authorizes FCIC to conduct compliance activities pertaining to the provision of crop insurance coverage and the adjustment and payment of claims thereon.

This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order No. 12291 and has been determined not to be a "major rule" since it will not have an annual effect on the economy of $100 million or more.

In addition, it has been determined that these rules will not have a significant economic impact on a substantial number of small entities.

### List of Subjects in 7 CFR Part 1

Privacy.

For the reasons set out in the preamble, 7 CFR, Subtitle A, Part 1, Subpart G, § 1.123 of the Code of Federal Regulations is amended as set forth below:

### PART 1—[AMENDED]

1. The authority citation for Part 1, Subpart G, continues to read as follows:

Authority: 5 U.S.C. 552a

### § 1.123 [Amended]

2. Part 1, Subpart G—Privacy Act Regulations, § 1.123 is amended by adding an entry for Federal Crop Insurance Corporation alphabetically to read as follows:

* * * * *

FEDERAL CROP INSURANCE CORPORATION

FCIC Compliance Review Cases, USDA/FCIC–2

* * * * *

Done this 26th day of January 1989, at Washington, D.C.

**Peter C. Myers,**

*Acting Secretary of Agriculture.*

[FR Doc. 89–2279 Filed 1–31–89; 8:45 am]
BILLING CODE 3410–14–M

## Packers and Stockyards Administration

### 9 CFR Part 201

### Regulations Under the Packers and Stockyards Act; Scales Accuracy and Accurate Weights

**AGENCY:** Packers and Stockyards Administration, USDA.
**ACTION:** Final rule.

**SUMMARY:** The action amends a regulation concerning scale accuracy and accurate weights, to update an incorporation by reference of a National Bureau of Standards Handbook, to refer to the latest edition thereof. The proposal will not require replacement of scales which comply with the previous requirements.

**EFFECTIVE DATE:** March 3, 1989.

**FOR FURTHER INFORMATION CONTACT:** Harold W. Davis, Director, Livestock Marketing Division, Room 3408—South Building, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6951.

**SUPPLEMENTARY INFORMATION:** The Packers and Stockyards Administration proposed a revision in the July 22, 1988 **Federal Register** (53 FR 27770) to incorporate the 1988 edition of the Handbook. No comments were received on the revision. The change which appears in this final rule is the same as that proposed, except that the 1989 edition, which has been issued in the meantime, is incorporated instead of the 1988 edition.

Section 201.71(a) of the regulations requires that all subject scales shall be installed, maintained and operated to insure accurate weights. This part of the regulation also incorporates, by reference, portions of the 1983 edition of the National Bureau of Standards Handbook 44, "Specifications, Tolerances and other Technical Requirements for Weighing and Measuring Devices." Handbook 44 is a product of the National Conference on Weights and Measures and is subject to change annually. It is adopted automatically by a majority of States and forms the basis for scale requirements for all State weights and measures jurisdiction in the United States. The 1989 edition of Handbook 44 contains provisions not included in the

1983 edition. These new provisions are being applied by State and local weights and measures jurisdictions. The amendment to regulation 201.71(a) to incorporate, by reference, the 1989 edition of Handbook 44 would make the requirements of the Packers and Stockyards Administration uniform with those applied by State and local weights and measures jurisdictions. Parts (b), (c) and (d) of the regulation will not be changed.

The major differences between the 1983 edition of Handbook 44 and the 1989 edition result from the adoption by the National Conference on Weights and Measures of a new scale code which became effective and enforceable on January 1, 1986. The new scale code is applicable to scales manufactured after January 1, 1986 for most classes of scales but is applicable in part to all livestock and motor vehicle scales. The new scale code requires that new devices be marked with accuracy classes and institutes a different concept in tolerance application. Under the new scale code, tolerances are based on incremental values depending on the number of scale divisions comprised in a specific test load. For livestock and motor vehicle scales, the basic tolerance is 1 scale division error for each 500 divisions of test load. This is equivalent to the old basic tolerance of 0.2% of test load but is applied in an incremental fashion rather than in a linear fashion as with the old relative value tolerance. This results in a slightly more liberal tolerance at the lower end of each 500 division segment on some mechanical scales. Device manufacturers and scale service agencies are held accountable for compliance with the accuracy class marketing requirement which they must meet in order for their devices to be accepted by the State weights and measures jurisdictions.

**Executive Order 12291**

It has been determined that the amendment relating to scale accuracy and accurate weights is not a "major" rule as defined by section 1(b) of E.O. 12291.

The rule will not have an annual effect on the economy of $100 million or more, will not result in major increases in cost or prices for consumers, individual industries, Government agencies or geographic regions, and will not have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, regulatory impact analyses are not required.

**Regulatory Flexibility Act**

B.H. (Bill) Jones, Administrator, Packers and Stockyards Administration, has determined that this rule will not have a significant economic impact on a substantial number of small entities.

**Paperwork Reduction Act of 1980**

This rule does not impose any paperwork requirement.

**List of Subjects in 9 CFR Part 201**

Scales, Accurate weights.

Accordingly, 9 CFR Part 201 is amended as set forth below.

Done at Washington, DC this 26th day of January, 1989.

**B. H. (Bill) Jones,**

*Administrator, Packers and Stockyards Administration.*

## PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

1. The authority citation for Part 201 is revised to read as follows:

**Authority:** 7 U.S.C. 222, 228(a), 7 CFR 2.17(e), 2.56.

2. Section 201.71(a) is revised to read as follows:

**§ 201.71 Scales; accurate weights, repairs, adjustments or replacements after inspection.**

(a) All scales used by stockyard owners, market agencies, dealers, packers, and live poultry dealers to weigh livestock, livestock carcasses, or live poultry for the purpose of purchase, sale, acquisition, or settlement shall be installed, maintained, and operated to insure accurate weights. Such scales shall meet applicable requirements contained in the General Code, Scale Code, and Weights Code of the 1989 edition of the National Bureau of Standards Handbook 44, "Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices", which is hereby corporated by reference. This incorporation by reference was approved by the Director of the Federal Register on January 11, 1989. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**. Handbook 44 is subject to change annually. This handbook is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW., Washington, DC 20408.

* * * * *

[FR Doc. 89-2280 Filed 1-31-89; 8:45 am]

BILLING CODE 3410-KD-M

## FARM CREDIT ADMINISTRATION

### 12 CFR Parts 615 and 618

### Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions; Effective Date

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice of effective date.

**SUMMARY:** The Farm Credit Administration (FCA) published final regulations under Parts 615 and 618, October 6, 1988 (53 FR 39229). The final regulations to Parts 615 and 618 establish minimum permanent capital standards for Farm Credit System institutions and require them to adopt capital adequacy plans that enable them to meet such standards. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is February 1, 1989.

**EFFECTIVE DATE:** February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:**

William G. Dunn, Chief, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4402

or

Dorothy J. Acosta, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 883-4444.

(Authority: 12 U.S.C. 2252(a)(9) and (10))

Dated: January 27, 1989.

**David A. Hill,**

*Secretary, Farm Credit Administration.*

[FR Doc. 89-2370 Filed 1-31-89; 8:45 am]

BILLING CODE 6705-01-M

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Part 271**

**[Docket No. RM80-53]**

## Natural Gas Policy Act; Maximum Lawful Prices and Inflation Adjustment Factors

**AGENCY:** Federal Energy Regulatory Commission, DOT.

**ACTION:** Order of the Director, OPPR.

**SUMMARY:** Pursuant to the authority delegated by 18 CFR 375.307(c)(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of February, March, and April, 1989. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

**EFFECTIVE DATE:** February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Garry L. Penix, (202) 357-8666.

**SUPPLEMENTARY INFORMATION:**

### Order of the Director, OPPR

Issued January 27, 1989.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(c)(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of February, March, and April 1989 are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103(b)(1), 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to January 1989 are found in the tables in §§ 271.101 and 271.102.

**List of Subjects in 18 CFR Part 271**

Natural gas.

**Kevin P. Madden,**

*Director, Office of Pipeline and Producer Regulation.*

### PART 271—[AMENDED]

The authority citation for Part 271 continues to read as follows:

**Authority:** Natural Gas Act, 15 U.S.C. 717-717w (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982).

**§ 271.101 [Amended]**

2. Section 271.101(a) is amended by adding the maximum lawful prices for February, March, and April, 1989 in Tables I and II.

TABLE I.—NATURAL GAS CEILING PRICES (OTHER THAN NGPA SECTIONS 104 AND 106(a))

| Subpart of Part 271 | NGPA section | Category of gas | Maximum lawful price per MMBtu for deliveries in— | | |
|---|---|---|---|---|---|
| | | | Feb. 1989 | Mar. 1989 | Apr. 1989 |
| B | 102 | New Natural Gas, Certain OCS Gas [1] | $5.165 | $5.202 | $5.239 |
| C | 103(b)(1) | New Onshore Production Wells [2] | 3.384 | 3.398 | 3.412 |
| E | 105(b)(3) | Intrastate Existing Contracts | 4.970 | 5.002 | 5.034 |
| F | 106(b)1(B) | Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas [3] | 1.935 | 1.943 | 1.951 |
| G | 107(c)(5) | Gas Produced from Tight Formations | 6.768 | 6.796 | 6.824 |
| H | 108 | Stripper Gas | 5.530 | 5.569 | 5.609 |
| I | 109 | Not Otherwise Covered [4] | 2.802 | 2.813 | 2.824 |

[1] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 102(c) was deregulated. (See Part 272 of the Commission's regulations.)

[2] Commencing January 1, 1985, and July 1, 1987, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 was deregulated. (See Part 272 of the Commission's regulations.) Thus, for all months succeeding June 1987 publication of a maximum lawful price per MMBtu under NGPA section 103(b)(2) is discontinued.

[3] Section 271.602(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in this Table. This alternative Maximum Lawful Price for each month appears in this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas was deregulated. (See Part 272 of the Commission's regulations.)

[4] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formation gas applies on or after July 16, 1979. (See § 271.703 and § 271.704.)

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(a) (SUBPART D, PART 271)

| Category of natural gas | Type of sale or contract | Maximum lawful price per MMBtu for deliveries made in— | | |
|---|---|---|---|---|
| | | Feb. 1989 | Mar. 1989 | Apr. 1989 |
| Post-1974 gas | All producers | $2.802 | $2.813 | $2.824 |
| 1973-1974 Biennium gas | Small producer | 2.366 | 2.375 | 2.384 |
| | Large producer | 1.811 | 1.818 | 1.825 |
| Interstate Rollover gas | All producers | 1.040 | 1.044 | 1.048 |
| Replacement contract gas or recompletion gas | Small producer | 1.330 | 1.335 | 1.340 |
| | Large producer | 1.019 | 1.023 | 1.027 |
| Flowing gas | Small producer | 0.671 | 0.674 | 0.677 |
| | Large producer | 0.567 | 0.569 | 0.571 |
| Certain Permian Basin gas | Small producer | 0.793 | 0.796 | 0.799 |
| | Large producer | 0.700 | 0.703 | 0.706 |
| Certain Rocky Mountain gas | Small producer | 0.793 | 0.796 | 0.799 |
| | Large producer | 0.671 | 0.674 | 0.677 |
| Certain Appalachian Basin gas | North subarea contracts dated after 10-7-69 | 0.637 | 0.640 | 0.643 |

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(a) (SUBPART D, PART 271)—Continued

| Category of natural gas | Type of sale or contract | Maximum lawful price per MMBtu for deliveries made in— | | |
|---|---|---|---|---|
| | | Feb. 1989 | Mar. 1989 | Apr. 1989 |
| Minimum rate gas [1] | Other contracts | $0.591 | $0.593 | $0.595 |
| | All producers | 0.350 | 0.351 | 0.352 |

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.
[2] This price may also be applicable to other categories of gas (see §§ 271.402 and 271.602).

**§ 271.102 [Amended]**

3. Section 271.102(c) is amended by adding the inflation adjustment for the month of February, March, and April 1989 in Table III.

TABLE III.—INFLATION ADJUSTMENT

| Month of delivery 1989 | Factor by which price in preceding month is multiplied |
|---|---|
| February | 1.00399 |
| March | 1.00399 |
| April | 1.00399 |

[FR Doc. 89-2328 Filed 1-31-89; 8:45 am]
BILLING CODE 6717-01-M

## DEPARTMENT OF THE TREASURY

### Customs Service

### 19 CFR Parts 148 and 162

[T.D. 89-22]

## Preclearance of Passengers and Baggage in a Foreign Country

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Interim rule; solicitation of comments.

**SUMMARY:** For many years the Customs Service has maintained stations at airports in certain foreign countries where advance clearance (preclearance) of passengers and their baggage is conducted. This clearance avoids delays and other inconveniences when a flight reaches the U.S. port of entry. Recent legislation provides a specific statutory basis for the preclearance program which had been previously based on various non-statutory authorities. In addition to clarifying that a preclearance program may be established, that Customs officers may be stationed at foreign locations, and that U.S. Customs and related laws are made applicable at those locations, the legislation provides that the Secretary of the Treasury may require persons processed at preclearance stations to comply with U.S. Customs and related laws which shall apply in the same manner as if the foreign station were a port of entry within the Customs territory of the United States.

**EFFECTIVE DATE:** February 1, 1989. Written comments must be received on or before April 3, 1989.

**FOR FURTHER INFORMATION CONTACT:** Robert J. Heiss, Office of Passenger Enforcement and Facilitation, (202) 566-5607.

**SUPPLEMENTARY INFORMATION:**

### Background

The Customs Service has established facilities listed in § 101.5, Customs Regulations (19 CFR 101.5), at certain foreign airports for the preclearance of passengers and baggage in advance of the arrival of flights to the United States. This preclearance provides for faster and more efficient service to international travelers and the avoidance of delays and inconvenience at the port of arrival. The preclearance program, which has been in effect for over 35 years, has been based on various non-statutory authorities and executive agreements with the countries where the inspection stations are located (Canada, Bermuda, and The Bahamas).

Certain provisions of the Anti-Drug Abuse Act of 1986 (Pub. L. 99-570) found in 19 U.S.C. 1629 provide specific statutory authority for the preclearance program. That Act permits, when authorized by treaty or executive agreement, the stationing of Customs officers in foreign countries. It authorizes Customs officers so stationed to discharge their duties, the seizure and forfeiture or merchandise under U.S. law, and arrests. It also permits the Secretary to require compliance with Customs and related U.S. laws in the same manner as if the violation took place in the Customs territory of the United States.

### Comments

Before adopting these interim regulations as a final rule, consideration will be given to any written comments (preferably in triplicate) timely submitted. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, Customs Service Headquarters, Room 2119, 1301 Constitution Avenue, NW., Washington, DC 20229.

### Inapplicability of Notice and Delayed Effective Date Requirements

Inasmuch as these amendments implement already enacted statutory changes, it is deemed to be in the public interest to make the regulatory changes as soon as possible. Accordingly, the

normal advance notice and public procedure are unnecessary pursuant to 5 U.S.C. 553(b)(B). For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

**Executive Order 12291**

Because this document will not result in a "major rule" as defined in E.O. 12291, a regulatory impact analysis is not required.

**Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), do not apply.

**Drafting Information**

The principal author of this document was James C. Hill, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

**List of Subjects**

*19 CFR Part 148*

Airmen, Customs duties and inspections, Foreign officials, Government employees, Household goods, Imports, International organizations, Military personnel, Motor vehicles, Seamen, Tobacco, Taxes.

*19 CFR Part 162*

Administrative practice and procedure, Law enforcement, Penalties, Search warrants, Seizures and forfeitures, Reporting and recordkeeping requirements.

**Amendments to the Regulations**

Parts 148 and 162, Customs Regulations (19 CFR Parts 148, 162), are amended as set forth below.

## PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority citation for Part 148 remains unchanged and a new specific authority for § 148.22 is added. The citations of authority will read as follows:

**Authority:** 19 U.S.C. 66, 1498, 1624. The provisions of this part, except for Subpart C, are also issued under 19 U.S.C. 1202 (Gen. Headnote 11);

* * * * *

Section 148.22 also issued under 19 U.S.C. 1629.

* * * * *

2. Section 148.22 is amended by revising paragraph (a) to read as follows:

**§ 148.22 Examination of air travelers' baggage in foreign territory.**

(a) *Examination and surrender of declaration.* When places have been established in a foreign country where U.S. Customs officers have been stationed for the purpose of conducting Customs inspections and examinations (see §§ 101.5 and 162.8 of this chapter), persons destined to the United States on flights shall present themselves to those officers for inspection and examination of their baggage which may be passed in accordance with § 148.23 prior to boarding the flight. They shall comply with all U.S. Customs laws and other civil and criminal laws of the United States relating to importation of merchandise, including baggage, to the filing of false or fraudulent statements, and to the unlawful removal of merchandise from Customs custody, in the same manner as if the passengers, were arriving at an airport within the Customs territory of the United States. When baggage is examined in foreign territory, the baggage declaration shall be surrendered to the Customs officer at the airport of departure for the United States prior to boarding the flight.

* * * * *

## PART 162—RECORDKEEPING, SEARCH, AND SEIZURE

1. The general authority citation for Part 162 remains unchanged and a specific authority for § 162.8 is added. The citation of authority will read as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 66, 1624;

* * * * *

Section 162.8 also issued under 9 U.S.C. 1629.

* * * * *

2. Part 162 is amended by adding a new § 162.8 to read as follows:

**§ 162.8 Preclearance inspections and examinations.**

In connection with inspections and examinations conducted in accordance with § 148.22(a) of this chapter, United States Customs officers stationed in a foreign country may exercise such functions and perform such duties (including inspections, examinations, searches, seizures, and arrests), as may be permitted by treaty, agreement, or law of the country in which they are stationed.

**Michael H. Lane,**

*Acting Commissioner of Customs.*

Approved January 13, 1989.

**Salvatore R. Martoche,**

*Assistant Secretary of the Treasury.*

[FR Doc. 89-2309 Filed 1-31-89; 8:45 am]

BILLING CODE 4820-02-M

## INTERNATIONAL TRADE COMMISSION

**19 CFR Part 207**

### United States-Canada Free-Trade Agreement; Entry into Force of U.S. International Trade Commission Regulations

**AGENCY:** U.S. International Trade Commission.

**ACTION:** United States-Canada Free-Trade Agreement; Entry into force of U.S. International Trade Commission regulations.

**SUMMARY:** In the publication of the interim regulations of the U.S. International Trade Commission concerning the implementation of the United States-Canada Free-Trade Agreement ("the Agreement"), the Commission stated that following the confirmation by the United States Trade Representative of the date of entry into force of the Agreement, the Commission would confirm the entry into force of its interim rules. 53 FR 53248 (Dec. 30, 1988). The Agreement, which was approved and implemented in the Pub. L. 100-449, the "United States-Canada Free-Trade Implementation Act," 102 Stat. 1851 ("the Act"), entered into force on January 1, 1989, notification of which was published by the Trade Representative in the **Federal Register.** 54 FR 505 (Jan. 6, 1989). This notice confirms the entry into force, as of January 1, 1989, of the Commission's interim rules.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Hafner, U.S. International Trade Commission, at (202) 252-1113.

By order of the Commission.

Issued: January 24, 1989.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 89-2356 Filed 1-31-89; 8:45 am]

BILLING CODE 7020-02-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

**Food and Drug Administration**

**21 CFR Part 892**

**[Docket Nos. 87P-0214/CP Through 87P-0214/CP0013]**

### Magnetic Resonance Diagnostic Device; Panel Recommendation and Report on Petitions for Magnetic Resonance Reclassification and Codification of Reclassification

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that it has issued an order in the form of a letter to a petitioner reclassifying the magnetic resonance diagnostic device, from class III (premarket approval) into class II (performance standards). The order is being codified in the Code of Federal Regulations as specified herein.

**EFFECTIVE DATES:** The reclassification was effective July 28, 1988. The rule becomes effective March 3, 1989.

**FOR FURTHER INFORMATION CONTACT:** Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

**SUPPLEMENTARY INFORMATION:** On July 28, 1988, FDA sent Thomson-CGR Medical Corp., Diasonics MRI Division, Fonar Corp., Biometric Research Institute, Inc., Resonex, Inc., Stuart Medical, Inc., Advanced NMR Systems, Inc., Bruker Medical Instruments, General Electric Co., Philips Medical Systems, Inc., Siemens Medical Systems, and NMR Imaging, Inc., a letter (order) reclassifying the magnetic resonance diagnostic device and substantially equivalent devices of this generic type, from class III into class II. Accordingly, as required by 21 CFR 860.134(b)(7) of the regulations, FDA is announcing the reclassification of the generic magnetic resonance diagnostic device from class III into class II. In addition, FDA is issuing a final regulation that codifies the reclassification of the device by adding § 892.1000.

After considering the economic consequences of approving this reclassification, FDA certifies that this final rule requires neither a regulatory impact analysis as specified in Executive Order 12291, nor a regulatory flexibility analysis as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Approval of this petition will not have a significant economic impact on a substantial number of small entities. The petitioner and all future manufacturers of substantially equivalent magnetic resonance diagnostic devices will be relieved of the costs of complying with the premarket approval requirement in section 515 of the act (21 U.S.C. 360e).

There are no offsetting costs that the petitioner or other manufacturers would incur from reclassification into class II other than those associated with meeting a standard once established. The magnitude of the economic savings attributable to this petition is dependent upon the number of PMA studies that would have been required of the petitioners and other competitors had reclassification not occurred. This savings may not be reliably calculated to permit an accurate quantification of the economic savings.

**List of Subjects in 21 CFR Part 892**

Diagnostic devices, Medical devices, Radiation protection, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Chapter I of Title 21 of the Code of Federal Regulations is amended in Part 892 to read as follows:

## PART 892—RADIOLOGY DEVICES

1. The authority citation for 21 CFR Part 892 continues to read as follows:

Authority: Secs. 501(f), 510, 513, 515, 520, 701(a), 52 Stat. 1055, 76 Stat. 794–795 as amended, 90 Stat. 540–546, 522–559, 565–574, 576–577 (21 U.S.C. 351(f), 360, 360c, 360e, 360j, 371(a)); 21 CFR 5.10.

2. New § 892.1000 is added to Subpart B to read as follows:

**§ 892.1000 Magnetic resonance diagnostic device.**

(a) *Identification.* A magnetic resonance diagnostic device is intended for general diagnostic use to present images which reflect the spatial distribution and/or magnetic resonance spectra which reflect frequency and distribution of nuclei exhibiting nuclear magnetic resonance. Other physical parameters derived from the images and/or spectra may also be produced. The device includes hydrogen-1 (proton) imaging, sodium-23 imaging, hydrogen-1 spectroscopy, phosphorus-31 spectroscopy, and chemical shift imaging (preserving simultaneous frequency and spatial information).

(b) *Classification.* Class II.

Dated: January 10, 1989.

**John M. Taylor,**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 89–2311 Filed 1–31–89; 8:45 am]

BILLING CODE 4160–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Parts 60 and 61**

**[FRL–3512–7]**

## Standards of Performance for New Stationary Sources, National Emission Standards for Hazardous Air Pollutants, Supplemental Delegation of Authority to Alabama

**AGENCY:** Environmental Protection Agency.

**ACTION:** Delegation of authority.

**SUMMARY:** On October 7, 1988, the State of Alabama requested that EPA delegate authority for implementation and enforcement of additional categories of Standards of Performance for New Stationary Sources (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAP). Since EPA's review of pertinent State laws, rules, and regulations showed them to be adequate for the implementation and enforcement of these Federal standards, the Agency has made the delegations as requested.

**EFFECTIVE DATE:** The effective date of the delegation of authority is December 2, 1988.

**ADDRESSES:** Copies of the requests for delegation of authority and EPA's letter of delegation are available for public inspection at EPA's Region IV Office, 345 Courtland Street, NE., Atlanta, Georgia 30365.

All reports required pursuant to the newly delegated standards (listed below) should be submitted to the following address: Mr. Richard E. Grusnick, Chief, Air Division, Alabama Department of Environmental Management, 1751 Congressman William L. Dickinson Drive, Montgomery, Alabama 36130.

**FOR FURTHER INFORMATION CONTACT:** Beverly T. Hudson, at the EPA Region IV address listed above, and phone (404) 347–2864 or FTS 257–2864.

**SUPPLEMENTARY INFORMATION:** Section 301, in conjunction with sections 101, 111(c)(1) and 112(d)(1) of the Clean Air Act, authorizes EPA to delegate authority to implement and enforce the standards set out in 40 CFR Part 60, NSPS, and 40 CFR Part 61, NESHAP.

On August 5, 1976, EPA initially delegated the authority for implementation and enforcement of the NESHAP and NSPS programs to the State of Alabama. On October 7, 1988,

Alabama requested a delegation of authority for implementation and enforcement of the following recently promulgated or revised NSPS categories found in 40 CFR Part 60:

1. Subpart Db: Industrial—Commercial—Institutional Steam Generating Units
2. Subpart K: Storage Vessels for Petroleum Liquids.
3. Subpart Ka: Storage Vessels for Petroleum Liquids [post—2/17/78].
4. Subpart Kb: Storage Vessels for Petroleum Liquids [post—7/23/84].
5. Subpart DD: Grain Elevators.
6. Subpart GG: Stationary Gas Turbines.
7. Subpart BBB: Rubber Tire Manufacturing.

On the same date, the State of Alabama also requested authority for the following recently revised NESHAP categories:

1. Subpart E: Mercury

After a thorough review of the request, the Regional Administrator determined that such a delegation was appropriate for these source categories with the conditions set forth in the original delegation letter of August 5, 1976. Alabama sources subject to the requirements of Subparts Db, K, Ka, Kb, DD, GG, & BBB of 40 CFR Part 60 and Subpart E of CFR Part 61, will now be under the jurisdiction of the State of Alabama.

### Action

Since review of the pertinent Alabama laws, rules, and regulations showed them to be adequate for the implementation and enforcement of the aforementioned categories of NSPS and NESHAP, I delegated to the State of Alabama my authority for the source categories listed above on December 2, 1988.

The Office of Management and Budget has exempted this regulation from the requirements of section 3 of Executive Order 12291.

This notice is issued under the authority of sections 101, 111, 112, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7412, and 7601).

Dated: January 19, 1989.

**Lee A. DeHihns, III**

*Acting Regional Administrator.*

[FR Doc. 89-2275 Filed 1-31-89; 8:45 am]

BILLING CODE 6560-50-M

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**40 CFR Part 180**

**[PP 5E3160/R1000; FRL-3510-7]**

## Pesticide Tolerance For Dimethyl Tetrachloroterephthalate

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a tolerance for the combined residues of the herbicide dimethyl tetrachloroterephthalate and its metabolites (referred to in this document as "DCPA") in or on the raw agricultural crop group *Brassica* (cole) leafy vegetables. This regulation to establish a maximum permissible level for residues of the herbicide in or on the commodities within the group was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

**EFFECTIVE DATE:** February 1, 1989.

**ADDRESS:** Written objections, identified by the document control number, [PP 5E3160/R1000], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:**

By mail: Hoyt Jamerson, 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. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2310.

**SUPPLEMENTARY INFORMATION:** EPA issued a proposed rule, published in the **Federal Register** of November 16, 1988 (53 FR 46098), in which it was announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 5E3160 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Station of Florida.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the herbicide dimethyl tetrachloroterephthalate (DCPA) and its metabolites monomethyl tetrachloroterephthalate (MTP) and tetrachloroterephthalic acid (TPA), all calculated as dimethyl tetrachloroterephthalate, in or on the raw agricultural crop group *Brassica* (cole) leafy vegetables, as defined in 40 CFR 180.34(f)(9)(v)(A), at 5.0 parts per million (ppm).

Tolerances are currently established for residues of the herbicide in or on the following raw agricultural commodities in the crop group *Brassica* (cole) leafy vegetables: Broccoli, Brussels sprouts, cabbage, and cauliflower at 1 ppm; collards and kale at 2 ppm; and mustard greens at 5 ppm. Broccoli, cabbage, and mustard greens are the representative commodities of the crop group. With the establishment of the crop group tolerance, tolerances are established at a uniform level for residues of the herbicide at 5 ppm in or on broccoli, Brussels sprouts, cabbage, cauliflower, collards, kale, and mustard greens and, additionally, in or on the remaining commodities within the crop group including kohlrabi, Chinese broccoli, Chinese cabbage, Chinese mustard cabbage, broccoli raab, and rape greens at 5 ppm. Although the crop group tolerance for residues at 5 ppm will apply to all members of the *Brassica* leafy vegetable crop group for purposes of uniformity, actual residues based on registered use patterns are not expected to exceed existing tolerances already established for the specific commodities listed above. The incremental risk resulting from the use of DCPA on the remaining commodities in the group will not significantly increase dietary risk.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought

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, Reporting and recordkeeping requirements.

Dated: December 21, 1988.

**Douglas D. Campt,**

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR Part 180 is amended as follows:

## PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.185(a) is amended by deleting the entries for the commodities broccoli, Brussels sprouts, cabbage, cauliflower, collards, kale, and mustard greens and by adding and alphabetically inserting the entry for the raw agricultural commodity crop group *Brassica* (cole) leafy vegetables, to read as follows:

**§ 180.185 Dimethyl tetrachloroterephthalate; tolerances for residues.**

* * * * *

(a) * * *

| Commodities | Parts per million |
|---|---|
| * * * * * | |
| Vegetables, leafy, *Brassica* (cole) | 5 |
| * * * * * | |

[FR Doc. 89-1933 Filed 1-31-89; 8:45 am]

BILLING CODE 6560-50-M

## 40 CFR Part 180

**[PP 7F3521/R963; FRL-3510-5]**

## Pesticide Tolerances for Tefluthrin

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes tolerances for the combined residues of the synthetic pyrethroid tefluthrin (2,3,5,6-tetrafluoro4-methylphenyl)methyl-(1 *alpha*,3 *alpha*)-(*Z*)-(±)-3-(2-chloro-3,3,3trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate) and its metabolite, (*Z*)-3-(2-chloro-3,3,3-trifluoro-1-propenyl)2,2-dimethylcyclopropanecarboxylate, in or on the raw agricultural commodities corn, grain, field, and pop; corn, forage and fodder, field and pop. This regulation to establish the maximum permissible levels for residues of the chemical was requested pursuant to petitions by ICI Americas, Inc.

**EFFECTIVE DATE:** February 1, 1989.

**ADDRESS:** Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:**

By mail: George LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 200, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2400.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice, published in the **Federal Register** of August 5, 1987 (52 FR 29061), which announced that ICI Americas, Inc., Agricultural Products Group, Registration and Regulatory Affairs, Wilmington, DE 19897, had submitted pesticide petition (PP) 7F3521 proposing to establish tolerances in or on the raw agricultural commodities corn, grain (field and pop) at 0.01 part per million (ppm) for the residues of the insecticide tefluthrin (2,3,5,6-tetrafluoro-4-methylphenyl]methyl-(1 *alpha*,3 *alpha*)-(*Z*)-(±)-3(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate).

In the **Federal Register** of April 13, 1988 (53 FR 12188), EPA issued a notice which amended the petition by revising the proposed tolerance expression to include the combined residues of tefluthrin and its metabolites (*Z*)-3-(2-chloro-3,3,3-trifluoro-1-propenyl]2,2-dimethylcyclopropanecarboxylic acid (Ia) and 2,3,5,6-tetrafluoro-4-hydroxymethylbenzoic acid and increased the tolerances in or on corn, grain (field and pop) to 0.1 ppm and added proposed tolerances for corn forage and fodder at 0.1 ppm.

No comments were received in response to the notices of filing.

After further evaluation, the Agency has determined that tolerances should be established for the combined residues of tefluthrin, parent, and its metabolite Ia on corn, grain, field and pop, at 0.06 ppm and corn, forage and fodder, field and pop at 0.06 ppm.

In January 1989, the Agency issued a conditional registration for tefluthrin with a final expiration date of July 31, 1993. The registration was made conditional since certain data were lacking. In order to: (1) Evaluate the effects of tefluthrin on fish and aquatic organisms, (2) establish a permanent acceptable daily intake (ADI) and, (3) establish a crop rotation interval, several data requirements must be fulfilled during the period of conditional registration. Such requirements include an aquatic invertebrate life-cycle test (72-4) which is due by August 1989; a fish life-cycle study (72-5) which must be submitted to the Agency by August 1990; an aquatic residue monitoring study which must be submitted by March 1991; and a rotational crop study, field (165-2) which must be submitted by March 1993. In addition, unfulfilled data requirements in the area of toxicology comprise a 21-day feeding study and a 21-day dermal study, both in the rat and both designed to investigate serum electrolytes, including magnesium. These studies must be submitted to the Agency by April 1989. Without the results of the 21-day feeding study, a permanent ADI cannot be determined. Owing to the lack of these studies, the Agency is establishing the tolerances for this pesticide on corn, grain, field and pop, and corn forage and fodder, field and pop with an expiration date of July 31, 1994, to cover residues expected to be present during the period of conditional registration.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerance include a 12-month oral toxicity study in dogs with a no-observed-effect level (NOEL) of 0.5 mg/kg/day; 24-month rat and mouse chronic feeding/oncogenicity studies with systemic NOELs of 1.1 mg/kg/day and 3.4 mg/kg/day with no oncogenic effects observed at dose levels up to and including 18.2 mg/kg/day and 54.4 mg/kg/day, the highest dose levels tested for rats and mice, respectively. In a teratology study with rats at dose levels of 1, 3, and 5 mg/kg/day, no teratogenic effects were observed in the test animals at dose levels up to and including 5.0 mg/kg/day, which is the level of significant maternal toxicity.

All of the six genotoxicity studies submitted were negative, including reverse mutation (Ames), TK locus, bone marrow cytogenetics, and unscheduled DNA synthesis.

In the multigeneration study the rats were fed tefluthrin at dietary levels equivalent to 0.75, 2.5, and 12.50 mg/kg/day during 3 months through premating, pregnancy, lactation, and weaning of two litters per generation for two generations. Dams showed lower body weight gains at the highest dose during pregnancy. At both the mid- and high-dose levels the parents of both generations displayed neurotoxic effects (abnormal gaits). Pup weight at the highest dose was reduced, and litter size was reduced.

The provisional acceptable daily intake (PADI), based on a NOEL of 0.75 mg/kg/day from a multigeneration

reproduction study and a safety factor of 1,000, is 0.00075 mg/kg/body weight (bwt) day. The theoretical maximum residue contribution from the proposed tolerances is 0.00001 mg/kg/bwt/day: This is equivalent to about 1.4 percent of the PADI.

The metabolism of the chemical in plants for this corn use is adequately understood. An analytical method (gas liquid chromatography with an electron capture detector) is available for enforcement. Prior to its publication in the *Pesticide Analytical Manual*, Vol. II, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide enforcement when requested from:

By mail: Public Docket and Freedom of Information Section (TS–757C), Field Operations Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–3262.

The tolerances established by amending 40 CFR Part 180 will be adequate to cover residues in or on corn, grain, field, and pop; and corn forage and fodder, field and pop.

There are currently no actions pending against the registration of this product. This pesticide is considered useful for the purpose for which the tolerances are sought.

Based on the above information and data considered, the Agency concludes that the tolerances would protect the public health. Therefore, the tolerances are established as set forth below with an expiration date of July 31, 1994. After receipt and evaluation of the data required to support the conditional registration of tefluthrin, the Agency will consider establishing permanent tolerances without an expiration date for residues of tefluthrin.

Any person adversely affected by this regulation may, within 30 days after the date of publication in the Federal Register, file written objections with the Hearing Clerk (address above). Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are legally sufficient to justify the relief sought.

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 the 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, Reporting and recordkeeping requirements.

Dated: January 13, 1989.

**Susan H. Wayland,**

*Acting Director, Office of Pesticide Programs.*

Therefore, 40 CFR Part 180 is amended as follows:

## PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

**Authority:** 21 U.S.C. 346a.

2. New § 180.440 is added, to read as follows:

**§ 180.440 Tefluthrin; tolerances for residues.**

Tolerances, to expire July 31, 1994, are established for the combined residues of the insecticide tefluthrin (2,3,5,6 tetrafluoro-4-methylphenyl)methyl-(1 *alpha*, 3 *alpha*)-(*Z*)-(±)-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate and its metabolite (*Z*)-3-(2-chloro-3,3,3-trifluoro-1-propenyl)2,2-dimethylcyclopropanecarboxylic acid in or on the following commodities:

| Commodities | Part per million |
|---|---|
| Corn, grain, field and pop | 0.06 |
| Corn, forage and fodder, field and pop | .06 |

[FR Doc. 89–1938 Filed 1–31–89; 8:45 am]

BILLING CODE 6560–50–M

## 40 CFR Part 261

**[SW–FRL–3512–9]**

## Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) today is granting a final exclusion from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32 for specified waste generated by VAW of America, Incorporated, St. Augustine, Florida. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 268, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

**EFFECTIVE DATE:** February 1, 1989.

**ADDRESSES:** The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street SW., (sub-basement), Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The reference number for this docket is "F–89–VWEF–FFFFF." The public may copy material from any regulatory docket at a cost of $0.15 per page.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Robert Kayser, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–4536.

**SUPPLEMENTARY INFORMATION:**

### I. Background

*A. Authority*

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine (1) that the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the wastes at levels of regulatory concern.

*b. History of this Rulemaking*

VAW of America (VAW), Incorporated, located in St. Augustine, Florida, petitioned the Agency to

exclude from hazardous waste control a specific waste that it generates.

After evaluating the petition, on April 29, 1988, EPA proposed to exclude VAW's waste from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see 53 FR 15417).

This rulemaking addresses public comments received on the proposal and finalizes the proposed exclusion.

**II. Disposition of Petition**

VAW of America, Incorporated, St. Augustine, Florida

*1. Proposed Exclusion*

VAW petitioned the Agency for an exclusion of its wastewater treatment sludge filter cake, presently listed as EPA Hazardous Waste No. F019. VAW based its petition on the claim that the constituents of concern, although present in the waste, were in an essentially immobile form. To support its claim that both the non-listed and listed constituents of concern are not present in the wastewater treatment sludge filter cake above health-based levels of concern, VAW submitted results from total constituent and EPA toxicity analyses for all the EP toxic metals, nickel and cyanide. These analyses were performed on representative samples of VAW's wastewater treatment sludge filter cake. See 53 FR 15417, April 29, 1988, for a more detailed explanation of why EPA proposed to grant VAW's petition for its wastewater treatment sludge filter cake.

*2. Agency Response to Public Comments*

The Agency received public comments on the proposed rule from three interested parties. One commenter opposed the Agency's proposed decision to exclude VAW's wastewater treatment sludge filter cake. The second commenter supported the Agency's proposed decision. The same commenter, however, believed that it was unlawful and inappropriate for the Agency to consider site-specific factors in its evaluation of delisting petitions. The third commenter believed that the Agency should modify its vertical and horizontal spread (VHS) model to take into account the physical and chemical properties of stabilized wastes. (VAW does not generate a stabilized waste.) The third commenter, however, did not object to the Agency's proposed use of the VHS model to evaluate VAW's waste. The comments made by the three interested parties are discussed below.

*Petition-Specific Comments*

One commenter opposed the Agency's proposal to grant VAW an exclusion for five reasons, four of which are discussed in turn below. The fifth reason concerns the inconsistencies between the Delisting program and the Land Disposal Restrictions Program and is discussed in a later section.

The commenter stated that the wastewater treatment sludge filter cake still exhibits one of the criteria for which it was listed—the presence of significant concentrations of the inorganic constituents of concern (*i.e.*, hexavalent chromium and complexed cyanide).

The Agency agrees that the presence in F019 wastes of significant total constituent concentrations of the inorganic constituents of concern was one of the reasons for listing F019 wastes as "T" (toxic) waste. See 40 CFR 261.11(a)(3)(ii) and "Background Document, Resource Conservation and Recovery Act, Subtitle C, Hazardous Waste Management, Section 3001, Identification and Listing of Hazardous Waste—Electroplating and Metal Finishing Operation," 1980. The Agency, however, believes that the generalized data presented in the Background Document are not always representative of the physical/chemical nature of specific conversation coating wastes (hydroxide sludges). Specifically, EPA believes it is reasonable to expect that, as the total constituent concentration of an unbound or loosely bound metal present in a waste increases, the potential for the metal to leach from the waste also increases (generally, the higher the total constituent concentration of an unbound or loosely bound metal, the higher the potential EP leachate concentration). Thus, wastes having significant total constituent concentrations of unbound or loosely bound metals are more likely to impact the underlying ground water than wastes having lower total constituent concentrations of unbound or loosely bound metals. In this case, the metals in VAW's waste are tightly bound within the waste matrix. Thus, the Agency believes that the elevated levels of metals present in VAW's waste should not pose a threat to either human health or the environment. The Agency's conclusion that the inorganic constituents of concern (both listed and unlisted) are bound in the waste matrix and thus are not available for leaching is supported by the results of the EP leachate analyses, which showed that only 0.18 mg/1 of chromium would leach from VAW's waste under conditions similar to those found in municipal waste landfills.

EPA then evaluated the potential impact on human health using the maximum EP leachate concentration and the vertical and horizontal spread (VHS) model. For the relatively small volume of waste generated by VAW, the VHS model predicted a dilution factor of approximately 32.3. The VHS model analysis provides a conservative and reasonable worst-case evaluation of the behavior of the leachate from the waste in any underlying aquifer. The predicted compliance-point concentrations resulting from this conservative analysis were below the levels of concern used for delisting purposes. See 53 FR 15417, April 29, 1988, for a description of the modeling analysis of VAW's waste.

In delisting evaluations, EPA considers all the factors for which the waste was listed, as well as factors other than those for which the waste was originally listed, that could cause the waste to be hazardous. See 42 U.S.C. 6921(f). For this specific wastestream, based on the above discussion, EPA does not believe that any other factors, including elevated total constituent concentrations of the inorganic constitutents of concern, could cause this wastestream to present a hazard to human health and the environment.

The commenter also asserted that the Agency only considered the leachable levels of hazardous constituents and did not consider waterborne and airborne dispersal of the waste, especially airborne hexavalent chromium.

VAW's waste must be handled as a hazardous waste until it is treated. Thus, general environmental exposure should only result from direct contact with the treated material or surface waters receiving contaminated ground water, or from the consumption of drinking water (*i.e.*, ground water) contaminated with leachate derived from the treated material. VAW's treated waste has an average moisture content of 66.9 percent. Therefore, the Agency believes that direct contact from airborne exposure to hazardous contaminants from the treated waste is unlikely.

The VHS model analysis for this wastestream addresses consumption of contaminated ground water, leaving contaminated surface water as the only possible source of environmental exposure. The Agency acknowledges that it may be possible for surface water runoff to transport contaminants from the waste to a nearby surface water body. However, the Agency does not believe that such overland transport of contaminants is a reasonable exposure route for the petitioned waste for several reasons. First, as described in the proposed rule, the Agency believes that landfill disposal is a reasonable worst-case management scenario for VAW's waste. As such, the landfilled waste will most likely be covered daily (the standard operating procedure at

most landfills) and the landfill itself most likely will be capped upon final closure. The Agency does not believe that "open-dumping" of the waste is a reasonable worst-case management scenario. Therefore, the waste is unlikely to be exposed to the weathering or erosion necessary for any appreciable amount of overland transport to occur.

Secondly, the Agency believes that the leachate derived from this waste will not directly enter a surface water body without first travelling through the saturated (subsurface) zone where dilution and attenuation of hazardous constituents may occur. The VHS model takes this saturated zone into account as it predicts the ultimate fate and transport of hazardous constituents. However, should either the leachate derived from this waste or the overland transported contaminants from this waste enter a surface water body, the Agency believes it reasonable to expect that the ensuing dilution with the surface water body would be significantly greater than the dilution which is currently predicted by the VHS model to occur in the underlying ground water due to the larger volume of liquid. As a result, the Agency continues to believe that under reasonable worst-case conditions, the disposal of this waste will not present a threat to either human health or the environment.

EPA believes the commenter's concern over possible exposure to hexavalent chromium is unjustified. Data were provided in the petition characterizing the total constituent and EP leachable concentrations of both chromium and hexavalent chromium. Although the Agency's notice or proposed rulemaking did not provide the results of the total constituent and EP leachate analyses for hexavalent chromium, these data were evaluated by the Agency, and are available in the RCRA public docket for public inspection. Results provided from the total constituent analyses for hexavalent chromium indicated that hexavalent chromium was not detected in any of the 11 analyzed samples (at a detection limit of 1 mg/kg). The chromium in VAW's waste, therefore, is at least 99.99 percent trivalent chromium. Trivalent chromium, which is a natural constituent of the earth's crust and is an essential human nutrient, is considered to be much less toxic than hexavalent chromium. See 53 FR 10206, March 29, 1988. As a result, the Agency does not believe that the chromium in VAW's even if airborne, could present a hazard to either human health or the environment.

The Agency also notes that 40 CFR 261.4(b)(6)(i)(A) specifically excludes from RCRA Subtitle C regulation, wastes listed solely for chromium, having chromium in exclusively (or nearly exclusively) trivalent form, even if the waste exhibits EP toxicity for chromium, as long as the waste does not exhibit any other of the characteristics of a hazardous waste (*i.e.*, ignitability, corrosivity, reactivity, or EP toxicity for any other constituent). This provision does not directly apply to VAW's waste (since it was listed as a "T" waste and for the presence of complexed cyanide). However, by analogy, a finding that VAW's waste is non-hazardous would be supported by this regulatory provision because (1) the chromium in VAW's waste is at least 99.99 percent trivalent chromium, (2) the waste does not contain any other hazardous constituent in concentrations of concern, and (3) the waste does not exhibit any of the characteristics of hazardous wastes.

The commenter was concerned whether VAW's treatment process could effectively reduce hexavalent chromium to trivalent chromium, because the proposed notice did not present data characterizing the effectiveness of VAW's treatment system. As was stated above, data were provided in the petition characterizing the total constituent and EP leachable concentration of both chromium and hexavalent chromium. As noted above, VAW's treatment process is capable of reducing at least 99.99 percent of the haxavalent chromium to trivalent chromium. Furthermore, the ability of VAW/s treatment system to effectively reduce all hexavalent chromium to trivalent chromium is continually monitored using an oxidation-reduction protential (ORP) indicator. The Agency, therefore, believes that the commenter's concerns are unfounded.

The same commenter also believed that the Agency did not address the possible presence of hexavalent chromium, and that EPA should set a conditional testing requirement for hexavalent chromium. The Agency disagrees with the commenter for two reasons: (1) As noted above, VAW's analyses did not detect any hexavalent chromium, and (2) EPA's hazard modeling analysis essentially treated the entire portion of the EPA leachable concentration of chromium as hexavalent chromium because the health-based standard used for chromium is based on the toxicity of the hexavalent species. See "Docket Report on Health-Based Regulatory Levels and Solubilities Used in the Evaluation of Delisting Petitions," June 8, 1988, located in the RCRA public docket. The analysis did not show a leaching potential for hexavalent chromium at a level of concern. Additionally, VAW analyzed 11 monthly samples for total constituent concentrations of hexavalent chromium and verified that its treatment system was capable of reducing at least 99.99 percent of all the hexavalent chromium to travalent chromium. Thus, the Agency believes that it is unnecessary to require VAW, as a condition of its exclusion, to continually test its waste for the presence of Hexavalent chromium.

*EPA's Modeling Approach*

One commenter supported EPA's proposed use of the VHS model as applied to VAW's petitioned waste, and strongly supported EPA's assertion that "it is inappropriate for the Delisting Program to consider extensive site-specific factors in its evaluation of delisting petitions." See 53 FR 15418 and 53 FR 15423. The commenter believed that it is unlawful and inappropriate for EPA to consider any site-specific factors in its evaluation of delisting petitions.

This comment does not pertain to this petition or affect the proposed decision since the Agency did not consider any site-specific factors in its evaluation of the petitioned waste. The Agency, therefore, will independently respond to this comment in terms of a separate rulemaking petition raising this issue with the Agency (filed by the Hazardous Waste Treatment Council).

Although VAW's waste is not stabilized, another commenter stated that the Agency has the discretion to adjust the VHS model to account for waste-specific factors, including increased reserve cation exchange capacity and reduction in waste permeability. Furthermore, the commenter asserted that the Agency should modify the VHS model to account for the physical and chemical properties of a stabilized waste. To support its claim, the commenter submitted analytical data from studies performed on its own stabilized waste. The same commenter, however, did not object to the Agency's proposed use of the VHS model to evaluate VAW's waste.

VAW does not have a stabilized waste. However, EPA proposed a delisting decision for Roanoke Electric Steel in the **Federal Register** on the same day as the proposed VAW delisting decision. See 53 FR 15422, April 29, 1988. Roanoke petitioned for exclusion of a stabilized waste. Therefore, the Agency believes the commenter intended to file this comment on the Roanoke proposal.

EPA will respond to this comment in the final Roanoke decision (to be published in the near future). If VAW had a stabilized waste, EPA would have responded to the comment in today's notice.

*Inconsistencies Between the Delisting Program and the Land Disposal Restrictions Program*

One commenter stated that there are inconsistencies between delisting levels proposed for VAW and the Land Disposal Restrictions Program's (LDRP) proposed best demonstrated available technology (BDAT) treatment levels for K061 wastes. See 53 FR 15417, April 29, 1988, and 53 FR 11742, April 8, 1988, respectively. (On August 17, 1988, the Agency promulgated BDAT treatment levels for K061 non-wastewater wastes. See 53 FR 31138.) Specifically, the commenter stated that, although EPA had not proposed BDAT treatment levels for F019 wastes, the total constituent concentration of chromium in VAW's wastewater treatment sludge filter cake substantially exceeded the BDAT treatment standards that EPA had proposed for K061 waste, which are also high in chromium. Furthermore, the commenter stated that, although EPA had not yet proposed a BDAT treatment standard for F019 wastes, it makes no sense for EPA to allow a waste that could not be legally disposed of in a landfill at a Subtitle C site—because it exceeds BDAT levels proposed for another chromium bearing waste (K061)—to be managed as a non-hazardous waste.

The Agency agrees with the commenter that there are differences in approach between some of the decision criteria used in individual delisting decisions and those used in the Land Disposal Restriction Program. However, these differences are appropriate given the separate functions of the two programs and their different regulatory coverage. The Delisting Program and the LDRP are fundamentally different in that the Delisting Program's standards are health-based and the LDRP's treatment standards are technology-based. See RCRA section 3001 (42 U.S.C. 6921) and RCRA section 3004 (42 U.S.C. 6924(m)), respectively. The Agency, however, believes that both the health-based and technology-based approaches of the Delisting Program and the LDRP, respectively, are protective of human health and the environment. Furthermore, even if BDAT treatment levels applied to delisted wastes, it would neither be accurate nor fair to compare BDAT treatment levels for one specific type of waste to a different waste, since BDAT standards are developed strictly on a waste-specific basis. (The Agency notes that the treatment technology and treatment standards for K061 wastes referred to by the commenter were only proposed at the time the comment was made. Subsequent to that proposal, the Agency revised and finalized the BDAT standards for K061 wastes based on an alternative treatment technology.)

*3. Final Agency Decision*

For the reasons stated in the proposal, the Agency believes that VAW's wastewater treatment sludge filter cake should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to VAW of America, Incorporated, located in St. Augustine, Florida, for its wastewater treatment sludge filter cake described in its petition as EPA Hazardous Waste No. F019. The exclusion only applies to the processes covered by the original demonstration. The facility would require a new exclusion if its manufacturing or treatment processes are altered, and accordingly would need to file a new petition. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

## III. Limited Effect of Federal Exclusion

The final exclusion being granted today is being issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Since a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

## IV. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this rule should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

## V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous. There is no additional economic impact, therefore, due to today's rule.

## VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and is limited to one

facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

### VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. Chapter 35) and have been assigned OMB Control Number 2050-0053.

### List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Date: January 26, 1989.

**Jeffery D. Denit,**

*Deputy Director, Office of Solid Waste.*

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

## PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

**Authority:** Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Table 1 of Appendix IX, add the following wastestream in alphabetical order:

### Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

| Facility | Address | Waste description |
|---|---|---|
| * | * | * |
| VAW of America Incorporated. | St. Augustine, Florida. | Wastewater treatment sludge filter cake (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum. This exclusion was published on February 1, 1989. |
| * | * | * |

[FR Doc. 89-2276 Filed 1-31-89; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

### 46 CFR Part 252

[Docket No. R-117]

RIN 2133-AA68

## Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in World-wide Services

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** For more efficient operation, the Maritime Administration (MARAD) is issuing this final rule to amend the procedure by which subsidy for the operation of bulk cargo vessels in the foreign commerce of the United States is determined. The final rule permits the regression by one year of the U.S./foreign cost relationship used in the determination of wage subsidy rates, and adjusts the period of exchange rate experience used in wage rate calculations.

**EFFECTIVE DATE:** This rule is effective March 3, 1989, for application to the wage rate year beginning July 1, 1988, and the rate year from other items beginning January 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Arthur B. Sforza, Director, Office of Ship Operating Assistance, Maritime Administration, Washington, DC 20590. Tel. (202) 366-2323.

**SUPPLEMENTARY INFORMATION:** On April 26, 1988, MARAD published in the **Federal Register** (53 FR 14821) a notice of proposed rulemaking (NPRM) to amend the regulation governing the procedure by which subsidy for the operation of bulk vessels in the foreign commerce of the United States is determined. The proposed amendment would permit the regression by one year of the U.S./foreign cost relationship used in the determination of wage subsidy rates, and would adjust the period of exchange rate experience used in wage rate calculations.

MARAD has recalled permanently its Foreign Maritime Representatives whose responsibilities included the collection of foreign wage cost information used in the calculation of wage subsidy rates. The elimination of MARAD's foreign posts delays the collection of foreign wage cost data applicable to the annual subsidy rate calculations.

To avoid potential delays in the finalization of wage subsidy rates while continuing to maintain a fair and reasonable determination of the U.S./foreign wage cost differential, MARAD is amending § 252.31(f) to provide for the comparison of U.S. and foreign wage costs as of January 1 of the fiscal year preceding the subsidized fiscal year. The percentage relationship of foreign to U.S. wage costs resulting from the comparison would be applied to the full U.S. wage costs determined as of January 1 of the subsidized fiscal year to derive the corresponding foreign wage amount used in the subsidy rate calculation. Foreign-flag competition would continue to be identified on the basis of data as of January 1 of the year preceding January 1 of the subsidized year.

MARAD is also amending § 252.3(f) to provide that the exchange rates used to convert the foreign wage cost estimates into U.S. dollars are the average end-month exchange rates for the period July through June that includes the January 1 for which the foreign costs are determined. The regulation presently provides a seven-month period for exchange rates to permit timely ODS rate calculations. However, the regression of the U.S./foreign wage cost comparison by one year would permit the use of exchange rates for a twelve-month period without delaying final rate calculations. MARAD considers the use of twelve months of exchange rates preferable to the shorter seven-month period.

The NPRM provided a period of public comment that expired on June 27, 1988. No written comments were received. Therefore, the proposed amendments are being published as a final rule. The final rule also includes a clarifying amendment with respect to data submission requirements for the determination of ODS rates for maintenance and repairs in § 252.32.

### Analysis of Regulatory Impacts

This amendment has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographic regions. Furthermore, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This amendment is not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important

Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, the Maritime Administrator certifies that this amendment will not have a significant economic impact on a substantial number of small entities.

This amendment does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Finally, the amendment is exempt from the Paperwork Reduction Act because it does not include new information requirements.

**List of Subjects in 46 CFR Part 252**

Bulk commodities, bulk cargo vessels, ODS program, water transportation.

Accordingly, 46 CFR Part 252 is amended as follows:

**PART 252—[AMENDED]**

1. The authority citation for Part 252 is revised to read as follows:

**Authority:** Secs. 204(b), 603, 606 Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1114(b), 1173, 1176); 49 CFR 1.66

2. Section 252.31(f) introductory text, (f)(2) and (f)(3) introductory text are revised to read as follows:

**§ 252.32 Wages of officers and crews.**

* * * * *

(f) *Method of calculating foreign wage costs.* The foreign wage cost (FC) of the principal foreign-flag competitor and the comparable WC of the subsidized vessel are matched as of January 1 of the last fiscal year preceding the subsidized fiscal year for purposes of determining the wage cost of the principal foreign flags. The following procedures are used:

* * * * *

(2) *Method.* The method of calculating FC shall be the same as that used for WC, provided that it is possible to obtain foreign cost data on the same basis as wage cost data. Preference shall be given to pricing out for fixed costs and to cost experience for variable costs. Where applicable, foreign currencies shall be converted into U.S. currency equivalents by using the average of end-month exchange rates for the period July through June that includes the January 1 for which FC is calculated. The exchange rates shall be obtained from the publication, "International Financial Statistics", published monthly by the International Monetary Fund. If exchange rates for particular foreign currencies are not available in this publication, they shall be obtained from the United States Department of the Treasury.

(3) *Foreign wage costs.* The per diem composite foreign wage cost is determined by multiplying the per diem WC for the U.S. ship type, calculated as of January 1 of the subsidized fiscal year, by the ratio of FC to WC, calculated as of January 1 of the last fiscal year preceding the subsidized fiscal year. The following is a sample calculation of the foreign percentage.

* * * * *

3. Section 252.32(c)(2) is revised to read as follows:

**§ 252.32 Wages of officers and crews**

* * * * *

(c) * * *

(2) *Data submission requirement.* The operator is required to submit a Subsidy Repair Summary (Form MA-140) quarterly in accordance with 46 CFR Part 272. At MARAD's request the operator shall also provide a schedule indicating the date and site of the two most recent drydockings for each subsidized vessel.

By order of the Maritime Administrator.
Date: January 27, 1989.

**James E. Saari,**

*Secretary, Maritime Administration.*

[FR Doc. 89-2325 Filed 1-31-89; 8:45 am]

BILLING CODE 4910-81-M

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**46 CFR Part 282**

**[Docket No. R-118]**

**RIN 2133-AA67**

## General Procedures for Determining Operating-Differential Subsidy for Liner Vessels

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** For more efficient operation, the Maritime Administration (MARAD) is issuing this final rule to amend the procedures for determining operating-differential subsidy (ODS) for liner vessels operated in the foreign commerce of the United States. The final rule permits the regression by one year of the U.S./foreign cost relationship used in the determination of wage subsidy rates, and adjusts the period of exchange rate experience used in wage rate calculations.

**EFFECTIVE DATE:** This rule is effective March 3, 1989, for application to the wage rate year beginning July 1, 1988, and the rate year for other items beginning January 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Arthur B. Sforza, Director, Office of Ship Operating Assistance, Maritime Administration, Washington, DC 20590. Telephone (202) 366-2323.

**SUPPLEMENTARY INFORMATION:** On April 26, 1988, MARAD published in the **Federal Register** (53 FR 14822) a notice of proposed rulemaking (NPRM ) to amend the regulation governing the procedures for determining ODS for liner vessels operated in the foreign commerce of the United States. The proposed amendment would permit the regression by one year of the U.S./foreign cost relationship used in the determination of wage subsidy rates, and would adjust the period of exchange rate experience used in wage rate calculations.

MARAD has recalled permanently its Foreign Maritime Representatives whose responsibilities included the collection of foreign wage cost information used in the calculation of wage subsidy rates. The elimination of MARAD's foreign posts delays the collection of foreign wage cost data applicable to the annual subsidy rate calculations.

To avoid potential delays in the finalization of wage subsidy rates while continuing to maintain a fair and reasonable determination of the U.S./foreign wage cost differential, MARAD is amending § 282.21(f) to provide for the comparison of U.S. and foreign wage costs as of January 1 of the fiscal year preceding the subsidized fiscal year. The percentage relationship of foreign to U.S. wage costs resulting from the comparison would be applied to the full U.S. wage costs determined as of January 1 of the subsidized fiscal year to derive the corresponding foreign wage amount used in the subsidy rate calculation. The foreign flags for which the wage cost determination are made would continue to be those flags identified on the basis of data from the penultimate calendar year preceding January 1 of the subsidized year.

MARAD is also amending § 282.21(f) to provide that the exchange rates used to convert the foreign wage cost estimates into U.S. dollars are the average end-month exchange rates for the period July through June that includes the January 1 for which the foreign costs are determined. The regulation presently provides a seven-month period for exchange rates to permit timely ODS rate calculations. However, the regression of the U.S./

foreign wage cost comparison by one year would permit the use of exchange rates for a twelve-month period without delaying final rate calculations. MARAD considers the use of twelve months of exchange rates perferable to the shorter seven-month period.

The NPRM provided a period for public comment that expired on June 27, 1988. Written comments were received from one party, Matson Navigation Company, Inc. (Matson), on June 27, 1988. Matson is an unsubsidized carrier that operates exclusively in the domestic trades including a service from Hawaii to the U.S. West Coast. American President Lines, Ltd. (APL), a subsidized operator, has applied for service to and from Hawaii as part of the company's service from the U.S. West Coast to the Far East. A hearing has commenced under section 805(a), Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1223), in which Matson has intervened.

Matson focused its attention on the receipt of subsidy by ODS contractors operating subsidized vessels in "mixed voyages" in which cargo is carried in both domestic and foreign commerce. Matson's basic contention is that procedures currently followed in the administration of the ODS program allow payment of wage subsidy in excess of the amount required to place ODS operators on a cost parity with their principal foreign competitors and, therefore, create an unfair competitive advantage against the unsubsidized, exclusively domestic operators. Matson maintains that under certain conditions (a continually declining U.S. dollar *vis-a-vis* other foreign currencies) a nonsubsidized operator is further disadvantaged by a rate methodology which does not include current full-year exchange rates applied to current foreign wage cost data. Matson urges the return to a system that requires the use of current full-year exchange rates applied to current foreign wage cost data.

Matson's basic contention that procedures currently used for the calculation of ODS allow payment of wage subsidy in excess of parity refers to arguments that the operator put forth in Docket S–801, the section 805(a) hearing in which Matson intervened. Matson contends that the indexing system adopted in the 1970 amendments to the Merchant Marine Act, 1936, along with the 1986 regulations adopted by MARAD (46 CFR 282) which base ODS payments on estimates with periodic, prospective adjustments, creates a system in which operators may be paid ODS in excess of parity. This argument is used as a prelude to the specific complaints that Matson has with the proposed amendments. As Matson does not seek to argue the merits of the 1970 amendments or the 1986 regulations in this rulemaking proceeding, and inasmuch as these arguments are beyond the scope of this final rule, MARAD will not address those contentions.

However, Matson's specific objections to this final rule are directed at the very basis of the changes incorporated in this rule, and merit review. Matson's complaints are twofold: (1) That a twelve month cycle should be employed in the determination of a final exchange rate, as opposed to the seven month cycle that is now being used; and (2) that the full year employed to determine the final exchange rate should correspond to the current twelve month subsidy rate period, July to July, and that the exchange rates should be applied to foreign wage costs determined for that period.

MARAD's principal goal in adopting and implementing 46 CFR 282 in 1986 was to provide a means for determining and paying subsidy in a more timely and more predictable manner. This enables operators receiving ODS to budget and to plan more accurately. To accomplish a more timely determination of ODS, the current procedures in 46 CFR 282 reduced the period for analysis of end-month exchange rates from twelve months (July to July) to seven months (July to January). Exchange rates from the seven months are applied to the current foreign wage data to determine foreign wage costs. The regression of the U.S./foreign wage cost comparison by one year as proposed in the NPRM permits the use of exchange rates for a twelve-month period without delaying final rate determinations.

Matson agrees that MARAD should return to a twelve-month exchange rate cycle. However, Matson further urges a return to the procedure that MARAD formerly used, that is, the foreign wage costs used in the ODS rate calculation should be determined by applying the current year exchange rates to the current year foreign wage cost data.

Matson argues that by regressing data a full year, unsubsidized operators will be disadvantaged *vis-a-vis* ODS operators on "mixed voyages," in periods when the U.S. dollar is in a continual decline in comparison with foreign currencies. Under this scenario, the difference between U.S. and foreign wages continues to shrink. Therefore, the difference between the currencies and exchange rates is greater at the close of the regressed year than in the current year. The subsidy rate will also be greater at the close of the regressed year than during the rate year. This argument is correct, as far as it goes. However, Matson views the situation from only a single approach. While a declining U.S. dollar is the current economic scenario, historically the U.S. dollar has both increased and decreased *vis-a-vis* foreign currencies. In other words, the recent decline of the U.S. dollar should not be viewed as a permanent situation. In those situations where the U.S. dollar is strengthening, Matson's contention with respect to the ODS operator having an advantage would be reversed. Furthermore, it is difficult to imagine that a nonsubsidized operator could be seriously disadvantaged under any scenario. Section 605(a) of the Merchant Marine Act provides that for subsidized voyages having a domestic cargo leg, ODS for the entire voyage is reduced by the same ratio that the domestic cargo revenue bears to the gross revenue derived from the entire voyage.

The Merchant Marine Act, 1936, as amended, provides that ODS is based on a fair and reasonable estimate of foreign costs. The current procedures in 46 CFR Part 282 and the proposed procedures with respect to wage cost regression conform to that requirement. MARAD also does not believe that Matson's objections to the proposed rulemaking are sufficiently compelling to prevent MARAD from adopting the proposed procedures as a Final Rule.

**Analysis of Regulatory Impacts**

This amendment has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographic regions. Furthermore, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This amendment is not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, the Maritime Administrator certifies that this amendment will not have a significant

economic impact on a substantial number of small entities.

This amendment does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Finally, the amendment is exempt from the Paperwork Reduction Act because it does not include new information requirements.

**List of Subjects in 46 CFR Part 282**

Liner cargo vessels, ODS program, Water transportation.

Accordingly, 46 CFR Part 282 is amended as follows:

## PART 282—[AMENDED]

1. The authority citation for Part 282 is revised to read as follows:

**Authority:** Secs. 204(b), 603, 606 Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1114(b), 1173, 1176); 49 CFR 1.66.

2. Section 282.21(f) introductory text, (f)(2), and (f)(3) introductory text are revised to read as follows:

**§ 282.21 Wages of officers and crews.**

* * * * *

(f) *Method of calculating foreign wage costs.* The foreign wage cost (FC) of the principal foreign-flag competitors and the comparable WC of the subsidized vessel are matched as of January 1 of the last fiscal year preceding the subsidized fiscal year for purposes of determining the wage cost of the principal foreign flags. The following procedures are used:

* * * * *

(2) *Method.* The method of calculating FC shall be the same as that used for WC, provided that it is possible to obtain foreign cost data on the same basis as wage cost data. Preference shall be given to pricing out for fixed costs and to cost experience for variable costs. Where applicable, foreign currencies shall be converted into U.S. currency equivalents by using the average of end-month exchange rates for the period July through June that includes the January 1 for which FC is calculated. The exchange rates shall be obtained from the publication, "International Financial Statistics," published monthly by the International Monetary Fund. If exchange rates for particular foreign currencies are not available in this publication, they shall be obtained from the United States Department of the Treasury.

(3) *Foreign wage costs.* The per diem composite foreign wage cost is determined by multiplying the per diem WC for the U.S. ship type, calculated as of January 1 of the subsidized fiscal year, by the ratio of FC to WC, calculated as of January 1 of the last fiscal year preceding the subsidized fiscal year. The following is a sample calculation of the foreign cost percentage.

* * * * *

By order of the Maritime Administrator.

Date: January 27, 1989.

**James E. Saari,**

*Secretary, Maritime Administration.*

[FR Doc. 89-2324 Filed 1-31-89; 8:45 am]

BILLING CODE 4910-81-M

# Proposed Rules

Federal Register
Vol. 54, No. 20
Wednesday, February 1, 1989

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

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Part 92

**[Docket No. 89-009]**

### Importation of Birds

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of extension of comment period.

**SUMMARY:** We are extending the comment period for a proposed rule that would amend the regulations governing the importation of animals and animal products to allow birds that originate in the United States, and the offspring of those birds, to be imported under specified conditions from an approved closed breeding facility without quarantine in the United States. This extension will provide interested persons with additional time in which to prepare comments on the proposed rule.

**DATES:** Consideration will be given only to written comments that are postmarked or received on or before March 8, 1989.

**ADDRESSES:** Send an original and two copies of written comments to Helene R. Wright, Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 88-101. Comments received may be inspected at USDA, Room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Wade H. Ritchie, Staff Microbiologist, Import-Export Animals Staff, VS, APHIS, USDA, Room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8590.

**SUPPLEMENTARY INFORMATION:** On December 6, 1988, we published in the Federal Register (53 FR 49193, Docket No. 86-101) a proposed rule that would amend the regulations in 9 CFR Part 92 governing the importation of animals and animal products. The proposed rule would establish provisions allowing birds to be imported into the United States without quarantine in the United States, if the birds are imported under specified conditions from a country free of viscerotropic velogenic Newcastle disease, from a closed breeding facilty containing only birds that originated in the United States and the offspring of those birds. Comments on the proposed rule were required to be postmarked or received on or before February 6, 1989.

We have received requests from several industry representatives to extend the comment period on the proposed rule. In response, we are extending the comment period so that we may consider all written comments postmarked or received on or before March 8, 1989. This action will allow the requestors and all other interested persons additional time to prepare comments.

Done at Washington, DC, this 26th day of January 1989

James W. Glosser,

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 89-2278 Filed 1-31-89; 8:45 am]

BILLING CODE 3410-34-M

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 20

**[Docket No. PRM-20-19]**

### GE Stockholders Alliance; Receipt of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of receipt.

**SUMMARY:** The Commission is publishing for public comment a notice of receipt of a petition for rulemaking dated October 31, 1988, which was filed with the Commission by the GE Stockholders Alliance. The petition was docketed by the Commission on November 2, 1988, and has been assigned Docket No. PRM-20-19. The petitioner requests that the Commission amend its regulations to require that a detectable odor be injected into the emissions of nuclear power plants and other nuclear processes over which the NRC has jurisdiction.

**DATE:** Submit comments by April 3, 1989.

Comments received after this date will be considered if it is practical to do so but the Commission is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Submit written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington DC 20555, Attention: Docketing and Service Branch.

For a copy of the petition, write the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

The petition and copies of comments received may be inspected and copied for a fee at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Acting Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-8926 or Toll Free: 800-368-5642.

**SUPPLEMENTARY INFORMATION:** The petitioner requests that the NRC issue a regulation to require that a detectable odor be injected into the emissions of nuclear power plants and other nuclear processes over which the NRC has jurisdiction. The petitioner requests that the suggested requirement be imposed through an emergency rulemaking. The petition would require an amendment to the regulations contained in 10 CFR Part 20. Part 20 contains the Commission's Standards for Protection Against Radiation. A requirement of the type requested by the petitioner would result in the addition of the provision to § 20.106, "Radioactivity in Effluents to Unrestricted Areas."

The petitioner believes that compliance with the suggested requirement by Commission licensees would immeasurably improve the health and safety of the public by providing for early detection of radiation leaks. The

petitioner states that a detectable odor would give the public notice of the need to take health-protective measures.

The petitioner states that scientific studies prove that even the smallest amount of ionizing radiation may cause harmful health effects. The petitioner states that there is ample evidence that radiation causes increased infant mortality, genetic abnormalities, cancer, and a lowering of the immune system which makes the body more susceptible to disease. The petitioner states that records demonstrate that radiation plumes are erratic and unpredictable in their dispersion upon release because of varying weather and geo-physical characteristics of the terrain.

The petitioner also states that the natural gas industry observed the danger of odorless, colorless gas in its original state, and now requires inexpensive, non-toxic, recognizable odors to be injected into gas for commercial and domestic use. The purpose of the odor-additive is to help people detect gas leaks, and thereby provide confidence that the use of gas is safe.

Dated at Rockville, Maryland, this 27th day of January, 1989.

For the Nuclear Regulatory Commission.

**Samuel J. Chilk,**

*Secretary of the Commission.*

[FR Doc. 89-2298 Filed 1-31-89; 8:45 am]

BILLING CODE 7590-01-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 414

### Trade Regulation Rule; Deception as to Transistor Count of Radio Receiving Sets, Including Transceivers

**AGENCY:** Federal Trade Commission.

**ACTION:** Advance Notice of Proposed Rulemaking (ANPR).

**SUMMARY:** The Federal Trade Commission announces its intention to begin a rulemaking proceeding for the trade regulation rule concerning deception as to transistor count of radio receiving sets, including transceivers ("Transistor Rule" or "Rule"). The proceeding will address whether the Transistor Rule should remain in effect without changes or should be repealed. The Commission invites public comment on how the Transistor Rule has affected consumers, business and others.

Because the Rule contains no information collection requirements, the Commission is not specifically seeking comments as to whether the Rule imposes unnecessary recordkeeping and disclosure requirements (Paperwork Reduction Act, 44 U.S.C. 3501–3518). Further, the Rule has not had significant economic impact on small entities so no comments are sought pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*

**DATES:** Written comments will be accepted until March 3, 1989.

**ADDRESS:** Written comments should be addressed to the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580. All comments should be captioned: "ANPR Comment—Transistor Rule."

**FOR FURTHER INFORMATION CONTACT:** Robert E. Easton, Esq., Special Assistant—Enforcement, (202) 326–3029, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:**

#### Part A—Background Information

This notice is being published pursuant to section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a *et seq.*, the provisions of Part 1, Subpart B of the Commission's Rules of Practice, 16 CFR 1.7, and 5 U.S.C. 551, *et seq.* This authority permits the Commission to promulgate, modify and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting Commerce within the meaning of section 5(a)(1) of the FTC Act, 15 U.S.C. 45.

The Transistor Rule declares that it is an unfair method of competition and an unfair or deceptive act or practice in connection with the sale of radio receiving sets including transceivers to represent directly or by implication that a radio set contains a specified number of transistors when the transistors counted do not function to detect, amplify or receive radio signals.

The Transistor Rule was adopted on May 14, 1968 and became effective on December 10, 1968.

#### Part B—Objectives

The objective of this rulemaking proceeding is to determine whether the Commission's Transistor Rule Should remain in effect without changes or be repealed. To assist the Commission in reaching its determination, the Commission will seek evidence on the following factual issues: (1) Whether there are any benefits from the Transistor Rule and, if so, whether they are greater than its costs; and (2) whether radio technology and marketing have changed so that the Rule is no longer needed.

The Commission is undertaking this rulemaking proceeding as part of the Commission's ongoing program of evaluating trade regulation rules to determine their current effectiveness and impact.

#### Part C—Alternative Actions

The Commission does not plan to consider alternatives to repealing the Transistor Rule or leaving it in effect as it is.

#### Part D—Request for Comments

Members of the public and invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's review of the Transistor Rule. A comment that includes the reasoning or basis for a proposition will likely be more persuasive than a comment without supporting information. The Commission requests that factual data upon which the comments are based be submitted with the comments. In this section, the Commission identifies a number of issues on which it solicits public comment. The identification of issues is designed to assist the public to comment on relevant matters and should not be construed as a limitation on the issues or the public comment.

#### Question

(1) Do manufacturers and retailers of radios and transceivers (walkie-talkies) currently use transistor counts as a means of marketing their products (this question does not apply to integrated circuits which are not covered by the Rule)?

(2) Are transistors currently used in radios and transceivers to detect, amplify or receive radio signals?

(3) Is the use of transistors in radios and transceivers considered "state of the art" technology?

(4) Is promotion of the number of transistors in radios or transceivers a useful marketing strategy?

(5) Is the number of transistors contained in a radio or transceiver customarily disclosed on the set itself or in promotional material such as advertisements?

(6) Are retail store sales personnel informed of the transistor count of radios and transceivers and/or instructed to mention such count to customers?

(7) What are the costs to manufacturers and sellers of radios and transceivers imposed by the Rule?

(8) What are the benefits to consumers from the Rule?

(9) Should the Rule be kept in effect or should it be repealed?

**List of Subjects in 16 CFR Part 414**

Transistors, Trade practices.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 89-2313 Filed 1-31-89; 8:45 am]

BILLING CODE 6750-01-M

## DEPARTMENT OF THE TREASURY

### Customs Service

### 19 CFR Parts 141 and 178

### Withdrawal of Proposed Customs Regulations Amendment Relating to Entry of Consolidated Shipments

**AGENCY:** Customs Service, Treasury.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** This document withdraws a proposal to amend the Customs Regulations relating to the entry procedures for consolidated shipments of imported merchandise.

Customs had proposed that in the case of consolidated shipments by common carrier, entry shall not be made by a broker appointed by the consignee named in the master bill of lading or master air waybill (master bills), if a consignee on any one of the individual bills of lading or individual air waybills (individual bills) which make up the master bills has designated that the entry will be made by another broker or by the actual owner or purchaser, or has specified that entry is to be made at a different port of entry. Customs had further proposed that if entry were made by a broker named in the master bill, he would be required to submit with the entry filed with Customs a signed statement that none of the stated conditions were specified in any of the individual bills. If this signed statement were not provided, separate entry was to be accomplished for each package in the consolidated shipment by the importer of record or its broker. The goal of the proposal was to provide Customs with a means to ensure that importers' specific instructions on their shipping documents were honored by carriers.

After analysis of the comments received in response to the proposal and further review of the matter it has been determined that Customs should not put itself in the position of refereeing contractual agreements between parties regarding the selection of a customs broker to make entry. Therefore, the proposal is being withdrawn.

**DATE:** Withdrawal effective February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Michele Struzzieri, Entry Rulings Branch (202-566-5856).

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 24, 1985, Customs published a notice in the **Federal Register** (50 FR 52532), proposing to amend § 141.11, Customs Regulations (19 CFR 141.11), relating to evidence of the right to make entry for importations by common carrier for consolidated shipments.

The proposal provided that in the case of consolidated shipments by common carrier, entry was not to be made by a broker appointed by the consignee named in the master bill of lading or master air waybill if (1) a consignee on any one of the individual bills of lading or individual air waybills which make up the master bill of lading or master bill of lading or master air waybill designated another broker to make entry, or (2) any one of the individual bills of lading or individual air waybills indicated that entry was to be made by the actual owner or purchaser.

The proposal further provided that if entry were to be made by a broker appointed by the consignee named in the master bill of lading or master air waybill, the broker would be required to submit with the entry filed with Customs a signed statement to the effect that none of the individual bills of lading or individual air waybills making up the master bill of lading or master air waybill (i) designated a broker, or a different broker from the one identified in the master bill of lading or master air waybill, or (ii) indicated that entry will be made by the actual owner or purchaser, or (iii) specified that entry is to be made at a different port of entry. If the signed statement were not submitted, separate entry would be required for each package in the consolidated shipment by the importer of record or its broker, as appropriate.

The purpose of the proposal was to ensure that importers' specific instructions on their shipping documents were honored by carriers. Customs was trying to support the wishes of consignees actually named in individual bills of lading to have entry made by brokers of their own choosing or at ports of entry of their choosing.

The proposed amendments did not apply to those aspects of express delivery operations, courier service operations, or similar delivery operations not involving consolidated shipments or delivery operations not using individual house bills of lading or air waybills. The proposed procedures also were not to apply to any shipment if the shipper contractually agreed that the carrier was to be the consignee and could appoint a broker of its own choosing to make entry.

Twenty-eight comments were received in response to the notice of proposal. It was apparent from the comments that the proposal was not completely understood by the public. Subsequently, Customs determined that the proposal be modified. The modified proposal was published in the **Federal Register** (52 FR 42310) on November 4, 1987, allowing for further opportunity for comment. After a request had been received to extend the comment period, a notice was published in the **Federal Register** (53 FR 30), on January 4, 1988, extending the time for comments until February 18, 1988.

**Discussion of Comments**

Sixteen comments were received and most were opposed to the proposal. The proposal was considered by many of the commenters as unnecessary and commercially burdensome. After careful consideration of all the comments received and further review of the matter, it has been determined that Customs should not be involved in refereeing contractual agreements between parties regarding the selection of a customs broker to make entry.

**Conclusion**

In accordance with the above discussion, Customs is withdrawing the proposal published in the **Federal Register** on November 4, 1987, to amend the Customs Regulations relating to the entry procedures for consolidated shipments of imported merchandise.

**Drafting Information**

The principal author of this document was Harold M. Singer, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

**William von Raab,**

*Commissioner of Customs.*

Approved: January 26, 1989.

**Salvatore R. Martoche,**

*Assistant Secretary of the Treasury.*

[FR Doc. 89-2310 Filed 1-31-89; 8:45]

BILLING CODE 4820-02-M

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**19 CFR Part 353**

**[Docket No. 90110-9010]**

**Antidumping Duties**

**AGENCY:** International Trade Administration (Import Administration), Department of Commerce.

**ACTION:** Advance Notice of Proposed Rulemaking.

**SUMMARY:** The Department is considering initiating a rulemaking proceeding with respect to the so-called substantive provisions of its Antidumping Regulations. The overall objectives of this rulemaking proceeding would be to: (1) Change existing administrative practice in order to simplify and streamline the Department's administration of antidumping proceedings; (2) codify existing administrative practice, to the extent such codification is consistent with the first objective; and (3) resolve inconsistencies in the Department's administrative practice.

**DATE:** The Department will accept written comments until March 20, 1989.

**ADDRESS:** Send comments (five copies) to William D. Hunter, Deputy Chief Counsel for Import Administration, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Comments should be addressed: Attention: Advance Notice of Proposed Rulemaking/Amendments to Antidumping Regulations.

**FOR FURTHER INFORMATION CONTACT:** William D. Hunter, (202) 377-1411.

**SUPPLEMENTARY INFORMATION:**

**Background Information**

The Department is considering initiating a rulemaking proceeding with respect to the so-called substantive provisions of its Antidumping Regulations. The overall objectives of this rulemaking proceeding would be to: (1) Change existing administrative practice in order to simplify and streamline the Department's administration of antidumping proceedings; (2) codify existing administrative practice, to the extent such codification is consistent with the first objective; and (3) resolve inconsistencies in the Department's administrative practice.

The substantive provisions of the Antidumping Regulations deal with the methods by which the Department calculates the existence and amount of dumping margins. These regulations, which currently are contained in Subpart A of the Antidumping Regulations, 19 CFR 353.2 to 353.24, for the most part reflect the administrative practice of the U.S. Department of the Treasury and its constituent unit, the U.S. Customs Service, prior to the transfer of responsibility for administration of the antidumping law to the Department in 1980.

Since the Department assumed responsibility for the antidumping law, the Department has engaged in two significant rulemaking proceedings. The first, completed in 1980, largely promulgated procedures conforming to the major procedural revisions enacted in the Trade Agreements Act of 1979 (Pub. L. 96-39; July 26, 1979) ("1979 Act"). The second rulemaking proceeding, which is nearing completion, also dealt largely with procedures, modifying the Antidumping Regulations to (1) conform to the provisions of Title VI of the Trade and Tariff Act of 1984 (Pub. L. 98-573; October 30, 1984) ("1984 Act"); and (2) incorporate needed improvements identified by the Department and others as a result of practical experience with the administration of the antidumping law, as amended by the 1979 Act.

With respect to antidumping methodology, however, the Department has developed its methodology largely through adjudication of individual cases. In part, this was an inevitable result of the Department's inexperience in administering the antidumping law. In addition, a certain amount of administrative flexibility has proven necessary in order to deal with the novel factual situations which continually arise. Nevertheless, the case-by-case approach has produced certain undesirable consequences.

First, as a result of the Department's eight years of adjudicating antidumping proceedings, there is now a substantial gloss on the existing Antidumping Regulations in the form of administrative practice. This administrative practice is not readily accessible to the public. One objective of a rulemaking proceeding would be to codify this practice in the form of regulations, thereby making the antidumping law and the Department's antidumping methodology more accessible to the public.

Another consequence of the adjudicative approach is that in some instances the Department has issued inconsistent determinations, a failing for which Congress chastised the Department in the legislative history of the Omnibus Trade and Competitiveness Act of 1988. H.R. Rep. No. 40, 100th Cong., 1st Sess. (pt. 1) 143 (1987). Therefore, another objective of rulemaking would be to codify and clarify the Department's antidumping methodology so as to avoid unwarranted inconsistencies in the future.

Finally, based upon its experience in administering the antidumping law, the Department is concerned that the substance and procedures of the law may have become so complicated as to reduce the usefulness of the antidumping law as a tool in combatting unfair foreign pricing practices. Therefore, the Department is seeking ways in which to streamline and simplify antidumping proceedings for all parties concerned (including the Department), without sacrificing substantive and procedural fairness.

The Department already has identified certain likely amendments which should be made to the Antidumping Regulations. However, before initiating a rulemaking proceeding, and in order to accomplish the objectives noted above, the Department invites public comment on proposed amendments to the Antidumping Regulations. Although the Department is most concerned with amending those provisions of the Antidumping Regulations dealing with the calculation of dumping margins, the Department also is interested in procedural suggestions which will help to streamline and simplify antidumping proceedings. In addition, while the Department intends to initiate a separate rulemaking proceeding to incorporate into the Antidumping Regulations certain of the statutory changes made to the antidumping law by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418; August 23, 1988), commenters may, if they so desire, submit suggestions concerning the 1988 Act amendments as part of their response to this notice.

**Rulemaking Procedures**

If the Department determines that any amendment proposed in response to the Advance Notice of Proposed Rulemaking is appropriate, a notice of proposed rulemaking asking for public comment on a specific proposed amendment or amendments shall be published in the Federal Register.

**Request for Comments**

The Department has not reached any conclusions concerning any of the matters raised herein. The Department wishes to receive public comments on all aspects of the Department's

administration of the antidumping law. The Department believes that such public comment would enhance its understanding of the issues and problems that need to be addressed. Therefore, interested persons are invited to address any issue of law, policy, or procedure, and to suggest appropriate amendments to the Antidumping Regulations which the Department should consider.

**List of Subjects in 19 CFR Part 353**

Business and industry, Foreign trade, Imports, Trade practices.

Jan W. Mares,

*Assistant Secretary for Import Administration.*

[FR Doc. 89-2360 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-DS-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[FRL-3512-8]**

### Approval and Promulgation of Implementation Plans; Ohio

**AGENCY:** U.S. Environmental Protection Agency (USEPA).

**ACTION:** Extension of public comment period.

**SUMMARY:** On November 23, 1988 (53 FR 47549), the USEPA proposed to approve a revision to the ozone portion of the Ohio State Implementation Plan for the Mansfield Products Company, Mansfield, Ohio.

At the time the proposed rulemaking, 30-day comment period was provided. The Ohio Environmental Protection Agency requested an extension of the public comment period. USEPA is extending the public comment period for an additional 30 days to January 23, 1989.

**DATE:** Comments must be postmarked on or before January 23, 1989.

**ADDRESS:** If possible please send an original and three copies of all comments. Comments should be submitted to: Gary Gulezian, Regulatory Analysis Section (5AR-26), Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Maggie Greene, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6088.

**Authority:** 42 U.S.C. 7401-7642.

Dated: January 13, 1989.

**Valdas V. Adamkus,**

*Regional Administrator.*

[FR Doc. 89-2274 Filed 1-31-89; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

### 43 CFR Part 11

### Natural Resource Damage Assessments

**AGENCY:** Department of the Interior.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Department of the Interior (the Department) intends to begin the biennial review of the type A natural resource damage assessment regulations promulgated as a final rule on March 20, 1987, and codified at 43 CFR Part 11. The natural resource damage assessment regulations were developed pursuant to section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). Section 301(c)(3) of CERCLA requires that the regulations be reviewed by the Department every two years and revised as appropriate.

The Department has promulgated two types of assessment regulations: Standard procedures for simplified assessments requiring minimal field observation (type A procedures); and procedures for complex assessments (type B procedures). The March 20, 1987, final rule contains the type A procedure for use in coastal and marine environments. To meet the two-year review requirement of CERCLA, the Department is now requesting public comments on experience gained with the type A procedure and with the computer model, "Natural Resource Damage Assessment Model for Coastal and Marine Environments" (NRDAM/CME), incorporated by reference in the type A rule. If it is determined, after review of comments received in response to this Advanced Notice of Proposed Rulemaking, that the March 20, 1987, final type A rule containing the NRDAM/CME should be revised, a Notice of Proposed Rulemaking will be published in the **Federal Register**.

Comments submitted in response to this Notice should address only the type A procedure for coastal and marine environments and the NRDAM/CME. Any concerns with the general assessment process and the type B procedures, or the development of additional type A procedures will be handled in separate Notices published in the **Federal Register** (to date *see* 53 FR 15714 and 53 FR 20143, respectively).

**DATE:** Comments will be accepted through April 3, 1989.

**ADDRESS:** Office of Environmental Project Review, ATTN: NRDA Regulations, Room 4239, Department of the Interior, 1801 C Street NW., Washington, DC 20240. (Regular business hours 7:45 a.m. to 4:15 p.m., Monday through Friday).

**FOR FURTHER INFORMATION CONTACT:** David Rosenberger or Linda Burlington (202) 343-1301.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.*, requires the promulgation of regulations for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a release of a hazardous substance for the purposes of CERCLA and section 311(f)(4) and (5) of the Clean Water Act (CWA), 33 U.S.C. 1251 *et seq.* (also known as the Federal Water Pollution Control Act).

Section 107 of CERCLA provides that, in addition to cost-recovery for response and cleanup actions, natural resource trustees may recover damages for injury to natural resources, including the reasonable costs of assessing such injury, plus any prejudgment interest. Federal and State natural resource trustees may bring an action for damages under sections 107(f) and 111(b) of CERCLA. Indian tribes may commence an action as natural resource trustees under section 126(d). Federal natural resource trustees are designated by Executive Order 12580 and the National Contingency Plan (NCP). They are, in general, those departments and agencies that have natural resources or land management responsibilities. State natural resource trustees are State officials designated by the Governors. These State designations are reported to the Administrator of the U.S. Environmental Protection Ageny (EPA). Natural resources are defined by CERCLA to be: Land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed, by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established under the Magnuson Fishery Conservation and

Management Act of 1976), any State or local government, any foreign government, any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe. The damages that may be sought by natural resource trustees are for the injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a release of a hazardous substance.

Section 301(c), revised by the Superfund Amendments and Reauthorization Act of 1986 (SARA), calls for the natural resource damage assessment regulations in the following terms:

(c)(1) The President, acting through Federal officials designated by the national Contingency Plan published under Section 105 of this Act, shall study and, not later than two years after the enactment of this Act, shall promulgate regulations for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a release of oil or a hazardous substance for the purpose of this Act and section 311(f)(4) and (5) of the Federal Water Pollution Control Act. Notwithstanding the failure of the President to promulgate the regulations required under this subsection on the required date, the President shall promulgate such regulations not later than 6 months after the enactment of the Superfund Amendments and Reauthorization Act of 1986.

(2) Such regulations shall specify: (A) Standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of discharge or release or units of affected area, and (B) alternative protocols for conducting assessments in individual cases to determine the type and extent of short- and long-term injury, destruction, or loss. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss and shall take into consideration factors, including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover.

(3) Such regulations shall be reviewed and revised as appropriate every two years.

Executive Order 12316 of August 14, 1981, replaced by Executive Order 12580 of January 23, 1987, delegated the responsibilities contained in section 301(c) to the Secretary of the Interior. On August 1, 1986 (51 FR 27674), the Department published a final rule that provides the general process for conducting natural resource damage assessments, and the alternative methodologies for conducting assessments in individual cases, otherwise known as the "Type B" procedures. A notice was issued on November 16, 1987 (52 FR 43763), announcing the availability of five final type B technical information documents that were prepared in conjunction with the development of the type B assessment procedures. On March 20, 1987 (52 FR 9042), the Department published a final rule that contains the standard procedures for simplified assessments, known as the "type A" procedures. The type A procedure in that rule is for use in coastal and marine environments and includes the use of a computer model called the Natural Resource Damage Assessment Model for Coastal and Marine Environments (NRDAM/CME). On February 22, 1988 (53 FR 5166), the Department published a final rule to amend 43 CFR Part 11 to conform with amendments to CERCLA brought about by SARA. Finally, on March 25, 1988, the Department published technical corrections to the NRDAM/CME (53 FR 9769). These rules together, codified at 43 CRF Part 11, comprise the natural resource damage assessment regulations called for by section 301(c) of CERCLA. Natural resource damage assessments performed by Federal or State trustees in accordance with these regulations are provided the legal evidentiary status of a rebuttable presumption in an administrative or judicial proceeding, as provided by section 107(f)(2)(C) of CERCLA.

## II. Discussion

In order to carry out the statutory requirement of the two-year review of the type A natural resource damage assessment regulations, the Department is seeking public comment reflecting experience with the current type A procedure for use in coastal and marine environments.

Over the course of developing the type A rule, beginning with the Advance Notice of Proposed Rulemaking published in January of 1983 (see 48 FR 1084), the Department already has received many comments on the natural resource damage assessment regulations. Comments specific to the current type A procedure were received on the proposed type A rule published on May 5, 1986 (51 FR 16636). These comments were helpful in developing the current type A procedure for coastal and marine environments. The Department's response to these comments can be found in the preamble to the final type A published in March 1987 (see 52 FR at 9049). The Department is now asking for information based upon experiences with applications of the type A procedure for use in coastal and marine environments. Comments should focus on Subpart D and §§ 11.31(d) and 11.33 of Subpart C of 43 CFR Part 11, which pertain to the current type A procedure. The Department is also requesting technical information and data that would assist in updating the algorithms and databases contained within the NRDAM/CMA, and information drawn from any new technology or data not available when the NRDAM/CME was developed.

For reference in preparing comments to the above request, the Department is providing a brief overview of the natural resource damage assessment process. Specific discussion regarding the current type A procedure for use in coastal and marine environments is described within this overview. It should be noted that the natural resource trustee has the option of using the rules or of performing an assessment based on some other procedure. However, assessments performed in accordance with 43 CFR Part 11 will be given a rebuttable presumption in an action to recover damages. The discussion that follows describes the major phases in the assessment process and the progression of these phases through a type A assessment using the NRDAM/CME.

Upon notification or detection of a discharge or release, the natural resource trustee may begin the Preassessment phase. The purpose of the Preassessment phase is to establish that a CERCLA or CWA-covered incident has occurred and that resources of the trustee may have been affected. A Preassessment Screen Determination is required to determine whether to proceed with further assessment actions.

If the Preassessment Screen Determination indicates that further actions are warranted, the trustee may proceed to the Assessment Plan phase. The trustee must develop an Assessment Plan before initiating an assessment. The trustee is also required to coordinate with other co-trustees, to make reasonable efforts to identify and involve the potentially responsible party, and to offer the public an opportunity to review the Assessment Plan. For a type A natural resource damage assessment, the Assessment Plan must document the decision to conduct a type A assessment, as specified in § 11.33(a) and (b)(1). The Assessment Plan must also document the specific parameter values to be used as data inputs in the application of the NRDAM/CME, as required by § 11.31(d) and delineated in § 11.41(e). For the NRDAM/CME, these parameter values include, for example, the mass of the material spilled, depth of the water column, wind speed and direction, and quantity of material cleaned up. Other parameter values are also required that

define the boundaries of the study area and its ecological characteristics.

After the trustee develops the Assessment Plan, he may proceed with the assessment phase, which is carried out by the NRDAM/CME, based upon the user input parameter values identified in the Assessment Plan and the interactive technical databases contined within the NRDAM/CME. A detailed explanation of the NRDAM/CME and its databases has been provided in the technical report "Measuring Damages to Coastal and Marine Natural Resources: Concepts and Data Relevant to CERCLA Type A Damage Assessments," Volumes I and II (referred to as the NRDAM/CME technical document), which is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; PB87–142485; ph: (703) 487–4650. Additional discussion of the NRDAM/CME, as well as its applications and limitations, has been given in the preamble to the final type A rule published on March 20, 1987 (at 52 FR 9042).

The NRDAM/CME consists of interactive physical fates, biological effects, and economic damages submodels. The physical fates submodel determines the transport of the substance through the water pathway. The fate of the substance in the water pathway incorporates such factors as evaporation/volatilization, spreading, entrainment, and settling. Various physical, chemical, and toxicological properties of each substance contained in the chemical database are provided to the physical fates submodel to enable computation of the substance's transport. The interaction of the physical fates and biological effects submodels determines injury.

The biological effects submodel quantifies the biological injuries that result from: (1) Direct mortality to adult, juvenile, and larval biota due to toxic concentrations of the spilled substance; and (2) indirect mortality to adult, juvenile, and larval biota due to a loss of foodstuff from the food web. The biological data base within the NRDAM/CME provides data on the biological populations within the ecological system of the NRDAM/CME study area. The submodel calculates losses to biological populations through the period of resource recoverability.

The economic damages submodel calculates dollar amounts for compensation for injuries based on use values. An economic data base is contained in the NRDAM/CME that uses market and nonmarket prices for the services provided by the natural resources. Damages are calculated in the NRDAM/CME for losses resulting from direct and indirect mortality to biota. The NRDAM/CME also calculates damages due to the closure of a fishing area, hunting area, or public beach due to the discharge or release. The extent of an area subject to closure is a data input made by the user of the NRDAM/CME, based upon the actual area closed due to the discharge or release.

Upon completion of the NRDAM/CME computations, the user is returned to the general natural resource damage assessment process. The NRDAM/CME provides a printed output that summarizes the mathematical computations performed to derive the damage amount. The printed output of the NRDAM/CME provides the documentation fo the results of the assessment and is to be included within the Report of Assessment.

When the natural resource damage assessment is complete, several post-assessment actions are required. A Report of Assessment is compiled that includes the documentation of all determinations made during the assessment, data collected, and test results. The Report of Assessment becomes the administrative record of the natural resource damage assessment. The trustee then presents a demand for damages to the potentially responsible party (PRP), and the PRP has the opportunity to respond to the demand. Any damage awards are to be placed in a separate account for use by the trustee to restore or replace the natural resources injured by the discharge or release. The trustee must develop a Restoration Plan to document the actions that are planned to restore or replace the injured resource. The Plan must be developed based on the amount of the damage award.

### III. Conclusion

The Department is seeking comments based on experiences in applying the current type A procedure outlined in the rule, which is described above. Comments should address the following, although not necessarily be limited to these questions: (1) Where and how has the assessment process and the type A procedure been applied, for example, geographical location, environmental setting, etc.?; (2) how effective was the current type A procedure in these applications?; (3) in what type of situation has the type A rule or the NRDAM/CME been used, for example, in settlement negotiations, court actions, etc.?; and (4) what are recommendations for modification of the current type A procedure based on the applications mentioned above?

The Department is seeking technical information and data that may be available to aid in any necessary updating of the NRDAM/CME, its various submodels, or its databases. Technical comments should address, although not necessarily be limited to: (1) The general ease of use of the NRDAM/CME; (2) possible refinements of the algorithms within the submodels of the NRDAM/CME; (3) new modeling technologies or methodologies that were not available at the time of the development of the NRDAM/CME; and (4) current available information and data to update the chemical, biological, and economic databases used in the NRDAM/CME.

Although the NRDAM/CME was subjected to rigorous and numerous tests and evaluations (i.e., sensitivity runs) before being incorporated into the final type A rule, the Department recognizes that computer programs such as the NRDAM/CME or even commercial software applications programs are inherently complex and may not be completely free of coding errors ("bugs"). The Department, in fact, published technical corrections to the NRDAM /CME on March 25, 1988 (53 FR 9769), to correct several such errors that had been found after the final type A rule was published in March of 1987. The Department continues to request information concerning other possible coding errors that may have been identified by users of the model so that such coding errors may be corrected during this review periods.

Dated: January 26, 1989.

**Bruce Blanchard,**

*Director, Office of Environmental Project Review.*

[FR Doc. 89–2260 Filed 1–31–89; 8:45 am]

BILLING CODE 4310–RG–M

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## Fish and Wildlife Service

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Cardamine micranthera (Small-anthered Bittercress)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Service proposes to list *Cardamine micranthera* (small-anthered bittercress), a perennial herb limited to three populations in North Carolina, as an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). *Cardamine*

*micranthera* is endemic to Stokes and Forsyth Counties, North Carolina, and is endangered by conversion of habitat for agricultural and silvicultural purposes, floods, stream channelization and impoundment, and encroachment of exotic plants.

This proposal, if made final, would implement Federal protection provided by the Act for *Cardamine micranthera*. The Service seeks data and comments from the public on this proposal.

**DATES:** Comments from all interested parties must be received by April 3, 1989. Public hearing requests must be received by March 20, 1989.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nora Murdock at the above address (704/259–0321 or FTS 672–0321).

**SUPPLEMENTARY INFORMATION:**

## Background

*Cardamine micranthera*, first described by R. C. Rollins (1940) from material collected in North Carolina in 1939, is an erect, slender, perennial herb with fibrous roots and one (or rarely more) simple or branched stem growing 0.2 to 0.4 meter tall. Basal leaves are 1 to 2 centimeters (cm) long, 0.5 to 0.6 cm wide, crenate, with one (or rarely two) pair of small lateral lobes. The stem leaves are alternate and mostly unlobed, 1 to 1.5 cm long, crenate and cuneate. Flowers and fruits are borne in April and May. The flowers, subtended by leafy bracts, have four white petals, six stamens, and small, round anthers. The fruit is a silique 0.8 to 1.2 cm long and approximately 1 millimeter (mm) in diameter with a beak 1 to 1.2 mm long. The brown seeds are approximately 1 mm long. *Cardamine micranthera* can be distinguished from its most similar relative, *Cardamine rotundifolia*, by its much smaller, nearly orbicular (instead of oblong) anthers, smaller flowers, and more angulate leaves. In *Cardamine micranthera*, the anthers are about 0.5 mm long, and the petals are 1.2 to 2 mm wide; whereas in *Cardamine rotundifolia*, the narrowly oblong anthers measure from 1.2 to 1.6 mm long, and the petals are 2.5 to 3.5 mm wide. Growth habits of the two species differ as well; *Cardamine rotundifolia* has decumbent stems with proliferating branches arising both from the main axis and often from the inflorescences. *Cardamine micranthera* has erect or only basally decumbent stems with no proliferating branches. Also, the siliques and styles of *Cardamine micranthera* are only about half as long as those of *Cardamine rotundifolia* (Rollins 1940, Cooper *et al.* 1977, Radford *et al.* 1964).

*Cardamine micranthera* is endemic to seepages, streambanks, and moist woods along a few small streams in Stokes and Forsyth Counties, North Carolina. The single population in Forsyth County was destroyed when the site was converted to cattle pasture in the early 1960s. Repeated searches for the single population known at that time from Stokes County were unsuccessful, and the species was presumed extinct (Cooper *et al.* 1977). In 1985, nearly 30 years after the species had last been seen, it was again located in Stokes County by S. W. Leonard (1986). Subsequent searches by A. Weakley (North Carolina Natural Heritage Program) and N. Murdock (Service) resulted in the discovery of two more populations in Stokes County. All three remaining populations are located on privately owned lands. The continued existence of this species is threatened by conversion of its habitat to pasture, habitat destruction and/or desiccation associated with logging, encroachment by aggressive nonnative species such as Japanese honeysuckle (*Lonicera japonica* Thunberg), impoundment or channelization of the small stream corridors it occupies, and flooding and associated scouring of its streambank habitat.

The remaining populations are small in numbers of plants and extent of occupied habitat. The smallest population consists of only 3 plants; the largest, consisting of about 200 plants, occupies less than 1/10 of a mile of streambank. With all three remaining sites in private ownership, the species is extremely vulnerable to extirpation resulting from habitat alteration.

Federal government actions on this species began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document Number 94–51, was presented to Congress on January 9, 1975. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27832) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act and of its intention thereby to review the status of the plant taxa named within. *Cardamine micranthera* was included in the July 1, 1975, notice of review. On December 15, 1980, the Service published a revised notice of review for native plants in the **Federal Register** (45 FR 82480). *Cardamine micranthera* was included in that notice as a category 1 species. Category 1 species are those species for which the Service currently has on file substantial information on biological vulnerability and threats to support proposing to list them as endangered or threatened. A revision of the 1980 notice that maintained *Cardamine micranthera* in this category was published on September 27, 1985 (50 FR 39526).

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This is the case for *Cardamine micranthera* because of the acceptance of the 1975 Smithsonian report a petition. In October of 1983, 1984, 1985, 1986, 1987, and 1988, the Service found that the petitioned listing of *Cardamine micranthera* was warranted but precluded by other listing actions of a higher priority and that additional data on vulnerability and threats were still being gathered. Publication of this proposal constitutes the final 1-year finding that is required.

## Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. The species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cardamine micranthera* Rollins (small-anthered bittercress) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Three populations of *Cardamine micranthera* are known to exist in Stokes County, North Carolina. One other historically known population has been extirpated due to conversion of the habitat to cattle pasture. The three remaining populations are located on privately owned lands and are small and extremely vulnerable to extirpation. Activities that could further threaten the continued existence of *Cardamine*

*micranthera*, if not undertaken in a manner consistent with protection of the species, include impoundment, channelization, conversion of the habitat to pasture, logging, encroachment of exotic species such as *Lonicera japonica*, and flooding (which will be discussed in detail under Factor E below).

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Cardamine micranthera* is not currently a significant component of the commercial trade in native plants. However, because of its small and easily accessible populations, it is vulnerable to taking and vandalism that could result from increased specific publicity.

C. *Disease or predation.* Not applicable to this species at this time.

D. *The inadequacy of existing regulatory mechanisms. Cardamine micranthera* will soon be added as an endangered species to the State list of endangered species in North Carolina (R. Sutter, North Carolina Plant Protection Program, personal communication, 1988) and thus will be afforded legal protection in that State by North Carolina General Statutes, §§ 106–202.12 to 106–202.19 (Cum. Supp. 1985), which provide for protection from intrastate trade (without a permit), for monitoring and management of State-listed species, and prohibit taking of plants without written permission of landowners. State prohibitions against taking are difficult to enforce and do not cover adverse alterations of habitat, such as channelization, impoundment, or conversion for agricultural or silvicultural use. Section 404 of the Federal Water Pollution Control Act could potentially provide some protection for the habitat of *Cardamine micranthera*; however, most, if not all, of the sites where it occurs do not meet the wetlands criteria of the Federal Water Pollution Control Act. The Endangered Species Act would provide additional protection and encouragement of active management for *Cardamine micranthera*.

E. *Other natural or manmade factors affecting its continued existence.* As mentioned in the "Background" section of this proposed rule, the three remaining populations of this species are small in numbers of individual stems and in area covered by the plants. In some cases, aggressive exotic species such as *Lonicera japonica* have invaded adjacent areas and threaten to invade this species' habitat, which could result in the elimination of *Cardamine micranthera*. The natural habitat of this species consists of small streambank seeps and, secondarily, adjacent sandbars and stream edges. At one of the remaining populations, the original seep habitat can no longer be found, and the surviving plants now exist only in the streambed itself on two small sandbars. In this situation, the species is highly vulnerable to natural catastrophes such as floods, which could scour the streambed and eliminate the few remaining plants. In unaltered habitat, where most of the plants occupy the seepages above the actual stream channel, flooding and scouring of the streambed is not as potentially threatening to the species since scoured areas where plants have been eliminated are probably easily recolonized by the populations in the seeps.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Cardamine micranthera* as endangered. With only three populations remaining in existence and one having already been eliminated; and with all the remaining populations being small, highly vulnerable, and located on privately owned lands, the species definitely warrants protection under the Act. Endangered status seems appropriate because of the imminent serious threats facing the three remaining populations. Critical habitat is not being designated for the reasons discussed below.

**Critical Habitat**

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Cardamine micranthera* at this time. As discussed under Factor B in the "Summary of Factors Affecting the Species" section, *Cardamine micranthera* is threatened by taking and vandalism. Such activities are difficult to enforce against and only regulated by the Act with respect to plants in cases of (1) removal and reduction to possession from lands under Federal jurisdiction, or malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Publication of critical habitat descriptions would make the species even more vulnerable and increase State enforcement problems. All involved parties and landowners will be notified of the location and importance of protecting and managing this species' habitat.

**Available Conservation Measures**

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal activities that could impact *Cardamine micranthera* and its habitat in the future include, but are not limited to, channelization of streams, construction of impoundments, and issuance of permits for mineral exploration and mining. The Service will work with the involved agencies to secure protection and proper management of *Cardamine micranthera* while accommodating agency activities to the extent possible.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that

apply to all endangered plants. With respect to *Cardamine micranthera*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for listed plants the 1988 amendments to the Act (Pub. L. 100-478) prohibit (1) their malicious damage or destruction on Federal lands, and (2) their removal, cutting, digging, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued, since *Cardamine micranthera* is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 27329, Central Station, Washington, DC 20038-7329 (202/343-4955).

### Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Cardamine micranthera;*

(2) The location of any additional populations of *Cardamine micranthera* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and,

(4) Current or planned activities in the subject area and their possible impacts on *Cardamine micranthera.*

Final promulgation of any regulation on *Cardamine micranthera* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed withing 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Asheville Field Office (see **ADDRESSES** section).

### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

### References Cited

Cooper, J., S. Robinson, and J. Funderburg. 1977. Endangered and threatened plants and animals of North Carolina: proceedings of the symposium on endangered and threatened biota of North Carolina. North Carolina State Museum of Natural History, Raleigh, North Carolina. pp 101-102.

Leonard, S. 1986. Pursuing the small-anthered bittercress. North Carolina Wildflower Preservation Society, Spring Newsletter. pp 8-10.

Radford, A., H. Ahles, and C. Bell. 1964. Manual of the vascular flora of the Carolinas. University of North Carolina Press, Chapel Hill. pp. 507-508.

Rollins, R.C. 1940. A new *Cardamine* from North Carolina. Castanea 5(5):8777-88.

### Author

The primary author of this proposed rule is Ms. Nora Murdock, Asheville Field Office , U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259-0321 or FTS 672-0321).

### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

### Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

## PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

**Authority:** Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411; Pub. L. 100-478, 102 Stat. 2306 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Brassicaceae, to the List of Endangered and Threatened Plants:

**§ 17.12 Endangered and Threatened plants.**

* * * * *

(h) * * *

| Species | | Historic range | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|
| Scientific name | Common name | | | | | |
| Brassicaceae—Mustard family | | | | | | |
| • | • | • | • | • | • | • |
| *Cardamine micranthera* | Small-anthered bittercress. | U.S.A. (NC) | E | | NA | NA. |
| • | • | • | • | • | • | • |

Dated: December 22, 1988.

**Becky Norton Dunlop,**

*Assistant Secretary for Fish and Wildlife and Parks.*

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# Notices

Federal Register
Vol. 54, No. 20
Wednesday, February 1, 1989

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

## DEPARTMENT OF AGRICULTURE

### Economic Research Service

### National Agricultural Cost of Production Standards Review Board; Meeting

The National Agricultural Cost of Production Standards Review Board will meet at the Economic Research Service, U.S. Department of Agriculture, Washington, DC on February 9–10, 1989.

The purpose of this meeting is to discuss general issues related to USDA's estimation of enterprise costs of production. All meetings will be held in room 332, 1301 New York Avenue NW. The morning sessions on February 9–10 will convene at 9:00 a.m. and the afternoon sessions will convene at 1:30 p.m. Meetings will end at approximately 4 p.m. both days.

All sessions will be open to members of the public who wish to observe. Written comments may be submitted to Kenneth Deavers, Director, ARED–ERS–USDA, Room 314, 1301 New York Avenue, NW., Washington, DC 20250.

For further information, contact Diane Bertelsen at (202) 786–1808.

John E. Lee, Jr.,
*Administrator.*

[FR Doc. 89–2372 Filed 1–31–89; 8:45 am]
BILLING CODE 3410–18–M

### Federal Grain Inspection Service

### Designation Renewal of the Frankfort (IN), et al. Agencies

**AGENCY:** Federal Grain Inspection Service (Service), USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces the designation renewal of the Frankfort Grain Inspection, Inc. (Frankfort), Robert H. Jinks dba Jinks Grain Weighing Service (Jinks), and Robert R. Beals dba Paris Illinois Grain Inspection (Paris) as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

**EFFECTIVE DATE:** March 1, 1989.

**ADDRESS:** James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

**FOR FURTHER INFORMATION CONTACT:** James R. Conrad, telephone (202) 447–8525.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service announced that Frankfort's, Jinks' and Paris' designations terminate on February 28, 1989, and requested applications for official agency designation to provide official services within specified geographic areas in the September 1, 1988, **Federal Register** (53 FR 33829). Applications were to be postmarked by October 3, 1988. Frankfort was the only applicant for designation in its area and applied for designation renewal in the entire area currently assigned to that agency. Jinks was the only applicant for designation in its area and applied for designation renewal in the area described below.

Bounded on the North by the Iroquois County line east to Illinois State Route 1; Illinois State Route 1 south to U.S. Route 24; U.S. Route 24 east into Indiana, to U.S. Route 41;

Bounded on the East by U.S. Route 41 south to the southern Fountain County line; the Fountain County line west to Vermillion County (in Indiana); the eastern Vermillion County line south to U.S. Route 36;

Bounded on the South by U.S. Route 36 west into Illinois, to the Douglas County line; the eastern Douglas and Coles County lines; the southern Coles County line; and

Bounded on the West by the western Coles and Douglas County lines; the western Champaign County line north to Interstate 72; Interstate 72 southwest to the Piatt County line; the western Piatt County line; the southern McLean County line west to a point 10 miles west of the western Champaign County line; a straight line running north to U.S. Route 136; U.S. Route 136 east to Interstate 57; Interstate 57 north to the Champaign County line; the northern Champaign County line; the western Vermilion (in Illinois) and Iroquois County lines.

There were two applicants for the Paris application: Paris applied for designation renewal in the entire area currently assigned to that agency; and Champaign-Danville Grain Inspection Departments, Inc., a neighboring official agency, applied for designation in the entire area currently assigned to Paris.

The Service announced the applicant names in the November 1, 1988, **Federal Register** (53 FR 44051) and requested comments on the applicants for designation. Comments were to be postmarked by December 16, 1988; no comments were received regarding Frankfort's and Jinks' designation renewal. A total of seven comments were received regarding the designation of an official agency in the Paris area. Three comments were received from grain firms recommending the designation renewal of Paris. Three comments, of which two represented the same firm, were received from grain firms recommending the designation of Champaign. These commentors cited dissatisfaction with Paris' service and included concerns regarding timeliness of service and issuance of certificates. One comment was also received from a neighboring official agency recommending the designation of Champaign. The Service has thoroughly reviewed and analyzed all aspects of Paris' operation. The concerns raised by the commentors were also identified by FGIS in its review and have been addressed by Paris. Further, the Service has not identified any other deficiencies that would indicate that Paris fails to meet any designation criteria that would serve as a basis for not renewing its designation.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act. In accordance with section 7(f)(1)(B), the Service determined that Frankfort and Jinks are able to provide official services in the geographic area for which the Service is renewing their designations. Jinks did not apply for designation in the following locations, all in Illinois, outside of the above referenced

contiguous geographic area: Moultrie Grain Association, Cadwell, Moultrie County; Tabor and Company, Weedman Grain Company, and Pacific Grain Company, all in Farmer City, Dewitt County; Moultrie Grain Association, Lovington, Moultrie County; Monticello Grain Company, Monticello, Piatt County; and Pittwood Grain Company, Pittwood, Iroquois County (located inside Decatur Grain Inspection, Inc.'s area). Since first designated to perform official weighing services on March 1, 1983, there have been no requests for such services at these locations. Therefore, the Service has determined that official weighing services are not needed at these locations at this time and will therefore not be included in the geographic area for which the Jinks designation is being renewed. In accordance with section 7(f)(1)(b) of the Act, the Service has also determined that Paris is better able than any other applicant to provide official services in the geographic area for which the Service is renewing its designation. Effective March 1, 1989, and terminating February 28, 1992, Frankfort is designated to provide official inspection and Class X or Y weighing functions, Jinks is designated to provide official Class X or Class Y weighing functions, and Paris is designated to provide official inspection functions, in their specified geographic areas, as previously described in the September 1 **Federal Register**, for Frankfort and Paris and as described above for Jinks.

Interested persons may obtain official services by contacting the agencies at the following telephone numbers: Frankfort at (317) 654–4602, Jinks at (217) 733–2714, and Paris at (217) 465–2755.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Date: January 26, 1989.

**J.T. Abshier,**

*Director, Compliance Division.*

[FR Doc. 89–2264 Filed 1–31–89; 8:45 am]

BILLING CODE 3410–EN–M

## Request for Comments on Designation Applicants in the Geographic Area Currently Assigned to the Champaign (IL) and Springfield (IL) Agencies

**AGENCY:** Federal Grain Inspection Service (Service), USDA.

**ACTION:** Notice.

**SUMMARY:** This notice requests comments from interested parties on the applicants for official agency designation in the geographic areas currently assigned to Champaign-Danville Grain Inspection Departments, Inc. (Champaign), and Glen Wallace dba Springfield Grain Inspection Department (Springfield).

**DATE:** Comments must be postmarked on or before March 20, 1989.

**ADDRESS:** Comments must be submitted in writing to Lewis Legakken, Jr., RM, FGIS, USDA, Room 0628 South Building, P.O. Box 96454, Washington, DC 20090–6454.

*Telemail* users may respond to [LLEBAKKEN/FGIS/USDA] telemail.

*Telex* users may respond as follows: To: Lewis Lebakken TLX: 7607351, ANS:FGIS UC.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Lewis Lebakken, Jr., telephone (202) 475–3428.

**SUPPLEMENTARY INFORMATION:**

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within specified geographic areas in the December 1, 1988, **Federal Register** (53 FR 48565). Applications were to be postmarked by January 1, 1989. Champaign and Springfield were the only applicants for designation in those areas and each applied for designation renewal in the entire area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the applicants for designation. Commenters are encouraged to submit reasons for support or objection to these designation actions and include pertinent data to support their views and comments. All comments must be submitted to the Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Date: January 26, 1989.

**J. T. Abshier,**

*Director, Compliance Division.*

[FR Doc. 89–2265 Filed 1–31–89; 8:45 am]

BILLING CODE 3410–EN–M

## Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to the Eastern Iowa Grain Inspection and Weighing Service, Inc. Agency (IA)

**AGENCY:** Federal Grain Inspection Service (Service), USDA.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of one agency will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agency. The official agency is the Eastern Iowa Grain Inspection and Weighing Service, Inc. (Eastern Iowa).

**DATE:** Applications must be postmarked on or before March 3, 1989.

**ADDRESS:** Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647, South Building, P.O. Box 96454, Washington, DC 20090–6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue SW., during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** James R. Conrad, telephone (202) 447–8525.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Eastern Iowa, located at R.R. #1, Blue Grass, IA 52726, was designated under the Act as an official agency on August 1, 1986, to provide official inspection functions.

The official agency's designation terminates on July 31, 1989. Section

7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Eastern Iowa, in the States of Illinois and Iowa, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

The southern area:

Bounded on the North, in Iowa, by Interstate 80 from the western Iowa County line east to State Route 38; State Route 38 north to State Route 130; State Route 130 east to Scott County; the western and northern Scott County lines east to the Mississippi River;

Bounded on the East, from the Mississippi River, in Illinois, by the eastern Rock Island County line; the northern Henry and Bureau County lines east to State Route 88; State Route 88 south; the southern Bureau County line; the eastern and southern Henry County lines; the eastern Knox County line;

Bounded on the South by the southern Knox County line; the eastern and southern Warren County lines; the southern Henderson County line west to the Mississippi River; in Iowa, by the southern Des Moines, Henry, Jefferson, and Wapello County lines; and

Bounded on the West by the western and northern Wapello County lines; the western and northern Keokuk County lines; the western Iowa County line north to Interstate 80.

The northern area:

Bounded on the North, in Iowa, by the northern Delaware and Dubuque County lines; in Illinois, by the northern Jo Daviess, Stephenson, Winnebago, Boone, McHenry, and Lake County lines east to Interstate 94;

Bounded on the East by Interstate 94 south to Interstate 294; Interstate 294 south to Interstate 55; Interstate 55 southwest to the southern Dupage County line;

Bounded on the South by the southern Dupage, Kendall, Dekalb, and Lee County lines; and

Bounded on the West by the western Lee and Ogle County lines; by the southern Stephenson and Jo Daviess County lines; in Iowa, by the southern Dubuque and Delaware County lines; and the western Delaware County line.

The following location, outside of the above contiguous geographic area, is part of this geographic area assignment: Leland Farmers Company, Leland, LaSalle County, Illinois (located inside Kankakee Grain Inspection Bureau, Inc.'s area).

Exceptions to Eastern Iowa's assigned geographic area are the following locations inside Eastern Iowa's area which have been and will continue to be serviced by the following official agencies:

1. McGregor Grain Inspection and Weighing Corporation, Inc.: Paris and Sons Grain Elevator, Masonville, Delaware County, Iowa; and

2. Keokuk Grain Inspection Service: Continental Grain Co., Dallas City, and Lomax Grain Elevator, Lomax, both in Henderson County, Illinois.

Interested parties, including Eastern Iowa, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning August 1, 1989, and ending July 31, 1992. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Date: January 26, 1989.

**J. T. Abshier,**

*Director, Compliance Division.*

[FR Doc. 89–2266 Filed 1–31–89; 8:45 am]

BILLING CODE 3410-EN-M

## Forest Service

### Douglas-Fir Tussock Moth Management; Lassen and Plumas National Forests, CA

**AGENCY:** Forest Service, USDA.

**ACTION:** Cancellation notice.

The Forest Supervisors have decided to prepare an Environmental Assessment and not an Environmental Impact Statement for management of the Douglas-fir tussock moth outbreak on the Lassen and Plumas National Forests.

The Notice of Intent, published in the Federal Register of November 18, 1988 on page 46640 is hereby rescinded.

**FOR FURTHER INFORMATION CONTACT:** Laurence Crabtree, District Planner, Lassen National Forest, Box 767, Chester, CA 96020; telephone 916–258–2141.

**D. Keith Crummer,**

*Almanor District Ranger.*

Date: January 12, 1989.

[FR Doc. 89–2268 Filed 1–31–89; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity To Request Administrative Review

**AGENCY:** International Trade Administration/Import Administration, Commerce.

**ACTION:** Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

#### Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with §§ 353.53a or 355.10 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

#### Opportunity to Request a Review

Not later than February 28, 1989, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in February for the following periods:

| | Period |
|---|---|
| Antidumping Duty Proceeding: | |
| Austria: Railway Track Maintenance Equipment (A–433–064) | 02/01/88–01/31/89 |
| Canada: Racing Plates (A–122–050) | 02/01/88–01/31/89 |
| Japan: Birch 3-Ply Doorskins (A–588–053) | 02/01/88–01/31/89 |
| Japan: Carbon Steel Butt-Weld Pipe Fittings (A–588–602) | 02/01/88–01/31/89 |
| Japan: Melamine (A–588–056) | 02/01/88–01/31/89 |
| The People's Republic of China: Natural Bristle Paint Brushes (A–570–501) | 02/01/88–01/31/89 |

| | Period |
|---|---|
| Suspended Investigation: | |
| Mexico: Unprocessed Float Glass (C-201-015) | 01/01/88-12/31/88 |
| Mexico: Yarns of Polypropylene Fibers (C-201-008) | 01/01/88-12/31/88 |
| Countervailing Duty Proceeding: | |
| Peru: Cotton Sheeting and Sateen (C-333-001) | 01/01/88-12/31/88 |
| Peru: Cotton Yarn (C-333-002) | 01/01/88-12/31/88 |
| Saudi Arabia: Carbon Steel Wire Rod (C-517-501) | 01/01/88-12/31/88 |

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by February 28, 1989.

If the Department does not receive by February 28, 1989 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Date: January 26, 1989.

**Joseph A. Spetrini,**

*Deputy Assistant Secretary for Compliance.*

[FR Doc. 89-2369 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-DS-M

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[A-475-802]

## Preliminary Determination of Sales at Less Than Fair Value; Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Italy

**AGENCY:** Import Administration, International Trade, Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We preliminarily determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from Italy are being, or are likely to be, sold in the United States at less than fair value. We also preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from Italy. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of industrial belts from Italy as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by April 11, 1989.

**EFFECTIVE DATE:** February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mary Martin or Charles Wilson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2830 or (202) 377-5288.

**SUPPLEMENTARY INFORMATION:**

### Preliminary Determination

We preliminarily determine that industrial belts from Italy are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice. We also preliminarily determine that critical circumstances do not exist with respect to industrial belts from Italy.

### Case History

Since the notice of initiation (53 FR 28041, July 26, 1988), the following events have occurred. On August 9, 1988, the ITC determined that there is a reasonable indication that imports of industrial belts from Italy are materially injuring a U.S. industry (USITC Pub. No. 2113, August 1988).

On August 19, 1988, the Department presented Section A of the antidumping duty questionnaire to Pirelli Trasmissioni Industriali, an Italian manufacturer of industrial belts (hereinafter referred to as Pirelli). Pirelli accounted for a substantial portion of exports from Italy to the United States during the period of investigation. On September 9, 1988, Pirelli filed a response to Section A, and supplemental responses on September 12, 1988 and September 19, 1988. The remaining sections of the questionnaire were issued on October 19, 1988.

On October 24, 1988, petitioner requested that the preliminary determination be postponed. On October 28, 1988, in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to January 26, 1989 (53 FR 44511, November 3, 1988).

At the request of the respondent, response deadlines were extended several times with the final due date for responses being no later than December 1, 1988, for the narrative response and December 14, 1988, for the computer tape. Pirelli filed a narrative response on December 1, 1988, and computer tapes on December 16, 1988. The Department issued deficiency letters on December 16, 1988, December 22, 1988, January 4, 1988, and January 12, 1989. Pirelli submitted additional narrative responses on December 23, 1988, January 5, 1989, and January 10, 1989. Pirelli submitted revised computer tapes on January 3, 1989 and on January 10, 1989. On January 18, 1989, Pirelli withdrew the computer tapes it had filed for the purpose of making corrections to the data entered on the tapes.

### Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date will be classified solely according to the appropriate HTS item numbers. The HTS numbers are provided for convenience and customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from Italy currently provided for under HTS item numbers 5910.00.10, 5910.00.90, 4010.10.10 and 4010.10.50.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

**Period of Investigation**

The period of investigation is January 1, 1988, through June 30, 1988.

**Fair Value Comparisons**

To determine whether sales of industrial belts from Italy to the United States were made at less than fair value, we compared the United States price to the foreign market value. We used the best information available as required by section 776(c) of the Act because Pirelli has failed to provide the information requested in the questionnaire on a timely basis. Substantial deficiencies with both Pirelli's narrative response, and with the computer tapes submitted effectively preclude our ability to make a price-to-price comparison between foreign market value and U.S. prices. The data submitted on exporter's sales price transactions did not include foreign inland freight, foreign inland insurance, ocean freight, marine insurance, U.S. insurance, U.S. warehousing expenses, inventory carrying costs, indirect selling expenses, or technical expenses. In addition, no hardcopy printouts of the computer tapes were submitted, and the previously filed computer tapes were withdrawn on January 18, 1988. Because of the magnitude of the omissions and deficiencies in the responses, as best information available, we took the highest margin contained in the petition for each of the product types and averaged those figures to determine a single margin for the products under investigation.

**United States Price**

United States price was based on the U.S. price information provided in the petition.

**Foreign Market Value**

Foreign market value was based on home market prices provided in the petition.

**Critical Circumstances**

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from Italy. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A) (i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for those account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Since we do not find, based on the Department's import data, that there have been massive imports of industrial belts and components and parts thereof, whether cured or uncured, from Italy, we do not need to consider whether there is a history of dumping or whether importers of this merchandise knew or should have known that this merchandise was being sold at less than fair value. Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from Italy.

Because the Department's import data pertaining to the subject merchandise are based on *Tariff Schedules of the United States Annotated* basket categories, for purposes of the final determination, we have requested specific data on shipments of the subject merchandise as the most appropriate basis for our determination of critical circumstances. Furthermore, we believe that company-specific critical circumstances determinations better fulfill the objective of the critical circumstances provision of deterring specific companies that may try to increase imports massively prior to the suspension of liquidation. Therefore, we are asking respondent, Pirelli, to supply monthly volume shipment data from November 1987 through January 1989 in order for the Department to base its critical circumstance determination on company-specific data.

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of industrial belts from Italy, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, in accordance with section 733(d)(1) of the Act. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from Italy exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. Because no price quotations for the period of investigation were provided in the petition, we used the average of the highest margin for each of the product types listed in the petition prior to the period of investigation. The margins are as follows:

| Manufacturer/producer/exporter | Margin percentage |
|---|---|
| Pirelli Trasmissioni Industriali | 74.90 |
| All others | 74.90 |

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after the date of the preliminary determination or 45 days after our final determination, if affirmative.

**Public Comment**

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:30 a.m. on March 23, 1989 at the U.S. Department of Commerce, Room 4830, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Assistant Secretary by March 16, 1989. Oral presentations will be limited to

issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

January 26, 1989.

**Jan W. Mares,**

*Assistant Secretary for Import Administration.*

[FR Doc. 89-2362 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-DS-M

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[A-508-801]

## Preliminary Determination of Sales at Less Than Fair Value; Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Israel

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We preliminarily determine that industrial belts and components and parts thereof, whether cured or uncured (hereinafter referred to as industrial belts) from Israel are being, or are likely to be, sold in the United States at less than fair value. We also preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from Israel. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of industrial belts from Israel as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by April 11, 1989.

**EFFECTIVE DATE:** February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mary Martin or Charles Wilson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-2630 or (202) 377-5288.

**SUPPLEMENTAL INFORMATION:**

### Preliminary Determination

We preliminarily determine that industrial belts from Israel are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margin is shown in the "Suspension of Liquidation" section of this notice. We also preliminarily determine that critical circumstances do not exist with respect to industrial belts from Israel.

### Case History

Since the notice of initiation (53 FR 28033, July 26, 1988), the following events have occurred: On August 9, 1988, the ITC determined that there is a reasonable indication that imports of industrial belts from Israel are materially injuring an industry in the United States (USITC Pub. No. 2113, August 1988).

On August 19, 1988, the Department presented Section A of the antidumping questionnaire to Magam United Rubber Industries, Ltd. (Magam), which accounted for a substantial portion of exports from Israel to the United States during the period of investigation. The response to section A of the questionnaire was received on September 7, 1988.

On October 24, 1988, petitioner requested that the preliminary determination be postponed. On October 28, 1988, in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to January 26 1989 (53 FR 44511, November 3, 1988). On October 28, 1988, Magam informed the Department that it would no longer be participating in the investigation. Magam later withdrew its response to section A of the questionnaire.

### Scope of the Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after that date will be classified solely according to the appropriate HTS item numbers. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from Israel currently provided for under HTS item numbers 5910.00.10, 5910.00.90, 4010.10.10 and 4010.10.50.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

### Period of Investigation

The period of investigation is January 1, 1988 through June 30, 1988.

### Fair Value Comparisons

To determine whether sales of industrial belts from Israel to the United States were made at less than fair value, we compared the United States price to the foreign market value. We used best information available as required by section 776(c) of the Act for the reasons stated in the "Case History" of this notice. As best information available, we took the highest margin contained in the petition for each of the product types for the period of investigation and averaged those figures to determine a margin for the products under investigation.

### United States Price

United States price was based on the U.S. price information provided in the petition.

### Foreign Market Value

Foreign market value was based on home market prices provided in the petition.

### Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from Israel. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A) (i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Since we do not find that there have been massive imports of industrial belts and components and parts thereof, whether cured or uncured, from Israel, we do not need to consider whether there is a history of dumping or whether importers of these products knew or should have known that the merchandise was being sold at less than fair value. Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from Israel.

### Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of industrial belts from Israel, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from Israel exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The average of the highest margin for each of the product types listed in the petition for the period of investigation is as follows:

| Manufacturer/producer/exporter | Margin percentage |
|---|---|
| Magam | 89.65 |
| All others | 89.65 |

### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after the date of the preliminary determination or 45 days after our final determination, if affirmative.

### Public Comment

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:30 a.m. on March 17, 1989, at the U.S. Department of Commerce, Room 4830, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Assistant Secretary by March 10, 1989. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

**Jan W. Mares,**

*Assistant Secretary for Import Administration.*

January 26, 1989.

[FR DOC. 89-2363 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-DS-M

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[A-428-802]

## Preliminary Determination of Sales at Less Than Fair Value; Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From the Federal Republic of Germany

**AGENCY:** Import Administration, International Trade, Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We preliminarily determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value. We also preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from the Federal Republic of Germany. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of industrial belts from the Federal Republic of Germany as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by April 11, 1989.

**EFFECTIVE DATE:** February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mary Martin or Charles Wilson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2830 or (202) 377-5288.

**SUPPLEMENTARY INFORMATION:**

### Preliminary Determination

We preliminarily determine that industrial belts from the Federal Republic of Germany are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673(b) (the Act). The estimated margin is shown in the "Suspension of Liquidation" section of this notice. We also preliminarily determine that critical circumstances do not exist with respect to industrial belts from the Federal Republic of Germany.

### Case History

Since the notice of initiation (53 FR 28041, July 26, 1988), the following events have occurred: On August 9, 1988, the ITC determined that there is a reasonable indication that imports of industrial belts from the Federal Republic of Germany are materially injuring a U.S. industry (USITC Pub. No. 2113, August 1988).

On August 19, 1988, the Department presented Section A of the antidumping duty questionnaire to Arntz-Optibelt K.G. (Optibelt), which accounts for a substantial portion of exports from the Federal Republic of Germany to the United States during the period of investigation. On September 9, 1988, Optibelt informed the Department that it

would not be responding to the questionnaire.

On October 24, 1988, petitioner requested that the preliminary determination be postponed. On October 28, 1988 in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to January 26, 1989 (53 FR 44511, November 3, 1988).

**Scope of Investigation**

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date will be classified solely according to the appropriate HTS item numbers. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from the Federal Republic of Germany currently provided for under HTS item numbers 5910.00.10, 5910.00.90, 4010.10.10 and 4010.10.50.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

**Period of Investigation**

The period of investigation is January 1, 1988 through June 30, 1988.

**Fair Value Comparisons**

To determine whether sales of industrial belts from the Federal Republic of Germany to the United States were made at less than fair value, we compared the United States price to the foreign market value. We used the best information available as required by section 776(c) of the Act for the reasons stated in the "Case History" of this notice. As best information available, we took the highest margin contained in the petition for each of the product types for the period of investigation and averaged those figures to determine a margin for the products under investigation.

**United States Price**

United States price was based on the U.S. price information provided in the petition.

**Foreign Market Value**

Foreign market value was based on home market prices provided in the petition.

**Critical Circumstances**

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from the Federal Republic of Germany. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A) (i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Since we do not find that there have been massive imports of industrial belts and components and parts thereof, whether cured or uncured, from the Federal Republic of Germany, we do not need to consider whether there is a history of dumping or whether importers of these products knew or should have known that the merchandise was being sold at less than fair value. Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from the Federal Republic of Germany.

**Suspension of Liquidation**

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of industrial belts from the Federal Republic of Germany, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from the Federal Republic of Germany exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The average of the highest margin for each of the product types listed in the petition for the period of investigation is as follows:

| Manufacturer/Producer/Exporter | Margin percentage |
|---|---|
| Optibelt Corporation | 100.60 |
| All Others | 100.60 |

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after the date of the preliminary determination or 45 days after our final determination, if affirmative.

**Public Comment**

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:30 a.m. on March 22, 1989 at the U.S. Department of Commerce, Room 4830, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants;

(3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Assistant Secretary by March 15, 1989. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Jan W. Mares,

*Assistant Secretary for Import Administration.*

January 26, 1989.

[FR Doc. 89-2361 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-DS-M

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[A-412-802]

## Preliminary Determination of Sales at Less Than Fair Value; Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From the United Kingdom

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We preliminarily determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from the United States at less than fair value. We also preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from the United Kingdom. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of industrial belts from the United Kingdom as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by April 11, 1989.

**EFFECTIVE DATE:** February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Mary Jenkins or Charles Wilson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1756 or (202) 377-5288.

**SUPPLEMENTARY INFORMATION:**

### Preliminary Determination

We preliminarily determine that industrial belts from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice. We also preliminarily determine that critical circumstances do not exist with respect to industrial belts from the United Kingdom.

### Case History

Since the notice of initiation (53 FR 28040, July 26, 1988), the following events have occurred: On August 9, 1988, the ITC determined that there is a reasonable indication that imports of industrial belts from the United Kingdom are materially injuring a U.S. industry (USITC Pub. No. 2113, August 1988).

On August 19, 1988, Section A of the questionnaire was presented to Arntz Belting Company (U.K.) Ltd. (Optibelt), who accounts for a substantial portion of exports from the United Kingdom to the United States during the period of investigation. On September 9, 1988, Optibelt informed the Department that it would not be responding to the questionnaire.

On September 1, 1988, J.H. Fenner and Company, Ltd. (Fenner) requested that it be included as a voluntary respondent in the investigation. On September 28, 1988, BTL, Ltd. (BTL) also indicated that it would be a voluntary respondent in this investigation. On October 18, 1988, questionnaires were presented to Fenner and BTL. We received replies to the questionnaire from Fenner on December 1, and December 9, 1988. BTL did not respond to the questionnaire. We sent a deficiency letter to Fenner on December 20. We received a response to the deficiency letter on December 31. Responses to all deficiency letters sent to Fenner were received by the Department prior to this determination.

On October 24, 1988, petitioner requested that the preliminary determination be postponed. On October 28, 1988 in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to January 26, 1989 (53 FR 45111, November 3, 1988).

### Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item numbers. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from the United Kingdom currently provided for under HTS item numbers 5910.00.10, 5910.00.90, 4010.10.10 and 4010.10.50.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

### Period of Investigation

The period of investigation is January 1, 1988, through June 30, 1988.

### Fair Value Comparisons

To determine whether sales of industrial belts from the United Kingdom to the United States were made at less than fair value, we compared the United States price to the foreign market value.

For Fenner we used sales information submitted by the respondent. Optibelt did not respond to the Department's questionnaire. In such cases, we assign to the non-replying company the higher of: (1) The average of the highest margins contained in the petition for each of the product types for the period of investigation for the non-responding company; or, (2) the highest weighted-average margin found for any company that did respond to the questionnaire. Following this policy, for this preliminary determination, we used the best information available as required by section 776(c) of the Act for the reasons stated in the "Case History" section of this notice. As best information available, we took the highest margin contained in the petition for each of the product types for the period of investigation and averaged

those figures to determine the margin for the product under investigation.

**United States Price**

For Fenner, we based the United States price on exporter's sale price (ESP), in accordance with section 772(c) of the Act, because in each case the sale to the first unrelated purchaser took place after importation into the United States. We calculated exporter's sales price based on packed, f.o.b. seller's warehouse prices to unrelated purchasers in the United States. We made deductions, where appropriate, for commissions, credit in the United States, inland freight in the United Kingdom, air freight, brokerage, U.S. customs duty, sales processing, U.S. inland freight to warehouse, and (pursuant to section 772(e)(2) of the Act) indirect selling expenses incurred in the United States. For Optibelt, the United States price was based on the U.S. price information provided in the petition.

**Foreign Market Value**

For Fenner, we determined there were sufficient sales in the home market to serve as a basis for calculating foreign market value. In accordance with section 773 of the Act, for Fenner, we calculated foreign market value based on packed f.o.b. seller's warehouse to unrelated purchasers in the United Kingdom. We made deductions, where appropriate, for price discounts. We did not deduct credit expense in the home market because Fenner did not submit sufficient data to impute credit expense for all sales during the period of investigation. We did not allow an indirect selling expense offset on United Kingdom sales, in accordance with § 353.15(c) of the regulations, because Fenner did not submit the necessary response in a timely manner for inclusion in our preliminary determination.

For Optibelt, as best information available, we used home market prices provided in the petition.

**Currency Conversion**

Since all U.S. sales were exporter's sales price transactions, we used the official exchange rates in effect on the date of sale, in accordance with section 773(a)(1) of the Act. All currency conversions were made at rates certified by the Federal Reserve Bank of New York.

**Critical Circumstances**

On June 30, 1988, petitioner alleged that "critical circumstances" exist with respect to imports of the subject merchandise from the United Kingdom. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A) (i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Since we do not find, based on the Department's import data, that there have been massive imports of industrial belts and components and parts thereof, whether cured or uncured, from the United Kingdom, we do not need to consider whether there is a history of dumping or whether importers of these products knew or should have known that the merchandise was being sold at less than fair value. Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from the United Kingdom.

Because the Department's import data pertaining to the subject merchandise are based on *Tariff Schedules of the United States Annotated* basket categories, for purposes of the final determination, we have requested specific data on shipments of the subject merchandise as the most appropriate basis for our determinations of critical circumstances. Furthermore, we believe that company-specific critical circumstances determinations better fulfill the objective of the critical circumstances provision of deterring specific companies that may try to increase imports massively prior to the suspension of liquidation. Therefore, we are asking respondent, Fenner, to supply monthly volume shipment data from November 1987 through January 1989 in order for the Department to base the critical circumstance determinations on company-specific data.

**Verification**

We will verify the information used in making our final determination in accordance with section 776(b) of the Act.

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of industrial belts from the United Kingdom that are entered or withdrawn from warehouse for onsumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of industrial belts from the United Kingdom exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

| Manufacturer/Producer/Exporter | Margin percentage |
|---|---|
| Optibelt Corporation | 74.16 |
| J.H. Fenner | 10.72 |
| All Others | 73.90 |

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry before the later of 120 days after the date of this determination, or 45 days after the final determination, if affirmative.

**Public Comment**

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:30 a.m. on March 20, 1989, at the U.S. Department of Commerce, Room 4830, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant

Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Assistant Secretary by March 13, 1989. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673(f)).

Jan W. Mares,

*Assistant Secretary for Import Administration.*

[FR Doc. 89-2368 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-DS-M

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[A-559-802]

## Preliminary Determination of Sales at Less Than Fair Value: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Singapore

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We preliminarily determine that industrial belts and components and parts thereof, whether cured or uncured (hereinafter referred to as industrial belts), from Singapore are being, or are likely to be, sold in the United States at less than fair value. We also preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from Singapore. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of industrial belts from Singapore as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by April 11, 1989.

**EFFECTIVE DATE:** February 1, 1989.

**FOR FURTHER INFORMATION:** Contact Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1769.

**SUPPLEMENTARY INFORMATION:**

### Preliminary Determination

We preliminarily determine that industrial belts from Singapore are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice. We also preliminarily determine that critical circumstances do not exist with respect to industrial belts from Singapore.

### Case History

Since the notice of initiation (53 FR 28037, July 26, 1988), the following events have occurred: On August 9, 1988, the ITC determined that there is a reasonable indication that imports of industrial belts from Singapore are materially injuring a U.S. industry (USITC Pub. No. 2113, August 1988).

On August 19, 1988, section A of the questionnaire was presented to Mitsuboshi Belting (Singapore) Pte. Ltd. (MBS), which accounts for a substantial portion of exports of the subject merchandise to the United States during the period of investigation. On October 19, 1988, sections B and C of the questionnaire were presented to MBS.

We received replies to the questionnaire from MBS on September 12 and December 2, 1988, and on January 14, 1989. We sent a deficiency letter to MBS on December 21, 1988 and responses to all deficiency letters were received by the Department prior to this determination.

On October 14, 1988, petitioner requested that the Department calculate foreign market value using the special rule for certain multinational corporations under section 773(d) of the Act.

On October 24, 1988, petitioner requested that the preliminary determination be postponed. On October 28, 1988, in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to January 26, 1989 (53 FR 44511, November 3, 1988).

### Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 et seq. of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). The HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from Singapore currently provided for under HTS item numbers 5910.00.10, 5910.00.90, 4010.10.10 and 4010.10.50.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) ot steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

### Period of Investigation

The period of investigation is January 1, 1988, through June 30, 1988.

### Fair Value Comparisons

To determine whether sales of industrial belts from Singapore to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified below.

### United States Price

For those sales by MBS that were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we used purchase price as the basis for determining United States price. For these sales, the Department determined that purchase price was the most appropriate indicator of United States price based on the following elements:

1. The merchandise in question was shipped directly from the manufacturer to the unrelated buyer, without being introduced into the inventory of the related selling agent;

2. This was the customary commercial channel for sales of this merchandise between the parties involved; and

3. The related selling agent located in the United States acted only as the processor of sales-related

documentation and a communication link with the unrelated U.S. buyers.

Where all the above elements are met, we regard the routine selling functions of the exporter as having been merely relocated geographically from the country of exportation to the United States, where the sales agent performs them. Whether these functions are done in the United States or abroad does not change the substance of the transactions or the functions themselves.

In instances where merchandise is ordinarily diverted into the related U.S. selling agent's inventory, we regard this factor as an important distinction because it is associated with a materially different type of selling activity than the mere facilitation of a transaction such as occurs on a direct shipment to an unrelated U.S. purchaser. In situations where the related party places the merchandise into inventory, additional storage and financial carrying costs are commonly incurred. We use the inventory test because it can be readily understood and applied by respondents who must respond to Department questionnaires in a short period of time.

We calculated purchase price based on the packed, c.i.f. duty paid prices to unrelated purchasers in the United States. We made distinctions from the purchase price, where appropriate, for foreign inland freight, U.S. and foreign brokerage and handling charges, ocean freight, marine insurance, U.S. duty, and U.S. inland freight, pursuant to section 772(d)(2)(A) of the Act.

For those sales to an unrelated customer made after exportation, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act. We calculated ESP based on packed, ex-warehouse or delivered prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, U.S. and foreign brokerage and handling charges, ocean freight, marine insurance, U.S. duty, U.S. inland freight, discounts, rebates, repacking, commissions, credit expenses, and other U.S. selling expenses pursuant to section 772(e)(2) of the Act.

**Foreign Market Value**

The Department will not invoke the rule under section 773(d) of the Act, for calculating foreign market value for certain multinational corporations absent a sufficient allegation by a petitioner. Petitioner failed to meet this burden. The multinational provision allows foreign market value to be determined by reference to the foreign market value of "such or similar merchandise" sold by a related party in a country other than the country of exportation. Use of the provision requires the Department to determine that the following three conditions are met:

(1) The production facilities in the country of exportation are owned or controlled by a corporation which also owns or controls facilities for the production of such or similar merchandise located in another country or countries;

(2) Sales of such or similar merchandise in the country of exportation are nonexistent or inadequate as a basis of comparison with sales of the merchandise to the United States; and

(3) The foreign market value of such or similar merchandise produced in one or more facilities outside the country of exportation is higher than the foreign market value of such or similar merchandise produced in facilities in the country of exportation.

MBS is a subsidiary of Mitsuboshi in Japan, a producer of such or similar belts. Petitioner submitted evidence that the home market sales in Singapore are less than 5 percent of MBS' third country sales. Thus the first two conditions of 773(d) were met.

Because the home market was inadequate as a basis for comparison with sales of the merchandise to the United States, we determined that third country sales must be used. In this case, Canada was selected as the appropriate third country in accordance with § 353.5(c) of our regulations. The last criteria of section 773(d) instructs the Department to determine whether sales of "such or similar merchandise" produced in a facility outside the country of exportation (here Japan) are higher than the home market value (here sales to Canada). Petitioner did not provide sufficient information in support of the allegation with respect to the third condition. Where price comparisons were based on identical merchandise, export prices to Canada were significantly higher than the sales prices in Japan. With respect to non-identical merchandise, information submitted by the petitioner and the respondent indicate that the Japan-Canada price comparison was based on non "similar" merchandise. For these reasons, petitioner's request to initiate the multinational provision was denied.

As stated above, it was determined that Singapore's home market was not viable for comparison purposes. Therefore, in accordance with section 773(a) of the Act, we calculated foreign market value based on delivered, packed, third country (Canada) prices to unrelated purchasers. We made deductions, where appropriate, for Singapore and Canadian inland freight, Singapore and Canadian brokerage and handling charges, ocean freight, marine insurance, Canadian duty, discounts and rebates.

For U.S. purchase price sales we made adjustments under §353.15 of our regulations for differences in circumstances of sale for commissions and credit expenses in the U.S. and Canadian markets. Where we had commissions in only one market, we made adjustments for the differences in commissions in the applicable market and indirect selling expenses in the other market as an offset to the commissions, in accordance with §353.15(c) of our regulations.

For ESP sales, we also deducted credit expenses and commissions in accordance with § 353.15(c). We also deducted indirect selling expenses incurred on third country sales up to the amount of indirect selling expenses incurred on sales in the U.S. market, in accordance with § 353.15(c) of our regulations.

In order to adjust for differences in packing between the two markets, we deducted Canadian home market pricing costs from foreign market value and added U.S. packing costs.

**Currency Conversion**

For comparisons involving purchase price transactions, we used the official exchange rates in effect on the dates of sale, in accordance with § 353.56(a)(1) of our regulations. For comparisons involving ESP transactions, we used the official exchange rates in effect on the dates of the sale, in accordance with section 773(a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984. All currency conversions were made at the rates certified by the Federal Reserve Bank of New York.

**Verification**

As provided in section 776(b) of the Act, we will verify all information used in reaching the final determination in this investigation.

**Critical Circumstances**

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from Singapore. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or

kind of merchandise which is the subject of the investigation, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Since we do not find, based on the Department's imports data, that there have been massive imports of industrial belts and components and parts thereof, whether cured or uncured, from Singapore, we do not need to consider whether there is a history of dumping or whether importers of these products knew or should have known that it was being sold at less than fair value. Therefore, we preliminary determine that critical circumstances do not exit with respect to imports of industrial belts from Singapore.

Because the Department's import data pertaining to the subject merchandise are based on *Tariff Schedules of the United States Annotated* basket categories, for purposes of the final determination, we will request specific data on shipments of the subject merchandise as the most appropriate basis for our determination of critical circumstances. Furthermore, we believe that company-specific critical circumstances determines better fulfill the objective of the critical circumstances provision of deterring specific companies that may try to increase imports massively prior to the suspension of liquidation. Therefore, we are asking respondent MBS to supply monthly volume shipment data from November 1987 through January 1989.

**Suspension of Liquidation**

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of industrial belts from Singapore, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from Singapore exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

| Manufacturer/producer/exporter | Weighted-average margin percentage |
|---|---|
| Mitsuboshi Belting (Singapore) Pte. Ltd. | 28.53 |
| All others | 28.53 |

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, the U.S. industries before the later of 120 days after the date of these preliminary determination or 45 days after our final determinations, if affirmative.

**Public Comment**

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary detemination at 9:30 a.m. on March 16, 1989, at the U.S. Department of Commerce, Room 4830, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Assistant Secretary by March 9, 1989. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Jan W. Mares,

*Assistant Secretary for Import Administration.*

January 26, 1989.

[FR Doc. 89-2365 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-AS-M

[A-583-804]

## Preliminary Determination of Sales at Less Than Fair Value; Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Taiwan

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We preliminarily determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We also preliminary determine that critical circumstances do not exist with respect to imports of industrial belts from Taiwan. We have notified the United States International Trade Commission (ITC) of our determination and have directed the United States Customs Service to suspend liquidation of all entries of industrial belts from Taiwan as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by April 11, 1989.

**EFFECTIVE DATE:** February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-2830 or (202) 377-1769.

**SUPPLEMENTARY INFORMATION:**

**Preliminary Determination**

We preliminarily determine that industrial belts from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated weighted-average margins are shown in the

"Suspension of Liquidation" section of this notice.

**Case History**

Since the notice of initiation (53 FR 28041, July 26, 1988), the following events have occurred: On August 9, 1988, the ITC determined that there is a reasonable indication that imports of industrial belts from Taiwan are materially injuring a United States industry (USITC Pub. No. 2113, August 1988).

On August 24, 1988, section A of the questionnaire was presented to Hsing Kwo Rubber Mfg. Co., Ltd. (Hsing Kwo), which accounted for a substantial portion of exports from Taiwan to the United States during the period of investigation.

On October 18, 1988, sections B and C of the questionnaire was presented to Hsing Kwo.

We received replies to the questionnaire from Hsing Kwo on September 19, 1988 and November 30, 1988.

We sent deficiency letters to Hsing Kwo during the period from September 22, 1988 to January 10, 1989. Responses to all deficiency letters were received by the Department prior to this determination.

On October 24, 1988, petitioner rquested that the preliminary determination be postponed. On October 28, 1988, in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to January 26, 1989 (53 FR 44511, November 3, 1988).

**Scope of Investigation**

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from Taiwan, currently provided for under HTS item numbers 5910.00.10, 5910.00.90, 4010.10.10 and 4010.10.50.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

**Period of Investigation**

The period of investigation is January 1, 1988 through June 30, 1988.

**Such or Similar Comparisons**

For Hsing Kwo, pursuant to section 771(16)(B) of the Act, we established one category of "such or similar" merchandise: V-belts. All of Hsing Kwo's sales to the United States were used in our fair value comparisons.

**Fair Value Comparisons**

To determine whether sales of industrial belts from Taiwan to the United States were made at less than fair value, we compared the United States price to the foreign market value.

**United States Price**

For all sales by Hsing Kwo, we based United States price on exporter's sale price (ESP), in accordance with section 772(c) of the Act, because in each case the sale to the first unrelated purchaser took place after importation into the United States. We calculated exporter's sales price based on packed, f.o.b. seller's warehouse prices to unrelated purchasers in the United States. We made deductions, where appropriate, for Taiwan export duty, inland freight in Taiwan, ocean freight, marine insurance, United States customs duty and user's fees, customs brokerage, inland freight in the United States, technical service expenses, and, pursuant to section 772(e)(2) of the Act, indirect expenses and inventory carrying expenses incurred in both Taiwan and the United States. An addition was made, pursuant to section 772(d)(1)(B) of the Act, for import duties imposed by the country of exportation which have been rebated, or which have not been collected by reason of the exportation of the merchandise to the United States.

**Foreign Market Value**

We determined there were sufficient sales in the home market (Taiwan) to serve as the basis for calculating foreign market value. In accordance with section 773 of the Act, for Hsing Kwo, we calculated foreign market value based on f.o.b. seller's warehouse or delivered prices to unrelated purchasers in Taiwan. We made deductions, where appropriate, for inland freight in Taiwan, credit expenses, advertising expenses, and inspection expenses. We offset indirect selling expenses incurred on Taiwan sales up to the amount of selling expenses incurred on sales in the United States, in accordance with § 353.15(c) of our regulations.

We made adjustments, where applicable, for differences in the physical characteristics of the merchandise in accordance with § 353.16 of the regulations.

Hsing Kwo did not provide the cost of home market packing. Therefore, we have not adjusted for differences in packing between the two markets, and have added United States packing costs to the foreign market value.

**Currency Conversion**

Since all United States sales were exporter's sales price transactions, we used the official exchange rates in effect on the date of sale, in accordance with section 773(a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984. All currency conversions were made at rates certified by the Federal Reserve Bank of New York.

**Critical Circumstances**

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from Taiwan. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of the domestic consumption accounted for by imports.

While we find, based on the Department's import data, that there have been massive imports of industrial

belts and components and parts thereof, whether cured or uncured, from Taiwan, we have not found a history of dumping, nor do we have reason to believe that importers of these products knew or should have known that it was being sold at less than fair value. Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from Taiwan.

Because the Department's import data pertaining to the subject merchandise are based on *Tariff Schedules of the United States Annotated* basket categories, for purposes of the final determination, we will request specific data on shipments of the subject merchandise as the most appropriate basis for our determinations of critical circumstances. Furthermore, we believe that company specific critical circumstances determinations better fulfill the objective of the critical circumstances provision of deterring specific companies that may try to increase imports massively prior to the suspension of liquidation. Therefore, we are asking respondent Hsing Kwo to supply monthly volume shipment data from November 1987 through January 1989 in order for the Department to base the critical circumstance determinations on company-specific data.

**Verification**

We will verify the information used in making our final determination in accordance with section 776(b) of the Act.

**Suspension of Liquidation**

In accordance with section 733(d)(1) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of industrial belts from Taiwan, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register.** The United States Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from Taiwan exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

| Manufacturer/Producer/ Exporter: | Weighted-average margin percentage |
|---|---|
| Hsing Kwo | 7.91 |
| All others | 7.91 |

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, the United States industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination, if affirmative.

**Public Comment**

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on March 15, 1989 at the United States Department of Commerce, Room 4830, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Assistant Secretary by March 8, 1989. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

**Jan W. Mares,**

*Assistant Secretary for Import Administration.*

[FR Doc. 89-2367 Filed 1-31-89; 8:45 am]
BILLING CODE 3510-DS-M

**[A-588-807]**

## Preliminary Determination of Sales at Less Than Fair Value: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Japan

**AGENCY:** Import Administration, International Trade, Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We preliminarily determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from Japan are being, or are likely to be, sold in the United States at less than fair value. We also preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from Japan. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of industrial belts from Japan as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by April 11, 1989.

**EFFECTIVE DATE:** February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Contact Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1769.

**SUPPLEMENTARY INFORMATION:**

**Preliminary Determination**

We preliminarily determine that industrial belts from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice. We also preliminarily determine that critical circumstances do not exist with respect to industrial belts from Japan.

**Case History**

Since the notice of initiation (53 FR 28036, July 26, 1988), the following events have occurred: On August 9, 1988, the ITC determined that there is a reasonable indication that imports of industrial belts from Japan are materially injuring a U.S. industry (USITC Pub. No. 2113, August 1988).

On August 19, 1988, Section A of the questionnaire was presented to Bando Chemical Industries, Ltd. (Bando), which accounts for a substantial portion of exports from Japan to the United States during the period of investigation. On September 20, 1988, Bando responded to section A.

On October 11, 1988, Nitta Industries (Nitta) requested that it receive a questionnaire so that it could submit a voluntary response. On October 18, 1988, we presented questionnaire sections B, C, and D to Bando and Nitta.

On October 24, 1988, petitioner requested that the preliminary determination be postponed. On October 28, 1988, in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to January 26, 1989 (53 FR 44511, November 3, 1988).

On November 16, 1988, Bando advised the Department that it would not respond to the Department's questionnaire with regard to sections B, C, and D.

On December 1, 1988, we advised Bando that without a response to our questionnaire we may have to use best information available for our preliminary and final determinations. No further information was received from Bando.

No further information or correspondence was received from Nitta.

**Scope of Investigation**

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). The HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from Japan currently provided for under HTS item numbers 5910.00.10, 5910.00.90, 4010.10.10 and 4010.10.50.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

**Period of Investigation**

The period of investigation is January 1, 1988 through June 30, 1988.

**Fair Value Comparisons**

To determine whether sales of industrial belts from Japan were made at less than fair value, we compared the United States price to the foreign market value. We used the best information available as required by section 776(c) of the Act for the reasons stated in the "Case History" section of this notice. As best information available, we took the highest margin contained in the petition for each of the product types for the period of investigation and averaged those figures to determine a single margin for the products under investigation.

**United States Price**

United States price was based on the U.S. price information provided in the petition.

**Foreign Market Value**

Foreign market value was based on home market prices provided in the petition.

**Critical Circumstances**

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from Japan. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short of period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Since we do not find that there have been massive imports of industrial belts and components and parts thereof, whether cured or uncured, from Japan, we do not need to consider whether there is a history of dumping or whether importers of this merchandise knew or should have known that the merchandise was being sold at less than fair value. Therefore, we preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from Japan.

**Suspension of Liquidation**

In accordance with section 773(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of industrial belts from Japan, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from Japan exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

| Manufacturer/Producer/ Exporter: | Margin percentage |
|---|---|
| Bando Chemical Industries, Ltd. | 93.16 |
| All Others | 93.16 |

**ITC Notification**

In accordance with section 773(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination, if affirmative.

**Public Comment**

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:30 a.m. on March 16, 1989 at the U.S. Department of Commerce, Room 4830, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Assistant Secretary by March 9, 1989. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 773(f) of the Act (19 U.S.C. 1673b(f)).

January 26, 1989.

**Jan W. Mares,**

*Assistant Secretary for Import Administration.*

[FR Doc. 89-1364 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-DS-M

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[A-580-801]

## Preliminary Determination of Sales at Less Than Fair Value; Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From South Korea

**AGENCY:** Import Administration, International Trade Administration.

**ACTION:** Notice.

**SUMMARY:** We preliminarily determine that industrial belts and components and parts thereof, whether cured or uncured, (hereinafter referred to as industrial belts) from South Korea are being, or are likely to be, sold in the United States at less than fair value. We also preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from South Korea. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of industrial belts from South Korea as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normaly, we will make a final determination by April 11, 1989.

**EFFECTIVE DATE:** February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Contact Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1769.

**SUPPLEMENTARY INFORMATION:**

**Preliminary Determination**

We preliminary determine that industrial belts from South Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

**Case History**

Since the notice of initiation (53 FR 28038, July 26, 1988), the following events have occurred: On August 9, 1988, the ITC determined that there is a reasonable indication that imports of industrial belts from South Korea are materially injuring a U.S. industry (USITC Pub. No. 2113, August 1988).

On August 19, 1988, Section A of the questionnaire was presented to Dongil Rubber Belt Co., Ltd. (Dongil), which accounts for a substantial portion of exports from South Korea to the United States during the period of investigation. On September 16, 1988, Dongil informed the Department that it would not be responding to the Department's questionnaire in this investigation. Dongil submitted no further information.

On October 24, 1988, petitioner requested that the preliminary determination be postponed. On October 28, 1988, in accordance with section 733(c)(1)(A) of the Act, we postponed the preliminary determination to January 26, 1989 (53 FR 44511, November 3, 1988).

**Scope of Investigation**

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s). The HTS numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The products covered by this investigation are industrial belts from South Korea currently provided for under HTS item numbers 5910.00.10, 5910.00.90, 4010.10.10 and 4010.10.50.

The merchandise covered by this investigation includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts and flat belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. This investigation excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

**Period of Investigation**

The period of investigation is January 1, 1988 through June 30, 1988.

**Fair Value Comparisons**

To determine whether sales of industrial belts from South Korea were made at less than fair value, we compared the United States price to the foreign market value. We used the best information available as required by section 776(c) of the Act for the reasons stated in the "Case History" section of this notice. As best information available, we took the highest margin contained in the petition for each of the product types for the period of investigation and averaged those figures to determine a single margin for the products under investigation.

**United States Price**

United States price was based on the U.S. price information provided in the petition.

**Foreign Market Value**

Foreign market value was based on home market prices provided in the petition.

**Critical Circumstances**

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from South Korea. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a

reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Imports of the subject merchandise from South Korea are brought in under a basket category which includes industrial belts not subject to this investigation. Our minimum criterion for massive imports is that imports of the subject merchandise increase by more than 15 percent in the four months after the petition was filed compared to the prior four months. Since the basket category indicates that imports of belts exceeded by only one-half percent our minimum threshold for determining massive imports during the four-month period, we preliminarily determine that critical circumstances do not exist with respect to imports of industrial belts from South Korea.

**Suspension of Liquidation**

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of industrial belts from South Korea, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of the subject merchandise from South Korea exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

| Manufacturer/Producer/ Exporter: | Margin percentage |
|---|---|
| Dongil Rubber Belt Co., Ltd..... | 64.37 |
| All others ..... | 64.37 |

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistance Secretary Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination, if affirmative.

**Public Comment**

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:30 a.m. on March 13, 1989 at the U.S. Department of Commerce, Room 4830, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least ten copies must be submitted to the Assistant Secretary by March 6, 1989. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

January 26, 1989.

**Jan W. Mares,**

*Assistant Secretary for Import Administration.*

[FR Doc. 89-2366 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-DS-M

## National Oceanic and Atmospheric Administration

### Coastal Zone Management; Federal Consistency Appeal by the Asociacion de los Indios From an Objection by the Puerto Rico Planning Board

**AGENCY:** National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Notice of appeal.

On September 26, 1988, Anibal Irizarry, Esq., on behalf of the Asociacion de los Indios (Appellant), filed with the Secretary of Commerce a notice of appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, 16 U.S.C. 1456(c)(3)(A), and the Department of Commerce's (Department) implementing regulations, 15 CFR Part 390, Subpart H. The appeal arises from an objection by the Puerto Rico Planning Board (State) to the Appellant's certification that its proposed projects to reconstruct a private road and to construct residential houses, landfills, piers and bulkheads in Salinas, Puerto Rico are consistent with Puerto Rico's coastal management program. The State's objection precludes the U.S. Army Corps of Engineers from issuing to the Appellant a permit to perform these activities pending the outcome of the Appellant's appeal.

If the Appellant perfects the appeal by filing the supporting data and information required by the Department's implementing regulations, public comments will be solicited by a notice in the Federal Register and a local newspaper.

**FOR FURTHER INFORMATION CONTACT:** Margo E. Jackson, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235, (202) 673-5200.

[Federal Domestic Assistant Catalog No. 11.419 Coastal Zone Management Program Assistance]

Date: January 20, 1989.

**B. Kent Burton,**

*Assistant Secretary for Oceans and Atmosphere.*

[FR Doc. 89-2295 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-08-M

## Coastal Zone Management; Federal Consistency Appeal by the New York Office of Mental Health From an Objection by the New York Department of State

**AGENCY:** National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Notice of dismissal.

On October 9, 1987, the New York Office of Mental Health (Appellant) filed with the Department of Commerce (Department) a notice of appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3)(A), and implementing regulations, 15 CFR Part 930, Subpart H. The appeal arose from an objection by the New York Department of State (State) to the Appellant's certification that its proposal to stabilize with shoreline along the Hudson River at the site of the Hudson River Psychiatric Center in Poughkeepsie, New York would be consistent with New York's coastal management program.

By a letter dated September 26, 1988, the parties informed the Department that the State now concurs in the proposed project's consistency with New York's coastal management program. Accordingly, the Department dismissed the appeal on January 9, 1989 for good cause pursuant to 15 CFR 930.128. That dismissal bars the Appellant from filing another appeal from the State's objection to the aforementioned activities.

**FOR FURTHER INFORMATION CONTACT:** Sydney Anne Minnerly, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235, (202) 673-5200.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance]

**B. Kent Burton,**

*Assistant Secretary for Oceans and Atmosphere.*

Date: January 25, 1989.

[FR Doc. 89-2296 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-08-M

## Caribbean Fishery Management Council; Public Hearings

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

**ACTION:** Notice of public hearings and request for comments.

**SUMMARY:** The Caribbean Fishery Management Council (CFMC) will hold public hearings on a proposed regulatory amendment under the Fishery Management Plan for the Atlantic Swordfish Fishery (FMP). This regulatory amendment will establish a mandatory reporting requirement for those fish dealers and processors handling Atlantic swordfish. The amendment will be prepared and submitted to NOAA by the South Atlantic Fishery Management Council.

**DATES:** Written comments will be accepted until February 8, 1989. The schedule for the public hearings is as follows:

(1) Wednesday, February 1, 1989, 7:30 p.m., Conference Room, Legislature Building, Christiansted, St. Croix, U.S. Virgin Islands

(2) Thursday, February 2, 1989, 7:00 p.m., Conference Room, Hotel Pierre, De Diego Avenue, Santurce, Puerto Rico.

Interested persons are invited to attend and participate.

**ADDRESSES:** Written comments may be mailed to Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, Suite 1108 Banco de Ponce Building, Hato Rey, Puerto Rico, 09118-2577. For additional information, please contact Mr. Miguel A. Rolon at the same address above, telephone (809) 766-5926.

**SUPPLEMENTARY INFORMATION:** The FMP was approved by the Secretary of Commerce in 1985. At that time, voluntary reporting by dealers of the weight of individual swordfish landed was sufficient to provide reliable size-frequency data used for stock assessments. In recent years, voluntary cooperation from fishermen and dealers has declined, and the geographical range of the domestic longline fishery has expanded significantly. As a result, size-frequency catch data submitted voluntarily may no longer be representative of the swordfish landed by the fishery. In addition, it has become more important to collect data on other species caught and landed by the fishery in order to detemine directed fishing effort, total economic value of landings, and other parameters necessary to monitor the FMP.

Accurate data on total landings and size-frequencies of catch are critical for monitoring and assessing the status of the swordfish resource, and for determining economic conditions in the fishery. This information is needed by the Fishery Management Councils to ensure that management measures result in long-term productivity of the resource.

The proposed regulatory amendment would be prepared by the South Atlantic Fishery Management Council in cooperation with the Caribbean, Gulf of Mexico, Mid-Atlantic, and New England Councils. The regulatory amendment would change the regulations implementing the FMP to require mandatory reporting by dealers handling Atlantic swordfish. Dealers and processors would be required to provide NMFS with weight and price information for landed swordfish and related species, and pertinent information on landings. The required information to be reported would include: Name and address of dealer; date of receipt of swordfish; name and official number of the vessels from which swordfish were received; date(s) and port(s) of landings of the vessel(s); total carcass weights by market category for landed swordfish, and by other species caught incidentally; prices paid by market category for swordfish and by species for other incidentally caught species; and individual carcass weights for swordfish.

A special form would be available on which to report the necessary information, or a dealer or processor could provide copies of appropriate weigh-out sheets and sales receipts to the NMFS Regional Director of Science and Research or to a designated fishery port agent. This information would supplement, but not duplicate, information provided via fishermen's logbooks. Dealer's or processor's reports would provide individual carcass weights needed to determine size composition and total weight and value of the catch; logbooks provide data fishing effort and numbers of fish caught per longline set.

The reporting burden associated with the proposed dealer or processors reports should be minimal. The NMFS estimates that approximately 60 dealers are involved in the Atlantic swordfish fishery. The required weigh-out sheets and sales receipts are currently produced in the course of routine business practice throughout the industry. It is anticipated that most dealers and processors will simply photocopy their existing forms and submit them on a monthly basis. The estimated total annual reporting burden for all dealers or processors combined is 320 hours, and the associated total annual costs are estimated to be $3,104.

Since some dealers or processors were submitting this information on a voluntary basis, the actual increase in reporting burden is estimated to be 221 hours.

Dated: January 27, 1989.

**Alan Dean Parsons,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 89-2358 Filed 1-27-89; 4:47 pm]

BILLING CODE 3510-22-M

### Western Pacific Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's advisory bodies will convene public meetings as follows:

*Pelagics Plan Monitoring Team (PMT)*—will convene on February 9, 1989, from 9 a.m. to noon, at the Honolulu Laboratory, National Marine Fisheries Service (NMFS), 2570 Dole Street, Honolulu, HI, to introduce new Team members, review the 1986–87 Pelagics Annual Report, discuss preparation of the 1988 report, review adequacies of existing data, and identify additional needs for stock assessment purposes. Other appropriate Team business also will be discussed.

*Precious Corals PMT*—will convene on February 10 from 1 p.m., to 3 p.m., at the Honolulu Laboratory (address above). The Precious Corals PMT will address the same issues, above, as the Pelagics PMT and, in addition, will review the Aukai Fishing Company's revised experimental fishing permit.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Date: January 26, 1989.

**Alan Dean Parsons,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 89-2357 Filed 1-31-89; 8:45 am]

BILLING CODE 3510-22-M

### Copyright Royalty Tribunal

**[CRT Docket No. 89-2-87CD]**

### Ascertainment of Whether Controversy Exists Concerning Distribution of 1987 Cable Royalty Fees

**AGENCY:** Copyright Royalty Tribunal.

**ACTION:** Notice.

**SUMMARY:** In accordance with 17 U.S.C. 111(d)(4)(B), the Copyright Royalty Tribunal directs that all claimants to royalty fees paid by cable operators for secondary transmissions during 1987 (Phase I and Phase II claimants) shall submit not later than March 23, 1989 any comments concerning whether a controversy exists with regard to the distribution of the 1987 royalty fees. All claimants intending to participate in the 1987 proceeding shall include with their comments a Notice of Intent to Participate. Any particular controversy, Phase I or Phase II, of which the Tribunal does not become advised by the end of the comment period will not be considered at a later date without a showing of good cause. Specifically for Phase II, each claimant must state each program category in which he or she has an interest which, by March 23, 1989, has not yet been satisfied by private agreement.

**FOR FURTHER INFORMATION CONTACT:** Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street NW., Suite 450, Washington, DC 20036 (202) 653–5175.

**Edward W. Ray,**

*Chairman.*

Dated: January 26, 1989.

[FR Doc. 89-2252 Filed 1-31-89; 8:45 am]

BILLING CODE 1410-09-M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

*Name of the Committee:* Army Science Board (ASB).

*Date of Meeting:* February 22, 1989.

*Time of Meeting:* 0800–1600 hours.

*Place:* Monroe, Louisiana.

*Agenda:* The Army Science Board Ad Hoc Subgroup for Tactical Explosive Systems (TEXS) will hold its seventh meeting. The Angus Chemical Company will brief. Specific topics are operations, demonstration of system components, high temperature test, and a tour of the Sterlington, LA plant. Additionally, the panel will review the draft reports prepared at the last meeting. Angus Chemical Company will be presenting proprietary data and therefore the meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

**Sally W. Warner,**

*Administrative Officer, Army Science Board.*

[FR Doc. 89-2261 Filed 1-31-89; 8:45 am]

BILLING CODE 3810-08-M

### OS: Military Academy; Chief of Staff's Special Commission on Honor Code and Honor; Partially Closed Meeting

1. IAW AR 15–1 the following information is provided to SAGC.

a. Name: Chief of Staff's Special Commission to Review the Honor Code and Honor System at the U.S. Military Academy.

b. Time: 15–16 February 1989.

c. Place: 107 Cathedral of Learning, University of Pittsburgh, Pennsylvania.

d. Purpose: See agenda discussion items.

e. Summary of Agenda:

| Date/Time | Open/ closed to public | Discussion item |
|---|---|---|
| 15 Feb/0900–1200. | Closed..... | Panels discuss findings and recommendations. |
| 15 Deb/1330–1630. | .....do ..... | Commission receives panel findings and recommendations. |
| 16 Feb/0830–1000. | Open ..... | Testimony from individuals. |
| 16 Feb/1000–1200. | .....do ..... | Ethics roundtable discussion. |

f. The public may attend the meetings marked "Open".

g. The meetings on February 15, are closed to the public to preclude premature disclosure of Commission findings and recommendations.

h. The basis for the closed portions of the meeting is paragraph 9(B) of section 552b(c), Title 5, U.S. Code.

i. Point of contact is the executive secretary, LTC James O. Younts III, 965–1983.

**John O. Roach II,**

*Army Liaison Officer With the Federal Register.*

[FR Doc. 89-2284 Filed 1-31-89; 8:45 am]

BILLING CODE 3710-08-M

### Department of the Navy

### Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory

Committee Panel on Countermine Capabilities for Amphibious Operations will meet on February 14–15, 1989. The meeting will be held at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia. The meeting will commence at 8:30 a.m. and terminate at 4:30 p.m. on February 14, 1989; and commence at 8:30 a.m. and terminate at 5:00 p.m. on February 15, 1989. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings for the panel members related to an assessment of the mine/countermine threat and current capabilities and limitations, and an evaluation of the technological approaches to detection, neutralization, marking and reporting problems. The agenda will include discussions on amphibious operations; threat; investment strategy; and technologies/systems. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive Order. The classifed and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander L.W. Snyder, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000, Telephone Number: (202) 696–4870.

January 27, 1989.

Sandra M. Kay,

*Department of the Navy, Alternate Federal Register Liaison Officer.*

[FR Doc. 89–2269 Filed 1–31–89; 8:45 am]

BILLING CODE 3810–AE–M

## DEPARTMENT OF ENERGY

### Determination To Establish Laboratory Evaluation Committee

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), I hereby certify that establishment of the Laboratory Evaluation Committee (LEC) is necessary and in the public interest in connection with the performance of duties imposed on the Department of Energy (DOE) by law. This determination follows consultation with the Committee Management Secretariat of the General Services Administration, pursuant to 41 CFR 101–6.10.

The purpose of LEC is to provide the Secretary of Energy with technical information, advice, and recommendations concerning DOE's laboratory scientific performance.

Further information regarding this Advisory Committee may be obtained from Elinor Donnelly (202–586–3448).

Issued in Washington, DC on January 27, 1989.

Howard H. Raiken,

*Advisory Committee Management Officer.*

[FR Doc. 89–2349 Filed 1–31–89; 8:45 am]

BILLING CODE 6450–01–M

### Financial Assistance Award; Intention To Award Grant to the Massachusetts Institute of Technology

**AGENCY:** U.S. Department of Energy.

**ACTION:** Acceptance of an unsolicited application for grant award.

**SUMMARY:** The Department of Energy announces that pursuant to 10 CFR 600.14, it intends to award based on an unsolicited action submitted by the Massachusetts Institute of Technology. The application is entitled "A Mathematical Model for Tar Release in Rapid Devolatilization of a Softening Bituminous Coal".

**SCOPE:** The intended grant award is to assist the Massachusetts Institute of Technology in a program concerned with developing an experimentally tested mathematical model to predict tar release from devolatilization of a softening bituminous coal for conditions pertinent to pulverized fuel combustion. The objectives include formulation of a model, testing the model for parametric effects, and assessing the model performance by comparing with pertinent existing experimental data. The applicant has developed unique capabilities and experience through research on aspects of coal pyrolysis and combustion. The applicant has extensive experience on the subjects of thermal devolatilization relevant to processes of coal conversion and combustion.

Previous work in this area has taken the approach of either embedding the physical release in the chemical Kinetic terms or by assuming a simplified transport process which varied slowly with time. The net result of this is that in actuality tar release is not a smoothly varing function of time but rather a "spike" or "burst". In the proposed work, this phenomenon will be modeled directly through the use of appropriate transport scale factors and is expected to yield results which are more representative of physical reality than previous attacks on this problem.

The term of the grant will be for a one-year period at an estimated value of $74,954.00.

**FOR FURTHER INFORMATION CONTACT:** U.S. Department of Energy, Pittsburgh Energy Technology Center, P.O. Box 10940, MS 921–165, Pittsburgh, Pennsylvania 15236, Telephone: (412) 892–5802.

Gregory J. Kawalkin,

*Acting Director, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.*

[FR Doc. 89–2350 Filed 1–31–89; 8:45 am]

BILLING CODE 6450–01–M

### Assistant Secretary for International Affairs and Energy Emergencies

### Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Brazil concerning Civil Uses of Atomic Energy, and the Agreement for Cooperation between the Government of the United States of America and the Government of Argentina concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the retransfer of 6,099.7 kilograms of heavy water from Brazil to Argentina for use in reactors subject to International Atomic Energy Agency (IAEA) safeguards.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Date: January 27, 1989.

George J. Bradley, Jr.,

*Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.*

[FR Doc. 89–2348 Filed 1–31–89; 8:45 am]

BILLING CODE 6450–01–M

## Office of Energy Research

### High Energy Physics Advisory Panel; Renewal

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act and in accordance with Title 41 of the Code of Federal Regulations, §101–6.1015, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the High Energy Physics Advisory Panel (HEPAP) has been renewed for a 2-year period ending on January 27, 1991. The Panel will continue to provide advice to the Secretary of Energy, through the Director, Office of Energy Research, on long-range planning and priorities in the national high energy physics program.

The renewal of the HEPAP has been determined essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Panel will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, the Department of Energy Organization Act (Pub. L. 95–91), and rules and regulations issued in implementation of those Acts.

Further information regarding this Panel may be obtained from Elinor Donnelly (202) 596–3448.

Issued in Washington, DC, on January 27, 1989.

Howard H. Raiken,

*Advisory Committee, Management Officer.*

FR Doc. 89–2351 Filed 1–31–89; 8:45 am]

BILLING CODE 6450–01–M

## Federal Energy Regulatory Commission

**[Docket Nos. ER89–17–000 et al.]**

### Cincinnati Gas & Electric Company et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

January 26, 1989.

Take notice that the following filings have been made with the Commission:

**1. Cincinnati Gas & Electric Company**

[Docket No. ER89–17–000]

Take notice that on January 5, 1989, Cincinnati Gas & Electric Company (Cincinnati) tendered for filing a response to the deficiency letter of December 6, 1988 regarding the First Supplemental Agreement dated as of October 1, 1988 to the Interconnection Agreement, dated August 4, 1981, between Cincinnati and the City of Hamilton, Ohio (Hamilton).

The new First Supplemental Agreement is for the transmission of electric power and energy to be obtained by Hamilton from the Power Authority of the State of New York. The First Supplemental Agreement was tendered for filing on October 20, 1988 and is proposed to become effective October 1, 1988.

Cincinnati states that the limitation found in Section 3 of the Interconnection Agreement is applicable to Exhibits A through E thereto but that said limitation does not affect Exhibit H of the First Supplemental Agreement which provides Hamilton with up to 8,000 kW of supplemental transmission service to enable Hamilton to obtain power and energy from the Power Authority of The State of New York. The supplemental transmission service is being provided in addition to the existing services available to Hamilton.

A copy of the filing was served upon the City of Hamilton and the Public Utilities Commission of Ohio.

*Comment date:* February 6, 1989, in accordance with Standard Paragraph E at the end of this notice.

**2. Wisconsin Power & Light Company**

[Docket No. ER89–151–000]

Take notice that on January 17, 1989, Wisconsin Power & Light Company (WP&L) tendered for filing a Certificate of Concurrence modifying the Interconnection Agreement between WP&L and Madison Gas and Electric.

*Comment date:* February 6, 1989, in accordance with Standard Paragraph E at the end of this notice.

**3. Connecticut Light and Power Company**

[Docket No. EL87–30–006]

Take notice that on December 21, 1988, Connecticut Light and Power Company (CL&P) tendered for filing its compliance filing pursuant to the Commission's order issued December 6, 1988.

*Comment date:* February 7, 1989, 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.

Lois D. Cashell,

*Secretary.*

[FR Doc. 89–2326 Filed 1–31–89; 8:45 am]

BILLING CODE 6717–01

**[Docket Nos. ER89–188–000 et al.]**

### Western Massachusetts Electric Company et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

January 27, 1989.

Take notice that the following filings have been made with the Commission:

**1. Western Massachusetts Electric Company**

[Docket No. ER89–188–000]

Take notice that Western Massachusetts Electric Company (WMECO) on January 19, 1989, tendered for filing an amendment to its FERC Electric Tariff Original Volume No. 1 (the "Tariff") (WMECO's FERC Rate Schedule 2F) under which it presently provides firm wholesale electric service to Fletcher Electric Light Company (Fletcher). WMECO provides similar firm wholesale electric service to Massachusetts Electric Company and New York State Electric Gas Company under the Tariff (WMECO's FERC Rate Schedule 2). WMECO states that the amendment to FERC Rate Schedule 2F decreases the demand rate charge to Fletcher. WMECO states that Fletcher has requested and that it has permitted Fletcher to elect to phase-in rates reflected in the rate schedule.

WMECO states that the proposed rate schedule amendment and the grant of permission to elect to phase in rates are required to give effect to an agreement between WMECO and Fletcher to reduce the demand rate and to permit Fletcher to comply with an order of the Connecticut Department of Public Utility Control (the "DPUC"). WMECO states that the DPUC Order requires that power purchase costs of Fletcher which relate to certain costs of the Millstone 3 nuclear electric generating plant be phased-in to Fletcher's retail rates.

WMECO proposes an effective date of October 1, 1988, in order to permit Fletcher to recover its costs of service pursuant to the DPUC order and

WMECO requests waiver of the Commission's notice requirements.

The company states that copies of the filing were served upon Fletcher, New York State Electric Gas Corp., Massachusetts Electric Company and the Department of Public Utilities of Massachusetts and the Department of Public Utility Control of Connecticut.

*Comment date:* February 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

**2. Iowa Public Service Company**

[Docket No. ER89-186-000]

Take notice that Iowa Public Service Company (IPS) on January 18, 1989, tendered for filing and executed Peaking Capacity Sales Agreement dated October 1, 1988, whereby IPS will supply St. Joseph Light & Power Company (SJLP) with firm peaking capacity and associated energy, commencing October 1, 1988, and ending on April 30, 1995. IPS requests that the negotiated Agreement be made effective as of October 1, 1988.

*Comment date:* February 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

**3. American Electric Power Service Corporation**

[Docket No. ER84-348-010]

Take notice in accordance with ordering Paragraph (D) of the Commission's Opinion and Order Affirming in Part and Modifying in Part Initial Decision (Opinion No. 311) issued August 2, 1988, in docket No. ER84-348-001, American Electric Power Service Corporation (AEPSC) on behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, and Ohio Power Company and AEPSC, as Agent (ARP Companies), tendered for filing a Compliance Filing on January 12, 1989.

The purpose of the Compliance Filing is to incorporate the changes ordered by the Commission in Opinion No. 311 to a Transmission Agreement among the AEP Companies which provides for the equitable sharing among the parties of the cost of ownership and operation of the AEP Extra High Voltage (EHV) transmission system. The changes ordered by the Commission include: (1) The inclusion in the Agreement of certain additional transmission facilities of 138-kV and greater; (2) a reduction in the return on equity and the federal income tax rate; (3) prospective elimination of a phase-in feature of the Agreements; (4) recognition in the Agreement of the effects of the Investment Tax Credit; and (5) a provision for updating members' transmission investment for additions in excess of ten million dollars.

In accordance with Opinion No. 311, the changes are effective as of August 2, 1988.

*Comment date:* February 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

**4. Utah Power & Light Company**

[Docket No. ER89-185-000]

Take notice that on January 17, 1989, Utah Power & Light Company (Utah) tendered for filing an Agreement for sale of Economy Energy (Economy Energy Agreement) and an Interconnection Agreement—Service Schedule A-3—Emergency Assistance (Emergency Assistance Agreement) between Utah and Arizona Public Service Company.

The Economy Energy Agreement provides that economy energy sales by Arizona to Utah shall be priced at one of the following rates: (a) A ceiling rate concept based in part on the fixed costs associated with facilities used to produce the required energy; (b) a "Split-the-savings" concept or (c) a selling price based on 120 percent of cost to produce such energy. The Emergency Assistance Agreement provides for the supply of emergency power and energy at the rate level specified in the Economy Energy Agreement.

Both agreements supersede similar such services currently provided pursuant to Utah Rate Schedule No. FPC 89.

Utah, in concurrence with Arizona, has requested waiver of the Commission's notice requirements to allow these agreements to become effective December 1, 1988 as agreed between the parties.

Copies of this filing are being served upon Arizona, the Arizona Corporation Commission, and the Public Service Commission of Utah.

*Comment date:* February 13, 1989, in accordance with Standard Paragraph E at the end of this document.

**5. Delmarva Power & Light Company**

[Docket No. ER89-173-000]

Take notice that Delmarva Power & Light Company (Delmarva) on January 9, 1989, tendered for filing proposed Supplement No. 11 to its FERC Rate Schedule No. 71. This Supplement, filed at the request of the Easton Utilities Commission and the Town of Easton (Easton), provides for an additional point of 69 kV interconnection at Substation No. 3 off Goldsborough Neck Road.

Copies of this filing were served upon Easton Utilities Commission, the Mayor of the Town of Easton and the Maryland Public Service Commission.

*Comment date:* February 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

**6. Pacific Gas and Electric Company**

[Docket No. ER89-187-000]

Take notice that Pacific Gas and Electric Company (PG&E) tendered for filing, on January 19, 1989, a rate schedule change to Rate Schedule FERC No. 79, between PG&E and the Western Area Power Administration (WAPA).

The rate schedule change provides for a Interim Capacity Rate to be used for capacity sales to WAPA after WAPA's Capacity Account with PG&E reaches a zero balance. This interim rate shall be used until PG&E can calculate a rate pursuant to the language in Rate Schedule FERC No. 79. When the Interim Capacity Rate is superseded, capacity sold under the Interim Capacity Rate shall be rebilled at the new rate and adjustments shall be made with interest.

PG&E requests waiver of the Commission's notice requirements to allow an effective date of March 1, 1989, for the proposed rate schedule change.

Copies of this filing have been served upon WAPA and the California Public Utilities Commission. In addition, copies of this filing are available for public inspection at PE&G's General Office in San Francisco and at PG&E's Sacramento Valley Regional Office in Sacramento.

*Comment date:* February 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

**7. Orange and Rockland Utilities, Inc.**

[Docket No. ER89-193-000]

Take notice that on January 23, 1989, Orange and Rockland Utilities, Inc. (Orange and Rockland) tendered for filing pursuant to the Federal Energy Regulatory Commission's order issued January 15, 1988 in Docket No. ER88-112-000, an executed Service agreement between Orange and Rockland and Mid Orange Correctional Facility (Mid-Orange).

*Comment date:* February 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

**8. New England Power Company**

[Docket No. ER89-192-000]

Take notice that on January 23, 1989, New England Power Company (NEP) submitted for filing an executed Interconnection Agreement and Amendment to the Agreement with Lowell Cogeneration Company, a

Delaware limited partnership ("LCCLP"). NEP has also filed the Transmission Service Agreement whereby NEP provides transmission service from LCCLP's facility in Lowell, Massachusetts to Commonwealth Electric Company ("Com Elec") headquartered in Wareham, Massachusetts.

*Comment date:* February 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

**9. Washington Water Power Company**

[Docket No. ER89-190-000]

Take notice that on January 23, 1989, The Washington Water Power Company (Washington) tendered for filing copies of a service schedule applicable to what Washington refers to as a Letter Agreement between Washington and Southern California Edison (SCE). Washington states that the energy will be made available to SCE during the month of October with recall provision available between the two companies.

Washington requests that the requirements of prior notice be waived and the effective date be made retroactive to October 1, 1988.

*Comment date:* February 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

**10. Consumers Power Company**

[Docket No. ER89-184-000]

Take notice on January 17, 1989, Consumers Power Company (Consumers Power) tendered for filing proposed changes in its FERC Electric Service Tariff, First Revised Volume No. 1. Consumers Power states that the following wholesale customers in the State of Michigan would be affected by the changes: City of Eaton Rapids, City of Charlevoix, Edison Sault Electric Company, City of Harbor Springs, City of Petoskey, Village of Chelsea, City of Portland, City of St. Louis, Wolverine Power Supply Electric Cooperative, Inc., City of Bay City, Southeastern Michigan Rural Electic Cooperative, Alpena Power Company, City of Lowell, and City of Hart.

Consumers Power states that the proposed changes would increase annual revenues from jurisdictional sales and service by approximately $9,350,000 annually (33% for wholesale customers served at 138 kV and 28% for wholesale customers served at 46 kV) based on the 12-month test period ending December 31, 1989. The filing provides for: (1) Three new Paragraphs In Rate "WR", i.e. Paragraph 15 ("Capacity Reservation"), Paragraph 16 ("Definition of Customer Voltage Level") and Paragraph 17 ("Service Conversion Charge" for customers converting from wholesale sales to transmission service); and (2) various working changes largely to clarify provisions governing the application of the Maximum Demand, On-Peak Billing Demand, Metering Adjustment, Substation Ownership, and Transmission Charge for Service from the Delivery Point to Additional Metering Points as well as various rules in the Standard Rules and Regulations Applicable to Wholesale for Resale Electric Service.

Consumers Power states that the increase in rates is necessary to recover increased operating costs, fixed costs including a reasonable return on investment, and fifty percent of its prudent investment in its abandoned Midland nuclear plant consistent with the formula prescribed in Opinion No. 295.

Copies of the filing were served upon Consumer Power's jurisdictional customers and on the Michigan Public Service Commission.

*Comment date:* February 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

**11. Citizens Energy Corporation**

[Docket No. ER89-179-000]

Take notice that Citizens Energy Corporation (Citizens) on January 19, 1989, tendered for filing a Power Sales Agreement (Agreement) with the City of Pasadena (Pasadena) as a rate schedule. The Agreement provides that Citizens shall sell energy to Pasadena on a firm basis between prescribed minima and maxima. Service under the Agreement commenced on October 1, 1988 and will terminate on March 31, 1989 unless the period of delivery is extended or abbreviated by mutual agreement.

Pasadena has been served with a copy of this filing.

Citizens requests the Commission's notice requirements be waived and that October 1, 1988 be allowed as the effective date of the filing.

*Comment date:* February 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

**12. Iowa Public Service Company**

[Docket No. ER89-191-000]

Take notice that Iowa Public Service Company on January 23, 1989, tendered for filing Assignments for Capacity Schedules dated October 18, 1988, whereby Iowa-Illinois Gas and Electric Company, Corn Belt Power Cooperative, Bancroft Municipal Utilities, Coon Rapids Municipal Utilities, Laurens Municipal Light & Power Plant, and the City of Webster City have assigned a Capacity Schedule of seven (7) megawatts to the Municipality of Waverly commencing October 1, 1988. The Assignments of Capacity Schedules of seven (7) megawatts is taken from the Louisa Generating Unit, entering Lehigh-Webster Transmission at the Lehigh Terminal, and exiting Lehigh-Webster Transmission at the Webster Terminal.

*Comment date:* February 13, 1989, 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.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-2327 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. CP89-673-000 et al.]**

## Texas Gas Transmission Corporation et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

**1. Texas Gas Transmission Corporation**

[Docket Nos. CP89-673-000]

January 26, 1989.

Take notice that on January 19, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89-673-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Nevamar Corporation (Nevamar), under Texas Gas' blanket certificate issued in Docket No. CP88-686-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement executed on October 26, 1988,

Texas Gas Requests authorization to transport natural gas for Nevamar from various existing points of receipt located along Texas Gas' system to a single point of delivery located at a point of interconnection with Columbia Gas Transmission Corporation in Warren County, Ohio. Texas Gas states that the service would be provided on a month-to-month basis and could be terminated upon thirty (30) days written notice by either party. The peak day, average day, and annual transportation quantities are expected to be 1,700 MMBtu, 1000 MMBtu, and 365,000 MMBtu, respectively. Texas Gas advises that it began transporting gas for Nevamar on December 1, 1988, as reported in Docket No. ST89–1388–000, pursuant to § 284.223(a) of the Commission's Regulations.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**2. Panhandle Eastern Pipe Line Company**

[Docket No. CP89–633–000]

January 27, 1989.

Take notice that on January 17, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–633–000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Amgas, Inc. (Amgas), a shipper and marketer of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86–585–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to transport up to 150 dekatherms (dkt) of natural gas equivalent per day on an interruptible basis on behalf of Amgas pursuant to a transportation agreement dated November 15, 1988, between Panhandle and Amgas. Panhandle would receive the gas at various existing points of receipts on its system in Texas, Oklahoma, Kansas, Colorado, Wyoming and Illinois and deliver equivalent volumes, less fuel used and unaccounted for line loss, to Central Illinois Light Company in Tazewell County, Illinois.

Panhandle states that the estimated daily and annual quantities would be 60 dkt and 21,900 dkt, respectively. Service under § 284.223(a) commenced on December 1, 1988, as reported in Docket No. ST89–1635–000.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**3. Williams Natural Gas Company**

[Docket No. CP89–668–000]

January 27, 1989.

Take notice that on January 19, 1989, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89–668–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Amoco Energy Trading Company (Amoco), a marketer, under the blanket certificate issued in Docket No. CP86–631–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to transport on an interruptible basis for Amoco up to 2,000,000 MMBtu of natural gas on a peak day, approximately 2,000,000 MMBtu on an average day, and 730,000,000 MMBtu on an annual basis. Williams states that it would transport this gas from various receipt points in Kansas, Missouri, Oklahoma, Texas and Wyoming to various delivery points on Williams' system in Kansas, Missouri, Oklahoma, Texas and Wyoming. Williams explains that service commenced under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89–1680–000.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**4. United Gas Pipe Line Company**

[Docket No. CP89–617–000]

January 27, 1989.

Take notice that on January 13, 1989, United Gas Pipe Line Company (United) P.O. Box 1478, Houston, Texas 77251–1478 filed in Docket No. CP89–617–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of LaSu Marketing Company (LaSu) under the certificate issued in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United States that it proposes to transport for LaSu 618,000 MMBtu on a peak day, 618,000 MMBtu on an average day and 74,160,000 on an annual basis. United also states that pursuant to a Transportation Agreement dated October 1, 1988 as amended on October 25, 1988 between United and LaSu (Transportation Agreement) proposes to transport natural gas for LaSu from points of receipt located in various counties in Louisiana. The points of delivery and ultimate points of delivery are located in multiple states.

United further states that it commenced October 25, 1988, as reported in Docket No. ST89–1496–000.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of the notice.

**5. Texas Gas Transmission Corporation**

[Docket No. CP89–681–000]

January 27, 1989.

Take notice that on January 23, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89–681–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Total Minatome Corporation (Total), for the ultimate end use by Alabama-Tennessess Natural Gas Co., under Texas Gas' blanket certificate issued in Docket No. CP88–686–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas requests authorization to transport, on an interruptible basis, up to a maximum of 100,000 MMBtu of natural gas per day for Total from receipt points located in offshore Texas to delivery points located in offshore Texas. Texas Gas anticipates transporting, on an average day 10,000 MMBTu and an annual volume of 3,650,000 MMBtu.

Texas Gas states that the transportation of natural gas for Total commenced December 9, 1988, as reported in ST89–1399–000, for a 120-day period pursuant to Section 284.223(a) of the Commission's Regulations and the blanket certificate issued to Texas Gas in Docket No. CP88–686–000.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**6. Trunkline Gas Company**

[Docket No. CP89–682–000]

January 27, 1989.

Take notice that on January 23, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642 Houston, Texas 77251–1642 filed in Docket No. CP89–682–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations

under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued Docket No. CP86–586–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Trunkline proposes to transport natural gas for GasTrak Corporation (GasTrak), a marketer, pursuant to a transportation agreement dated December 15, 1988. Trunkline explains that service commenced January 1, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–1783. Trunkline further explains that the peak day quantity would be 15,000 dekatherms, the average daily quantity would be 15,000 dekatherms, and that the annual quantity would be 5,475,000 dekatherms. Trunkline explains that it would receive natural gas for GasTrak's account at points of receipt in Illinois, Louisiana, Tennessee, Texas and offshore Louisiana. Trunkline states that it would transport and redeliver the natural gas to Panhandle Eastern Pipe Line Company in Douglas County, Illinois.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**7. Northern Natural Gas Company, Division of Enron Corp.**

[Docket No. CP89–685–000]

January 27, 1989.

Take notice that on January 23, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–685–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of American Central Gas Marketing Company (American), under Northern's blanket certificate issued in Docket No. CP86–435–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern requests authorization to transport, on an interruptible basis, up to a maximum of 200,000 MMBtu of natural gas per day for American, a marketer of natural gas, from receipt points located in Oklahoma, Texas, Kansas, New Mexico, Iowa, South Dakota, Nebraska, to delivery points located in New Mexico, Texas, Minnesota, Michigan, and Kansas. Northern anticipates transporting, on an average day 150,000 MMBtu and an annual volume of 73,000,000 MMBtu.

Northern states that the transportation of natural gas for American commenced December 13, 1988, as reported in Docket No. ST89–1647–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Northern in Docket No. CP86–435–000.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**8. Colorado Interstate Gas Company**

[Docket No. CP89–684–000]

January 27, 1989.

Take notice that on January 23, 1989, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP89–684–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide interruptible transportation service for Colorado Gasmark, Inc. (Colorado Gasmark), a marketer, under the blanket certificate issued in Docket No. CP86–589–000, *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

CIG states that pursuant to a transportation agreement dated October 1, 1988, under its Rate TI–1, it proposes to transport up to 7,800 Mcf per day of natural gas for Colorado Gasmark. CIG states that it would receive the gas at an existing point on its system located in Wyoming, and that it would transport and redeliver the gas, less fuel gas and lost and unaccounted-for gas, in Hutchinson County, Texas.

CIG advises that service under Section 284.223(a) commenced October 1, 1988, as reported in Docket No. ST89–345–000. CIG further advises that it would transport 7,000 Mcf on an average day and 2,500 MMcf annually.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**9. Arkla Energy Resources, a division of Arkla, Inc.**

[Docket No. CP89–672–000]

January 27, 1989.

Take notice that on January 19, 1989, Arkla Energy Resources, a division of Arkla, Inc. (AER), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP89–672–000 a request pursuant to §§ 157.205, 157.212 and 157.216 of the Commission's Regulations for authorization to establish two new town border stations and to abandon and transfer to Arkansas Louisiana Gas Company (ALG), also a division of Arkla, Inc., existing facilities downstream of such new town border stations, under the blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

AER specifically requests authorization to construct and operate a new 6-inch town border station on AER's Line AM–39 that would be known as AER's Magnolia Central T.B.S., and to abandon and transfer to ALG existing facilities downstream of such town border station. It is stated that these existing facilities would include approximately 10,050 feet of 6-inch pipeline (a portion of AER's Line AM–39), approximately 140 feet of 2-inch pipeline (AER's Line AM–133), and four existing town border stations located thereon. AER states that the facilities that it proposes to transfer would still be used in the retail delivery of natural gas.

AER also requests authorization to construct and operate a new 2-inch skid-Mounted town border station at the interconnection of AER's Line L–1–K and Line AM–102 that would be designated Magnolia East Side T.B.S., and to abandon and transfer ALG approximately 15,192 feet of 4-inch pipeline (AER's Line AM–102), two town border stations, and two taps used for delivery of gas to ALG rural extension lines. It is stated that these facilities that AER proposes to transfer would still be used in the retail delivery of natural gas.

AER states that the operation of its pipeline system would be enhanced by the rearrangement of certain facilities used to deliver natural gas to ALG in and around Magnolia which is located in Columbia County, Arkansas. AER indicates that no change in the level of deliveries to consumers in Magnolia is expected to result from the granting of the requested certificate and, thus, there would be no impact on AER's gas supply. It is indicated that the facilities that AER proposes to abandon and transfer were certificated in Docket No. G–10887. AER states that the proposed abandonment would have no effect on service to existing customers and that all of the consumers served by gas delivered into the lines that AER proposes to abandon are and would continue to be served by ALG. AER estimates that the proposed rearrangement and construction would cost $130,605.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**10. Williams Natural Gas Company**

[Docket No. CP89-669-000]

January 27, 1989.

Take notice that on January 19, 1989, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP90-699-000, a request pursuant to § 157.205 (18 CFR 157.205) of the Commission's Regulations under the Natural Gas Act for authorizaton to provide firm transportation service for Ag Processing, Inc. (Ag Processing), an end-user, under Williams blanket transportation certificate issued May 10, 1988, in Docket No. CP86-631-000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williams states it will receive the gas at various supply sources in Kansas and transport the gas to various delivery points on Williams' system in Missouri.

Williams proposes to transport up to 200 MMBtu of gas per day on a peak day or approximatley 73,000 MMBtu of gas annually. Williams states that the transportation service commenced under the 120-day automatic authorization of § 284.223(a)(i) of the Commission's Regulations on December 1, 1988, pursuant to a transportation agreement dated December 1, 1988. Williams notified the Commission of the commencement of the transportation service in Docket No. ST89-1681-000 on January 10, 1989.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**11. Williams Natural Gas Company**

[Docket No. CP89-667-000]

January 27, 1989.

Take notice that on January 19, 1989, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-667-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide transportation for Pawnee Pipeline and Marketing Company, Inc. (Pawnee), a marketer, under WNG's blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG requests authorization to transport, on an interruptible basis, up to a maximum of 500 MMBtu equivalent of natural gas per peak day for Pawnee from various receipt points in Kansas to various delivery points on WNG's pipeline system located in Kansas. WNG anticipates transporting 500 MMBtu equivalent of natural gas on an average day and 182,500 MMBtu equivalent of natural gas on an annual basis.

WNG states that the transportation of natural gas for Pawnee commenced on December 1, 1988, as reported in Docket No. ST89-1682, for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations and the blanket certificate issued to WNG in Docket No. CP86-631-000. WNG proposes to continue this service in accordance with §§ 284.221 and 284.223 of the Commission's Regulations.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**12. Northern Natural Gas Company**

[Docket No. CP89-689-000]

January 27, 1989.

Take notice that on January 23, 1989, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP89-689-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis on behalf of Chevron USA, Inc. (Chevron), a producer of natural gas, under its blanket certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that it proposes to transport natural gas on behalf of Chevron between a point of receipt in Ward County, Texas and points of delivery located in Winkler and Yoakum Counties, Texas.

Northern further states that the maximum daily, average and annual quantities that it would transport of behalf of Chevron would be 200,000 MMBtu equivalent of natural gas, 150,000 MMBtu equivalent of natural gas and 73,000,000 MMBtu equivalent of natural gas, respectively.

Northern indicates that in Docket No. ST89-1759, filed with the Commission on January 17, 1989, it reported that transportation service on behalf of Chevron had begun under the 120-day automatic authorization provisions of § 284.223(a).

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**13. Trunkline Gas Company**

[Docket No. CP89-683-000]

January 27, 1989.

Take notice that on January 23, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-683-000 a request pursuant to §§ 157.205 and 284.223(2)(b) of the Commission's Regulations under the Natural Gas Act for authorization to provide transportation for Hadson Gas Systems, Inc. (Hadson Gas), a shipper and marketer of natural gas, under Trunkline's blanket certificate issued in Docket No. CP88-586-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Trunkline requests authorization to transport, on an interruptible basis, up to a maximum of 50,000 Dt of natural gas per day for Hadson Gas. Trunkline proposes to receive gas from various existing points of receipt on its system in Louisiana, Texas, Illinois and Tennessee. Trunkline would then transport and redeliver subject gas, less fuel and unaccounted for line loss, to Panhandle Eastern Pipe Line Company in Douglas County, Illinois. The receipt points and end-users are listed in the December 6, 1988 transportation agreement which provides for this service. Trunkline states that it anticipates transporting 23,000 Dt on an average day and 8,395,000 Dt on an annual basis.

Trunkline states that the transportation of natural gas for Hadson Gas commenced on January 1, 1989, as reported in Docket No. ST89-1800-000, for a 120-day period pursuant to § 284.223(a)(1) of the Commission's Regulations and the blanket certificate issued to Trunkline in Docket No. CP88-586-000. Trunkline proposes to continue this service in accordance with §§ 284.221 and 284.223 of the Commission's Regulations. Trunkline further states that no new facilities nor expansion of existing facilities are required to provide this transportation service.

*Comment date:* March 13, 1989, in accordance with Standard Paragraph G at the end of this notice.

**Standard Paragraph**

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to

§ 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest if filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-2332 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. JD89-02897T]**

**Designation of Tight Formation Hidalgo County, Texas, Texas-43; Tight Formation Determination (January 26, 1989.**

Take notice that on December 12, 1988, the Railroad Commission of Texas (Texas) submitted to the Commission its determination that the McAllen Ranch (Guerra) Field located in Hidalgo County, Texas, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The application includes the Railroad Commission's order issued November 21, 1988, finding that the formation meets the requirements of the Commission's regulations set forth in 18 CFR Part 271.

Any person desiring to be heard or to protest Texas' determination should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Rules of Practice and Procedure (18 CFR 385.211, 385.214 (1988)). All such comments should be filed within 10 days after publication of this notice in the **Federal Register.** 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.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-2345 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. TM89-3-20-002; TM89-6-20-001; and TM89-7-20-000]**

**Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff**

January 26, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on January 23, 1989, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1 as set forth in the revised tariff sheets:

Rate Schedule F-2, proposed to be effective January 1, 1989
- Thirty-first Revised Sheet No. 203
- Alternate Thirty-first Revised Sheet No. 203

Rate Schedule F-3, proposed to be effective January 1, 1989
- Second Substitute Twenty-third Revised Sheet No. 204

Rate Schedule F-4, proposed to be effective February 1, 1989
- Substitute Twenty-fourth Revised Sheet No. 205
- Alternate Substitute Twenty-fourth Revised Sheet No. 205

Rate Schedule SS-III, proposed to be effective February 1, 1989
- Alternate Fifteenth Revised Sheet No. 214

Algonquin states that on December 30, 1988 in Docket No. TQ89-2-22-000, Algonquin's pipeline supplier, CNG Transmission Corporation ("CNGT") made an out-of-cycle Purchased Gas Adjustment filing to flow through increases in its cost of purchased gas. In its filing CNGT submitted both primary and alternate rates for reasons set forth in CNGT's filing. Pursuant to Section 7 of Rate Schedule F-2, Algonquin is filing Thirty-first Revised Sheet No. 203 ("Primary Sheet 203") and Alternate Thirty-first Revised Sheet No. 203 ("Alternate Sheet 203") to concurrently track those rate changes made by CNGT in the service underlying Algonquin's Rate Schedule F-2. Primary Sheet 203 represents increases of 7.5 cents per MMBtu in the Demand componnent and 6.77 cents per MMBtu in the Commodity component. Alternate Sheet 203 reflects increases of 14. 5 cents per MMBtu in the Demand component and 14.72 cents per MMBtu in the Commodity component.

Algonquin states that on December 30, 1988 in Docket No. TF89-1-16-000, Algonquin's pipeline supplier, National Fuel Gas Supply Corporation ("National") made an Interim Purchased Gas Adjustment to reflect a decrease from the rates contained in National's 30-day update to its annual PGA filed on December 1, 1988 in Docket No. TA89-1-16 *et al.* Pursuant to section 7 of Rate Schedule F-3, Algonquin is filing Second Substitute Twenty-third Revised Sheet No. 204 to concurrently track the rate change made by National in the service underlying Algonquin's Rate Schedule F-3. The change in rate represents a decrease of 11.94 cents in the commodity component from the revise rate filed by National on December 1, 1988.

Algonquin states that on December 30, 1988, in Docket No. TA89-1-17, *et al.*, Algonquin's pipeline supplier, Texas Eastern Transmission Corporation ("Texas Eastern") filed primary and alternate rates to revise its gas cost projection made in Texas Eastern's December 2, 1988 annual PGA filing as more fully set forth in Texas Eastern's filing. Pursuant to section 7 of Rate Schedule F-4, Algonquin is filing Substitute Twenty-fourth Revised Sheet No. 205 ("Primary Sheet 205") and Alternate Substitute Twenty-fourth Revised Sheet No. 205 ("Alternate Sheet 205") under Rate Schedule F-4 to concurrently track those changes made by Texas Eastern in the rates for the services underlying Algonquin's Rate Schedule F-4. Alternate Fifteenth Revised Sheet No. 214 ("Alternate Sheet 214") is being filed pursuant to Section 9 of Rate Schedule SS-III to concurrently track those changes made by Texas Eastern in the rates for the service underlying Algonquin's Rate Schedule SS-III as shown in Texas Eastern's Alternate rate sheets.

Algonquin states that under Rate Schedule F-4, Primary Sheet 205 reflects a decrease of 17.88 cents per MMBtu in the Demand component and an increase of 30.38 cents per MMBtu in the Commodity component. Alternate Sheet 205 for Rate Schedule F-4 reflects a decrease in the Demand Component of $1.202 per MMBtu and an increase of 30.23 cents per MMBtu in the Commodity component.

Algonquin states that under Rate Schedule SS-III, Alternate Sheet 214 reflects a decrease in the Non-Firm Withdrawal charge of 0.98 cents per MMBtu.

Algonquin notes that copies of this filing were served upon the affected parties and interested state 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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 3, 1989. Protests will be considered by the Commisson 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 in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 89-2330 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

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## Consumers Power Co.; Intent To File an Application for a New License

[Project No. 2468; Michigan]

January 30, 1989.

Take notice that on December 16, 1988, Consumers Power Company, the existing licensee for the Croton Hydroelectric Project No. 2468, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2468 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Muskegon River in Newaygo County, Michigan. The principal works of the Croton Project include a 55-foot-high, 700-foot-long earth and concrete dam; a reservoir of 1,378 acres at elevation 722.5 feet m.s.l.; a powerhouse with an installed capacity of 9,000 kW; a 700-foot-long, 7.2/138-kV circuit connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 1945 West Parnall Road, Jackson, MI 49201, Attn: R.J. Ford, telephone (517) 788-0156.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

*Secretary.*

[FR Doc. 89-2337 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

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[Project No. 2453; Michigan]

## Consumers Power Co.; Intent To File an Application for a New License

January 30, 1989.

Take notice that on December 16, 1988, Consumers Power Company, the existing licensee for the Five Channels Hydroelectric Project No. 2453, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2453 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Au Sable River in Iosco County, Michigan. The principal works of the Five Channels Project include a 36-foot-high, 770-foot-long sand fill and concrete dam; a reservoir of 250 acres at elevation 714.42 feet m.s.l.; a powerhouse with an installed capacity of 6,000 kW; a substation and transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 1945 West Parnall Road, Jackson, MI 49201, Attn: R. J. Ford, telephone (517) 788-0156.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

*Secretary.*

[FR Doc. 89-2338 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

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[Project No. 2452; Michigan]

## Consumers Power Co.; Intent To File an Application for a New License

January 30, 1989.

Take notice that on December 16, 1988, Consumers Power Company, the existing licensee for the Hardy Hydroelectric Project No. 2452, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2452 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Muskegon River in Mecosta and Newaygo Counties, Michigan. The principal works of the Hardy Project include a 3,000-foot-long earth dam with a concrete core wall; a reservoir of 3,971 acres at elevation 822.5 feet m.s.l.; a powerhouse with an installed capacity of 30,000 kW; a substation and a 5-mile-long, 138-kV transmission line; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 1945 West Parnall Road, Jackson, MI 49201, Attn: R. J. Ford, telephone (517) 788-0156.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

*Secretary.*

[FR Doc. 89-2339 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

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[Project No. 2451; Michigan]

## Consumers Power Co.; Intent To File an Application for a New License

January 30, 1989.

Take notice that on December 16, 1988, Consumers Power Company, the existing licensee for the Rogers Hydroelectric Project No. 2451, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2451 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Muskegon River in Mecosta County, Michigan. The principal works of the Rogers Project include an 800-foot-long

earth and concrete dam; a reservoir of 610 acres at elevation 886.0 feet m.s.l.; a powerhouse with an installed capacity of 6,000 kW; a substation and a 140-foot-long, 46-kV circuit connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 1945 West Parnall Road, Jackson, MI 49201, Attn: R. J. Ford, telephone (517) 788-0156.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-2340 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Project No. 2450; Michigan]**

## Consumers Power Co.; Intent To File an Application for a New License

January 30, 1989.

Take notice that on December 16, 1988, Consumers Power Company, the existing licensee for the Cooke Hydroelectric Project No. 2450, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2450 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Au Sable River in Iosco County, Michigan. The principal works of the Cooke Project include two earthfill dam sections, about 864 feet long; a reservoir of 1,800 acres; a powerhouse with an installed capacity of 9,000 kW; a substation and transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 1945 West Parnall Road, Jackson, MI 49201, Attn: R.J. Ford, telephone (517) 788-0156.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-2341 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Project No. 2447; Michigan]**

## Consumers Power Co.; Intent To File an Application for a New License

January 30, 1989.

Take notice that on December 16, 1988, Consumers Power Company, the existing licensee for the Alcona Hydroelectric Project No. 2447, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2447 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Au Sable River in Alcona County, Michigan. The principal works of the Alcona Project include a 67-foot-high, 4,820-foot-long earth dam with concrete corewalls; a reservoir of 1,075 acres at elevation 829.67 feet m.s.l.; a powerhouse with an installed capacity of 8,000 kW; a 400-foot-long, 4.8-kV line to a substation and 4.8/138-kV transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 1945 West Parnall Road, Jackson, MI 49201, Attn: R. J. Ford, telephone (517) 788-0156.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

**Lois D. Cashell,**

*Secretary*

[FR Doc. 89-2342 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

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**[Project No. 2448; Michigan]**

## Consumers Power Co.; Intent To File an Application for a New License

January 30, 1989.

Take notice that on December 16, 1988, Consumers Power Company, the existing licensee for the Mio Hydroelectric Project No. 2448, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2448 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Au Sable River in Oscoda County, Michigan. The principal works of the Mio Project include a 2,120-foot-long earth dam with a concrete corewall; a reservoir of 860 acres at elevation 963.37 feet m.s.l.; a powerhouse with an installed capacity of 5,000 kW; a substation and transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 1945 West Parnall Road, Jackson, MI 49201, Attn: R. J. Ford, telephone (517) 788-0156.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

**Lois D. Cashell,**

*Secretary*

[FR Doc. 89-2342 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2580; Michigan]

## Consumers Power Co.; Intent To File an Application for a New License

January 30, 1989.

Take notice that on December 16, 1988, Consumer Power Company, the existing licensee for the Tippy Hydroelectric Project No. 2580, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99–495. The original license for Project No. 2580 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Manistee River in Manistee County, Michigan. The principal works of the Tippy Project include an 80-foot-high, 830-foot-long earthfill dam; a reservoir of 1,540 acres at elevation 687.5 feet m.s.l.; a powerhouse with an installed capacity of 20,000 kW; a 138-kV substation and 1,000 feet of 138-kV transmission line connecting to a 138-kV switching station; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87–7–000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE, Washington, DC 20426. The above information as described in the rule is now available from the licensee at 1945 West Parnall Road, Jackson, MI 49201, Attn: R. J. Ford, telephone (517) 788–0156.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31 1991.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89–2344 Filed 1–31–89; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. RP89–54–000]

## Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Petition for Limited Waiver

January 26, 1989.

Take notice that on January 17, 1989, Columbia Gas Transmission Corporation (Columbia Gas) and Columbia Gulf Transmission Company (Columbia Gulf) filed a petition for a limited waiver of 18 CFR 161.3(b). Columbia requests a limited one-time waiver of § 161.3(b) to the extent necessary to permit Columbia to waive transportation imbalance penalties which would otherwise be imposed under section 6 of Columbia Gas' FTS and ITS Rate Schedules, and section 6 of Columbia Gulf's FTS–1, FTS–2, ITS–1, and ITS–2 Rate Schedules for imbalances existing as of October 31, 1988. Columbia alleges that which the Commission previously stated that Columbia is not required to obtain specific authorization to waive Part 284 transportation penalties, the promulgation of § 161.3(b) places Columbia in an uncertain position with respect to this recent offer to waive imbalance penalties.

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, N.E., 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 (1989)). All such motions or protests should be filed on or before February 3, 1989. 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.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89–2334 Filed 1–31–89; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. RP89–23–002]

## Northern Natural Gas Co.; Compliance Filing

January 26, 1989.

Take notice that on January 18, 1989, Northern Natural Gas Company, Division of Enron Corporation (Northern) filed Substitute Second Revised Sheet No. 52c.9 to its FERC Gas Tariff, Third Revised volume No. 1, to be effective December 15, 1988.

Northern states that in compliance with the Commission's order of December 14, 1988, Ordering Paragraph (c), this tariff sheet corrects a drafting error in section 12 of its Rate Schedule IT–1.

Northern requests waiver of the fifteen (15) day compliance period prescribed in Ordering Paragraph (c) of the above-mentioned order. Northern states that the compliance period coincided with the holiday season and Northern's office personnel was reduced due to the holidays.

Northern states that copies of this compliance filing have been served on all parties to the proceeding.

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 (1989)). All such motions or protests should be filed on or before February 3, 1989. 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.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89–2335 Filed 1–31–89; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. CI89–223–000]

## ProGas U.S.A., Inc.; Application for a Blanket Certificate With Pregranted Abandonment

January 26, 1989.

Take notice that on January 12, 1989, ProGas U.S.A., Inc. (ProGas) of 1620 SunLife Plaza, 144 Fourth Avenue, SW., Calgary, Alberta, Canada T2P 3N4, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket with pregranted abandonment authorization, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any

proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ProGas to appear or to be represented at the hearing.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-2346 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP89-43-001]**

## Valero Interstate Transmission Co.; Tariff Filing

January 27, 1989.

Take notice that on January 23, 1989, Valero Interstate Transmission Company ("Vitco") tendered for filing the following Tariff Sheet as part of its FERC Gas Tariff, Original Volume No. 2:

Second Revised Sheet No. 95: Vitco states that this tariff sheet is to restate Vitco's tariff to incorporate the requirements of Ordering Paragraph (B) of the Commission Order in the above-referenced proceeding issued January 4, 1989. On December 5, 1988, Vitco filed tariff sheets to permit Valero to flow through its take-or-pay costs in accordance with Order No. 500. The tariff sheets were accepted, to become effective January 5, 1989, subject to refund and to the conditions in the January 4, 1989 Order. Paragraph B ordered Vitco to file revised tariff sheets to provide for an optional extended amortization period of no less than 36 months for customer payments.

Vitco states that in compliance with Ordering Paragraph B, 2nd Revised Sheet No. 95 provides customers an optional extended amortization period of up to 36 months, unless the customer contract expires with the 36 month period in which case the then current unpaid balance becomes due.

Vitco requests that the tariff sheet be accepted for filing to be made effective January 5, 1989, subject to the same conditions as set forth in the January 4, 1989 Order, and that waiver be granted of any Commission order or regulation that would prohibit such filing and effectiveness.

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, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 3, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Vitco's filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-2329 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP88-198-007]**

## Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

January 26, 1989.

Take notice that Transwestern Pipeline Company (Transwestern) on January 18, 1989 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

*Effective December 1, 1988*

Substitute 50th Revised Sheet No. 5
1st Substitute Original Sheet No. 5C
1st Substitute 32nd Revised Sheet No. 6
1st Substitute 2nd Revised Sheet No. 8
1st Substitute 1st Revised Sheet No. 9
1st Substitute Original Sheet No. 9A
1st Substitute 2nd Revised Sheet No. 14
1st Substitute 1st Revised Sheet No. 15
Substitute 1st Revised Sheet No. 19
Substitute 1st Revised Sheet No. 20
Substitute 1st Revised Sheet No. 20A
Substitute 1st Revised Sheet No. 20B
Substitute 1st Revised Sheet No. 21
Substitute 1st Revised Sheet No. 22
1st Substitute 2nd Revised Sheet No. 37
1st Substitute Original Sheet No. 87
1st Substitute Original Sheet No. 88
1st Substitute Original Sheet No. 89
1st Substitute Original Sheet No. 90

*Effective January 1, 1989*

Substitute 51st Revised Sheet No. 5
Substitute 52nd Revised Sheet No. 5

Transwestern states these tariff sheets are filed in compliance with the Commission's December 16, 1988 Order (Order) in Docket No. RP88-198-004, -005 approving, subject to refund and conditions, Transwestern October 17, 1988 compliance filing to implement one of the Commission's Order 500 recovery options for take-or-pay buyout and contract reformation costs (Transition Costs). Such Transition Costs included in the instant filing are take-or-pay buyout and contract reformation costs actually incurred through September 1, 1988.

Transwestern states that pursuant to the Order, it has computed interest on its settlement balances commencing December 1, 1988 and revised the tariff language contained in the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1 to further define Transition Costs and to clarify the language concerning parties which challenge the prudency of the settlement costs.

Transwestern, herein, respectively requests that the Commission grant any and all waivers of its rules, regulations and orders as may be necessary so as to permit the above listed tariff sheets to become effective December 1, 1988, with the remaining tariff sheets to be effective January 1, 1989.

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. All such motions or protests should be filed on or before February 3, 1989. 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.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-2331 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP82-121-002]**

## Tennessee Gas Pipeline Co.; Filing of Changes in Rates

January 26, 1989.

Take notice that on January 19, 1989, Tennessee Gas Pipeline Company (Tennessee) tendered for filing changes in its FERC Gas Tariff pursuant to the Commission's orders in the referenced proceeding. *Tennesee Gas Pipeline Company*, 45 FERC ¶ 61,031, *reh'g granted in part*, 45 FERC ¶ 61,470 (December 20, 1988). The revised tariff sheets are to be effective January 1, 1989.

Tennessee states that the revised tariff sheets reflect the following changes:

1. A 100 load factor rate for interruptible sales under Rate Schedule R.

2. The Opinion No. 352, single centroid Mcf-mile method of allocation of mileage-related transmission costs.

3. A one-part rate based on an imputed load factor of 60% for full

requirements customers purchasing under Rate Schedule GS.

4. The use of peak-day deliveries to allocated downstream commodity transmission costs to storage services.

Further, Tennessee states that these revisions were incorporated in its filing of December 30, 1988 in Docket No. RP88-228 to establish new base tariff rates to be effective February 1, 1989. However, in order to reflect sequential pagination of tariff sheets, Tennessee is refiling certain of those tariff sheets.

Although Tennessee does not believe any waivers are necessary for the Commission to accept the revised tariff sheets to be effective as proposed, Tennessee requests that the Commission grant any waivers it deems necessary.

And person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regultory 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. All such motions or protests should be filed on or before February 3, 1989. 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.

**Lois D. Cashell,**

*Secretary.*

[FR Doc. 89-2336 Filed 1-31-89; 8:45 am]

BILLING CODE 6717-01-M

## Western Area Power Administration

### Cooperative Agreement; Financial Assistance Award to 13 States Within the Western Regional Biomass Energy Program

**AGENCY:** Western Area Power Administration, DOE.

**ACTION:** Notice of restricted eligibility financial assistance application for cooperative agreement awards.

**SUMMARY:** Western Area Power Administration, DOE, is giving notice of plans to award 9-month Cooperative Agreements to the 13 States included in the Western Regional Biomass Energy Program. The total amount of the award will not exceed $130,000 with $10,000 targeted for each State. Funding is authorized in the Act of Oct. 30, 1986, Pub. L. 99-591, 100 Stat. 3341. Under Cooperative Agreements, each State will perform a resource assessment of available biomass product and waste that can be converted to energy. Pursuant to 10 CFR 600.7(b), which provides for restricted eligibility in a DOE solicitation, a determination has been made that restricted eligibility applies. The 13 States in the program have the expertise and data required to undertake the project. With this assistance from DOE, the States will be able to analyze their data to determine available biomass resources that can be converted to energy. Results from the resource assessment will be used to determine funding of energy projects that can use biomass in a commercially viable cost-shared venture. Cooperative Agreements will be negotiated with:

1. Arizona Solar Energy Office, Department of Commerce, 1700 West Washington, Phoenix, AZ 85007, Contact: Frank P. Mancini.
2. California Energy Commission, 1516 9th Street, Sacramento, CA 95814, Contact: Charles Imbrecht.
3. Coloardo Office of Energy Conservation, 112 East 14th Avenue, Denver, CO 80203, Contact: Janet Hartsfield.
4. Kansas State University, Cooperative Extension Service, Engineering Extensions Program, Ward Hall, Manhattan, KS 66506, Contact: Richard B. Hayter.
5. Nebraska Energy Office, State Capitol Building, Lincoln, NE 68509-5085, Contact: Larry Pearce.
6. Nevada State Conservation Commission, 505 East King Street, Capitol Complex, Carson City, NV 89710, Contact: Chris Freeman.
7. New Mexico Research and Development Institute, 1220 South St. Francis Drive, Suite 358, Santa Fe, NM 87501, Contact: Larry Icerman.
8. State of North Dakota, Office of Intergovernmental Assistance, 14th Floor—State Capitol, Bismarck, ND 58505, Contact: Shirley R. Dykshoorn.
9. State of Oklahoma, Office of the Governor, 212 State Capitol, Oklahoma City, OK 73105, Contact: Glen E. Robards, Jr.
10. South Dakota Energy Office, 217½ West Missouri, Pierre, SD 57501, Contact: Steven M. Wegman.
11. State of Texas, Energy Management Center, Governor's Office of Budget and Planning, 201 East 14th, Capitol Station, Austin, TX 78711, Contact: Judith Carroll.
12. Utah State University, Contracts and Grants Department, Logan, UT 84322, Contact: Michael Lewis.
13. State of Wyoming, Office of the Governor, Capitol Building, Cheyenne, WY 82002, Contact: Mike Sullivan.

**FOR FURTHER INFORMATION CONTACT:** Linda Puttmann, A1523, Contract Specialist, U.S. Department of Energy, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, Telephone: (303) 231-7287, Solicitation Number: DE-RP65-89WA-04966.

Issued at Golden, Colorado, January 24, 1989.

**William H. Clagett,**

*Administrator.*

[FR Doc. 89-2352 Filed 1-31-89; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### National Air Pollution Control Techniques Advisory Committee; Request for Suggestions for List of Candidates

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of preparation of list of candidates.

**SUMMARY:** The EPA is preparing a list of candidates from which nominees will be selected for the National Air Pollution Control Techniques Advisory Committee (NAPCTAC). The EPA invites all interested persons to suggest qualified individuals whose names may be added to this list of candidates. The NAPCTAC was established to advise the Agency on the latest available technology and economic feasibility of alternative methods to prevent and control air pollution to be published in air quality control techniques documents. It also advises on information documents regarding air pollution control techniques and testing and monitoring methodology for stationary source categories and air pollutants subject to the provisions of Sections 111 and 112 of the Clean Air Act, as amended.

**DATE:** Submit suggestions for the list of candidates no later than March 3, 1989.

**ADDRESS:** Submit suggestions for the list of candidates to: Jack R. Farmer, Director, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

**FOR FURTHER INFORMATION CONTACT:** Jack R. Farmer, Director, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, (919) 541-5572.

**SUPPLEMENTARY INFORMATION:** The Charter for the NAPCTAC which describes the authority, organization, and functions of the Committee is available upon request. Individuals whose names are offered should have education or experience in the scientific, engineering, or economic aspects associated with the sources of air pollution and the control of emissions

from the sources. Individuals should be resident in universities, State and local governments, research institutions, public interest organizations, or industry.

Any interested person or organization may submit the names of qualified persons. Suggestions for the list of candidates should be identified by name, occupation, position, address, and telephone number; a resume of the individual's background, experience, and qualifications should be included.

Persons selected for membership on the NAPCTAC will receive per diem compensation for travel and nominal daily compensation while attending meetings.

Suggestions for the list of candidates should be submitted no later than March 3, 1989. The Agency will not formally acknowledge or respond to suggestions.

Date: January 24, 1989.

**Don R. Clay,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 89-2271 Filed 1-31-89; 8:45 am]

BILLING CODE 6560-50-M

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[FRL 3513-2]

## Proposed Determination To Prohibit the Use of Big River, Mishnock River, Their Tributaries and Adjacent Wetlands as Dispoal Sites; Kent County, RI

**AGENCY:** U.S. Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed section 404(c) determination.

**SUMMARY:** Section 404(c) of the Clean Water Act (Act) authorizes the Environmental Protection Agency (EPA) to prohibit or restrict the discharge of dredge or fill material at defined sites in the waters of the United States (including wetlands) whenever it determines, after notice and opportunity for hearing, that use of such sites for disposal would have an unacceptable adverse impact on various resources, including wildlife. EPA Region I proposes under section 404(c) of the Act to prohibit use of Big River, Mishnock River, their tributaries and adjacent wetlands in Kent County, Rhode Island, as disposal sites for dredged or fill material in connection with construction of Big River Reservior, a 3400 acre water supply project. The Big River proposal would directly eliminate approximately 550 acres of valuable wetlands and impact an additional 500 to 600 acres of wetland habitat. There have been proposals to construct the project either by the State alone or as a joint venture with the U.S. Army Corps of Engineers (Corps). EPA Region I believes that filling and inundating the wetlands and waters of the site may have an unacceptable adverse effect on wildlife habitat and fisheries.

*Purpose of Public Notice:* EPA seeks comments on this proposed determination to prohibit the disposal of dredged or fill material into Big River, Mishnock River, their tributaries and adjacent wetlands. See Solicition of Comments, at the end of this public notice, for further details.

*Public Comment:* Comments on or requests for additional copies of the proposed determination should be submitted to the EPA Region It's designated Record Clerk, Virginia Laszewski, U.S. EPA, JFK Federal Building, WWP-1900, Boston, MA 02203-2211.

EPA seeks comments concerning the issues enumerated under the Soliciation of Comments at the end of the document. Copies of all comments submitted in response to this notice, as well as the administrative record for the proposed determination, will be available for public inspection during normal working hours (9:00 a.m. to 5:00 p.m.) at the EPA Region I office.

In accordance with EPA regulations at 40 CFR 231.4, the Regional Administrator has decided that a hearing on this proposed 404(c) determination would be in the public interest. A separate public notice will be published in the **Federal Register** and local newspapers to announce the date, time and location of this hearing and describe the hearing procedures. Notice will be given at least 30 days in advance of the hearing. Written comments may be submitted prior to the hearing, and both oral and written comments may be presented at the hearing.

Because of the large scale of the proposed project, the complexity of issues, and the large volume of information which exists about this project, the Regional Administrator hereby determines that good cause exists to establish a comment deadline of July 31, 1989. This will also provide an opportunity for people to visit the site and make their own observations if they they wish to do so, and for the State and others to submit information about project need and alternatives. Neither the Corps nor the State plans to build this project within the next year; therefore, the extended comment period would not disadvantage the project proponents.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark J. Kern, EPA Water Quality Branch, JFK Federal Building, WWP-1900, Boston, MA 02203-2211. (617) 565-4421.

**SUPPLEMENTARY INFORMATION:**

### Background

*I. Section 404(c) Procedure*

The Clean Water Act, 33 U.S.C. 1251 *et seq.*, prohibits the discharge of pollutants, including dredged or fill material, into the waters of the United States, including wetlands, except in compliance with, among other things, section 404. Section 404 establishes a federal permit program to regulate the discharge of dredged or fill material subject to environmental regulations developed by EPA in conjunction with the Department of the Army. The Corps may issue permits authorizing dredged and fill material discharges into waters and wetlands if they comply with, among other things, EPA's 404(b)(1) guidelines, except as provided in section 404(c). Section 404(c) authorizes EPA, after providing notice and opportunity for hearing, to prohibit or restrict filling waters of the United States where it determines that such use would have an unacceptable adverse effect on wildlife or other specified environmental interests. EPA can exercise 404(c) to "veto" a permit the Corps had decided to issue or, as here, to protect valuable aquatic areas in the absence of any specific permit decision.

Regulations published in 40 CFR Part 231 establish the procedures to be followed by EPA in exercising its section 404(c) authority. Whenever the Regional Administrator has reason to believe that use of a site may have an unacceptable adverse effect on one or more of the pertinent resources, he may begin the process by notifying the Corps of Engineers and the applicant that he intends to issue a proposed determination under section 404(c). Unless the applicant or the Corps persuades the Regional Administrator within 15 days that no unacceptable adverse effects will occur, the Regional Administrator publishes a notice in the **Federal Register** of his proposed determination, soliciting public comment and offering an opportunity for a public hearing. Today's notice represents this step in the process.

Following the public hearing and the close of the comment period, the Regional Administrator either withdraws the proposed determination or prepares a recommended determination. (A decision to withdraw may be reviewed at the discretion of the Assistant Administrator for Water at EPA Headquarters.) If the Regional Administrator prepares a recommended

determination, he then forwards it and the complete administrative record compiled in the Region to the Assistant Administrator for Water at EPA Headquarters. The Assistant Administrator makes the final decision affirming, modifying, or rescinding the recommended determination.

*II. Project Description and History*

The Big River Reservoir has at different times been proposed as a State or federal project. The State of Rhode Island has proposed building a water supply reservoir; the Corps has proposed building a reservoir for water supply, flood control, and recreation purposes. The project dimensions, site characteristics, and impacts are essentially the same for both proposals. This proposed 404(c) action applies to both proposals.

The Big River Reservoir project, mostly located south of exit 6 on I–95, would involve the discharge of dredged and fill material into Big River to construct a dam and reservoir to create a 3,400 acre reservoir. The reservoir would produce between 27 and 36 million gallons a day (MGD) of potable water (State versus Corps estimates). The dam would be 70' high while the average water depth would be about 25' deep. To contain the water within the basin, a slurry wall would be built down to bedrock in the northeast portion of the proposed reservoir to intercept approximately 8 MGD of groundwater that now leaves the site and enters Mishnock Lake and Swamp. Mishnock Lake and Swamp, which are not part of the Big River watershed, are located approximately ½ mile northeast of the proposed reservoir.

A treatment plant would be built adjacent to the proposed reservoir on 51 acres of land a 96" diameter rock tunnel would transport water approximately 6 miles to an existing distribution system. Additional site preparation would destroy approximately 2,800 acres of terrestrial forest and relocate 10 roadways, 300 structures, numerous graveyards, and several dump sites.

According to State estimates, the project would cost at least $282 million, not including costs for environmental studies and mitigation. The federal government would construct less than half of the project and fund less than 50% of the initial cost. Most of that expenditure would be reimbursed by the State, resulting in a federal share of approximately 2%–5%.

In the 1960's the State of Rhode Island acquired over 8,000 acres of land at the Big River reservoir site in anticipation of building a reservoir. In 1978, having failed several times to secure funding to complete engineering studies, Rhode Island asked the Corps to consider constructing the reservoir as part of a federal flood control project. The Corps completed an Environmental Impact Statement (EIS) on the reservoir project in 1981, which concluded that environmental impacts would be significant. As early as 1982, EPA alerted the Corps that because of the adverse wetland impacts, EPA believes the project could not comply with section 404(b)(1) Guidelines, the primary federal regulations that protect wetlands.

Congress authorized the project as part of the Omnibus Water Resources Development Act of 1986, but ordered additional wildlife mitigation studies to be completed no later than November 17, 1987. These additional studies have not been completed.

In 1986, the State informed the Corps that it again wished to pursue the reservoir as a state project and subsequently applied for a federal section 404 permit. The Corps in 1987 informed the State that a supplemental EIS would be required to address alternatives, mitigation, and a number of other unresolved issues surrounding the project. For example, the 1981 EIS indicated that 570 acres of wetland habitat would be lost if the dam were constructed. New information now suggests that the total acreage of wetlands at risk exceeds 1000 acres, including Mishnock Swamp and the riverine wetlands along the South Branch of the Pawtuxet River. Moreover, the EIS did not address downstream water quality impacts, an important factor since the Pawtuxet River currently violates Rhode Island's water quality standards for dissolved oxygen and toxic chemicals.

During 1987 and 1988, EPA voiced its concerns about the adverse environmental impacts of the reservoir proposal and alerted the State that the project could not comply with section 404 requirements. EPA also emphasized the need for the State to thoroughly analyze the need for and alternatives to the project. The most recent State needs analysis for this project is over 20 years old. In a June 6, 1988 letter EPA urged the Corps to deny the permit because the project would cause significant degradation of the aquatic environment which could not be adequately mitigated.

In a July 1, 1988 letter to Rhode Island's Governor DiPrete, the Corps stated that the project as proposed would cause significant impacts to the aquatic environment, would not comply with the section 404(b)(1) Guidelines, and probably could not receive a federal 404 permit. However, during a August 11, 1988 meeting, the Corps indicated to Governor DiPrete that the Big River reservoir might again become a federal project.

In an August 24, 1988 letter, EPA's Regional Administrator informed the Rhode Island Water Resources Board, the Governor, and the Corps of his intention to begin a 404(c) action, based on his belief that the project may have unacceptable adverse impacts to wildlife and fisheries. Pursuant to 40 CFR 231.3, a 15-day opportunity for consultation ensued, which ended on September 9, 1988. Neither the State nor the Corps chose to consult with EPA. Instead Governor DiPrete officially asked the Corps, on September 1, 1988, to build the dam. The Water Resources Board withdrew its section 404 permit application to the Corps in late September, 1988.

The Corps New England Office has asserted that if it builds the reservoir project, it would be exempt from section 404(c) of the Clean Water Act. Normally, Corps civil works projects, including those authorized by Congress, must comply with the Clean Water Act and other federal and state requirements. In the Big River reservoir case, however, the Corps claims the project is exempt under section 404(r) of the Act.

EPA has concluded that the project is not exempt because the Corps did not follow the substantive and procedural requirements of section 404(r). The Act plainly requires an agency seeking an exemption under section 404(r) to submit an EIS to Congress before either project authorization or appropriation of funds. The Corps failed to submit the Big River reservoir EIS to Congress before authorization. Even if the EIS had been submitted to Congress, the project does not qualify for an exemption for several other reasons. These reasons include the manner of project financing, deficiencies in the NEPA record and an improper analysis of compliance with the EPA 404(b)(1) guidelines. EPA explained its position relative to the exemption issue in a December 7, 1988 letter to the Corps New England Division.

*III. Characteristics and Functions of the Site*

Big River, located in central Rhode Island, is part of the 29.7 square mile Big River Watershed. On a larger scale, the water drains to Narragansett Bay as part of the Pawtuxet River Basin. The wetlands along Big River and the Mishnock Swamp form the largest wetland complex in the 228-square mile Pawtuxet River Basin. The diverse habitats associated with the Big River

site support a large number of wildlife species. According to the 1981 EIS, 221 species of birds, 55 species of mammals, and 39 species of reptiles and amphibians can reasonably be expected to inhabit the site.

Along Big River and its tributaries the wetland habitats are unaltered by development or other human intrusions. As such, they provide high quality, diverse habitat for fish and wildlife, a travel corridor for upland and wetland wildlife, food web production for on-site and downstream biological communities, nutrient and pollutant uptake and assimilation, floodwater storage, and flow moderation. Additionally, they serve as an environment for fishing, hunting, and other recreational activities.

The wetlands which would be lost by constructing the dam and reservoir are part of an intact, functioning system specifically adapted to the hydrologic regime of Big River and its tributaries. Most of the large wetlands border finger-like stream channels scattered throughout the site. Thus, natural topographic changes in the landscape create a variety of interspersed wetland and upland habitats. This mixture of vegetation types allows the ecosystem to support a broad range of aquatic, semi-aquatic, and terrestrial wildlife communities. Vertical stratification of the forest canopy, sub-canopy, and ground cover also contributes to habitat diversity. Hence, fish and wildlife use the area as a resting, breeding, rearing, and feeding area as well as a travel corridor to nearby undeveloped habitat.

Leaf biomass produced by the trees and shrubs supports diverse fish and wildlife communities both at the project site and downstream. Numerous mammals at the site include white-tailed deer, red and gray fox, muskrat, cottontail rabbits and snowshoe hare, woodchuck, and raccoon. Extensive rodent populations and aquatic vertebrates at the site provides a significant food source for numerous predators. Thus, many valuable fur-bearing mammals such as long-tailed weasel, mink, otter and possibly bobcat inhabit the site. Of the 55 species of mammals cited in the EIS, the Rhode Island Heritage Program lists bobcat as a State threatened species (occurring at less than 5 locations in the State).

The large prey population also supports a variety of raptors, such as red-tailed hawk, red-shouldered hawk, sparrow hawk, and great-horned owl. Additional bird species known to inhabit the site include osprey, belted kingfisher, flycatchers, swallows, and woodpeckers. Populations of spring and fall migratory birds, especially various woodland warblers, flourish at the site. The EIS lists 221 species of birds potentially using the site, and the Rhode Island Heritage Program has identified 104 species of birds which nest in the Big River area. The State classifies two species, Cooper's hawk and upland sandpiper, as threatened species.

Extensive conifers at the site not only provide food and cover for deer and other mammals but also supply winter food for bird species, such as the crossbill, which feed extensively on seeds of softwoods. The marshes of the proposed Big River site harbor breeding waterfowl such as black duck, mallard, and wood duck, while migratory species include green winged teal, shovelers, and ringnecked ducks. Shore birds, rails, and coots also frequent the marshes along with wading birds such as great-blue heron and bittern. Other species of concern to the Rhode Island Natural Heritage Program at the Big River site include four-toed salamander, eastern ribbon snake, buck moth, and barrens bluet damselfly. Vernal pools, created during spring runoff, provide especially productive habitat for many species of amphibians and reptiles.

Wetlands along Big River help to maintain and/or improve water quality, as well as regulate water quantity. Pollutants entering the watershed are trapped, assimilated, or transformed within the diverse substrate provided by the wetlands. During the summer, the shading effects of the forest canopy cools water temperatures in the river and tributaries, providing favorable conditions for native brook trout. Wetland trees and shrubs retard floodwater, decreasing downstream flood stages. The basal flow contribution from Mishnock Swamp to the South Branch of the Pawtuxet River during summer stress conditions provides water at the most important time of year.

Big River and its tributaries support self-sustaining cold water fisheries. Over 20 miles of free flowing streams within the site support more than 15 species of fish including brook trout, white suckers, and redfin pickerel.

## *IV. Basis of the Proposed Determination*

### A. Section 404(c) Criteria

The CWA requires that exercise of the final section 404(c) authority be based on a determination of "unacceptable adverse effect" to municipal water supplies, shellfish beds, fisheries, wildlife or recreational areas. EPA's regulations define "unacceptable adverse effect" at 40 CFR 231.2(e) as:

> Impact on aquatic or wetland ecosystem which is likely to result in significant degradation of municipal water supples or significant loss of or damage to fisheries, shellfishing, or wildlife habitat or recreation areas. In evaluating the unacceptability of such impacts, consideration should be given to the relevant portions of the Section 404(b)(1) Guidelines (40 CFR Part 230).

One of the basic functions of section 404(c) is to police the application of the section 404(b)(1) guidelines. Those portions of the Guidelines relating to less environmentally damaging practicable alternatives, water quality impacts, and significant degradation of waters of the United States are particularly important in the evaluation of unacceptability of environmental impacts in this case. The guidelines forbid the discharge of dredged or fill material into waters of the United States if there is a less environmentally damaging practicable alternative, if it would cause or contribute to a violation of a State water quality standard or if it would cause or contribute to significant degradation of waters of the United States.

### B. Adverse Impacts of the Proposed Project

Constructing the dam, and impounding Big River to create an artificial lake, would inundate 3,400 acres of wildlife habitat including 550 acres of productive wetlands. This loss represents approximately 50% of the total wetlands in the Big River watershed. Moreover, if Mishnock Swamp becomes dewatered because of the dam and slurry wall, over 500 additional acres of prime wetland would be adversely affected. Virtually all of the diverse forested habitat that now exists in the 3,400 acre site would be destroyed. The proposed dam would eliminate all of the forest-stream-pool habitat and adjacent floodplain community which has adapted to periodic flooding.

Based on the annual planned flow releases from the impoundment, Flat River Reservoir would receive 45% less water; the South Branch of the Pawtuxet, 34% less water; and the Pawtuxet River, 15% less water. As a result, the dam would also partially dewater extensive riverine wetlands along the South Branch of the Pawtuxet River, further adding to the wetland habitat loss. Further, reduced basal flow contributions from Mishnock River to the South Branch of the Pawtuxet, during summer months, could worsen the already poor water quality of the Pawtuxet, during summer months, could worsen the already poor water quality of the Pawtuxet River.

The dam would transform a diverse ecosystem, harboring a wide variety of wildlife, into a shallow lake about 25 feet deep that benefits only a few species, primarily warm water fish and bottom dwelling organisms. The cold water fisheries, including native brook trout, will be destroyed. The Big River site potentially supports over 50 species of mammals, over 35 species of reptiles and amphibians, and over 200 species of birds, including over 100 which nest at the site. The State considers at least 13 species which inhabit the Big River site to be threatened or of special state interest. Another 10–20 species require large tracts of habitat for survival.

Wildlife currently living on the site or migrating through it will either die or be forced into adjacent upland habitat less suited to their needs. If they survive dislocation, they will have to compete for available food and habitat with the existing upland animal communities. Many species of wildlife at the site either require wetland habitat for survival, or depend upon wetlands for a major portion of their life cycle. Thus, the dam would drastically reduce both the total numbers of individuals, and the diversity of species in the Big River area. In addition, the dam will permanently block the Big River site for use as a travel corridor. This would disrupt movement patterns of animals forcing them to cross highways and other exposed areas.

EPA does not believe that the Pawtuxet River, Flat River Reservoir, and Big River would achieve state water quality standards if the dam is built. The Pawtuxet River now violates the Class C standard of 5 mg/1 of dissolved oxygen during summer months. In addition, the standards require that normal seasonal and diurnal variations of dissolved oxygen above 5 mg/1 be maintained. Impounding Big River would likely worsen dissolved oxygen levels during all seasons by reducing flows in the Pawtuxet River by 15%. The Pawtuxet River historically supported large runs of anadromous fish including shad, alewives, and Atlantic Salmon. A further reduction in flow and increased concentration of pollutants may destroy any future plans for restoration.

The impoundment of the Big River and its tributaries would convert cold water fisheries to a warm water lake, and would violate antidegradation requirements in the Rhode Island water quality standards. Rhode Island has very few remaining cold water fisheries, while warm water fisheries are common throughout the State. The Pawtuxet River Basin, for example, has 34 ponds greater than 10 acres in size primarily suited for warm water species, but virtually no other cold water fisheries.

Flat River Reservoir provides the best warm water fisheries in the Pawtuxet River Basin, but it is showing some signs of eutrophication. Water from Big River, which provides over half of the water budget to Flat River Reservoir, will be reduced from an annual average flow of 60 cubic feet per second (cfs) to 6 cfs. This loss of water would increase eutrophication and adversely impact the fisheries and recreation of Flat River Reservoir, and could violate anti-degradation provisions of the Rhode Island water quality standards, which require existing water uses to be maintained and protected.

C. Project Need and Alternatives

1. *Current Information.* EPA believes that environmentally acceptable alternatives to the Big River reservoir, to supply potable water, have not adequately addressed.[1] EPA does not believe the need for additional potable water is established, given the paucity of data about basic user information and the lack of water conservation practices in the State. In addition, there appears to be a variety of ways to meet whatever need actually exists without threatening over 1000 acres of wetlands and downstream water quality.

Despite the long history of the Big River proposal, there is a lack of basic information regarding the supply and demand for water in Rhode Island. There appears at present to be no method in the state for distinguishing between industrial, commercial and residential users. Therefore, there is no information, for example, on how much water different types of industry use. EPA does not believe that an accurate need forecast can be developed without first conducting a thorough water audit, lacking in the 1981 EIS and other studies.

The record developed to date serves to underscore EPA's doubts about the need for a new water supply reservior. The State has not completed a basic water use forecast for over 20 years. A new reservoir is needed, according to the State, primarily because the Scituate reservoir is approaching its "safe yield". However, estimates of what constitutes the Scituate's safe yield vary by up to 15 mgd—approximately half the water that Big River could supply. Moreover, the state Water Resources Board acknowledges that it has no comprehensive policy to conserve water through public education, pricing policies, leak repair, drought planning or other such measures. The Corps, in the 1981 EIS, did not examine the State's water supply practices to determine potential water savings, did not gather any user-specific information particular to Rhode Island water users, and used population projection which time has shown in inaccurate. Currently, the Corps agrees that a new analysis of water supply demands should be done.

If a need for additional water is established, EPA believes that there are alternatives (or combinations of alternatives) to the Big River proposal to supply potable drinking water. Management alternatives include education, leak detection and repair, plumbing changes for new construction, and drought planning. Conserving drinking water from power generation, irrigation, commercial and industrial use can also increase potable water supplies by matching the quality of water with its intended use. Not all industrial and commercial activities need potable water for their operations. Similarly, existing water supplies that drop below drinking water standards could be maintained to meet non-potable needs rather than abandoned. In addition, a thorough analysis of alternatives would also include investigation into groundwater supplies, less environmentally damaging surface water sources, improved protection of existing water sources, and desalinization. Preliminary investigations, for instance, indicate that 5–10 mgd of potable water is available from the aquifer at the Big River site at a fraction of the cost of a new reservoir.

2. *Additional studies.* In recent discussions with EPA, the State has indicated that it is undertaking an updated analysis of water supply needs in Rhode Island as well as an evaluation of all alternatives, including conservation, to meet the future demand for drinking water in the State. In order to seek an objective view of the issues involved, the State has said it will retain an independent consultant to conduct the studies. The State has proposed that the scoping and oversight of the studies will be overseen by an inter-agency committee established by the Governor and that interested parties and EPA will be given opportunity to comment on the progress of the work.

[1] Water supply is the sole purpose of the State proposal. The Corps characterizes its project as multi-purpose, i.e., water supply, flood control and recreation. According to the EIS, construction of the dam would not be economically justified for flood control or recreation alone. Therefore, EPA is focusing its attention on alternatives to satisfy the primary purpose of water supply. EPA believes insofar as the Big River project provides benefits of flood control and recreation, they could be achieved through less environmentally damaging measures.

D. Mitigation

The State did not submit a mitigation plan with its permit application. The Corps, in its 1981 EIS, proposed several structural and nonstructural measures to mitigate adverse impacts including management of forests adjacent to the reservoir, reclaiming a mined area and putting up birdhouses. The Corps proposed to mitigate the loss of wetlands chiefly by constructing "subimpoundments" in the upper reaches of the reservoir in an attempt to enhance or create wetland habitat. If fully successful, these subimpoundments would contain about 90 acres of wetlands.

EPA does not believe the adverse environmental impacts of the reservoir proposal can be mitigated. To even attempt meaningful replacement of the full spectrum of existing wetland values would require a mitigation plan so complex as to be infeasible from both a scientific and practical standpoint. Even if a plan could be devised which theoretically replaced wetlands values, EPA doubts it could be relied upon to prevent the potentially unacceptable adverse environmental impacts of this project given the inherent risks associated with mitigation.

Recent studies in New England and elsewhere point to a number of scientific and practical difficulties associated with mitigation. The scientific base is too incomplete to support assertions that artificial wetlands will provide the functions of natural wetlands, let alone replace the diverse values of the 500–1000 acres of wetlands that would be lost at this site. Some wetland functions, such as flood storage, can normally be replicated successfully. Attempt to mitigate wildlife habitat losses have met with mixed success, and benefit only a few select species. There has been little demonstrated ability to recreate on a broad scale other wetland values such as groundwater discharge and recharge or the complex interactions of water, soil and plants involved in the uptake and transformation of nutrients and pollutants.

After considering the project's impacts, unprecedented in New England, and the poor track record of wetland creation and enhancement projects to compensate for projects involving much less severe impacts, EPA Region I has concluded that the adverse effects of the Big River project cannot be adequately mitigated. In any case, the mitigation scheme briefly described in the 1981 EIS would not compensate for the severe impacts to wildlife and other wetland values which the Big River project would cause. Even if 90 acres of subimpoundments could be successfully created and maintained, they would largely involve manipulation of existing wetland habitat. This would increase the value of these areas for select wildlife species at the expense of others. It would not begin to balance the impacts associated with the loss of 500 to 1000 acres of diverse, natural wetlands. Moreover, most of the wetlands destroyed by the project are forested. The subimpoundments would provide little or no value for the many species adapted to life in the forested systems.

*V. Proposed Determination*

The Regional Administrator proposes to recommend that the discharge of dredged or fill material into Big River, Mishnock River, and their tributaries and adjacent wetlands be prohibited for the purpose of constructing the proposed Big River reservoir and ancillary facilities. Based on current information, the Regional Administrator has reason to believe that the adverse impacts of the Big River reservoir would likely be unacceptable. Moreover, these impacts may be partly or entirely unnecessary or avoidable.

This proposed determination is based primarily on the adverse impacts to wildlife and fisheries. EPA has already concluded that the project would cause or contribute to significant degradation of waters of the United States and violate the § 404(b)(1) guidelines. It would directly destroy approximately 550 acres of wetlands and has the potential to degrade an additional 500–600 acres of wetlands through groundwater starvation and reduced downstream river flows. In addition to these impacts, EPA is concerned about the lack of basic information about future water supply needs and the absence of a rigorous analysis of water supply alternatives. In light of existing information, EPA believes that there are likely to be feasible and less environmentally damaging alternatives to building the Big River reservoir.

*VI. Solicitation of Comments*

EPA solicits comments on all issues discussed in this notice. In particular, we request information on the likely adverse impacts to wildlife and other functional values of the rivers, streams, and wetlands at the Big River site and at Mishnock Swamp. We also seek information pertaining to flora, fauna and hydrology of the Big River site, Mishnock Swamp, and adjacent lands. All studies, knowledge of studies, or informal observations is of importance for this notice. Information on species or communities of regional and or statewide importance would be especially useful.

While the significant loss of wildlife habitat serves as EPA's main basis for this proposed 404(c) determination, EPA Region I has additional concerns with the proposed project including water quality impacts, fisheries, alternatives, project need and mitigation. As discussed above in *Additional Studies*, the State plans to conduct additional evaluations of the need for drinking water and alternatives to meet that need. The State intends, during the comment period, to submit the information compiled in these studies for EPA's consideration during the 404(c) process. EPA also solicits comments on the following aspects of the project:

(1) The potential for violations of State water quality standards to occur, especially in the Pawtuxet River, the Flat River Reservoir and Narragansett Bay;

(2) Information about fisheries at the Big River site, and the impacts to fisheries if the reservoir is built. Also the likelihood of maintaining cold water fisheries at the site if the Big River reservoir were built;

(3) The potential for wetland losses, and their associated values and functions, along the South Branch of the Pawtuxet and in Mishnock Lake, Swamp and River if the dam were built and operated as proposed;

(4) Information about recreational use of the area;

(5) The need for additional drinking water and the current data base for making projections of need and alternatives, as well as what new information must be gathered to make reasonably accurate projections on how much water can be saved or produced by other alternatives;

(6) Information on the availability of less environmentally damaging practicable alternatives to satisfy the basic project purpose—drinking water supply—taking into account cost, technology, and logstics;

(7) In the absence of the need for additional water supply, information about environmentally acceptable alternatives for the secondary purposes of flood control and recreation.

(8) Information on the potential for mitigation to replace the functions and values of the 500–1100 acres at risk at the Big River site.

The record will remain open for comments until July 31, 1989. All comments will be fully considered in reaching a decision to either withdraw the proposed determination or forward to EPA Headquarters a recommended determination to prohibit or restrict the

use of Big River, its tributaries, and adjacent wetlands as a disposal site for construction of Big River Reservoir.

*For further information contact:* Mr. Mark J. Kern, U.S. E.P.A., JFK Federal Building, WWP–1900, Boston, MA 02203–2211, (617) 565–4421.

**Michael R. Deland,**

*Regional Administrator, Region I.*

[FR Doc. 89–2272 Filed 1–31–89; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL HOME LOAN BANK BOARD

**[No. 89–67]**

### Finance Subsidiaries of Federal Associations

Date: January 26, 1989.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Notice.

**SUMMARY:** The public is advised that the Federal Home Loan Bank Board ("Board") has submitted for extension, without revision, an information collection request, "Finance Subsidiaries of Federal Associations," to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

This information is required from FSLIC insured institutions to receive approvals before establishing a Finance Subsidiary in order to determine that such a transaction is within applicable laws and regulations. We estimate it will take approximately .75 hours per respondent to complete the information collection.

**DATES:** Comments on the information collection request are welcome and should be received on or before February 16, 1989.

**ADDRESS:** Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Request for copies of the proposed information collection requests and supporting documentation are obtainable at the Board address given below: Director, Information Services Division, Office of Secretariat, Federal Home Loan Bank Board, 801 17th Street NW., Washington, DC 20552, Phone: 202–653–2751.

**FOR FURTHER INFORMATION CONTACT:** Leon R. Pleasants, Office of General Counsel, 202–377–6414, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

By The Federal Home Loan Bank Board.

**John F. Ghizzoni,**

*Assistant Secretary.*

[FR Doc. 89–2253 Filed 1–31–89; 8:45 am]

BILLING CODE 6720–01–M

## FEDERAL LABOR RELATIONS AUTHORITY

### Senior Executive Service; Performance Review Board

**AGENCY:** Federal Labor Relations Authority.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the names of the Performance Review Board.

**DATE:** February 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Orinda R. Nelson, Acting Director of Personnel, Federal Labor Relations Authority, 500 C Street SW., Washington, DC 20424, (202) 382–0751.

**SUPPLEMENTARY INFORMATION:** Section 4314(c)(1) through (5) of Title 5, U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations, to the appointing authority relative to the performance of the senior executive.

The following persons will serve on the FLRA's Performance Review Board:

Cynthia A. Metzler, Office of the Acting Chairman, FLRA,

Michael D. Nossaman, Office of General Counsel, FLRA,

Johnny J. Butler, Equal Employment Opportunity Commission,

Paul D. Mahoney, Merit System Protection Board,

Peter J. Basso, National Endowment for the Arts.

**Orinda R. Nelson,**

*Acting Director of Personnel.*

[FR Doc. 89–2277 Filed 1–31–89; 8:45 am]

BILLING CODE 6727–01–M

## FEDERAL MARITIME COMMISSION

**[Docket No. 89–02]**

### Matson Navigation Co., Inc., Transportation of Cargoes Between Ports and Points Outside Hawaii and Islands Within the State of Hawaii; Filing of Petition for Declaratory Order

Notice is given that a petition for declaratory order has been filed by Matson Navigation Company, Inc. ("Matson") requesting that the Federal Maritime Commission ("Commission") resolve an ongoing controversy between Matson and Young Brothers, Limited ("Young Bros.") involving interstate barge carriers operating in Hawaii. The controversy between Matson and Young Bros. concerns Commission jurisdiction over certain ocean cargo movements from ports and points outside the State of Hawaii to ports within the State of Hawaii, via Honolulu.

The instant petition is similar to a petition filed by Matson on September 24, 1987 (52 FR 36467, September 29, 1987). The Commission, by Order of June 7, 1988, in Docket No. 87–18, denied that petition without prejudice. The Commission made it quite clear that "Matson may file a new petition, properly focused and supported, at any time."

The petition now before the Commission was served on Young Bros. and its counsel, the Public Utilities Commission of the State of Hawaii, and the United States Department of Transportation. Those parties may file a reply to the petition with the Secretary, Federal Maritime Commission, Washington, DC 20573–0001 on or before March 1, 1989. An original and fifteen copies of such reply shall be submitted and a copy thereof served on Stephen T. Rudman, Esq., Senior Counsel, Law Department, Matson Navigation Company, Inc., Post Office Box 7452, San Francisco, California 94120; and C. Jonathan Benner, Esq., Haight, Gardner, Poor & Havens, 1401 New York Avenue NW., Washington, DC 20005. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 11101. Participation by persons other than those named above will be permitted only upon grant of a petition to intervene by the Commission pursuant to Rule 72 (46 CFR 502.72). Petitions for leave to intervene shall be submitted on or before the reply date

and shall be accompanied by intervenor's complete reply including its factual and legal presentation in the matter.

Joseph C. Polking,

*Secretary.*

[FR Doc. 89-2305 Filed 1-31-89; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Adrian Building Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding 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 February 22, 1989.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Adrian Building Corporation*, Adrian, Minnesota; to engage *de novo* in leasing activities pursuant to § 225.25(b)(5) of the Board's Regulation Y. These activities will be conducted in Adrian, Minnesota.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *First Financial Bancorp*, Lodi, California; to engage in lending activities to accommodate all legitimate consumers, commercial and real estate loan applications that meet established credit criteria pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 26, 1989.

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 89-2254 Filed 1-31-89; 8:45 am]

BILLING CODE 6210-01-M

### CB&T Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 22, 1989.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *CB&T Bancshares, Inc.*, Columbus, Georgia; to merge with International City Bancorp, Inc., Warner Robins, Georgia, and thereby indirectly acquire International City Bank, Warner Robins, Georgia.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Financial Services Corporation of the Midwest*, Rock Island, Illinois; to acqurie at least 50.1 percent of the voting shares of Henry County Bank, Green Rock, Illinois.

2. *West Michigan Financial Corporation*, Hudsonville, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Hudsonville, Hudsonville, Michigan.

Board of Governors of the Federal Reserve System, January 26, 1989.

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 89-2255 Filed 1-31-89; 8:45 am]

BILLING CODE 6210-01-M

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Malcolm Deisenroth, Jr.; Correction

This notice corrects a previous **Federal Register** notice (FR Doc. 88-29695) published at page 52488 of the issue for Wednesday, December 28, 1988.

Under the Federal Reserve Bank of Kansas City, the entry for Malcolm Deisenroth, Jr. is amended to read as follows:

1. *Malcolm Deisenroth, Jr.* and Malcolm Deisenroth, Jr., KEOGH Account for Malcolm Deisenroth, Jr.; to acquire an additional 22.33 percent of the voting shares of Tulbancorp, Inc., Tulsa, Oklahoma, and thereby indirectly acquire Bank of Tulsa, Tulsa, Oklahoma.

Comments on this application must be received by February 15, 1989.

Board of Governors of the Federal Reserve System, January 26, 1989.

Jennifer J. Johnson,

*Associate Secretary of the Board.*

[FR Doc. 89-2257 Filed 1-31-89; 8:45 am]

BILLING CODE 6210-01-M

### Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies; Dr. Robert F. Tobin

The notificant listed below has applied under the Change in Bank Conrol Act (12 U.S.C. 1817(j)) and section 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are

set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 notice or to the offices of the Board of Governors. Comments must be received not later than February 15, 1989.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Dr. Robert F. Tobin,* St. Joseph, Missouri; to acquire an additional 1.3 percent of the voting shares of Galleria Bank, Overland Park, Kansas.

Board of Governors of the Federal Reserve System, January 26, 1989.

**Jennifer J. Johnson,**

*Associate Secretary of the Board.*

[FR Doc. 89-2256 Filed 1-31-89; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control

### National Institute for Occupational Safety and Health, Mine Health Research Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting:

*Name:* Mine Health Research Advisory Committee (MHRAC).

*Date:* February 9-10, 1989.

*Place:* Conference Room C, National Institute for Occupational Safety and Health, Alice Hamilton Laboratory, 5555 Ridge Avenue, Cincinnati, Ohio 45226.

*Time and Type of Meeting:* Open 8:30 a.m.-4:00 p.m. February 9. Closed 4:00 p.m.-5:00 p.m. February 9. Open 8:30 a.m.-12 noon, February 10.

*Contact Person:* Melvin L. Myers, Executive Secretary, MHRAC, NIOSH, CDC, Bldg. 1, Room 3120, D-37, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

*Telephone:* Commercial: (404) 639-3901.

*FTS:* 236-3901.

*Purpose:* The Committee is charged with advising the Secretary of Health and Human Services on matters involving or relating to mine health research, including grants and contracts for such research.

*Agenda:* Agenda items for the meeting will include announcements; consideration of minutes of the previous meeting and future meeting dates; a review of programs in pathology, pulmonary functions testing, and x-ray surveillance; consideration of research needs in the prevention of silicosis and of noise-induced hearing loss; and consideration of the educational requirements of practicing physicians for the recognition of occupational diseases. Beginning at 4 p.m., February 9, the Committee will discuss certain matters cover under sections 552b(c)(6) and/or 552b(c)(9)(B) of Title 5 US Code. Therefore, pursuant to said provisions and the determination of the Director, Centers for Disease Control, this portion of the meeting will not be open to the public.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be scheduled at the discretion of the Chairperson and as time permits. Anyone wishing to have a question answered by a scheduled speaker during the meeting should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

(a) A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Due to difficulties in scheduling, the agenda could not be finalized in time to meet the 15-day publication requirement.

**Elvin Hilyer,**

*Associate Director for Policy Coordination, Centers for Disease Control.*

[FR Doc. 89-2403 Filed 1-31-89; 8:45 am]

BILLING CODE 4160-19-M

### Food and Drug Administration

[Docket No. 82M-0072]

### Shiley Infusaid, Inc.; Premarket Approval of the Infusaid 100, 200, 400, and 500 Dual Catheter 400 Implantable Pump, and Intraspinal Catheter Kit

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the supplemental application by Shiley Infusaid, Inc. (formerly Intermedics Infusaid), Norwood, MA, for premarket approval, under the Medical Device Amendments of 1976, of the Infusaid 100, 200, 400, and 500 Dual Catheter 400 Implantable Pump, and Intraspinal Catheter Kit. After reviewing the recommendation of the General Hospital and Personal Use Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of November 4, 1988, of the approval of the supplemental application.

**DATE:** Petitions for administrative review by March 3, 1989.

**ADDRESS:** Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Richard Williams, Center for Devices and Radiological Health (HFZ-420), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7750.

**SUPPLEMENTARY INFORMATION:** On December 18, 1986, Shiley Infusaid, Inc. (formerly Intermedics Infusaid), 1200 Providence Highway, Norwood, MA 02062, submitted to CDRH a supplemental application for premarket approval of the Shiley Infusaid 100, 200, 400, and 500 Dual Catheter 400 Implantable Pump, and Intraspinal Catheter Kit. This device is indicated for the delivery of preservative-free morphine sulfate approved for continuous epidural administration for the treatment of severe or unremitting pain in cancer patients who are unresponsive to conventional forms of analgesia.

On April 7, 1987, the General Hospital and Personal Use Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On November 4, 1988, CDRH approved the supplemental application by a letter to the applicant

from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Richard Williams (HFZ–420), address above.

**Opportunity for Administrative Review**

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place the review will occur, and other details.

Petitioners may, at any time on or before March 3, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360(h))) and under authority delegated to the Commissioner of Food and Drug (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: January 24, 1989.

**Walter E. Gundaker,**

*Acting Deputy Director, Center for Devices and Radiological Health.*

[FR Doc. 89–2312 Filed 1–31–89; 8:45 am]

BILLING CODE 4160–01–M

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**[Docket No. 88M–0398]**

## Abbott Laboratories; Premarket Approval of Murine® Sterile Saline Spray

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the application by Abbott Laboratories, Columbus, OH, for premarket approval, under the Medical Device Amendments of 1976, of Murine® Sterile Saline Spray. The device is to be manufactured under an agreement with Applied Laboratories, Inc., Columbus, IN, which has authorized Abbott Laboratories to incorporate information contained in its approved premarket approval application for the Applied Laboratories Sterile Saline Solution. FDA's Center For Devices and Radiological Health (CDRH) notified the applicant, by letter of November 8, 1988, of the approval of the application.

**DATE:** Petitions for administrative review by March 3, 1989.

**ADDRESS:** Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301–427–7940.

**SUPPLEMENTARY INFORMATION:** On August 9, 1988, Abbott Laboratories, Columbus, OH 43215, submitted to CDRH an application for premarket approval of Murine® Sterile Saline Spray. The device is indicated for use in the rinsing, heat disinfection, and storage of soft (hydrophilic) contact lenses. The application includes authorization from Applied Laboratories, Inc., Columbus, IN 47201, to incorporate information contained in its approved premarket approval application for the Applied Laboratories Sterile Saline Solution.

On November 8, 1988, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

**Opportunity for Administrative Review**

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 3, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under

authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53.)

Dated: January 24, 1989.

**Walter E. Gundaker,**

*Acting Deputy Director, Center for Devices and Radiological Health.*

[FR Doc. 89-2270 Filed 1-31-89; 8:45 am]

BILLING CODE 4160-01-M

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**Health Care Financing Administration**

**[ORD-61-N]**

## Medicare and Medicaid Programs; Health Care Financing Research and Demonstration; Availability of Funds for Cooperative Agreements and Grants

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** General notice.

**SUMMARY:** This notice announces the availability of HCFA funding under cooperative agreements and grants for projects which will focus on major issues in the financing and delivery of health care under the Medicare and Medicaid programs. This notice contains information about the subject areas for cooperative agreements and grants that will be given priority, project requirements, application procedures, and other pertinent information.

**DATES:** Closing dates for submission of letters of intent and cooperative agreement and grant applications are presented in sections IV and VII, respectively, of this preamble.

**ADDRESSES:**

*Application Kits:* Standard application forms and related instructions are available from, and must be formally submitted to: Paul McKeown, Health Care Financing Administration, Office of Budget and Administration, Division of Procurement Services, Room 364 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207-5187, (301) 966-5157.

Mr. McKeown is also available to answer questions and to provide guidance concerning the completion of the application forms.

**FOR FURTHER INFORMATION CONTACT:** Michael Spodnik, Health Care Financing Administration, Office of Research and Demonstrations, Research and Demonstration Program Support Branch, 2-D-6 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207-5187, (301) 966-6637.

**SUPPLEMENTARY INFORMATION:** Payments for health care services, primarily through the Medicare and Medicaid programs, constitute one of the largest single segments of Federal and State budgets. Because of increases in expenditures, the Federal Government must reassess current methods of payment for publicly-financed health care programs and look for innovative methods for paying for health care services in the future, while ensuring access to medically necessary and effective care.

HCFA supports the conduct of research and demonstration projects principally through two award mechanisms: procurements (contracts) and assistance awards (grants and cooperative agreements). This notice solicits applications for projects that will be awarded as grants and cooperative agreements. Announcements of planned procurement awards are made through notices published in the Commerce Business Daily. The purpose of the projects being solicited under this notice will be to advance knowledge in health care delivery/financing and quality/effectiveness of care, and to develop ways of applying that knowledge to improve the administration of health care programs and to ensure access to quality and effective health care. We believe this assistance will have a long term and vital public purpose: to increase the efficiency and effectiveness of the entire health care system by improving the ways in which health care is financed, reimbursed, and delivered.

The notice describes the application procedures, general policy considerations, criteria to be used in reviewing applications, and selection criteria for HCFA cooperative agreements and grants. This notice replaces the notice previously published in the **Federal Register** on September 10, 1987 (52 FR 34304).

HCFA is also requiring a letter of intent, 30 days prior to closing dates, from all organizations intending to submit an application in response to this solicitation (see section IV.A Application Procedures).

This statement reflects our current priorities and emphasizes our primary interest in the following six areas:

1. Continued access to quality care under Medicare and Medicaid and improved methods for measuring quality and effectiveness of care;

2. Refinement of the current Medicare physician payment methodology through the study of the causes for the growth in Medicare outlays for physician services and the development of cost-effective approaches to controlling such growth;

3. Increased competition and consumer choice and continued growth of Medicare capitated systems;

4. Continued improvement to the current Medicare hospital prospective payment system, and the study of the outpatient delivery system;

5. Analysis of other Medicare and Medicaid program services and issues leading to increased efficiency in health care delivery and financing, particularly in program areas that have a significant impact on program and beneficiary expenditures (high-cost, high-volume services), including such areas as clinical laboratories, home health and long-term care (LTC), and treatment of acquired immunodeficiency syndrome (AIDS); and

6. Refinement of the current long-term care delivery and payment systems under Medicare and Medicaid.

We will be continuing our efforts in response to specific congressionally-mandated studies in these and other priority areas. We also are interested in expanding our current efforts in each of these areas as they relate to the financing and delivery of care in rural and urban inner city areas.

This notice differs in several respects from previous general solicitations for HCFA-sponsored research and demonstrations. First, while one of our highest priorities is in the area of refining the current physician payment system, particularly under Medicare, previous solicitations for applications in this area have generally not resulted in the submission of a large number of quality applications focusing on the major problems and issues facing the Medicare programs in controlling the escalating expenditures for physician services. Our goal has been to stimulate the development of new and innovative research efforts designed to help us better understand and address the major factors influencing the growth in Medicare outlays for physician services and to encourage new organizations to develop expertise in this area and submit applications to us. Given the importance of these issues to the efficient and effective operation of the health care system, we are reassessing our current process for soliciting applications in this area. We intend to announce in the near future our specific project needs in this area. In the current notice, we have stated general areas of research interest. We would strongly encourage organizations with new and innovative approaches to addressing these issues to submit applications in response to this notice.

Second, we published in the December 14, 1988 **Federal Register** (53

FR 50293) a notice soliciting applications to respond to the series of congressional mandates in the recently enacted Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360). One of the principal areas included in that solicitation was long-term care. We are examining currently our needs for additional research on long-term care issues not reflected in the December 14, 1988 notice. Therefore, as in the case of physician payment research, we are strongly encouraging organizations with new and innovative approaches to addressing the long-term care issues we have identified to submit applications in response to this notice.

Based on our examination of research needs in the long-term care area, we may issue a separate solicitation focusing specifically on long-term care issues.

Section 4403 of the Omnibus Budget Reconciliation Act of 1987 mandates that HCFA target 10 percent of its research budget in each of fiscal years 1988–1990 for projects substantially or exclusively related to rural health care issues. In response to that mandate, we have expanded our emphasis on rural research issues in this solicitation. We also convened on October 27 a panel of experts on rural health care issues. Papers prepared by these experts will be used to formulate a future rural research and demonstration agenda for HCFA.

This notice also announces the new closing dates for cooperative agreements and grants for FY 1989. (While we have retained a separate waiver-only cycle, we reserve the right to defer consideration of applications received for this cycle until the next general solicitation for grant and cooperative agreement applications.) The schedule is as follows:

April 3, 1989 (Close of Business (C.O.B.)): Waiver-only applications and applications requesting discretionary funds.

Monday, August 7, 1989 (C.O.B.): Waiver-only applications.

You should be aware that, in the future, the mailing list which the Office of Research and Demonstrations maintains of organizations interested in receiving announcements of solicitations for grants and cooperative agreements will serve as the principal mechanism for targetting such solicitations. Therefore, any organization not currently included on this mailing list but wishing to be notified of future solicitations for grant/cooperative agreements should submit a letter stating this desire and identifying any specific areas of topical interest. This letter should be addressed as follows: ORD Mailing List (GRANTS), Health Care Financing Administration, Office of Research and Demonstrations, 2–E–6 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207–5187.

**I. Current Priorities for HCFA Funding of New Grants and Cooperative Agreements**

The statement of fiscal year 1989 funding priorities for HCFA research and demonstration grant and cooperative agreement applications is as follows:

*A. Quality and Effectiveness of Care*

The Social Security Amendments of 1983 (Pub. L. 98–21) mandated that we study and report on the impact of the hospital prospective payment system on Medicare beneficiaries. A major aspect is the impact of prospective payment on the quality of care provided to beneficiaries. The decreased inpatient hospital resource utilization resulting from this system has raised concerns as to whether the quality of care provided has been adversely affected; or whether access to needed levels of care has been limited. The rapid changes in other Medicare and Medicaid program areas make it even more critical that we ensure that the level of care provided under Medicare and Medicaid is a high quality.

1. Effectiveness Initiative

One major area in which we will be placing increased effort is the Effectiveness Initiative. This initiative was undertaken in response to a growing concern on the part of HCFA and the Department, the Congress, organized medicine, and the beneficiary population about the need to structure a system that facilitates the development of knowledge about the effectiveness of services provided to Medicare and Medicaid beneficiaries. A multi-year agenda is being designed to build upon current efforts and coordination underway within HCFA and the Public Health Service. Overall, the goal of this coordinated agenda is to move toward a more rational, scientific, and empirically-based process for determining which treatments and surgical procedures are effective at improving the health status of Medicare and Medicaid beneficiaries. Specifically, the objectives are to improve our current monitoring systems for examining outcomes and effectiveness of care received by beneficiaries, and to use the results of this enhanced monitoring system to identify needed studies of effectiveness to improve the overall quality of care provided under the Medicare and Medicaid programs.

The planned agenda builds on the efforts begun in 1987–88 (the Medicare hospital mortality data release, the expanded reseach effort designed to develop other valid quality of care outcome measures, and the convening of experts in the quality and effectiveness of care field to help shape the future agenda of this area).

In fiscal year 1989, we are specifically interested in projects which develop and refine methodologies for examining the safety, efficacy, and cost-effectiveness of specific medical or surgical interventions (such as bypass surgery, carotid endarterectomy) for the Medicare population. We are particularly interested in studies which use or combine routinely collected Medicare data, or investigate methods of combining these data with other primary or secondary clinical data.

The Health Care Financing Administration has used a variety of administrative data for quality of care research and demonstrations. However, administrative data are limited with regard to beneficiary health and socio-demographic characteristics. Other data sets, supported by private and public initiatives, may have the potential, at low cost, to enhance HCFA's data bases, especially if they can be linked to administrative data. We are, therefore, interested in receiving proposals that would carry out epidemiologic and other quality of care and effectiveness research using linked administrative data sets. We are also interested in proposals that would develop methodologies to collect and maintain risk factor information, as well as, health and functional status information on beneficiaries. Because of the large cost often associated with data collection, we are primarily interested in proposals that take advantage of data that could be collected and maintained on an ongoing basis for a relatively low cost.

2. Alternative Outcome Measures and Their Use

Little advancement has been made in the development of additional measures of patient outcomes that can be used in quality of care studies. Most studies currently use mortality or rehospitalization rates. Research is needed to develop reliable and valid measures of patient outcome that are sensitive to variations in the quality of care. Of critical interest are projects that directly test the relationships between the process of medical care and the resultant outcomes of care. Such studies

are needed to understand the usefulness of outcome data for quality of care monitoring.

3. Quality Issues in Long Term Care, Physician Care, Ambulatory Care, and Capitated Systems

We are interested in developing and refining reliable and valid quality of care measures for different payment systems and different treatment settings. Therefore, we are interested in the following:

a. Projects that develop, demonstrate, and evaluate quality of care outcome measures and monitoring systems for nursing homes, outpatient care, and physician services.

b. Projects that develop an overall approach to quality standards, monitoring, and improvement in the area of ambulatory care (including both surgical and non-surgical services). Such an approach should be designed to move toward minimum quality standards applicable across the various ambulatory care settings and across various payment mechanisms. We are interested in projects that also focus on specific issues related to the quality of ambulatory care, including the appropriateness of services provided for specific conditions.

c. Development and demonstration of monitoring systems and outcome measures for assessing the quality of care in managed care and capitated payment environments.

4. Hospital Care

We continue to be interested in studies that address the issue of access to hospital care and the quality of care while in the hospital. Proposed studies in these areas should emphasize how they expand upon current work underway in these areas.

a. *Access to hospital care.* The reduction in Medicare and Medicaid overall admissions has put pressure on providers to cut back on available beds, consolidate resources and in some cases may even result in hospital closings. In terms of the entire health care system, these changes probably reflect improvements in efficiency. However, it is possible that certain groups of beneficiaries may have difficulty in getting needed inpatient care. We are interested in studies examining the extent to which beneficiary access to hospital care may have changed as a result of the prospective payment system, particularly whether there has been a differential impact on access in rural versus urban area hospitals, and what the impact is of hospital closures on access to care and health status of the population in the hospital catchment area.

b. *Quality of care while in the hospital.* Quality of inpatient care could be greatly affected by prospective payment system incentives, particularly in light of shortened lengths of stay, personnel reductions, and incentives to reduce ancillary services. We are interested in studies addressing the following:

(1) Any measurable changes or trends in the structural characteristics of hospitals, such as staffing or other inputs, that are attributable to prospective payment and the impacts of these changes on quality of care.

(2) The many changes taking place in the provision of medical care that are outside of the hospital setting, yet could impact on the assessment of quality of care in the hospital. One is the movement of many surgical procedures to the outpatient setting. A second is a trend toward moving terminal patients from a hospital setting into LTC facilities and home settings (for example, hospices). Studies are needed that examine the impacts these and other health care delivery trends have on the provision of inpatient care and the assessment of that care.

*B. Physician Payment*

Program expenditures continue to climb at double-digit rates, despite numerous legislative, regulatory and administrative endeavors for containment of payments for physician services. Hence, we are interested in conducting projects designed to identify, explain, develop or test effective refinements or alternative payment approaches to counteract the rising costs of physician care, while maintaining access to a high quality of care.

Previous solicitations for applications in this area have generally not resulted in the submittal of a large number of high quality applications focusing on topics of major interest to us. Our goal has been to stimulate the development of new and innovative research efforts designed to help us better understand and address the major factors influencing the growth in Medicare outlays for physician services and to encourage new organizations and individuals to develop expertise in this area and submit applications to us. Given the importance of these issues to the efficient and effective operation of the health care system, we are expanding our current approaches for soliciting applications/proposals in this area. We intend to announce in the near future our specific project needs in this area, as well as the award mechanism we will be using (for example, contract or grant/cooperative agreement).

Listed below are the general areas of current research interest. While the solicitation planned for announcement in the near future will likely focus on the same general set of issues outlined below, that announcement will discuss specific types of projects HCFA needs to have conducted. The purpose of the current solicitation is to encourage innovative and new thinking on the part of individuals and organizations about the types of research that should be conducted to address these major program issues. Therefore, we would strongly encourage individuals and organizations with new and innovative approaches to addressing these issues to submit applications in response to this notice.

Submission of grant/cooperative agreement applications in response to the current notice does not preclude individuals and organizations from responding to the planned solicitation when it is announced.

Major areas of research interest include the following:

- Analyze the causes and forces driving expenditure increases for physician services.
- Identify and quantify the behavioral responses of physicians to changes in payment levels, methods, requirements, or volume controls which are intended to constrain program expenditures or patient out-of-pocket costs.
- Develop new conceptual groupings of physician procedures and services that might serve as a practical basis for determination of payments for physician care.
- Examine private sector approaches for controlling physician service volume and intensity to determine their effectiveness and their potential for use by Medicare or Medicaid.

*C. Alternative Payment Systems*

Our overall goal is to identify, develop, demonstrate, and evaluate effective alternative health care delivery or payment systems to control costs and offer expanded consumer choices under the Medicare and Medicaid programs. At the same time, we wish to ensure continued access to quality health care and to move towards payment systems based on capitation and competition in the marketplace. In general, projects should have the prospect of reducing costs in either the short or long term; at a minimum, they must be budget neutral.

As part of this effort, we are interested in supporting research and demonstration projects that develop and test payment systems that provide

incentives to Medicare and Medicaid beneficiaries to be more informed purchasers of health care plans and services, including payment systems based on capitation and competition in the marketplace. We also are interested in consumer information projects that support such systems. Specific examples of these types of projects are as follows:

1. Alternative Provider Arrangements

We are interested in projects that examine the applicability of private-sector practices to control health care costs, with emphasis on selected high volume/cost Medicare services and areas, while also ensuring quality of care. Such projects should focus on private-sector initiatives that use alternative market-oriented methods of pricving and/or utilization management for hospital or physician services. Both research and demonstration projects are encouraged. We are particularly interested in projects that examine the cost-effectiveness and feasibility of applying these alternative provider arrangements in a fee-for-service setting for Medicare beneficiaries.

Demonstration applications should delineate provider and beneficiary incentives for participation, as well as the structured elements which would generate savings for the Medicare trust funds. Individual beneficiary participation must be voluntary. However, these alternative provider arrangements may reduce or waive coinsurance and deductible requirements or offer other acceptable incentives (such as increased benefits or reduced Medigap premium rates) to encourage beneficiary participation.

Potential demonstration applicants should be aware that HCFA previously issued separate solicitations for demonstration projects of Part B preferred provider organizations and designated heart bypass centers, and is pursuing development of the concept of designated cataract providers. Therefore, we strongly recommend that you contact HCFA before submitting and application.

2. Long-Term Effects on Competition

It has been argued that competition among health plans will reduce cost. However, lack of understanding of the effects of patient switching among plans, of possible biased selection of low cost plans by healthy persons, and of exactly how HMOs/CMPs achieve their savings, makes it difficult to estimate the long-term effects of competition. We are interested in analyses of the competitive process among health plans to understand better what a competitive environment might lead to in terms of costs, provider behavior, organization of health services, and impact on Medicare and Medicaid beneficiaries. For example, we are interested in economic analyses of the behavior of health plans within the context of the local market for health care. Competitive behavior in terms of pricing, benefits, marketing, expansion, and mergers also are areas of interest.

3. Medicaid Capitation Rates

Capitated arrangements are becoming more prevalent as a mechanism for States to purchase or finance health care under the Medicaid program. Such arrangements may be with counties, health insuring organizations, or other prepaid organizations. One area of particular interest is coverage of joint Medicare and Medicaid beneficiaries under Medicare-qualified capitated HMOs and CMPs. The equity of the rate-setting methodology is critical, particularly as more capitation arrangements are established. A variety of rate-setting methodologies have been employed, and we are interested in discerning the factors and the methodologies that result in fair and accurate capitation rates. We also are interested in testing refinements in the capitation payment models developed by States.

4. Impact of State Systems

A number of States have implemented managed care programs which restrict beneficiaries' nominal freedom to choose their physicians. The desirability and impact of limiting beneficiaries' choice of physicians is a major issue associated with such systems, particularly section 1915(b) programs. Consideration of this policy issue would be facilitated with information that would allow us to assess, through an operational measure, the actual availability of an access to physicians and physician services under mandatory managed care programs versus fee-for-service systems, across geographic settings.

*D. Hospital Payment*

During the past few years, the Medicare prospective payment system for inpatient services has undergone continuous adjustment through regulatory and legislative changes. Other areas of hospital reimbursement, including reimbursement for capital costs and reimbursement for care provided in excluded units, also have been changed through regulatory and legislative action. We will be giving particular priority to studies of the factors underlying variations in changes in wages indices and further analyses of medical education payments to hospitals. To the extent that they offer new or innovative contributions to our knowledge, we also are interested in studies and demonstration projects to improve the system of inpatient hospital payment under Medicare, along with studies of the potential for paying for other services (for example, outpatient services) under a prospective payment method.

1. PPS Impact

In 1985, HCFA awarded a 3-year contract to evaluate the impact of PPS on beneficiaries, providers, and other segments of the health care delivery and financing system. A follow-up contract to extend this area of research was awarded in 1988. We have continued to augment the work of these contracts with grants and cooperative agreements that focus on particularly important topics and that bring particular expertise to the study of these topics. Applications submitted in this area should emphasize how the proposed research expands upon the work previously done or currently underway in this area.

a. *Financial Impact of the Prospective Payment System and Other Payor Systems on Hospitals.* We are interested in studies of the financial status of hospitals prior to and during the implementation of the prospective payment system. The studies should address the impact of the Medicare prospective payment system on different types of hospitals with the analysis using such variables as hospital size, market share, occupancy rates, rural/urban status, teaching status, and disproportionate share status. We also are interested in studies analyzing the impact of the prospective payment system on hospital revenues and any resultant cost-shifting dynamics, particulary as they relate to the incidence and cost of administratively necessary days, facility conversions, patient transfers to swing beds or excluded units, and business arrangements of provider affiliations. Such analysis also should consider the effect that private and other public (non-medicare) payors have on a hospital's financial status. To the extent possible, non-inpatient services revenues and costs should be included in the study.

b. *Analysis of the Determinants of Hospital Costs Under Prospective Payment and the Components of Hospital Cost Increases.* Public debate about the appropriate annual update for the PPS payment level often centers on the rate of increase in hospitals' costs. Many hospitals maintain that PPS pays too little to cover their Medicare costs.

Others argue that the rate of increase in costs is unjustifiable. However, the PPS payment level may influence hospital strategies that affect the level of costs that are incurred. For example, it has been argued that under PPS hospitals have concentrated on expending services to enhance market share rather than adopting measures to control costs. We are interested in research that addresses the circumstances under which hospitals will pursue cost control strategies and the factors that determine the success of such strategies.

c. *Analyses of Hospital Case-Mix.* HCFA has supported research and demonstration projects that would improve case-mix measurement and test alternative case-mix measurement systems for prospective payment of inpatient hospital care or other health care providers and test alternative case-specific payment systems for Medicare or other payors. We are especially interested in examining the impact of care-mix growth variation on different types of hospitals (for example, urban/rural hospitals, teaching hospitals, and large/small hospitals).

d. *Analysis of Rural and Urban Inner City Hospital Issues.* In general, we are interested in developing a better understanding of how rural and urban inner city hospitals function, what can be done to assist them, and whether new types of facilities or services should be developed to replace or supplement them. Some areas of particular interest to us are:

(1) Studies to examine the impact of the prospective payment system on access to care in rural and urban inner city areas. In particular, studies that examine changes in occupancy rate, diagnosis-related group (DRG) use, hospital referrals, patient transfers, and posthospital care since the inception of the prospective payment system.

(2) Studies to examine the financial status of various classes of rural and urban inner city hospitals to identify those that have done well under the prospective payment system and those that have not and to determine the factors contributing to both.

(3) Studies to examine the impact on population health status (particularly for the elderly and poor) where rural and urban inner city residents may have limited access to care. The analysis of utilization patterns across providers in areas in which, or near which, a hospital has closed is also of great interest.

2. Prospective Payment System Refinement

a. *Refinement of Specific Prospective Payment Factors.* We are interested in studies that address refinement of the current prospective payment system, such as the outlier payment policy, systems that examine severity of illness within a given DRG, and other areas of potential refinement (such as development of alternative non-labor input price adjustment).

b. *Hospital Capital Payments.* We plan to continue to study capital investment patterns of different types of hospitals. We are interested in better understanding the capital positions and investent patterns (including an analysis of interest, principal, and depreciation) of different hospitals (by type, region, size, ownership, occupancy level, and utilization level). In addition, we are intested in studies to identify which capital investments have the most positive impact on operating margins, occupancy rates, and utilization. We are intrested also in analysis of the amount other insurers pay for hospital capital expenditures, and in understanding how hospitals finance different types of capital investments.

c. *Analysis of Medical Education Payments.* We are interested in better understanding the underlying factors that relate to the indirect medical education (IME) adjustment factor and its interaction with other Medicare payment adjustments. We are interested particularly in analysis which assist us in assessing the justifiability of an indirect medical education add-on, and the extent to which all teaching hospitals need IME payments to maintain financial viability and the quality of their medical education programs. Also of interest is a study of the extent to which services of residents and interns substitute for care and services of other physicians.

d. *Analysis of Factors Wage and Other Input Costs.* We are interested in economic analyses designed to assist in better understanding the factors underlying the cross-section variations and changes over time in wages and other input costs. We particularly are interested in studies that would examine potential refinements to the hospital wage index and the hospital market basket index.

e. *Prospective Payment Systems for Excluded Hospitals.* We remain interested in projects directed at developing an implementable prospective payment system for categories of excluded hospitals: Rehabilitation, psychiatric, and children's hospitals. Such applications should build upon work done previously in these areas and should address units of service, bundles of services, levels of payment, implementation problems for providers and payors, data adequacy, secondary effects, etc.

3. Outpatient Care

a. *Analysis of Hospital Outpatient Care.* We are interested in projects that will help us better understand the rapid growth in hospital outpatient costs. Specifically, we are interested in the following:

(1) Analyzing the increase in the volume of procedures provided in outpatient departments prior to and during the prospective payment system, with emphasis on clinical laboratory, radiology, and ambulatory surgical procedures.

(2) Studying the shift of Medicare cases from inpatient to outpatient departments prior to and during prospective payment system.

(3) Examining the business arrangements between hospital outpatient departments and health practitioners and suppliers who deliver care or goods used in hospital outpatient departments.

b. *Alternative Payment Methodolgies for Outpatient/Ambulatory Services.* We are interested in projects that will assist us in working toward prospective payment for ambulatory services provided in hospital outpatient and other ambulatory care settings. Although we currently have several projects that are working toward the development of prospective payment for ambulatory surgery, we would consider additional innovative projects that might propose new and innovative concepts in this area.

We are particularly interested in projects that address nonsurgical services (such as emergency services, general medical services, and other clinic services typically utilized by Medicare patients) provided in a hospital outpatient setting. Among the issues that need to be addressed are: Refinement and application of existing patient classification system; the possibility of applying payment limits; determining the appropriate bundles of services for payment; identification of justifiable cost differences between hospitals and across all ambulatory care settings for similar care; and innovative prospective payment methodologies.

*E. Program Efficiencies, Analyses, and Refinements*

In the past few years, several legislative and regulatory changes have been implemented that were directed at improving the effectiveness and efficiency of the Medicare and Medicaid programs. In other sections of this grants solicitation, the major programmatic changes in the hospital and physician sector have been treated as priority

areas. In this priority section, we address certain other facets of the Medicare and Medicaid programs that have undergone change.

1. Acquired Immunodeficiency Syndrome (AIDS)

We are interested in studies to determine the implications of AIDS for Medicare and Medicaid outlays. Specifically, we are interested in studies of the incidence and prevalance of AIDS among Medicare and Medicaid patients, and the utilization and cost of services for the treatment of beneficiaries with AIDS.

2. Home Health and Skilled Nursing Facility Services

We are interested in analyses that examine changes in Medicare and non-Medicare payments and utilization in the home health care and skilled nursing facility markets. Utilization and expenditures for these services vary widely across States. We are interested in exploring the differences in Medicare payment and utilization by geographic area, and how differences in market characteristics (demographics, numbers and types of providers, etc.) influence utilization of these services. Studies in this area should include time series analyses of Medicare's market share for these services.

3. International Health Care Systems Studies

We are interested in studies to develop and analyze data to assist in evaluating financing and delivery arrangements found in other countries, where these arrangements have relevance and potential application for the United States. These studies should permit the analysis of disaggregate and comparable international data, and should focus on the following areas of priority discussed elsewhere in this notice:

a. Systems and methodologies to measure and monitor quality and effectiveness of care.

b. Payment systems for physician services.

c. Innovative payment systems that promote competition and provide opportunities for consumer choice.

d. Alternative systems for the financing and delivery of long-term care services.

4. Managed Care Studies

We are interested in a study of private sector approaches to managed health care; specifically, how the private sector:

a. Manages and treats high-cost cases;

b. Selects, monitors, evaluates, and compensates providers;

c. Reviews and controls utilization and costs;

d. Provides incentives (to both patients and providers); and

e. Evaluates and measures the cost-effectiveness of private sector managed care programs and their effect on patient and provider behavior and quality of care.

We are also interested in studies to develop methodologies for rigorous assessment of the cost-effectiveness of managed care interventions, such as case-management for high-cost cases and utilization management controls.

*F. Prevention*

Section 4071 of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203) mandated the conduct of a demonstration program to determine the cost-effectiveness of including influenza vaccine as a covered service under the Medicare program. In response to that mandate, the Center for Disease Control, Public Health Service, under funding from HCFA, solicited and awarded sites in 1988 to participate in the demonstration. Unfortunately, there was an insufficient number of awarded sites to be able to fully respond to the congressional mandate. HCFA, therefore, plans to be soliciting shortly for additional sites to participate in the demonstration project as part of the 1989 flu season. Eligible applicants will be the official public health agencies of States, political subdivisions of States, the District of Columbia, the Commonwealth of Puerto Rico, and any other public or nonprofit private entity. Entities interested in receiving the program announcement soliciting applications to participate in this demonstration should notify HCFA in writing by February 10 in order to be included on the mailing list to receive application materials.

Information may be obtained on this demonstration by contacting John Meitl, Office of Demonstrations and Evaluations, Office of Research and Demonstrations, Health Care Financing Administration, Room 2306 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 966-6617.

Potential applicants should direct their requests to be placed on the mailing list to the above address.

*G. Sub-Acute and Long Term Care*

Medicare Long-Term Care Issues

HCFA published in the December 14, 1988 **Federal Register** (53 FR 50293) a notice soliciting applications to respond to the series of congressional mandates in the recently enacted Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360). One of the principal areas included in that solicitation was long-term care. We are examining currently our needs for additional research on long-term care issues not reflected in the December 14, 1988 notice. We have identified below our general areas of current research interest. We are interested in new and innovative thinking on the part of individuals and organizations about the types of research that should be conducted to address these major program issues. Therefore, we would strongly encourage individuals and organizations with new and innovative approaches to addressing these issues to submit applications in response to this notice.

Based on our examination of research needs in the long-term care area, we also may issue a separate solicitation focusing specifically on long-term care issues.

- Analyses that examine geographic variations between Medicare and non-Medicare payments and utilization in the home health care and skilled nursing facility markets.
- Studies that assess the impact of recent Medicare coverage policy clarifications for skilled nursing facility services.
- Examination of cost-effective alternative approaches to the delivery and payment for sub-acute care.

Medicaid Long-Term Care Issues

Medicaid is a principal source of funding for long term care in the United States. Between 1973 and 1984, long term care expenditures under Medicaid increased from $3.0 to $17.5 billion. This growth rate is the fastest for any health service area and is expected to continue to increase in the future, due in part to demographic trends. The Medicaid program is operated and funded in part by States. The Federal Government shares in the funding of the Medicaid program through the Federal matching percentage rate established for each State. Since we share in the financing of this program, and in view of the anticipated growth in costs, we share the States' interest in projects that would provide a better understanding of the current long term care delivery and financing systems under Medicaid, the subpopulations served by the program, and projects that would design and test alternatives to these systems.

We have identified below our general areas of current research interest. We are interested in new and innovative

thinking on the part of individuals and organizations about the types of research and demonstrations that should be conducted to address these major program issues. Therefore, we would strongly encourage individuals and organizations with new and innovative approaches to addressing these issues to submit applications in response to this notice.

Major areas of interest include the following:

- Examine innovative, alternative approaches to cost-effective delivery of and payment for long term care services, including innovative managed care systems.
- Better understand the factors affecting State and local area variations in patient utilization of long term care services and how these factors and variations affect total expenditures for long term care services under Medicaid.
- Develop more sensitive predictors (including functional assessment measures) of future need for and use of nursing home and sub-acute services, particularly among the disabled elderly.

## II. Agreements and Grants

### *A. General*

A review of the requirements for existing projects and our expected FY 1989 budget indicates that approximately $1.5 million may be available to HCFA's Office of Research and Demonstrations to fund new cooperative agreements and grants for research and demonstration projects in the priority areas listed in section I.

Applications for cooperative agreements and grants may be submitted to HCFA by private or public non-profit agencies or organizations, including State agencies that administer the Medicaid program. Private for-profit organizations may apply for cooperative agreements and grants (discretionary funds) under section 1110(a)(1) of the Social Security Act, section 402(a)(1) of the Social Security Amendments of 1967 (Pub. L. 90–248), as amended, and section 222(a) of the Social Security Amendments of 1972 (Pub. L. 92–603), as amended.

### *B. Authorities*

Our authority for making these awards is based on the following:

1. The Social Security Act, section 1110, 42 U.S.C. 1310, "Cooperative Research or Demonstration Projects" and section 1115(a), 42 U.S.C. 1315(a), "Demonstration Projects";
2. The Social Security Act, section 1875, 42 U.S.C. 139511, "Studies and Recommendations"—for cooperative agreements only—and section 1881(f), 42 U.S.C. 1395rr(f), "End Stage Renal Disease Experiment and Pilot Projects";
3. Section 402 of the Social Security Amendments of 1967 (Pub. L. 90–248), as amended, 42 U.S.C. 1395b–1, "Experiments and Demonstration Projects"; and
4. Section 222(a) of the Social Security Amendments of 1972 (Pub. L. 92–603), as amended, 42 U.S.C. 1395b–1 (note), "Experiments and Demonstration Projects".

In the discussion below, we refer to the Social Security Act simply as "the Act".

### *C. Regulations*

General policies and procedures that govern the administration of all Department of Health and Human Services (HHS) cooperative agreements and grants are located in Title 45 of the Code of Federal Regulations (CFR), Parts 74 and 92. Applicants are urged to review the requirements contained in those regulations.

### *D. Number and Size of Projects*

Most awards range from $75,000 to $300,000 per year. We also may award some projects for larger amounts. The number of cooperative agreements and grants depends on the availability of funds; needs of projects that are continuing from prior years; priority interest areas established by HCFA; and technical quality of applications.

### *E. Duration of Funding*

We fund projects for a period of one year at a time and may continue funding on a non-competitive basis, generally for up to three years, if we made the original award as a multiple year project. Continuation funding is contingent on the availability of future year funds, the applicant's ability to meet prior year project objectives, and the continued relevance of the project to HCFA.

We treat applications that seek to continue a project for a longer period of time than that stated in the original award as new projects. Thus, they must compete for available funds, and we will review these applications competitively along with all other new applications.

## III. Cooperative Agreements and Grants Subject Matter

### *A. General Considerations*

The cooperative agreements and grants we award are intended to assist in the resolution of major health financing issues or in developing new methods for the administration of HCFA programs.

The HCFA cooperative agreement and grants program focuses primarily on analyses, experiments, pilot projects and demonstrations that provide information useful for the Medicare and Medicaid programs. For FY 1989, we have identified a number of areas where specific information or operational experience is necessary to improve program effectiveness or guide decisions anticipated in the near future. A detailed description of these priority areas is set forth in section I.

Applications for priority area cooperative agreements and grants should be limited to one priority. Applications that fit one of the priority areas will be considered as solicited.

### *B. Cooperative Agreements and Grants*

The principal purpose of HCFA's cooperative agreements and grants program is to stimulate and support statutorily authorized research and demonstration projects.

All cooperative agreements will include an explicit statement of the nature, character, and intent of anticipated Federal programmatic involvement to ensure that the responsibilities of both parties are understood. Each cooperative agreement will incorporate the requirements of 45 CFR Part 74 or 92 or both, as applicable, among its terms and conditions.

Cooperative agreements will not be awarded to a State Medicaid agency for section 1115 projects in which only waivers of Federal regulations or costs not otherwise matchable under section 1115(a)(2) are approved to carry out a demonstration. The instrument to be used for such an award will be a grant (without discretionary funds) of waivers and cost authorized under section 1115(a)(2).

Cooperative agreements may be awarded for section 1115 projects with discretionary funds, even if waivers and costs under section 1115(a)(2) also are involved. In such cases, the cooperative agreement conditions will apply to the entire operation and management of the project. Cooperative agreements may be used for projects awarded under all other authorities listed in section II.B.

HCFA may suspend or terminate any cooperative agreement or grant in whole, or in part, at any time before the date of expiration, whenever it determines that the awardee has materially failed to comply with the terms of the cooperative agreement or grant. HCFA will promptly notify the awardee in writing of the determination and the reasons for the suspension or termination together with the effective date. In addition, HCFA reserves the right to withdraw waivers at any time if it determines that continuing the

waivers would no longer be in the public interest. If a waiver is withdrawn, HCFA will be liable only for normal close-out costs.

*C. Waivers*

Researchers who wish to conduct demonstrations that would require Medicaid rules to be waived must coordinate their applications with the appropriate State Medicaid agency. State of private agencies that wish to aks for Medicaid of Medicare waivers are strongly encouraged to coordinate with researchers of research firms in order to ensure that the experimental design and evaluation protocol are of the highest quality.

1. Section 1115(a) Projects. Under section 1115(a)(1) of the Act, compliance with statutory Medicaid State plan requirements (section 1902 of the Act) may be waived in order to enable a State Medicaid agency to carry out a demonstration project that will further the general objectives of the Medicaid program.

Under section 1115(a)(2) of the Act, we may consider costs a section 1115(a) project that otherwise would not properly be included as expenditures under the State plan and thus subject to Federal financial participation.

Unless they are specifically waived, all requirements of the Act, the Code of Federal Regulations, and other issuances that pertain to the Title XIX program apply to a project approved under section 1115(a).

If a State Medicaid agency applies for a section 1115(a) project, it should give special attention to the preparation of the budget. The agency must provide estimates of the cost or savings attributable to the demonstration project, contrasted with the normal Federal program costs. That is, the agency must furnish the estimated yearly cost before waivers, and after waivers, for both service costs and administrative costs. These budgets are substantially more extensive than the budget for other applications (see HCFA–PGX–11A, Instructions for Completion of Federal Assistance Application, for HCFA–PG–11). (See paragraph 3 below for methodology for estimating costs.)

If the application is approved, the quarterly expenditures must be reported to the Office of Research and Demonstrations (ORD), HCFA, in the form to be designated in the special terms and conditions of approval.

2. Other Waivers. Waivers of the requirements of titles XVIII and XIX of the Act, and of corresponding HCFA regulations, may be requested for project conducted under section 222(a) of the Social Security Amendments of 1972, as amended, and section 402 of the Social Security Amendments of 1967, as amended. The waivers requested must relate to an experimental or demonstration project that involves changes in the benefit package or method of payment. In applying for these waivers or changes in reimbursement or Federal financial participation, the applicant must provide sufficient budgeting information to permit estimates of the likely cost or savings of the project compared to the normal Federal program costs. That is, the application must furnish the estimated yearly cost, before waivers and after waivers, for both program and administrative costs. (See paragraph 3 below for methodology for estimating costs.)

If the application is approved, the awardee must furnish quarterly expenditures in the manner designated by ORD, HCFA in the special terms and conditions of the cooperative agreement or grant.

3. Methodology for Estimating Gross Cost of Projects Involving Waivers. HCFA will define the methodology to be used in estimating gross and net waiver costs. A description of this methodology may be obtained by contacting the individuals named at the beginning of this notice. This methodology is subject to change and applicants are therefore instructed to ensure they are using the most current methodology for future solicitations.

**IV. Application Procedures**

*A. Letter of Intent*

To receive full consideration, potential applicants must submit a letter, stating their intent to file an application, 30 days prior to the closing date of each cycle (see VII, Closing Date and Times). At a minimum, this letter must contain each of the following:

1. Identification of the priority area to which the application responds.
2. Title of the project.
3. A 2–3 page abstract summarizing the objectives of the proposal, the hypotheses and the data to be used.
4. A statement as to whether waivers will be required.

Failure to submit a letter of intent may result in the application receiving less than full consideration.

*B. Application Forms*

Each application must be limited to one priority area. The application must include, in the project title block, the priority area title to which the applicant is responding. The priority area designation also must be clearly marked on the outside of the package or envelope. If we determine a different priority area is a more appropriate area for consideration of a proposal, HCFA reserves the right to change priority area designation without notifying the applicant.

*C. Criteria for Screening and Reviewing Applications*

1. Screening Requirements

In order for an application to be in conformance, it must meet all of the following requirements:

*a. Length.* The applicant should provide a brief (1 or 2 paragraph) abstract summarizing the objectives of the proposal. A summary, not to exceed 5 pages, of the proposed project must be included. This summary should discuss the project objectives, hypotheses to be examined, data to be used and its source(s), model type(s) and structure(s) to be used in analyses, resources available to conduct the project, and amount and duration of support requested. The narrative portion of the application should be typewritten single-sided, double-spaced, and should not exceed 50 (for a research proposal) or 80 (for a demonstration proposal) double-spaced pages, exclusive of resumes, forms, etc. Applications should neither be unduly elaborative nor contain voluminous or unnecessary documentation.

*b. Number of copies.* An original signed application and 14 copies must be submitted. Medicaid State agencies are required to submit an original signed application and 2 copies.

*c. HCFA Priorities:* Those projects which specifically address a priority area/topic stated in this announcement will receive preference. Applications which are determined by the review panel to be unrelated to the announced HCFA priorities will not generally be considered for funding.

*d. Title XIX Demonstration Proposals:* Demonstration proposals involving the Medicaid program must be submitted by the single State agency responsible for administration of the Medicaid program in that State.

Applications that do not meet these screening requirements will not be considered for funding/approval by the review panels.

2. Evaluation Criteria

Applications which meet the screening criteria will be reviewed by a technical review panel composed of at least three individuals. Reviewers will score the applications, basing their scoring decisions and approval

recommendations on the following criteria. Relative weights are shown in parentheses.

a. *Project Methodology/Design: (40 Points).* The application describes specific plans for conducting the project in terms of the tasks to be performed. It includes relevant information about: (i) Hypotheses to be tested (if applicable); (ii) concise and clear statement of goals and measurable/achievable objectives; (iii) what the project will do and how it relates to similar work done in the area; (iv) how the project will be conducted; (v) data to be collected (including specification of data sources); (vi) plan for data analysis; (vii) milestones/phases in the progress of the project.

Specifically, the proposal should contain the following:

(1) A clear, quantifiable statement of the project goals and objectives.

(2) An explicit description of the research design, including the questions to be addressed and the methods and data to be used. The methodology must be well defined and scientifically valid.

(3) If the project is a demonstration proposal, the applicant should include separate sections on both the research design and the evaluation design. The research design section should include a detailed description of the reimbursement methodology and other programmatic changes. The evaluation section should provide an indication of the applicant's understanding of the evaluation issues and the various approaches to them. Should an award be made, the applicant may be required to collect data in a standardized manner to facilitate evaluation efforts. HCFA will have the option of determining whether the applicant or HCFA will be responsible for the evaluation.

(4) Demonstrations must contain a phase-down/phase-out plan that: (a) Ensures that Medicare and Medicaid beneficiaries, as well as any other project participants, are phased out of any special programs which were initiated and exist as reimbursable or covered health services only under the auspices of the project, or ensures that plans are in effect to provide other care for the project participants by the date the project is scheduled to end; and (b) ensures that any new payment methods initiated by the project will cease to apply at the scheduled end of the project, (that is, the project in and of itself cannot commit the Medicare or Medicaid programs to an indefinite use of the payment methodology beyond the scheduled end of the project).

(5) The tasks and milestones must clearly described and schedules and must include a schedule of reports to be submitted to HCFA. (Progress and Financial Reports as required by 45 CFR Parts 74 and 92)

(6.) The application must contain information specifying the availability of the data to be used, if data are to be collected. The discussion must describe the nature of the data sought, the sample design and size, controls and comparisons (if any), and the problems that might be encountered in collection. Data that are collected under a HCFA cooperative agreement or grant must be available to HCFA or its agents. However, the applicant must ensure the confidentiality of any personally identifiable information collected under the auspices of any HCFA cooperative agreement or grant. The application must contain detailed plans to protect the confidentiality of all information that identifies individuals under the project. The plan must specify that such information is confidential, that it may not be disclosed directly or indirectly except for purposes directly connected with the conduct of the project, and that in all cases where disclosure takes place, the informed written consent of the individual must be obtained.

(7.) Projects that require waivers (for example, those under section 1115(a) of the Act, section 222(a) of the Social Security Amendments of 1972, as amended, and section 402(a), of the Social Security Amendments of 1967, as amended) must define the services, list the waivers, discuss the implications if such waivers are granted, and state the effect on Federal, State, and local laws as well as the effect (beneficial or adverse) on individuals enrolled in the project.

If the project involves both Medicare and Medicaid waivers, a request for Medicaid waivers from the State agency administering the Medicaid program must be included with the application. Applicants should contact HCFA for further information if questions arise in these cases.

b. *Knowledge/Experience/Capability in Area: (20 Points).* The application describes the applicant's prior experience in the area, or in related areas. The principal investigator and other key staff are qualified and possess the experience in this or related areas and the variety of skills required to produce final results that are readily comprehensible and usable. The application should provide evidence of understanding and knowledge of prior and ongoing work in the area. Specific information also must be provided concerning how the personnel are to be organized in the project, to whom they will report, and how they will be used to accomplish specific objectives or portions of the project.

c. *Level of Effort: (20 Points).* The resources that will be needed to conduct the project are specified, including personnel, time, budget, and facilities. The staffing pattern clearly links responsibilities/levels of efforts to project tasks. The project's costs are reasonable in view of the anticipated results. Any collaborative effort (including subcontracts) with other organizations is clearly identified and written assurances included. A description by category (personnel, travel, consultants, etc.) of the total of the Federal funds required is included. Funds are specified for each budget period.

Specifically, the application should contain the following:

(1) Information specifying the availability of adequate facilities and equipment for the project or clearly state how these are to be obtained.

(2) The budget must be developed in detail with justifications and explanations for the amounts requested. The estimated costs must be reasonable considering the anticipated results.

(3) Applicants are expected to contribute towards the project costs. Generally, 5 percent of the total costs is considered acceptable. No demonstration project will be awarded that covers 100 percent of the project's costs. The budget may not include costs for construction or remodeling, or for project activities that take place before the applicant has received official notification of HCFA approval of the project.

(4) For demonstration projects involving waivers, budget estimates for the administrative and service costs must be prepared in accordance with the methodology specified in III.C.3.

Waiver-only applications also must contain estimates, prepared in accordance with the methodology specified in section III.C.3. of this notice, of the amount of program and administrative expenditures that will occur under the waivers and a comparison of these expenditures to those that are projected to occur in the programs in the absence of the waivers.

(5) Each application must include a statement that if the project is awarded, the awardee will furnish quarterly expenditures for administrative and program costs (and, for demonstration projects involving waivers, for service costs) for the project within the approved budget, in the format to be specified under special terms and conditions in the cooperative agreement or grant.

d. *Project Objectives and Expected Outcomes: (20 points).* How closely do

the project objectives fit those of the solicitation? What is the intrinsic merit of the research/study? The need for the project is discussed in terms of the importance of the issues to be addressed and the particular project proposed, as well as how the proposed project builds on and expands previous work in the area. The potential usefulness of the anticipated results and expected benefits to HCFA and other target groups. the application should discuss plans for utilization of the project's results.

**V. Other Consideration**

*A. Selection Criteria for Funding New Projects*

Although the recommendations of the technical review panels are a major factor in making the decision about an application, review scores and recommendations are not the only factors. The compatibility of applications to HCFA priorities as judged by HCFA Senior Staff, the availability of HCFA resources, and the comments of other HCFA and Department staff are considered in making funding decisions.

*B. Other Requirements*

1. While HCFA does not require review under Executive Order 12372, Intergovernmental Review of Federal Programs (published on July 16, 1982, 47 FR 30959), all applicants must, nevertheless, determine whether review by the appropriate State and area-wide clearinghouse is required.

2. Applications approved by HCFA for funding will contain a specific set of special terms and conditions that must be approved by the applicant as a condition of award. These include the following:

a. The HCFA Project Officer shall be notified prior to formal presentation of any report or statistical or analytical material based on information obtained through this cooperative agreement. Formal presentation includes papers, articles, professional publications, speeches, and testimony. In the course of this research, whenever the Principal Investigator determines that a significant new finding has been developed, he or she will immediately communicate it to the HCFA Project Officer before formal dissemination to the general public.

The final report of the project may not be released or published without permission from the HCFA Project Officer within the first 4 months following the receipt of the report by the HCFA Project Officer. The final report will contain a disclaimer that the opinions expressed are those of the awardee and do not necessarily reflect the opinions of HCFA.

b. At any phase of the project, including the project's conclusion, the awardee, if requested by HCFA, must submit the analytic data file(s), with appropriate documentation, representing the data developed/used in end-product analyses generated under the award. The analytic file(s) may include primary data collected, acquired or generated under the award and/or data furnished by HCFA. The content, format, documentation, and schedule for production of the data(s) will be agreed upon by the principal investigator and the HCFA Project Officer. The negotiated Format(s) could include both file(s) that would be limited to HCFA internal use and file(s) which HCFA could make available to the general public.

c. At any phase of the project, including at the project's conclusion, the awardee, if so requested by HCFA, must deliver to HCFA any materials, systems, or other items developed, refined or enhanced in the course of or under the award. The awardee agrees that HCFA shall have royalty-free nonexclusive and irrevocable rights to reproduce, publish or otherwise use and to authorize others to use the items for Federal Government purposes.

d. Additional specific project requirements may be included in special cooperative agreement or grant solicitations.

3. Final Reports

When a project is completed, the awardee must submit a final report. As a minimum, the report must contain the following:

a. Identification of the project director, principal investigator, cooperative agreement or grant number, awardee, and title of the project.

b. Acknowledgement of the support received from HCFA, and a disclaimer to the effect that the findings do not necessarily reflect the opinions or policies of HCFA.

c. An executive summary (one or two pages) that provides an overview of the project and highlights significant findings.

d. A description of the initial hypotheses, objectives, and scope of the project.

e. An explanation of the study methodology.

f. A discussion of significant findings and demonstration or research results (and the implications of these results, if any).

On a semi-annual basis during the course of the project, the awardee must provide a list and copies of all papers presented, and of all articles, reports, and other types of publications that result from the project, for inclusion in a subject bibliography system maintained by the ORD, HCFA. It is further requested that the awardee continue to provide the updated information for 2 years after the project's completion.

The ORD Author's Guidelines for Cooperative Agreements, Grants, and Contracts should be used in preparing the final report. This document is available on request from the ORD Publications Coordinator, Room I–C–9 Oak Meadows, 6325 Security Boulevard, Baltimore, MD, 21207, (301) 966–6585.

*C. Multiple Applications*

The applicant must indicate when the same or a similar application is submitted to another HHS agency; for example, the Social Security Administration, the Office of Human Development Services, or to one of the Public Health Service programs.

*D. Cooperative Agreement and Grant Policies*

Projects are funded through a competitive process and chosen from among the applications submitted in response to this notice. In the case of demonstration projects, all awardees are expected to share directly in the costs of the projects. Normally, this sharing must be at least 5 percent of the total project costs. For section 1115(a) projects, the amount that the single States agency will be expected to provide generally must be at least 5 percent of the special Federal project funds. This amount may not be in-kind contributions.

If, following review of a proposed activity, HCFA determines that a research or demonstration project presents a danger to the physical or mental well-being of a participant of the project, then Federal funds will not be made available for that project without the written, informed consent of each participant.

Other policies including responsibilities, awarding and payment procedures, special provisions, and assurances may be found in 45 CFR Parts 74 and 92.

It is a national policy to place a fair share of purchases with small, minority-owned, and woman-owned business firms (45 CFR Part 74, appendices G and H). DHHS is strongly committed to the objectives of this policy and encourages all recipients of its cooperative agreements and grants to take affirmative steps to ensure such

fairness. In particular, recipients should—

1. Place small, minority-owned, and woman-owned business firms on bidders' mailing lists;
2. Solicit these firms whenever they are potential sources of supplies, equipment, construction, or services;
3. Where feasible, divide total requirements into smaller needs, and set delivery schedules that will encourage participation by these firms; and
4. Use the assistance of the Monority Business Development Agency of the Department of Commerce, the Office of Small and Disadvantaged Business Utilization, DHHS, and similar available State and local governmental agencies.

**VI. Review of Applications**

An independent review will be conducted by a panel of not less than three experts. The panel will include experts from both DHHS and the private sector.

In some cases, there will be at least one independent review panel for each priority area. An ORD chairperson will coordinate the panel's review but will not vote. The chairperson will also prepare the panel's recommendation (summary statement) to the Director, ORD. The panel's recommendation will contain numerical ratings (based on the rating criteria specified in section IV), ranking of all applications, and a written assessment of each application. These will be summarized in a ranking and approval list and a matrix will be prepared for each application. Where the panel determines that an application is unrelated to the announced funding priorities, numerical ratings will not generally be assigned to the application, and the application will generally not be considered for funding.

Applicants may request in writing a copy of the summary statement on the review of their application after they have received from HCFA the letter announcing approval or disapproval. Summary statements will be made available subject to the applicable limitations of the Freedom of Information Act (5 U.S.C. 552), the Federal Advisory Committee Act (5 U.S.C. App. I.), the Privacy Act (5 U.S.C. 552a), and 45 CFR Parts 5, 5b, and 11.

**VII. Closing Date and Times**

We will process cooperative agreement and grant applications once a year and make award announcements approximately five to six months after the closing date. (While we have retained a separate waiver-only cycle, we reserve the right to defer consideration of applications received for this cycle until the next general solicitation for grant/cooperative agreement applications.) The following closing dates apply for cooperative agreement and grant applications:

April 3, 1989. (C.O.B.)

(Waiver-only and discretionary funds awards)

Monday, August 7, 1989 (C.O.B.):

Waiver-only applications

Applications mailed through the U.S. Postal Service or a commercial delivery service will be "on time" if they are received on or before the closing date, or sent on or before the closing date and received in time for submission to the independent review group (see section VI, Review of Applications). Applicants are cautioned to request a legible U.S. Postal Service postmark or to obtain a legibly dated receipt from the commercial carrier or the U.S. Postal Service. Privately metered postmarks will not be acceptable as proof of timely mailing.

Applications that do not meet the above criteria will be considered late applications. Those submitting late applications will be notified that the applications were not considered in the current competition.

(Sec. 1110, 1115(a), 1875, and 1881(f) of the Social Security Act (42 U.S.C. 1310, 1315(a), 1395ll, 1395rr(f); section 222(a) of the Social Security Amendments of 1972, as amended (42 U.S.C. 1395b–1 (note)); section 402 of the Social Security Amendments of 1967, as amended (42 U.S.C. 1395b–1); section 603 of the Social Security Amendments of 1983 (Pub. L. 98–21); section 605(b) of the Social Security Amendments of 1983 (42 U.S.C. 1395x(v)(1)(E)(note))

(Catalog of Federal Domestic Assistance Programs No. 13,766 Health Financing Research, Demonstrations and Experiments)

Dated: January 25, 1989.

**William L. Roper,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 89–2243 Filed 1–31–89; 8:45 am]

BILLING CODE 4120–01–M

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## National Institutes of Health

### National Cancer Institute; Meeting of the Board of Scientific Counselors, Division of Cancer Biology and Diagnosis

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Biology and Diagnosis, National Cancer Institute, February 21, 1989, Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814.

The entire meeting will be open to the public on February 21 from 8 p.m. to adjournment for discussion and review of proposed upgrade of the supercomputer in the Laboratory of Mathematical Biology. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summary minutes of the meeting and roster of committee members.

Dr. Ihor J. Masnyk, Deputy Director, Division of Cancer Biology and Diagnosis, National Cancer Institute, Building 31, Room 3A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496–3251) will provide substantive program information.

Dated: January 18, 1989.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 89–2258 Filed 1–31–89; 8:45 am]

BILLING CODE 4140–01–M

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### National Center for Nursing Research; Meeting of the National Center for Nursing Research: Steering Committee for the National Nursing Research Agenda (Subcommittee of the National Advisory Council for Nursing Research)

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Steering Committee for the National Nursing Research Agenda, National Advisory Council for Nursing Research, National Center for Nursing Research, February 16, 1989, from 7:30 p.m. to 9:30 p.m. at the Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814. The specific meeting room will be noted on the meeting announcement board in the hotel lobby.

The meeting will be open to the public. The Agenda to be discussed will include an update on the National Nursing Research Agenda.

Attendance by the public will be limited to space available.

Dr. Doris Bloch, Executive Secretary, Steering Committee of the National Nursing Research Agenda, National Center for Nursing Research, National Institutes of Health, Building 31, Room B1C02, Bethesda, Maryland 20892, (301) 496–0207, will provide a summary of the meeting, roster of steering committee members, and substantive program information upon request.

Dated: January 18, 1989.
Betty J. Beveridge,
*Committee Management Officer, NIH.*
[FR Doc. 89-2259 Filed 1-31-89; 8:45 am]
BILLING CODE 4140-01-M

## Public Health Service

### Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 1654, January 11, 1974, as amended most recently by 52 FR 26187, July 13, 1987), as amended to reflect the reorganization of the National Institute on Drug Abuse, ADAMHA.

The reorganization accomplishes the following: (1) Modifies the functional statement of the immediate Office of the Director to include science policy, support for the National Advisory Council on Drug Abuse, minority concerns, and AIDS coordination, planning, and oversight functions transferred from the Office of Science and Division of Clinical Research respectively; and to transfer the workplace initiatives, community support systems and financing drug abuse services from the Office of the Director; (2) establishes the Office of Policy and External Affairs to perform the functions of external relations with professional associations, the public, the medical and scientific community, legislative groups, and international activities transferred from the immediate Office of the Director and Office of Planning and Resource Management respectively; and (3) retitles the Office of Science to the Office of Extramural Program Review and modifies the functional statement to transfer the science policy functions to the immediate Office of the Director; (4) establishes the Division of Applied Research to perform the workplace initiative, community support systems, and financing of drug abuse services functions transferred from the immediate Office of the Director; (5) modifies the functional statement of the Division of Clinical Research to transfer the prevention research functions to the Division of Epidemiology and Prevention Research; (6) modifies the functional statement of the Office of Planning and Resources Management to reflect the transfer of the legislation function to the Office of Policy and External Affairs and to include the information resources management functions of applications programming, operations, and computer training transferred from the Division of Epidemiology and Statistical Analysis; (7) retitles the Division of Epidemiology and Statistical Analysis to the Division of Epidemiology and Prevention Research and modifies the functional statement to transfer the applications programming, operations, and computer training functions to the Office of Planning and Resources Management and to include the prevention research activities being transferred from the Division of Clinical Research.

*Under Section HMH, Organization and Functions, is amended as follows:*

*Under the heading Office of the Director (HMH1), delete the statement and substitute the following:* (1) Provides leadership, direction, and policy in the development of Institute goals, priorities, policies and programs (including science advisory and National Advisory Council on Drug Abuse functions); (2) conducts and coordinates Institutes interagency activities; (3) provides support to the Institute in equal employment opportunity; (4) provides controlled correspondence services for the Institute and (5) plans, coordinates, and monitors all AIDS activities.

*Under the heading Office of Science (HMH12)* delete the title and statement and substitute the following:

*Office of Extramural Program Review (HMH12)* (1) Provides advice and guidance to the Director regarding the Institute's peer and objective review process; (2) provides scientific analyses of the Institute's extramural research program, assessing the breadth and scope of the Institute's research activities; (3) administers the peer and objective review of all extramural grant applications; (4) administers the concept and peer review of all contract proposals; (5) administers the program of scientific and technical reviews and publications describing the scientific discoveries and state-of-the-art reports on drug abuse research; (6) coordinates and assures the development of program policies and rules relating to the Institute's extramural activities including Institute responsibility for inquiries and investigations into misconduct in science; (7) coordinates Institutes activities under the Privacy Act including supervision of issuance of Confidentiality Certificates; and (8) administers Institute committee management function under the National Advisory Council Act.

*Add the functional statement for the Office of Policy and External Affairs (HMH14)* (1) Provides leadership for the conduct of the Institute's intenational program; (2) conducts Institute activities for international and domestic scheduling for psychoactive drugs; (3) collaborates with other Federal agencies for physician prescribing practices; (4) prepares briefing materials and testimony for Congressional hearings, and serves as liaison with Congress, White House and other significant Federal and governmental agencies; (5) prepares reports, develops responses, and provides information on legislative efforts, responds to Congressional inquiries, and analyzes legislative proposals for the Director; (6) advises the Director on national drug abuse policy issues, develops and coordinates policy and position papers relevant to the Institute's mission; (7) conducts relevant public affairs activities, writes scientific articles, deals with press, media and related efforts, collaborates with a variety of agencies public and private to further knowledge and awareness of the Institute, its programs and findings; and (8) provides liaison with professional groups and private organizations, coordinates technical assistance to other governmental agencies, and coordinates analytic studies requested by other governmental agencies.

*Under the heading Office of Planning and Resource Management (HMH19)* delete the functional statement and substitute the following:

*Office of Planning and Resource Management (HMH19)* (1) Provides all administrative and management support services to the Institute in such areas as: (1) Financial planning, analysis, and management, (b) administrative services, (c) personnel management, (d) information resources management, (e) grants and contracts management, operational planning, and (f) management analysis; (2) develops, implements, and monitors administrative management policies, procedures, and guidelines; (3) develops and monitors the implementation of program policies and plans, and evaluates progress in meeting established Institute objectives; (4) develops data requirements pertinent to short- and long-range program planning and develops Institute's program evaluation policy; (5) administers the Institute's performance appraisal system for all Institute employees; and (6) responsible for all management and administrative policy studies, reports, analyses, and program objectives.

*Add the following functional statement for the Division of Applied Research (HMHE)* (1) Conducts research and evaluation studies on drug abuse in the workplace, with emphasis upon determining the nature, extent, consequences, and remediation of drug abuse within the workplace, and the science and technology of drug detection methodologies; (2) develops and disseminates research results and scientific and technical materials, guidelines, and related activities for the public and private sectors including model programs and policies for Drug Free Workplace including drug testing and Employee Assistance Programs components; (3) provides oversight to all Federal agency Drug Free Workplace activities, manages the national laboratory certification program, provides technical assistance to public and private entities on drug abuse in the workplace; (4) develops and oversees a program of research and demonstration projects for the workplace and communities, including intervention approaches, outreach activities, training, educational materials, information dissemination, resource identification, technical assistance, innovative techniques and strategies to reduce drug abuse and related disorders (AIDS) in the workplace and at the community level; (5) coordinates and conducts research, demonstration, and evaluation studies on the organization, structure, and financing of drug treatment programs and delivery systems, and on the cost benefits and cost effectiveness of drug abuse treatment; (6) coordinates the development and implementation of data strategies for applied research management and related policy development; and (7) publishes and disseminates applied research findings and provides information on financing and coverage policies for drug treatment.

*Under the heading Division of Clinical Research (HMHC)* delete items (1) and (3), and add items (1) and (3) as follows: (1) Plans, stimulates, develops, and supports a broad extramural program of basic and applied research focusing on drug abuse treatment; and (3) supports clinical and other applied research designed to assess the efficacy of new and existing treatment techniques to meet the needs of both active and prospective drug abuse treatment clients.

*Add the following functional statement for the Division of Epidemiology and Prevention Research (HMHD):* (1) Plans, conducts, and supports epidemiological field studies, population based research and surveys on nature and extent of drug abuse, consequences of drug abuse, and monitors emerging trends in drug abuse; (2) plans, stimulates, develops, and supports a broad based epidemiology research program which includes field studies, surveys, and other population based studies; (3) plans, stimulates, develops, and supports a broad based research program on prevention, early intervention, and evaluation; (4) conducts ongoing surveys and develops analytic and assessment methodologies for surveillance and prevention research areas; (5) works cooperatively with States, federal, and other governmental agencies and private organizations to encourage sharing of drug abuse epidemiology information and prevention models; and (6) provides consultation and technical assistance, in the areas of epidemiology field studies, surveys, and prevention research issues.

Date: January 24, 1989.

**Robert E. Windom,**

*Assistant Secretary for Health.*

[FR Doc. 89-2317 Filed 1-31-89; 8:45 am]

BILLING CODE 4160-20-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[WY-010-09-4320-10]

### Worland District Grazing Advisory Board; Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of meeting of the Worland District Grazing Advisory Board.

**SUMMARY:** This notice sets forth the schedule and agenda of a meeting of the Worland District Grazing Advisory Board.

**DATE:** March 23, 1989, 10:00 a.m..

**ADDRESS:** Bureau of Land Management, Conference Room, 101 South 23rd Street, Worland, Wyoming.

**FOR FURTHER INFORMATION CONTACT:** Darrell Barnes, District Manager, Worland District Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401, (307) 347-9871.

**SUPPLEMENTARY INFORMATION:** The agenda for the meeting will include:

1. Discussion of the Grazing Advisory Board Charter
2. Election of a Chairperson and a Vice Chairperson
3. Update on range improvement project planning.
4. Review of FY 1988 range improvement projects.
5. Review of current Allotment Management Plan development.
6. Discussion and recommendations for proposed FY 1990 and 1991 range improvement projects.
7. Review of District policy for coordination with Grazing Permittees/Lessees.
8. Range Program Update for resource areas.
9. Opportunity for the public to present information or make comments.

The meeting is open to the public, interested pesons may make oral statements to the Board during the public comment period, or file written statement's for the Board's consideration. Anyone wishing to make an oral statement should notify the District Manager, at the above address by March 20, 1989.

**Darrell Barns,**

*District Manager.*

January 19, 1989.

[FR Doc. 89-2262 Filed 1-31-89; 8:45 am]

BILLING CODE 4310-22-M

## National Park Service

### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 21, 1989. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by February 16, 1989.

**Carol D. Shull,**

*Chief of Registration, National Register.*

**COLORADO**

**Pueblo County**

Sacred Heart Church, 1025 N. Grand Ave., Pueblo, 89000037
Sacred Heart Orphanage, 2316 Sprague St., Pueblo, 89000038

**CONNECTICUT**

**Hartford County**

Engine Company 1 Fire Station (Firehouses of Hartford MPS), 197 Main St. and 36 John St., Hartford, 89000025
Engine Company 15 Fire Station (Firehouses of Hartford MPS), 8 Fairfield Ave., Hartford, 89000023
Engine Company 16 Fire Station (Firehouses of Hartford MPS), 636 Blue Hills Ave., Hartford, 89000021
Engine Company 2 Fire Station (Firehouses of Hartford MPS), 1515 Main Sts., Hartford, 89000022

Engine Company 6 Fire Station (Firehouses of Hartford MPS), 34 Huyshope Ave., Hartford, 89000020
Engine Company 9 Fire Station (Firehouses of Hartford MPS), 655 New Britain Ave., Hartford, 89000024

FLORIDA

Washington County

South Third Street Historic District, S. Third St. between Wells Ave. and South Blvd., Chipley, 89000045

GEORGIA

Greene County

Union Manufacturing Company, 500 Sibley Ave., Union Point, 89000026

KENTUCKY

Mercer County

US Post Office—Harrodsburg (Mercer County MRA), 105 N. Main St., Harrodsburg, 89000019

LOUISIANA

Madison Parish

Madison Parish Courthouse, Jct. of US 80 and US 65, Tallulah, 89000044

MASSACHUSETTS

Bristol County

Donaghy, Thomas, School, 68 South St., New Bedford, 89000041

Franklin County

Orange Center Historic District, Roughly bounded by N. Main, E. Main, E. River, S. Main, W. River, and W. Main Sts., Orange, 89000057

Hampden County

Belle and Franklin Streets Historic District, 77–103 Belle St. and 240–298 Franklin St., Springfield, 89000039

Plymouth County

Franklin Block, 1102–1110 Main St., Brockton, 89000042

Worcester County

Prescott Town House, MA 32, Petersham, 89000043

MONTANA

Hill County

Fort Assinniboine, County Rd. 82nd Ave. West, .5 mi. of SE of US 87, Havre vicinity, 89000040

NEVADA

Churchill County

Harmon School, Jct. Kirn Rd. and Harmon Rd., Fallon vicinity, 89000055

NEW YORK

Delaware County

Pakataken Artists Colony Historic District, NY 28 at jct. with Dry Brook Rd., Arkville, 89000046

NORTH CAROLINA

Henderson County

Aloah Hotel (Hendersonville MPS), 201 3rd Ave. West, Hendersonville, 89000036
Cedars, The (Hendersonville MPS), 219 7th Ave. West, Hendersonville, 89000033
Chewning House (Hendersonville MPS), 755 N Main St., Hendersonville, 89000034
Clarke-Hobbs-Davidson House (Hendersonville MPS), 229 5th Ave. West, Hendersonville, 89000031
Kings—Waldrop House (Hendersonville MPS), 103 S. Washington St., Hendersonville, 89000030
Main Street Historic District (Hendersonville MPS), Main St. between Sixth Ave. East and First Ave. East, Hendersonville, 89000028
Seventh Avenue Depot District (Hendersonville MPS), Seventh Ave. between Grove and Ash, Hendersonville, 89000029
Smith-Williams-Durham Boarding House (Hendersonville MPS), 247 5th Ave. West, Hendersonville, 89000032
Waverly, The (Hendersonville MPS), 783 N. Main St., Hendersonville, 89000035

OREGON

Baker County

St. Elizabeth Hospital (Old), 2365 Fourth St., Baker, 89000047

Crook County

Elliott, Marion Reed, House, 305 W. First St., Prineville, 89000049

Gilliam County

Barker, S. B., Building, 333 S. Main St., Condon, 89000053

Lake County

Watson, John N. and Cornelia, House, 5 M. H St., Lakeview, 89000051

Marion County

St. Pierre, Edward W., House, 2425 Eola Dr., Salem vicinity, 89000050

Multnomah County

Gaston, Joseph, House, 1960 S.W. Sixteenth Ave., Portland, 89000052

Polk County

Independence Historic District, Roughly bounded by Butler, Main, G, and Ninth Sts., Independence, 89000048
Sherman, Eleanor, House, 175 N. Craven St., Monmouth, 89000054

VERMONT

Windsor County

Sumner, David, House, US 5, Hartland, 89000027

WISCONSIN

Kewaunee County

Saint Lawrence Catholic Church, Jct. of WI 163 and County Hwy. J, Stangelville, 89000058

[FR Doc. 89–2320 Filed 1–31–89; 8:45 am]

BILLING CODE 4310–70–M

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–279]**

### Certain Plastic Light Duty Screw Anchors; Issuance of General Exclusion Order

**AGENCY:** U.S International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has issued a general exclusion order under 19 U.S.C. 1337(d) to prevent the unauthorized importation into the United States of certain plastic light duty screw anchors, or packaging and literature for such screw anchors, that infringe claim 1 of U.S. Letters Patent 3,651,734 (the '734 patent) or U.S. Trademark Registration No. 1,248,999 (the '999 trademark).

**ADDRESSES:** Copies of the Commission's general exclusion order, the Commission Opinion on remedy, the public interest, and bonding, and all other nonconfidential documents on the record of the above-captioned 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, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–252–1000.

**FOR FURTHER INFORMATION CONTACT:** Mitchell W. Dale, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–252–1087. Hearing-impaired individuals are advised that information on the aforesaid general exclusion order and the subject investigation can be obtained by contacting the Commission's TDD terminal on 202–252–1805.

**SUPPLEMENTARY INFORMATION:** As a result of the subject investigation, the Commission determined that the unauthorized U.S. importation and sale of the subject plastic light duty screw anchors violates section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). *See* FR 2298 (Jan. 27, 1988); 53 FR 20190 (June 2, 1988); 53 FR 40138 (Oct. 13, 1988); 53 FR 51328 (Dec. 21, 1988). The Commission accordingly solicited written submissions from the parties to the investigation, other Federal agencies, and interested members of the public on the issues of remedy, the public interest, and bonding. *See* 53 FR 51328 (Dec. 21, 1988). The only submissions the Commission received were those filed by the parties. After considering the

parties' submissions and examining the record developed during the investigation, the Commission determined that the appropriate remedy for the violation of section 337 found in this investigation consists of a general exclusion order prohibiting the importation of plastic light duty screw anchors which infringe claim 1 of the '734 patent, except where such importation is licensed by the patent owner, and the importation of packaging (whether or not such packaging contains plastic light duty screw anchors) and literature containing depictions which infringe the '999 trademark, except where such importation is licensed by the trademark owner. The Commission also determined that the public interest considerations listed in subsection (d) of section 337 do not preclude issuance of a general exclusion order and that while the order is under review by the President pursuant to subsection (j) of the Tariff Act of 1930 as amended by the Omnibus Trade and Competitiveness Act of 1988 (102 Stat. 1213 (Aug. 23, 1988)), the excluded articles will be entitled to enter the United States under a bond in the amount of 365 percent of the articles' entered value.

The authority for the aforesaid Commission determinations and the general exclusion order is contained in subsection (d) of the Tariff Act of 1930 (19 U.S.C. 1337(d)), and in subsection (j) of section 337 of the Tariff Act of 1930, as amended by the Omnibus Trade and Competitiveness Act of 1988 (102 Stat. 1213 (Aug. 23, 1988)), and in interim § 210.58 of the Commission's Interim Rules of Practice and Procedure (53 FR 33072, Aug. 29, 1988).

By order of the Commission.

Issued: January 27, 1989.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 89-2354 Filed 1-31-89; 8:45 am]

BILLING CODE 7020-02-M

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**[Investigations Nos. 701-TA-292 (Final) and 731-TA-400 and 402-404 (Final)]**

## Thermostatically Controlled Appliance Plugs And Internal Probe Thermostats Therefor From Canada, Japan, Malaysia, and Taiwan

### Determinations

On the basis of the record [1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) and section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Canada, Japan, Malaysia, and Taiwan of thermostatically controlled appliance plugs and/or internal probe thermostats provided for in subheadings 9032.10.00, 9032.20.00, 9032.89.60, 9032.90.60, and 9033.00.00 of the Harmonized Tariff Schedule of the United States (these products were previously provided for in item 711.78 of the Tariff Schedules of the United States), that have been found by the Department of Commerce to be subsidized and sold in the United States at less than fair value (LTFV).

### Background

The Commission instituted these investigations effective July 22, 1988, and September 28, 1988, following preliminary determinations by the Department of Commerce that imports of thermostatically controlled appliance plugs and internal probe thermostats from Taiwan were being subsidized within the meaning of section 701 of the act (19 U.S.C. 1671) and that such products from Canada, Japan, Malaysia, and Taiwan were being sold at LTFV within the meaning of section 731 of the act (19 U.S.C. 1673). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the **Federal Register** of August 17, 1988 (53 FR 31115) and of October 19, 1988 (53 FR 40973). The hearing was held in Washington, DC, on December 15, 1988, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on January 25, 1989. The views of the Commission are contained in USITC Publication 2152 (January 1989), entitled "Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor from Canada, Japan, Malaysia and Taiwan: Determinations of the Commission in Investigations Nos. 701-TA-292 (Final) and 731-TA-400 and 402-404 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Kenneth R. Mason,

*Secretary.*

Issued: January 27, 1989.

[FR Doc. 89-2355 Filed 1-31-89; 8:45 am]

BILLING CODE 7020-02-M

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**[Investigation No. TA-131(b)-14]**

## Probable Economic Effect on U.S. Industries And Consumers of Modification of U.S. Tariffs And Modification or Removal of Certain U.S. Nontariff Measures

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of receipt of list of articles from the U.S. Trade Representative (USTR) which may be considered for U.S. duty modification; clarification of advice requested by the USTR on certain U.S. imports from LDDC's and CBERA countries; cancellation of the Commission's public hearings in New Orleans, LA and Miami, FL and change in location of the hearing in New York City.

**SUMMARY:** In his letter to the Commission of January 11, 1989, the USTR provided notification of articles which may be considered in international trade negotiations and for which the Commission would provide the advice to the President requested in the USTR's letter to the Commission of December 22, 1988. The USTR published notice of such articles in the **Federal Register** of January 17, 1989 (54 FR 1810). As noted in the USTR notice, the dutiable articles listed in annex A, for which the existing rate of duty is not more than 5 percent ad valorem (or ad valorem equivalent), may be considered for continuance, reduction, or elimination of existing United States duties, whereas all other dutiable articles may be considered for continuance or reduction of existing duties. Upon request, a copy of both USTR letters, including enclosures thereto, and an annotated Commission list of the dutiable articles of 5 percent or less included in annex A (showing for each of the HTS subheadings the applicable column one ad valorem rates of duty, or its ad valorem equivalent, and a brief product description) may be obtained from the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436 (202-252-1000).

The original notice of the Commission's institution of investigation and scheduling of public hearings was

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

published in the **Federal Register** on December 30, 1988 (53 FR 53077).

The Commission's original notice indicated that the Commission would not provide advice with respect to the effect of providing immediate duty-free treatment for textiles and apparel of LDDC's as a group and CBERA countries as a group. The Commission will provide such advice.

The public hearings scheduled for New Orleans, LA on February 1, 1989, and Miami, FL on February 3, 1989, have been cancelled. Also, the location of the public hearing to be held Monday, March 13, 1989, in New York, NY, has been moved to One World Trade Center, 106th Floor, New York, NY 10048.

In his letter of December 22, 1988, the USTR indicated that he would request advice on the modification or removal of certain U.S. nontariff measures (NTM's) which have been requested informally by other governments in the context of work in the Uruguay Round Negotiating Group on Nontariff Measures. The USTR indicated that he would provide a list of such measures to the Commission inb the near future. In his letter of January 11, 1989, the USTR stated that the list of NTM's will require further evolution in the negotiations and that USTR officials will be in contact with the Commission at a later date concerning these NTM's. Upon notification to the Commission of the list of NTM's, the Commission will issue in the **Federal Register** an appropriate notice of such action.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

Issued: January 26, 1989.

[FR Doc. 89-2267 Filed 1-31-89; 8:45 am]

BILLING CODE 7020-02-M

## INTERSTATE COMMERCE COMMISSION

**[Docket No. AB-290 (Sub-No. 49X)]**

### Central of Georgia Railroad Co.; Abandonment Exemption of Rail Line Between Hurtsboro and Troy, AL

**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 abandonment by Central of Georgia Railroad Company of 45.96 miles of rail line, between Hurtsboro and Troy, AL, and additionally, 4.53 miles of side track, subject to standard labor protective conditions.

**DATES:** Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 8, 1989. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by February 13, 1989 petitions to stay must be filed by February 21, 1989, and petitions for reconsideration must be filed by March 3, 1989. Requests for a public use condition must be filed by February 13, 1989.

**ADDRESSES:** Send pleadings, referring to Docket No. AB-290 (Sub-No. 49X), to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: Richard W. Parker, Norfolk Southern Corporation, One Commercial Place, Norfolk, VA 23510-2191.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 275-7245.

[TDD for hearing impaired: (202) 275-1721]

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275-1721.]

Decided: January 24, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

**Noreta R. McGee,**

*Secretary.*

[FR Doc. 89-2283 Filed 1-31-89; 8:45 am]

BILLING CODE 7035-01-M

**[Finance Docket No. 31321]**

### Pocono Northeast Railway, Inc.;—Acquisition And Operation of Certain Property of Air Products and Chemicals, Inc.

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Interstate Commerce Commission exempts under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the acquisition and operation by Pocono Northeast Railway, Inc. of a 0.6-mile line of railroad between milepost 0.0 and milepost 0.6 in Wilkes Barre, PA, subject to standard labor protective conditions.

**DATES:** This exemption will be effective on March 3, 1989. Petitions to stay must be filed by February 13, 1989, and petitions for reconsideration must be filed by February 21, 1989.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 31321 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: R. Lawrence McCaffery, Jr., Weiner, McCaffery, Broadsky & Kaplan, P.C., 1350 New York Avenue, NW., Suite 800, Washington, DC 20005-4797.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 275-7245.

[TDD for hearing impaired: (202) 275-1731]

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275-1721].

Decided: January 23, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

**Noreta R. McGee,**

*Secretary.*

[FR Doc. 89-2282 Filed 1-31-89; 8:45 am]

BILLING CODE 7025-01-M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. 88-40]**

### Lou's Pharmacy, Philadelphia, PA; Hearing

Notice is hereby given that on January 13, 1988, the Drug Enforcement Administration, Department of Justice, issued to Lou's Pharmacy, an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AL3041706, and deny any pending applications for renewal.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration,

[1] *See Exempt. of Rail Line Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164, (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

notice is hereby given that a hearing in this matter will be held on Tuesday, February 7, 1989, commencing at 10:00 a.m., at the Federal Mine Safety and Health Review Commission, 1730 K Street, NW., 6th Floor Courtroom, Washington, DC.

Dated: January 26, 1989.

**John C. Lawn,**

*Administrator, Drug Enforcement Administration.*

[FR Doc. 89-2302 Filed 1-31-89; 8:45 am]

BILLING CODE 4410-09-M

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[Docket No. 87-58]

### Donald Morton Stevens, M.D., Alexandria, KY; Hearing

Notice is hereby given that on June 15, 1987, the Drug Enforcement Administration, Department of Justice, issued to Donald Morton Stevens, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AS3014660, and deny any pending applications for renewal.

Thirty days having elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on Tuesday, February 7, 1989, commencing at 10:00 a.m., at the Federal Energy Regulatory Commission, Courtroom E, Second Floor, 825 N. Capitol Street, NE, Washington, DC.

Dated: January 26, 1989.

**John C. Lawn,**

*Administrator, Drug Enforcement Administration.*

[FR Doc. 89-2303 Filed 1-31-89; 8:45 am]

BILLING CODE 4410-09-M

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## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Meetings; Humanities Panel

**AGENCY:** National Endowment for the Humanities.

**ACTION:** Notice of meetings.

**SUMMARY:** Pursuant to the provisions of the Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

**FOR FURTHER INFORMATION:** Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322.

**SUPPLEMENTARY INFORMATION:** The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

(1) *Date:* February 17, 1989.

*Time:* 8:30 a.m. to 5:00 p.m.

*Room:* 415.

*Program:* This meeting will review applications submitted to the Access and Tools category in the fields of Linguistics and Lexicography, submitted to the Division of Research Programs, for projects beginning after July 1, 1989.

(2) *Date:* February 23, 1989.

*Time:* 8:30 a.m. to 5:00 p.m.

*Room:* 315.

*Program:* This meeting will review applications for Elementary and Secondary Education, submitted to the Division of Education Programs, for projects beginning after July 1, 1989.

(3) *Date:* February 27, 1989.

*Time:* 8:30 a.m. to 5:00 p.m.

*Room:* 315.

*Program:* This meeting will review Interpretive Research/Projects applications for U.S. History and Political Science, submitted to the Division of Research Programs, for projects beginning after July 1, 1989.

(4) *Date:* February 28, 1989.

*Time:* 8:30 a.m. to 5:00 p.m.

*Room:* 316.

*Program:* This meeting will review applications for Elementary and Secondary Education, submitted to the Division of Education Programs, for projects beginning after July 1, 1989.

**Stephen J. McCleary,**

*Advisory Committee Management Officer.*

[FR Doc. 89-2319 Filed 1-31-89; 8:45 am]

BILLING CODE 7536-01-M

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### Meeting; Literature Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Audience Development Section) to the National Council on the Arts will be held on February 16-17, 1989 from 9:00 a.m.-5:30 p.m., and February 18, 1989 from 10:00 a.m.-12:00 p.m. in Room M-14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on February 18, 1989 from 10:00 a.m.-12:00 p.m. The topics for discussion will be guidelines and policy issues.

The remaining sessions of this meeting on February 16-17, 1989 from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

January 27, 1989.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89-2322 Filed 1-31-89; 8:45 am]

BILLING CODE 7537-01-M

### Meeting; Visual Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (GSA Art and Architecture Section) will be held on February 16, 1989, from 10:00 a.m.–12:00 noon at the Federal Building, 300 N. Los Angeles, Room 3134, Los Angeles, CA 90012.

This meeting will be open to the public on a space available basis. The topics for discussion will be artists proposals for the Los Angeles Federal Building Project.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682–5532, TTY 202–682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

January 27, 1989.

**Yvonne M. Sabine,**

*Director, Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 89–2323 Filed 1–31–89; 8:45 am]

BILLING CODE 7537–01–M

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards Subcommittee on Safety and Research Program; Meeting

The ACRS Subcommittee on Safety Research Program will hold a meeting on February 8, 1989, Room P–114, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Wednesday, February 8, 1989—8:30 a.m. until 1:00 p.m.*

The Subcommittee will discuss the ongoing and proposed NRC Safety Research Program and budget.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS Staff member, Mr. Sam Duraiswamy (telephone 301/492–9522) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: January 25, 1989.

**Morton W. Libarkin,**

*Assistant Executive Director for Project Review.*

[FR Doc. 89–2299 Filed 1–31–89; 8:45 am]

BILLING CODE 7590–01–M

### Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

#### I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 30, 1988 through January 12, 1989. The last biweekly notice was published on January 11, 1989 (54 FR 1018).

#### 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.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 3, 1989, 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, the Gelman Building, 2120 L 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 1-(800) 325-6000 (in Missouri 1-(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, 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, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

**Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina**

*Date of application for amendments:* July 11, 1988

*Description of amendment request:* The proposed changes revise the titles listed in the index section of the Technical Specifications to be consistent with the titles shown in the text. The changes also revise two titles provided in the text for consistency with Technical Specifications between the two units. All changes are considered administrative changes and are described in Enclosure 4 of the request letter. *Basis for proposed no significant hazard consideration determination:* The Commission has provided standards for determining whether a no significant hazard consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license 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 has reviewed the proposed changes and has determined the requested amendment does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment is purely administrative in nature and does not change the functions or design of any equipment. Its sole purpose is to provide consistency between the text and the indices of the

Technical Specifications. Therefore, it does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not change the design or function of any equipment and has no impact on any accident analyses. The changes are being made for consistency only and can clearly be classified as administrative. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not impact any safety analyses because it is purely administrative in nature. No modification or change to equipment is involved. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's determination and is in agreement with them. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

*Local Public Document Room location:* University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

*Attorney for licensee:* R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

*NRC Project Director:* Elinor G. Adensam

**Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina**

*Date of application for amendments:* August 23, 1988

*Description of amendments:* The proposed amendment would revise Technical Specification Table 3.3.5.7-1 to change the type of fire detection instruments required for the diesel generator building.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license 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.

Carolina Power & Light Company (CP&L or the licensee) provided the following analysis to support the finding that the proposed changes do not involve a significant hazards consideration:

1. The fire detection system is designed for detection and mitigation of accidents involving fires but does not affect the probability of those accidents. The proposed change involves the use of a more effective fire detection instrument arrangement based on the fire hazards associated with the diesel generator cells. The new heat and flame detectors will provide an enhanced means of detecting the major fire hazard (a fuel oil fire) expected to result in significant damage to the diesel generators. This enhancement will provide equivalent limitations on the consequences of this type of fire. Based on this reasoning, CP&L has determined that the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The accidents analyzed in Chapter 15 of the Updated FSAR are not affected by the proposed change in detector types. The change in detectors will not affect the fire detection system's ability to perform its intended function. The new flame and heat detectors are more suited for the fire hazard involved than the present smoke detectors. Since the fire detection system, including the detection instruments, affect [SIC] only the detection and subsequent mitigation of a fire, CP&L has determined that the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change provides an enhanced capability of detecting a severe fuel oil fire in the diesel generator cells. This type of fire hazard was evaluated to have the greatest impact on the continued availability of the diesel generators. The new flame and heat detectors are more suited for the rapid detection of this type of fire. The present smoke detectors are better suited for detecting a fire with a long incipient or smoldering stage, which generally involves burning of ordinary combustible materials. It has been determined that this type of fire will not likely result in damage to safety related equipment located in the diesel generator cells. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

Based on the above, the licensee has determined that the proposed amendment does not involve a significant hazards consideration. The NRC staff has reviewed the licensee's analysis and agrees with the determination. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

*Local Public Document Room location:* University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

*Attorney for licensee:* R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

*NRC Project Director:* Elinor G. Adensam

**Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina**

*Date of amendment request:* November 30, 1988

*Description of amendment request:* The request would amend the Technical Specifications (TS) to increase the minimum inventory of diesel generator fuel at the H. B. Robinson Steam Electric Plant, Unit No. 2 (HBR-2), site. The existing diesel fuel storage capacity is sufficient to meet the requirements of the proposed TS amendment. The proposed TS would correct an inconsistency between the TS and the HBR-2 updated Final Safety Analysis Report.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license 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.

Carolina Power & Light Company (CP&L) has reviewed the Technical Specifications change request in accordance with the standards set forth in 10 CFR 50.92 and concluded that this change does not constitute a significant hazards consideration based upon the following:

1. Operation of the facility, in accordance with the proposed amendment, would not involve a significant increase in the probability or consequences of an accident previously analyzed because increasing the required fuel oil inventory increases the length of time the diesels can function before resupply is necessary. The change to administratively maintain an increased minimum fuel oil inventory in the Unit 1 tank does not impact the combustible loading for the Unit 2 Fire Hazard Analysis. Since no change in plant system's configuration is required to achieve the inventory increases, nor does any fuel oil storage system contribute to any previously analyzed accident sequence, the proposed change cannot increase the probability or

consequences of previously analyzed accidents.

2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated because this change places administrative controls on fuel oil inventory. No unanalyzed accidents can result from this change. No change in plant system's configuration is required, therefore, no new accident or different kind of accident than previously evaluated can be introduced.

3. Operation of the facility, in accordance with the proposed amendment, would not involve a significant reduction in a margin of safety because this increase in minimum diesel fuel inventory improves margins of safety by assuring seven days operation of one diesel at its rated design capacity. Additional fuel oil inventory adds to the margin of safety. This results from providing sufficient fuel oil to allow the diesels to be operated to their rated design capacity without limiting operation to only minimum required safety features.

The staff has reviewed CP&L's evaluation and agrees with its analysis. Accordingly, the Commission proposes to determine that the proposed change 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:* R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551 Raleigh, North Carolina 27602

*NRC Project Director:* Elinor G. Adensam

**Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units Nos. 1 and 2, LaSalle, County, Illinois**

*Date of application for amendments:* October 5, 1988

*Description of amendments request:* This amendment would delete Figure 6.1-1, "Corporate Organization," and Figure 6.1-2, "Station Organization," from the Technical Specifications (TS) and would revise Section 6 to require inclusion of these organization charts in the QA Topical Report. However, the NRC will continue to be notified of licensee organization changes through other regulatory controls. In accordance with 10 CFR 50.34(b)(6)(i), the applicant's organizational structure is required to be included in the Final Safety Analysis Report (FSAR). Chapter 13 of the FSAR provides a description of the station organization and detailed organization chart. Updates to the FSAR are required by 10 CFR 50.71(e) to be submitted annually to the NRC. Even though Figures 6.1-1 and 6.1-2 would be deleted from TS, Section 6 of the TS would be revised to require inclusion of these organization charts in the CECo QA Topical. Whereupon, Appendix B to 10 CFR Part 50, and 10 CFR 50.4(b)(7), will govern any changes made to the organization as it is described in the Quality Assurance (QA) Program. Finally, it is CECo's normal practice to inform the NRC of organization changes affecting their nuclear facilities prior to implementation.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. 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) involve a significant increase in the probability of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. CECo evaluated the proposed TS changes and determined, and the NRC staff agrees that:

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because deletion of the organization charts from the TS does not affect plant operation, nor does it involve any physical modification of the plant. Furthermore, the aforementioned administrative and regulatory controls remain in force to ensure that organizational changes are reviewed by the NRC.

(2) The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed change is administrative in nature; and does not physically alter any systems or components, or the way they are operated.

(3) The proposed amendment does not involve a significant reduction in a margin of safety because CECo through its Quality Assurance programs, and its commitment to maintain only qualified personnel in positions of responsibility, and other required controls, assures that safety-related operations will be performed at a high level of competence. Furthermore, this amendment does not change any setpoints or operating parameters. Consequently, removal of organization charts from the Technical Specifications will not affect the margin of safety. The NRC staff has reviewed the licensee's evaluation related to the proposed changes and concurs with their conclusions.

In addition, the associated editorial TS changes proposed by CECo are considered representative of example (i) in the Commission's guidance (51 FR 7751) for examples of no significant hazards, which is defined as "purely administrative change to TS; for example a change to achieve consistency throughout the Technical Specifications, correction of an error, or change in nomenclature."

Therefore the NRC staff proposes to determine that this amendment request does not involve significant hazards considerations based upon a preliminary review of the application, the licensee's evaluation of no significant hazards, and NRC guidance.

*Local Public Document Room location:* Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

*Attorney to licensee:* Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

*NRC Project Director:* Daniel R. Muller

**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:* September 23, 1988

*Description of amendment request:* The proposed amendment would change the Technical Specifications (TS) and associated Bases dealing with "Reactor Coolant System Leakage and Leakage into the Containment Free Volume," as follows:

(1) TS 3.1.F and the associated Basis would receive minor editorial changes including the repagination of text for increased spatial uniformity, the correction of minor typographical errors.

(2) TS 3.1.F.1.b.(6) would be modified to require grab sample analysis upon inoperability of either (rather than both) of the radioactivity monitoring systems required by TS 3.1.F.1.a.(6).

(3) The TS 3.1.F Basis, TS page 3.1.F-4, paragraph a, would be revised to state that the containment air particulate monitor would meet "the recommended sensitivity guidelines of Regulatory Guide 1.45." Paragraph "b" would be revised to remove the activity levels stated (1E-2 uc/cc and 1E-7 uc/cc).

(4) The associated Technical Specification 3.1.F Basis would remove statements that the containment air particulate monitor is sensitive to 0.025 gpm to greater than 10 gpm so that an increase in reactor coolant system leakage of 1 gpm would be detectable

within one minute after it occurs and the containment radiogas monitor is less sensitive than the air particulate monitor.

*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 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.

The licensee provided the following analysis of the proposed changes:

In accordance with the requirements of 10 CFR 50.92, the proposed Technical Specification change is deemed to involve no significant hazards considerations because operation of Indian Point Unit No. 2 in accordance with this change would not:

1. Involve a Significant Increase In The Probability of Consequences of An Accident Previously Evaluated:

The proposed changes to TS 3.1.F (Reactor Coolant System Leakage and Leakage into Containment Free Volume) merely make the Indian Point Unit 2 leakage detection system requirements for the containment radioactivity monitors consistent with those of Regulatory Guide 1.45.

This Regulatory Guide has been endorsed by the staff on a generic basis, and it is now applied to IP-2. The analysis supporting the application of Regulatory Guide 1.45 to IP-2 has been provided to the staff in the [Leak Before Break] LBB application submittal on May 23, 1988. It is apparent, therefore, that this change does not involve a significant increase in the probability or the consequences of an accident previously evaluated, but applies an accepted standard (Regulatory Guide 1.45) to substantiate the basis of this TS. This TS as written is unnecessarily restrictive and does not provide any additional safety benefits. The proposed change to the LCO action statement, 3.1.F.1.b.(6), imposes additional requirements on containment radioactivity monitors and does not increase the probability or consequences of an accident previously evaluated.

The additional changes requested are purely administrative in nature and only change typographical errors, make minor editorial changes for consistency, repaginate the document and delete pertinent portions of the IP-2 Technical Specification that are no longer effective or have been previously approved for deletion, therefore these changes do not increase 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:

The request to amend the TS merely allows conformance to Regulatory Guide 1.45 and imposes more restrictive requirements on the containment radioactivity monitors; it does not affect the reliability or the adequacy of the leakage detection system currently at IP-2, nor does it affect the design basis as described in the FSAR, in and of itself. The related submittal, which requests authorization for the use of the LBB methodology as specified in the final rule, also does not alter the existing plant design, but merely eliminates the necessity of considering the dynamic effects of Double Ended Guillotine Break (DEGB) on the primary system. Neither [these] TS changes nor the basis for these changes (LBB/Regulatory Guide 1.45) creates the possibility of a new or different kind of accident, because the design itself is not being changed by this TS. The TS is merely being updated to include current accepted standards.

The additional changes requested are purely administrative in nature and only change typographical errors, make minor editorial changes for consistency, repaginate the document and delete pertinent portions of the IP-2 Technical Specification that are no longer effective or have been previously approved for deletion, therefore these changes do not create the possibility of a new or different kind of accident.

3. Involve a Significant Reduction in Margin of Safety:

Revising the LCO action and basis for the radioactivity monitors has a negligible effect on the margins of safety. The purpose of the containment air particulate monitors is to detect sufficiently small amounts of reactor coolant leakage to indicate an unacceptable plant condition, e.g., pipe cracks or excessive valve or seal leakage. The accepted level of sensitivity sought by the staff is as set forth in Regulatory Guide 1.45, and this TS change will allow IP-2 to conform to this accepted guidance. The IP-2 TS basis as set forth at present is based on optimum instrument function, not safety requirements, and thus is far too restrictive. Changing the TS to conform with Regulatory Guide 1.45 will not involve a significant reduction in the margin of safety.

The additional changes requested are purely administrative in nature and only change typographical errors, make minor editorial changes for consistency, repaginate the document and delete pertinent portions of the IP-2 Technical Specification that are no longer effective or have been previously approved for deletion, therefore these changes do not involve a significant reduction in the margin of safety.

The staff agrees with the licensee's analysis. Therefore, based on the above, the staff proposes that the proposed amendment will not involve a significant hazards consideration.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

*Attorney for licensee:* Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003

*NRC Project Director:* Robert A. Capra, Director

**Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana**

*Date of amendment request:* December 23, 1988

*Description of amendment request:* The proposed amendment would change the Technical Specifications to correct the terminology of control room isolation for toxic gas protection action.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance for the application of criteria for no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve a significant hazards consideration (51 FR 7751). These examples include "(i). A purely administrative change to technical specifications: for example... correction of an error...". The proposed change is directly related to this example in that the Technical Specifications currently reference a recirculation mode for the toxic gas event and recirculation means pressurizing the control room with outside air. In the toxic gas event, outside air is not permitted in the control room and the proper reference should be isolation. In making the change to the Technical Specification, nothing will change and only the Technical Specification word is corrected.

Based on the above, the staff proposes to determine that the change involves no significant hazards consideration.

*Local Public Document Room Location:* University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

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*NRC Project Director:* Jose A. Calvo

**Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana**

*Date of amendment request:* December 23, 1988

*Description of amendment request:* The proposed amendment would change the Technical Specifications to incorporate the correct operating range for the Containment Area Radiation Monitors and clarify the radiation

background setpoint for containment purge and exhaust isolation.

*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 consideration 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, (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 Technical Specifications list the operating range for the four containment radiation monitors for isolation of purge and exhaust in the unlikely event of an accident inside containment. These ranges were derived from the Combustion Engineering Standard Technical Specifications and from Generic Letter 82-16 which used counts per minute. The original numbers were proposed for the monitors and the licensee has determined that at the lower end of the range requirements (per the Technical Specification), the monitors are not accurate or reliable and would be called inoperable. This places the plant in an unwarranted position in some modes and penalizes operation. The setpoint is set at twice background for isolation of purge and exhaust but background at the low end of the range may be below the monitor capability to measure. The monitor reliability and accuracy begins at 20 mR/hr and goes up to $5x10^5$ mR/hr. The licensee proposes to incorporate this accurate range in the Technical Specifications and to isolate purge and exhaust at readings twice the lowest accurate reading or twice background whichever is the highest. Exceeding the setpoint will initiate the logic for the Containment Purge Isolation Signal (CPIS). CPIS is also initiated by monitors in the exhaust stack which is the referenced operation in the Off-Site Dose Calculation Manual (ODCM). The exhaust stack monitors and the ODCM are not changed by the proposed amendment.

The licensee has provided an analysis of the hazards consideration of the proposed change.

CPIS guards against fuel handling accidents because the inside-the-containment accident ranks highest in off-site dose consequences, excepting LOCAs. Large radioactive releases into containment from LOCAs cause a Safety Injection Actuation Signal (SIAS) and Containment Isolation Actuation Signal (CIAS) to protect the public. The maximum differential pressure expected during accident conditions dictates the minimum time to isolate the purge butterfly-valves. Raising the operating range of the containment area radiation monitors... does not change the ability of the area radiation monitors (i.e., CPIS) to protect against fuel handling accidents in containment. Further, the change does not affect the plant stack monitors which also cause CPIS. The probability and consequences of a fuel handling accident remain as currently analyzed.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

The containment radiation area monitoring machines do not change because of this request. The ability for them to measure the operating range remains unchanged. The alarm/trip setpoint still happens at twice the background level the machine can detect (i.e., 40 mR/h or higher). The analysis of the fuel handling accident without containment isolation meets 10 CFR 100 criteria while using an assumed containment air dose rate much larger than the new 20 mR/h low range number. The new setpoint does not affect the SIAS and CIAS logics protecting the public during a LOCA. The area radiation monitor machines remain unchanged by this request so no new or different failure modes exist.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The Operability of the radiation monitoring channels ensure that: (1) the radiation levels are continually measured in the areas served by the individual channels; (2) the alarm or automatic action is initiated when the radiation level trip setpoint is exceeded; (3) sufficient information is available on selected plant parameters to monitor and assess these variables following an accident.

The new operating range for the containment area monitors retains the bases of its specification. The area radiation monitors measure radiation levels in their locations within the capability of the machines. The monitors still "trip" upon reaching the licensee determined setpoint. Action Statements for Table 3.3-6 ensure sufficient radiation field information exists after an accident. Regulatory Guide 1.97 requires the lowest containment area radiation monitor reading to be 0.1 R/h (100 mR/h). Therefore, the new operability range provides personnel protection no different than before because Waterford used the same machines, plus fulfilling regulatory requirements for containment area radiation monitoring.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

*Local Public Document Room Location:* University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

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*NRC Project Director:* Jose A. Calvo

**Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine**

*Date of application for amendment:* November 22, 1988

*Description of amendment request:* This amendment request would amend sections of the Maine Yankee Atomic Power Station Technical Specifications by extending the testing intervals of the Main Steam Excess Flow Check Valves and Turbine Valves. Since both of these tests involve power reductions, Maine Yankee Atomic Power Company (the licensee) is proposing to perform these tests at the same interval to minimize power reductions.

First, the proposed amendment would modify Technical Specification 4.6, "Periodic Testing" by extending the specified surveillance testing interval for Main Steam Excess Flow Check Valves from once every six weeks to once every three months.

Main Steam Excess Flow Check Valves (EFCVs), designed to limit an excessive reactor coolant system cooldown rate and resultant reactivity insertion following a main steam break incident, are tested to ensure that the valves are not mechanically prevented from closing when needed.

Second, the proposed amendment would modify Technical Specification 4.2, "Equipment and Sampling Tests," by extending the surveillance requirements for turbine stop, governor, reheater and intercept valves, from once per month to once per three months, consistent with the proposed interval for the EFCVs.

Turbine valves are periodically tested to ensure they are operable and are designed to protect the turbine from excessive overspeed. An evaluation of turbine overspeed and missile generation probability considering turbine valve test interval has been performed by the licensee.

*Basis for proposed no significant hazards consideration:* The proposed changes to the Technical Specifications have been evaluated by the licensee to determine whether they constitute a significant hazards consideration as required by 10 CFR Part 50, Section 50.91

using standards provided in Section 50.92. That analysis is provided below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is expected to have an insignificant impact on plant and public safety.

After 15 years of operation and approximately 225 Main Steam Excess Flow Check Valve partial stroke tests, the licensee has never had a valve fail to stroke as required. Furthermore, the mechanical binding checked for in this test is one potential failure mechanism of the valve. Changing from a six week to a three month test interval is expected to have little or no impact on the probability of finding a mechanically stuck EFCV during a test and will have no effect at all on any of the other potential failure mechanisms. In other words, this change is expected to have a small effect on a fraction of the valves' total failure probability. Therefore, the proposed amendment to increase the Main Steam Excess Flow Check Valve partial stroke test interval does not involve a significant increase in the probability or consequences of an accident previously evaluated.

An analysis as reported in the Westinghouse report, WCAP-11525 provides an evaluation of the probability of turbine missile ejection for the purpose of justifying a reduction in the frequency of turbine valve testing. In a letter to Westinghouse Electric Corporation dated February 2, 1987 (C. E. Rossi, USNRC to J. A. Martin, Westinghouse), the Commission established acceptable criteria for the probability of generating a turbine missile from the unfavorably oriented turbine (acceptable probability of missile generation is less than $1.0 \times 10^{-5}$). The licensee's evaluation in WCAP-11525 shows that the probability of a missile ejection incident for turbine valve test intervals of up to one year is significantly less than the established acceptance criteria. The small change in the probability of generating a turbine missile with longer turbine valve testing intervals does not represent 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 analyzed.

The proposed amendment changes the frequency at which Turbine Valves and Main Steam Excess Flow Check Valves are tested. Changing the frequency of testing does not result in a change in the failure modes of the Turbine Valves or Excess Flow Check Valves. Therefore, the proposed amendment does not 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 noted in 1 above, this change to the Maine Yankee Technical Specification will not result in a significant reduction in the margin of safety for Main Steam Excess Flow Check Valve failure. The increased test interval will have a small impact on just one contributor to the overall Excess Flow Check Valve failure probability. Furthermore, the overall effect will be an increase in the plant's margin of safety due to fewer test-induced plant transients and reduced valve unavailability due to testing. The probability of Maine Steam Excess Flow Check Valve failure remains acceptably small and the proposed amendment will not involve a significant reduction in the margin of safety.

As noted above, and as shown in WCAP-11525, this change to the Maine Yankee Technical Specification will not result in a significant reduction in the margin of safety for missile ejection. The probability of missile ejection remains acceptably small and within guidelines established by the NRC Staff.

The Commission has provided guidance concerning the application of the standard in 10 CFR 50.92 for determining whether a significant hazards consideration exists by providing certain examples of amendments that will likely be found to involve no significant hazards considerations. The changes to the Maine Yankee Technical Specifications proposed in this amendment request are similar to NRC examples (iv) and (vi). Example (iv) relates to the granting of a relief from an operating restriction upon demonstration of acceptable means of operation. This assumes that acceptable operating criteria have been established and that it is satisfactorily shown that the criteria have been met. Example (vi) relates to 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 margin of safety, but where the results of the change are clearly within all transient analysis acceptance criteria and within the limits of 10 CFR Part 50.46 and Appendix K to Part 50. The Commission has established an acceptance criteria for the turbine missile ejection accident of 1.0E-5. The probability of a turbine missile ejection incident presented in WCAP-11525 ranges from 3.98E-6 with a turbine valve inspection interval of one month to 9.21E-6 with a turbine valve inspection interval of one year. This demonstrates that the probability of a turbine missile ejection accident for the Maine Yankee plant is well within accepted NRC criteria.

Based on this guidance and the reasons discussed above, the licensee has concluded that the proposed change does not involve a significant hazards consideration. The Commission agrees with this conclusion.

*Local Public Document Room location:* Wiscasset Public Library, High Street, P. O. Box 367, Wiscasset, Maine 04578.

*Attorney for licensee:* J. A. Ritsher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02210.

*NRC Project Director:* R. Wessman.

**Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine**

*Date of application for amendment:* December 28, 1988.

*Description of amendment request:* This amendment request would modify the Technical Specifications to reflect the operating limits for the Cycle 11 operation at a power level of 2700 MWth.

*Basis for proposed no significant hazards consideration:* The proposed changes to the Technical Specifications have been evaluated by the licensee to determine whether they constitute a significant hazards consideration as required by 10 CFR Part 50, Section 50.91 using standards provided in Section 50.92. That analysis is provided below:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The Cycle 11 power upgrade to 2700 MWth does not modify the number of fuel assemblies, fuel assembly design, or fuel assembly placement from that previously approved for the Cycle 11 reload core. Of the 217 assemblies currently residing in the Maine Yankee core, 208 are fabricated by Combustion Engineering and nine (9) are fabricated by Advanced Nuclear Fuels (Exxon). All fuel assemblies used in the Cycle 11 core are not significantly different from those previously used at Maine Yankee. As in previous reload cores at Maine Yankee and other facilities, the NRC found the fuel design to be acceptable. The Control Element Assembly (CEA) pattern for Cycle 11 operation at 2700 MWth is identical to that used in both Cycle 10 and the 2630 MWth operation of Cycle 11. Also, the thermal, thermal-hydraulic, and physics characteristics for Cycle 11 2700 MWth operation are not significantly different from those of Cycle 11 at 2630 MWth operation. Therefore, these proposed changes which support the operation of Maine Yankee for Cycle 11 at a power level of 2700 MWth do not increase the probability of an accident previously evaluated.

The Cycle 11 design at 2700 MWth operation has been evaluated to demonstrate the acceptability of events previously evaluated in the Maine Yankee Final Safety Analysis Report (FSAR). The acceptance criteria for the evaluation are identical to those which were employed for the approved Cycle 11 reload. Furthermore, the analytical methods used to demonstrate conformance of the Cycle 11 power update design are identical to those used in both Cycle 10 and the approved Cycle 11 reload.

For those transients where the parameters for Cycle 11 operation at 2700 MWth are not bounded by previous safety analyses, a new or revised analysis was performed. These transients are:

(1) Boron Dilution
(2) Excess Load
(3) Seized RCP Rotor
(4) CEA Withdrawal

(5) Loss of Feedwater
(6) Loss of Coolant Flow
(7) Steam Line Rupture
(8) Large Break LOCA
(9) CEA Drop
(10) Loss of Load
(11) CEA Ejection

Other transients that required a partial reanalysis of review included:

(1) Steam Generator Tube Rupture
(2) Small Break LOCA
(3) Containment Overpressure

In each case the reanalysis demonstrated that the applicable acceptance criteria for the accident or transient continue to be met. For the transients requiring a partial reanalysis or review, the parameters were bounded by previously approved safety analyses and therefore are not adversely affected by the power upgrade.

In summary, our evaluation of accidents previously analyzed in the FSAR has demonstrated that all applicable acceptance criteria continue to be met. Therefore, the proposed Technical Specification changes for Cycle 11 operation at 2700 MWth do not significantly increase the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The core for Cycle 11 operation at 2700 MWth is similar in fuel design, CEA placement, thermal, thermal-hydraulic, and physics characteristics to that of both Cycle 10 and Cycle 11 at 2630 MWth operation. We have concluded that Cycle 11 operation at 2700 MWth does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety.

The design of Cycle 11 at 2700 MWth is similar to both Cycle 10 and Cycle 11 at 2630 MWth operation. The methods used to analyze Cycle 11 operation at 2700 MWth are the same as were used for both Cycle 10 and Cycle 11 at 2630 MWth operation which have been previously approved by the NRC staff. Additionally, the safety analysis acceptance criteria for operation at 2700 MWth during Cycle 11 have not changed from that used in previous reload submittals. We have demonstrated that these acceptance criteria continue to be met. We have therefore concluded that Cycle 11 operation at a rated power level of 2700 MWth does not involve any significant reduction in a margin of safety.

Based on the reasons discussed above, the licensee has concluded that the proposed changes to Technical Specifications do not involve a significant hazards consideration as defined by 10 CFR 50.92. The Commission agrees with this conclusion.

*Local Public Document Room location:* Wiscasset Public Library, High Street, P. O. Box 367, Wiscasset, Maine 04578.

**Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi**

*Date of amendment request:* September 23, 1988, as supplemented November 30, December 16 and December 21, 1988.

*Description of amendment request:* The amendment would change the Technical Specifications (TS) by adding a plant service water radiation monitor in TS 3/4.3.7.1, "Radiation Monitoring Instrumentation," and adding two valves in TS 3/4.8.4.2, "Motor Operated Valves Thermal Overload Protection." These new TS are proposed for an alternate decay heat removal system (ADHRS) to be installed for use during refueling outages when the residual heat removal (RHR) system is out of service for maintenance or inspection. The proposed ADHRS would use plant service water (PSW) in the ADHRS heat exchangers to remove decay heat from reactor cooling water. The service water radiation monitor would detect heat exchanger tube leakage. The ADHRS would consist of two pumps and two heat exchangers in parallel with a common suction line connected to the existing RHR suction line and a common discharge line connected to one of the low pressure coolant injection (LPCI) lines. The two valves added to TS 3/4.8.4.2 would be used to isolate the ADHRS from the RHR and the LPCI lines during plant operation. The ADHRS would not be a safety related system.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license 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's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below.

I. These changes would not significantly increase the probability or consequences of an accident previously evaluated.

(a) The ADHRS (including operating requirements) has been found not to significantly increase the probability of previously evaluated accidents and events as discussed below.

The nature of the ADHRS and its interconnections with existing plant systems results in specific consideration of the following events for possible increases in probability:

o Pipe break or leak
o Loss of coolant accident (LOCA)/inadvertent reactor vessel drainage
o Internally generated missiles
o Reactor coolant pressure boundary (RCPB) overpressure
o Fire
o Loss of electrical power
o Offsite radioactive release

Other events/accidents are excluded from detailed consideration because there are not identified functional (physical connections or controls interface) relationships and because the ADHRS has been designed to preclude any adverse spatial or environmental interactions. Examples of such events include secondary plant transients, loss of instrument air, reactivity control failures, and fuel handling accidents.

Pipe Break or Leak

The ADHRS will not significantly increase the probability of a pipe break or leak in existing systems, and the probability of failure of the ADHRS fluid components is no greater than existing systems, as presently analysed [SIC] in UFSAR Section 3.6.

The design of the ADHRS is such that stress loadings due to the attachment of ADHRS piping equipment to existing plant fluid systems does not cause applicable stress allowables on existing components to be exceeded. This is documented by calculations that employed methodologies, assumptions, loading combinations, and other criteria the same or equivalent to those contained in UFSAR Section 3.9.

Evaluated were mechanical loadings imposed by the ADHRS, changes in the design pressure and temperature of existing piping, and fatigue considerations. Attachment loadings were evaluated at the suction and discharge connections of the ADHRS to the RHR and PSW systems, at valves E12F066A and B due to the addition of motor operators to these valves, loads imposed by the new valve added to the vertical leg of the RHR suction line from the spent fuel pool, and at locations where lead wrap pipe shielding was added. Existing piping and supports were verified to be adequate or supports are to be modified and/or new supports added as applicable to achieve acceptable conditions.

The added ADHRS piping handling reactor coolant is designated as safety-related, ASME Section III, Class 2 and Class 3, and Seismic Category I. In addition, PSW piping inside the RHR "C" pump room and up to the isolation valves at the existing supply and return headers and air handling unit is designated as safety-related, ASME Section III, Class 3, and Seismic Category I. Other piping is B31.1 and designed for SSE loads. The design and analysis of this piping is to the same standards, criteria, and methodology as existing plant piping. Damage to the ADHRS piping and

components due to over-pressure is prevented by design of the system for the highest pressure possible from ADHRS operation (pump shutoff head plus maximum static head at the pump suction), and providing for system isolation from higher pressure sources (i.e., RHR "C" pump discharge). The portion of the system that cannot be isolated from RHR "C" (downstream of the ADHRS isolation valves) is designed for RHR "C" design pressure. Thermal relief valves are provided in the ADHRS for overpressure protection when the system is isolated and for minor leakage that may occur across the boundary valves. Adequate vents and drains are included in the design to provide for complete filling and venting prior to pump start. This provision will preclude the possibility of a waterhammer event during startup of the system.

Materials (mostly carbon steel) used in the ADHRS pressure boundary are compatible with those used in connected systems and will not induce a degradation of existing piping. The ADHRS does not employ any stainless steel pressure boundary components other than instrument connections. Reactor coolant chemistry is controlled to prevent failure of stainless steel components due to intergranular stress corrosion cracking. On the reactor coolant side of the ADHRS, no features are provided that would alter reactor coolant chemistry.

Erosion of existing and new piping is not expected to occur based on flow velocities and expected usage times. Specified nominal corrosion allowances for new piping are the same as for existing piping, and excessive corrosion during lengthy inactive periods is to be precluded by wet layup of the reactor water side (the same as currently performed for the existing RHR system), and layup of the PSW side.

Adequate protection from overpressurization of piping is provided by the inclusion of appropriate isolation capability at system interfaces.

Consequently, the ADHRS modification does not significantly increase the probability of a break in existing piping and the probability of a break in the new piping is no higher than in existing piping.

LOCA/Inadvertent Vessel Drainage

Such events as a consequence of the presence or use of the ADHRS can only occur during operational conditions 4 or 5 (cold shutdown or refueling), since in all other operational conditions the ADHRS is required to be physically isolated from other systems.

The probability of a pipe break outside containment is not significantly increased by the addition of the ADHRS. Per UFSAR Section 3.6, postulating a pipe failure when the ADHRS is aligned or operating is not required. Specifically, UFSAR Section 3.6A.1.1c states that "Pipe breaks or cracks were postulated to occur during normal plant operation (i.e., reactor startup, operation at power, hot standby or reactor cooldown to cold shutdown)." These conditions do not apply to operational conditions 4 or 5 when the ADHRS would be in operation.

To the extent that the criteria cited in Section 3.6 implicitly assume adequate piping design, the ADHRS satisfies this assumption. As for a pipe break inside containment, the only piping involved is the RHR "C" LPCI injection line to the reactor vessel. This line was evaluated for an increased fatigue usage factor arising from a longer operating time for this pipe (albeit at a lower flow rate) due to ADHRS operation and determined to remain within code limits. Therefore, addition of the ADHRS will not significantly increase the probability of failure of this pipe.

Relative to a LOCA caused by inadvertent drainage of the reactor vessel (i.e., a system alignment that allows either gravity or pumped flow from the vessel via an existing isolation point), the ADHRS design and its accompanying procedural requirements make this a no more probable event than that associated with existing plant systems.

The probability of a LOCA type event is not significantly increased by the addition of the ADHRS.

Internally Generated Missiles

The ADHRS does not pose any additional hazards in this regard as a source of missiles. The ADHRS is not postulated to be a source of pressurized component missiles, and potential rotating component missiles (from the pumps and air handling unit fan) are also not required to be postulated.

Reactor Coolant Pressure Boundary Overpressure

When in operation, the ADHRS pumps reactor coolant to the reactor vessel. The only time when ADHRS could be operated that reactor pressure could potentially increase is in operational condition 4 with the reactor vessel head installed. However, the maximum discharge pressure of the ADHRS is well below reactor vessel design pressure. The ADHRS otherwise will not interfere with vessel overpressure protection functions so that the probability of an event of this kind is not increased.

Fire

The ADHRS does not involve the addition of any combustible loading in excess of that assumed in the FHA to the areas in which it is located as contained in the GGNS Fire Hazards Analysis Report and thus does not contribute to the increased probability of a fire.

Loss of Electrical Power

The only Class 1E electrical loads involved with the ADHRS design are the motor operators for valves E12F066A and B. These power supplies are designed in accordance with the various Class 1E criteria described in UFSAR Section 8. The power supplies to these motors are adequate for the additional loading. Thus, there is no additional potential for loss of Class 1E power. The added non-Class 1E loads have been designed to standards consistent with the existing design for the type of load. Therefore, to the extent that loss of non-Class 1E power might initiate a plant transient, no greater probability is indicated.

Offsite Radioactive Release

The ADHRS design provides a boundary, within the ADHRS heat exchangers, between radioactively contaminated reactor coolant and the PSW system which can discharge to the environment. The boundary (heat exchanger tubes) is designed and constructed to ASME Section III, Class 3 standards and to Seismic Category I criteria. As such the probability of its failure is no greater than other plant systems containing radioactive fluids.

Inadvertent Operation of RHR Shutdown Cooling

This event is discussed in UFSAR Section 15.1.6 and relates to a slow decrease in moderator temperature leading to an increase in reactor power, when the reactor is critical or near critical. The only cause for this event cited in the UFSAR is misoperation of the cooling water controls for the RHR heat exchanger.

Inasmuch as the cooling water controls for the ADHRS are no more prone to failure than those of the RHR (both are manually operated with no automatic activation or automatic control), and there would be no reason for greater operator error, the ADHRS would not significantly increase the probability of this event.

(b) The ADHRS design (including operating requirements) does not significantly increase the consequences of an accident previously evaluated in the UFSAR as discussed below.

The assessment relative to consequences results in specific consideration of the following events for significant increases in consequences.

- o External high wind/tornado, tornado missile, and flooding events.
- o Seismic events
- o Pipe break or leak
- o Internally generated missiles
- o LOCA
- o Hydrodynamic events
- o Loss of electrical power or instrument air
- o Fire
- o Offsite radioactive release

Other events/accidents are excluded from detailed consideration since there are no identified functional interactions or spatial/environmental interactions.

External high wind/tornado missile and flooding

Components added and employed by the ADHRS are completely housed within existing safety-related portions of the plant (Auxiliary Building) and as such are not subject to damage or other consequences of these extreme environmental effects which are discussed in UFSAR Sections 3.3, 3.4 and 3.5.

Seismic Events

The ADHRS and its components (including existing plant equipment used for the ADHRS) are designed or analyzed for safe shutdown earthquake (SSE) design basis loads in order to preserve the pressure integrity of safety-related components, the operability of the motor operators and conduit for valves E12F066A and B, and to ensure that non-safety related components of the ADHRS do not pose a hazard to safety-related plant components during a seismic event. Existing components connected to the ADHRS have been re-evaluated for the new attachment loadings. This re-evaluation also includes assurance of continued operability of any affected active safety-related components (e.g., motor operated valves) during or after the seismic event as may be required.

The structural integrity of the Auxiliary Building due to loads imposed by the ADHRS is adequate. The major ADHRS components are located on the building basement at El. 93', and there is no appreciable effect on structural seismic response. Loads imposed on walls, beams, or other structural elements in the ADHRS design are acceptable.

Pipe Break/Leak

The ADHRS does not present hazards (pipe whip, jet impingement, etc.) from high energy line breaks (HELB) and is not subject to damage from HELBs in other plant systems.

The ADHRS safety functions are not impacted by spray or flooding from moderate energy pipe cracks in other plant systems (no such events are required to be postulated during operational conditions 4 and 5 when the ADHRS is in operation). The ADHRS also does not pose a hazard to other safety-related plant components due to spray effects of a pipe crack. Existing drainage and detection capabilities are adequate for any flooding that may be involved in the event of an ADHRS line crack or break.

Therefore, the addition of the ADHRS does not significantly increase the consequences of pipe break as discussed in UFSAR Section 3.6.

Internally Generated Missiles

The potential for damage to the ADHRS, and therefore increased accident consequences due to internally generated missiles (valve stems, rotating equipment, etc.) or turbine missiles has been assessed in accordance with UFSAR Sections 3.5.1.3 and 3.5.1.4. No additional consequences were determined to occur.

LOCA

Postulations concerning a LOCA in reactor operational conditions 4 and 5 are not contained in the UFSAR, and such an event is not analyzed (UFSAR Sections 6.2 and 15.6 deal with the design basis LOCA occurring during reactor operation).

However, to the extent that the ADHRS could either interfere with the mitigation of such an event or be the cause of the event, no increased consequences have been identified.

The controls interaction and system interaction evaluation completed for the ADHRS indicate that no interference by the ADHRS in emergency core cooling system (ECCS) functions or vessel level detection functions would occur. Protection against inadvertent drainage during operation of ADHRS is equivalent to that provided for existing plant systems through the use of interlocks and restricting operating procedures. Additionally, a failure of the ADHRS (i.e., a moderate energy pipe crack) is not required to be postulated during times when it is conveying reactor coolant (UFSAR Section 3.6A.1.1.C).

On the above basis, the ADHRS modification would not significantly increase the consequences of a LOCA.

Hydrodynamic Load Events

Such events include LOCAs (UFSAR Section 15.6), inadvertent SRV opening (UFSAR 15.1.4), and safety-relief valve operation incident to other transients or accidents. While the ADHRS would not be in operation during such events (as there is no reactor pressure source in operational conditions 4 or 5), it is nevertheless designed for such loads. Also connecting equipment was reanalyzed to the extend that these loads may be transmitted to the ADHRS, to ensure that the ADHRS would not be a hazard and thereby increase the consequences of such events.

Loss of Electrical Power or Instrument Air

The ADHRS has no safety-related function relevant to the loss of AC power as discussed in UFSAR Section 15.2.6 or instrument air as discussed in UFSAR Section 15.2.10 and no reliance on electrical power or instrument air is made by ADHRS for other plant events or accidents to ensure that consequences are not increased beyond those already evaluated.

Fire

The existing fire detection and suppression equipment is adequate for any potential fire originating within the ADHRS or incident to its presence.

Other than the motor-operators for valves E12F066A and B, and associated power and control cable, the interlock for valve E12F004C, and the pump start permissive bypass switches for valves E12F066A and B no other safety-related components are susceptible to damage by fire. To the extent that the functional capability of the E12F066A or B operators may be lost due to a fire, no increase in accident consequences is indicated. This is because the events for which they are provided (e.g., LOCAs) are not postulated to occur coincident with a fire, as indicated in the GGNS Fire Hazards Analysis Report and 10 CFR Part 50 Appendix R. The isolation function of the valves is only required during operational conditions 4 and 5. As such the ability to bring the plant to a cold shutdown condition in the event of a fire is unaffected by their operability.

Fire-induced failure of the added interlock between valve E12F004C and RHR "C" pump may prevent the RHR "C" pump from starting. This is not a concern, however, as the RHR "C" train is not required for safe shutdown of the plant incident to a fire (it provides a LPCI function only in mitigation of a LOCA). Failure of the added RHR "A" and/or "B" pump start permissive bypass switches for valves E12F066A and B due to a fire may prevent the RHR "A" and/or "B" pump from operating with suction from the spent fuel pool. This is also not a concern since the associated spent fuel pool cooling assist mode of operation of the RHR system is not required for safe shutdown of the plant incident to a fire.

The installation requirements for the ADHRS preserve the integrity of fire barriers and penetration seals so existing plant fire containment features are unaffected.

On the basis of the above, no significantly increased consequences of a fire are indicated by installation of the ADHRS.

Offsite Radioactive Release

The potential consequences of an offsite release of radioactively contaminated water due to an ADHRS heat exchanger tube failure have been shown to be within regulatory guidelines and limits and less than comparable events evaluated in the UFSAR, Section 15.7.2.

Inadvertent Operation of RHR Shutdown Cooling

As discussed in UFSAR Section 15.1.6, the effect of inadvertent operation of RHR is to slowly decrease reactor coolant temperature. Since the heat removal capacity of the RHR system is greater than that of ADHRS, the ADHRS cannot produce a greater effect. The mitigation of the event is a high neutron flux reactor scram, which would be unaffected by the installation or use of the ADHRS.

(c) The function of the PSW discharge line radiation monitor is to detect substantial intersystem leakage of reactor coolant into the PSW system. This monitor and its associated alarm performs no automatic accident mitigation function or safety-related function. The PSW radiation monitor is not required to function in order to prevent accidental offsite doses from being exceeded. The design and installation of the PSW radiation monitor will be done in accordance with appropriate codes and standards to ensure that interfacing system requirements are not compromised.

(d) Currently, valves E12F066A and B perform no accident mitigation function and are not required to open or close in order to bring the plant to cold shutdown conditions. The function of the two new motor operated valve thermal overload protection devices is to protect the motor operators under overload conditions. These motor operators perform no automatic or remote-manual accident mitigation function. The failure of the motor operators will have no functional effect on ECCS system operation. The ECCS system is capable of delivering required system flow rates with E12F066A and B failed in the open position. The failure of the motor operator to close or to be closed would prevent the establishment of an ASME Section III Class 2 pressure boundary for ECCS. However, the ECCS system has been evaluated with the failure of these valves in the open position and was found to be capable of continuing to deliver the required ECCS system flow rates. In addition, the piping beyond valves E12F066A and B is designed for process conditions that would occur in the LPCI mode. The only function of the motor operators is to allow remote-manual operation of the valves from the control room. The addition of the motor operators and the thermal overload devices will not change or affect the valves' present function or performance.

Therefore, the addition of the ADHRS and its associated PSW radiation monitor and thermal overload devices for valves E12F066A and B would not significantly increase the probability or consequences of an accident previously evaluated.

II. These changes would not create the possibility of a new or different kind of accident from any previously evaluated.

(a) Based on the functional interactions of the ADHRS, the following potential events have been evaluated with respect to the creation of a new or different type of accident from any previously evaluated:

o Loss of fuel pool cooling/fuel pool water inventory

o Offsite radioactive release

Loss of Fuel Pool Cooling/Fuel Pool Water Inventory

The ADHRS can be connected to the spent fuel pool either in a flush/fill mode or as a suction source for cooling when the reactor cavity/upper containment pool is filled. The ADHRS is not specifically designed for or otherwise expected to assume heat loads imposed by the spent fuel pool. Additionally, the loss or failure of the ADHRS cannot prevent the RHR system from operating in the fuel pool cooling mode. Thus, loss of the ADHRS cannot involve a loss of spent fuel pool cooling.

The operation of the ADHRS with suction on the spent fuel pool will not cause a loss of spent fuel pool cooling system, as described in UFSAR Section 9.1. There are no mechanical, controls, or electrical interconnections between the two systems and hydraulic-type effects have been evaluated and concluded to be non-interfering.

When connected to the spent fuel pool there is potential for leakage from the pool due to a failure in ADHRS piping. This piping is designed and qualified per the applicable criteria including new operating conditions for existing piping and is no more susceptible to a break or leak than existing piping. The potential for inadvertently draining the spent fuel pool when the ADHRS is taking suction from it has been evaluated. The ADHRS uses an existing suction point on the spent fuel pool. As explained in UFSAR Section 9.1, all connections to the pool are designed to preclude drainage below a level sufficient for adequate shielding. The ADHRS use of this existing line would not interfere with this feature. Hydraulic operation effects that could lower the spent fuel pool level have been evaluated and found not to present a potential hazard relative to the shielding function of the fuel pool inventory.

The drainage potential and hydraulic effects of ADHRS operation on the spent fuel pool are consistent with those existing when operating the RHR system in the fuel pool cooling assist mode. Since the ADHRS configuration offers no less protection in this regard, it is concluded that a new or different accident type is not created.

Offsite Radioactive Release

The ADHRS design provides a boundary, within the ADHRS heat exchangers, between radioactively contaminated reactor coolant and the PSW system which can discharge to the environment. The boundary (heat exchanger tubes) is designed and constructed to ASME Section III and Seismic Category I requirements. As such the probability of an ADHRS boundary failure is no greater than other plant systems containing radioactive fluids (e.g. FPCCU, RWCU, or radwaste tanks).

The GGNS UFSAR Section 15.7.2 addresses a postulated unexpected and uncontrolled release of radioactivity due to a radioactive liquid waste system failure. The postulated gross failure of the ADHRS pressure boundary and the UFSAR Section 15.7.2 event are considered similar kinds of accidents in that both are unexpected and uncontrolled releases of radioactive material to the offsite boundary.

(b) The PSW radiation monitor will perform no automatic accident mitigation function and will initiate no safety-related or nonsafety-related systems. The function of the radiation monitor is to detect substantial intersystem leakage of reactor coolant into the PSW system. The design and installation of the PSW radiation monitor will be done in accordance with appropriate codes and standards to ensure interfacing system requirements are not compromised.

(c) The addition of the motor operators and the thermal overload protection devices on valves E12F066A and B does not change the valves [SIC] original function. These valves will continue to perform no safety-related function other than serving as system code boundary classification break. The failure of E12F066A or B to close or to be closed by the operator defeats the establishment of an ASME Section III Class 2 pressure boundary for ECCS as recommended in Regulatory Guide 1.29 and committed to in UFSAR Section 3.2. However, this failure has no functional effect on the operation of ECCS. The ECCS systems have been evaluated with the failure of these valves in the open position and was [SIC] found to be capable of continuing to deliver the required ECCS flow rates. In addition, the piping beyond these valves is safety-related (Class 3), Seismic Category I and designed for the process conditions that would occur in the LPCI mode.

Therefore, the addition of the ADHRS and its associated PSW radiation monitor and thermal overload devices for valves E12F066A and B would not create the possibility of a new or different kind of accident from any previously evaluated.

III. These changes would not involve a significant reduction in the margin of safety.

(a) The ADHRS provides an improved alternate method of decay heat removal and coolant mixing as required by the bases for Technical Specification 3/4.4.9. Since the ADHRS is specifically designed to maintain the average reactor coolant temperature less than or equal to 200° F in cold shutdown and less than or equal to 140° F in refueling, the margin of safety to fulfill the requirements of Technical Specification 3/4.4.9 and Table 1.2 is maintained.

(b) The ADHRS is designed and constructed to ASME Section III, Class 2 and Class 3 standards and to Seismic Category I criteria. As such, the margin of safety this system provides is equal to or greater than other comparable plant systems containing radioactive fluids (e.g. FPCCU, RWCU, etc.). The ADHRS and its associated PSW radiation monitor will have no direct or indirect impact on existing safety-related or nonsafety-related systems and thus will not affect operation of any equipment required to mitigate an accident.

(c) The addition of the motor operators and associated thermal overload protection devices to valves E12F066A and B will not affect the operation or intended function of these valves. As previously noted, these valves perform no accident mitigation function. The current function of these valves is to align RHR "A" or "B" loops in the spent fuel pool cooling assist modes and to serve as code boundary classification breaks between ASME Section III Class 2 and Class 3 piping. The failure of these valve actuators will have no functional effect on the ECCS system.

Therefore, the addition of the ADHRS and its associated PSW radiation monitor and thermal overload devices for valves E12F066A and B would not involve a significant reduction in the margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

*Local Public Document Room location:* Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

*NRC Project Director:* Elinor G. Adensam

**Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi**

*Date of amendment request:* December 2, 1988

*Description of amendment request:* The amendment would change the Technical Specifications (TS) by changing the surveillance requirements in TS 3/4.9.6.3, "Fuel Handling Platform," to accommodate the addition of a new auxiliary hoist. This new hoist will be used for handling control rods in the spent fuel pool.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license 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 has provided an analysis of no significant hazards considerations in its request for a license amendment. The licensee's analysis of the proposed

amendment against the three standards in 10 CFR 50.92 is reproduced below.

1. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

a. The accident previously evaluated is a Fuel Handling Accident. The probability of a Fuel Handling Accident is not significantly increased because the components being lifted would be lifted by the monorail auxiliary hoist if there were not an auxiliary hoist. The auxiliary hoist is designed, manufactured and installed with the same appropriate criteria as the monorail auxiliary hoist. Additionally the auxiliary hoist for the FHP [fuel handling platform] is the same design, manufacture and installation as the auxiliary hoist on the [refueling platform] RP.

b. The consequences of a fuel handling accident are not increased due to the fact that no new loads or lifting heights are introduced with the addition of the auxiliary hoist on the FHP. Additionally the Fuel Handling Accident fuel damage bounds the scenario of a load dropping from the auxiliary hoist on the FHP.

c. The proposed changes in the Surveillance Requirements provide clarification to allow performance of the appropriate surveillance on the correct hoist. Thus there is not a significant increase in the probability or consequences of an accident previously evaluated involved in this change.

2. This change would not create the possibility of a new or different kind of accident from any previously, evaluated.

a. The fuel handling accident is the only accident possible. The fuel handling accident has been previously evaluated and bounds the fuel damage resulting from a load drop from the auxiliary hoist on the FHP.

b. The RP currently has an auxiliary hoist of the same manufacture, design and installation. The FHP auxiliary hoist will not move spent fuel or new fuel. The RP and FHP auxiliary hoist load is limited to less than the load used in the fuel handling accident and the load lift height is limited to the height of the lift allowed for the RP auxiliary hoist. The load drop from the auxiliary hoist of the FHP is bounded in fuel damage by the Fuel Handling Accident.

c. The proposed changes in the Surveillance Requirements will ensure that the correct hoist has the appropriate surveillance performed.

d. Therefore this change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. This change would not involve a significant reduction in the margin of safety.

a. The design, manufacture, installation, load limits, up travel hoist limit, fuel handling exclusion and applicable interlocks define the margin of safety for the auxiliary hoist on the Fuel Handling platform. Since the FHP auxiliary hoist and the RP auxiliary hoist are not significantly different in these respects this change does not involve a significant reduction in the margin of safety.

b. The proposed change ensures that the appropriate surveillance is performed on the correct hoist. This will verify that the redundant load limits for both the auxiliary hoists on the FHP and the load override switch on the monorail auxiliary hoist are operable and are in the correct position.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

*Local Public Document Room location:* Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

*NRC Project Director:* Elinor G. Adensam

**Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut**

*Date of amendment request:* October 13, 1988

*Description of amendment request:* The proposed amendment to the Technical Specifications (TS) will add a paragraph which is currently included in Bases 3.6.I to TS Section 4.6.I.1. This paragraph provides clarifying information for determining required inspection intervals and establishes criteria for snubbers that may be exempted from being counted as inoperable.

*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).

The licensee has determined and the NRC staff agrees that the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of any accident previously evaluated.

The requirements for visual inspections of safety-related snubbers are not being changed.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The existing requirements for snubber surveillance are not being changed.

3. Involve a significant reduction in a margin of safety.

The level of safety provided in the existing Technical Specifications will be maintained.

Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

*Attorney for licensee:* Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

*NRC Project Director:* John F. Stolz

**Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut**

*Date of amendment request:* December 2, 1988

*Description of amendment request:* The proposed amendment to the Technical Specifications will reflect the implementation of modifications related to degraded grid protection for Class 1E power systems. These modifications are scheduled to be completed during the 1989 refueling outage.

*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).

The licensee has determined and the NRC staff agrees that the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of any accident previously evaluated. The impact of the change on design basis accidents (DBAs) which assume loss of off-site power has been reviewed by the licensee and has been determined to be unaffected by the change. The proposed changes, in general, provide for more conservatism in that the operability requirements for the on-site emergency buses and their associated control circuits are more restrictive than the existing requirements. These changes to the Technical Specifications do not impact the failure probability of the associated electrical system, rather they increase the probability that a train of emergency electrical power is available following an accident. The probability of occurrence or the consequences of the DBAs are unchanged.

2. Create the possibility of a new or different kind of accident from any previously evaluated. There are no new failure modes associated with the proposed changes since they involve more restrictive requirements on the operability of the electrical power systems. No new accident is created because the same equipment is assumed to perform in the same manner as before.

3. Involve a significant reduction in a margin of safety. The protective boundaries are not impacted because the consequences of the DBA are not affected. Since the protective boundaries are not affected, the safety limits are also not affected. The proposed change maintains the basis of the Technical Specifications in assuring electrical power operability.

The existing 345 KV loss of normal power (LNP) sensing inputs are not in the Technical Specifications. Technical Specification for the new 4160 volt bus undervoltage/timing relay input circuits will be added. The existing Technical Specification for the bus voltage permissive and the LNP actuation circuits are being modified to provide additional detail and clarification.

Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

*Attorney for licensee:* Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

*NRC Project Director:* John F. Stolz

**Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska**

*Date of amendment request:* December 31, 1988.

*Description of amendment request:* This proposed amendment would revise the Technical Specifications (TS) to change the minimum operating requirements for the Raw Water Pumps to allow operation with one inoperable raw water pump when river water temperature is below 60° F.

*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; (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.

With regard to the three standards, the licensee states that operation of the facility in accordance with this amendment would not:

(a) Involve a significant increase in the probability or consequences of an accident previously evaluated. This change decreases the consequences of a loss of coolant accident or main steam line break event with concurrent loss of off-site power and failure of a diesel generator by ensuring that the closed cooling water heat exchangers have sufficient heat removal capacity to maintain the containment below the design basis maximum pressure.

(b) Create the possibility of a new or different kind of accident from any accident previously evaluated. This change does not propose new or different modes of operation for the plant. The continued use of the same Technical Specification administrative controls prevents the possibility of a new or different kind of accident.

(c) Involve a significant reduction in a margin of safety. This change increases the minimum operability requirements of the raw water and containment cooling system and, therefore, will not cause any reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the analysis. In addition, the Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing examples (51 FR 7751) of amendments that are considered not likely to involve significant hazards consideration. The proposed change to minimum operating requirements for the raw water pumps is an additional restriction to the allowable minimum requirements presently in the Technical Specifications and is, thus, similar to the example of changes which constitute an additional limitation, restriction, or control not presently included in the technical specifications.

Accordingly, the staff proposes to determine that the proposed changes to the Technical Specification do not involve a 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, NW., Washington, DC 20036

*NRC Project Director:* Jose A. Calvo

**Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania**

*Date of amendment request:* September 9, 1988

*Description of amendment request:* The proposed amendment revises the Emergency Diesel Generator (EDG) Technical Specifications (TS) 3.8.1.1, 3.8.1.2 and BASES. The proposed changes represent the recommendations of the diesel generator manufacturer and are consistent with the appropriate recommendations provided in the Commission's Generic Letter 84-15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability", dated July 2, 1984. The proposed changes will improve the reliability of the EDGs and reduce the risk from possible station blackout.

Generic Letter 84-15 discussed the need to assure that the reliability of the EDGs is maintained at an acceptable level. This would be accomplished in part by reducing the number of "cold fast starts" or demonstrating starting capabilities from ambient conditions with full electrical loads without the considerations of prelubrication or prewarming prior to the test. The staff concluded that cold fast starts cause unnecessary premature diesel engine degradation and that some testing techniques for EDGs did not take into consideration their manufacturers recommended preparatory actions such as prelubrication of moving parts and warm-up procedures prior to starting.

Specifically the licensee proposes to change the TS to:

(A) Specify prelubrication and prewarming of EDGs prior to preplanned EDG starts. Prelubrication/prewarming would decrease the wear and stress on the EDGs and would increase reliability and availability.

(B) Provide for gradual acceleration and gradual electrical load increases to an indicated load range during EDG testing in accordance with manufacturers recommendations in order to decrease the stresses inherent with rapid acceleration, sudden large electrical load changes and routine overloading.

(C) Revise the surveillance starting/testing frequency in order to limit the incremental wear and stress on the EDGs.

(D) Revise the accelerated starting test frequency program. The program will be based upon the number of failures in the last 20 demands in lieu of the failures in the last 100 valid tests in order to maintain increased EDG

reliability without excessive and damaging surveillance cold fast starts.

(E) Allow EDG maintenance inspections (18 month tear down) while at power, rather than "during shutdown", in order to decrease outage time used for maintenance tear down and allow more time for inspection in lieu of the requirement for tear down inspections only under a limited outage schedule.

(F) Incorporate the 184 day starting surveillance into Surveillance 4.8.1.1.2.h, allowing this new paragraph for prelubrication and prewarming of the EDGs with electrical loading to an indicated range within 200 seconds.

(G) Eliminate from Specification 4.8.1.1.2.a the need for a staggered test basis.

*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 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, (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 an analysis as to whether the proposed amendment involves a significant hazards consideration. The licensee's analysis is summarized as follows:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes only revise surveillance test methods and schedules. The proposed changes incorporate the recommendations of the diesel generator manufacturer and the appropriate recommendations provided in Generic Letter 84-15 to improve the reliability and availability of the EDGs. These changes do not modify or add any initiating parameters that would significantly increase the probability or consequences of any previously analyzed accident. In fact, the proposed changes would reduce the unnecessary wear and stress on the EDGs and would provide the capability to perform various surveillance requirements during operation.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

As discussed in Item (1) above, the proposed changes only revise surveillance test methods and schedules that will improve the reliability and availability of the EDGs. The operation and/or design of the onsite emergency power system is not being changed and no physical plant modification is involved. As such, the plant initial conditions utilized for the design basis accident analysis remain valid and no new or different kind of accident is created.

(3) The proposed changes do not involve a significant reduction in a margin of safety.

As discussed in Item (1) above, decreasing the harsh and potentially damaging manner of testing of the EDGs would lead to greater reliability and availability. The proposed surveillance testing and frequency would continue to ensure the availability of the EDGs consistent with the previous Commission guidance and thus will not involve a reduction in the margin of safety.

The staff has reviewed the licensee's submittal and significant hazards consideration analysis and concurs with the licensee's determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

*Local Public Document Room location:* Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

*Attorney for licensee:* Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

*NRC Project Director:* Walter R. Butler

**Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania**

*Date of amendment request:* December 14, 1988

*Description of amendment request:* The proposed amendment would change the Technical Specifications (TSs) to permit removal of the Rod Sequence Control System (RSCS) and to reduce the Rod Worth Minimizer (RWM) low power setpoint.

*Basis for proposed no significant hazards consideration determination:* The Rod Sequence Control System restricts rod movement to minimize the individual worth of control rods to lessen the consequences of a Rod Drop Accident (RDA). Control rod movement is restricted through the use of rod select, insert, and withdrawal blocks. The Rod Sequence Control System is a hardwired (as opposed to a computer controlled), redundant backup to the Rod Worth Minimizer. It is independent of the Rod Worth Minimizer in terms of inputs and outputs but the two systems are compatible. The RSCS is designed to monitor and block when necessary operator control rod selection, withdrawal and insertion actions, and thus assist in preventing significant control rod pattern errors which could lead to a control rod with a high reactivity worth (if dropped). A significant pattern error is one of several abnormal events all of which must occur to have a RDA which might exceed fuel energy density limit criteria for the event. It was designed only for possible mitigation of the RDA and is active only during low power operation (currently generally less than 20 percent power) when a RDA might be significant. It provides rod blocks on detection of a significant pattern error. It does not prevent a RDA. A similar pattern control function is also performed by the RWM, a computer controlled system. All reactors having a RSCS also have a RWM.

In response to a topical report submitted by the BWR Owner's Group, on December 27, 1987 we issued a letter with a supporting safety evaluation approving (1) elimination of the RSCS while retaining the RWM to provide backup to the operator for control rod pattern control and (2) lowering the setpoint for turnoff of RWM to 10% of rated thermal power from its current 20% level. (Letter, A. C. Thadani, NRC to J. S. Charnley, GE, Subject: Acceptance for Referencing of Licensing Topical Report NEDE-24011-P-A, "General Electric Standard Application for Reactor Fuel," Revision 8, Amendment 17.)

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 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 analysis contained in their December 14, 1988 letter states the following in response to the three NRC criteria referenced above:

Deletion of the RSCS and reduction of the RWMS low power set point from 20% to 10% does not involve a significant hazards consideration because it does not:

1. Significantly increase the probability of occurrence or the consequences of an accident or malfunction of equipment related to safety as previously evaluated in the FSAR.

The nonsafety-related RSCS and RWM are not required for nor do they support the proper operation of other systems. Hence, deleting the RSCS and changing the low

power set point on the RWM has no effect one way or the other on the probability of equipment malfunction in other systems or within the RWM.

The probability of occurrence of an accident is not affected by this change. These changes impact only the rod drop accident (RDA) analyses. The probability of an RDA is dependent only on the control rod drive system and mechanisms themselves, and not in any way on the RSCS or RWM.

The consequence of an RDA as evaluated in the LGS FSAR will not be affected by this modification. An extensive probabilistic study was performed by the NRC staff (letter and enclosure from B. C. Rusche, NRR, to R. Fraley, ACRS, dated June 1, 1976, "Generic Item II A-2 Control Rod Drop Accident (BWRs)"). This study indicated that there was not a need for the RSCS. Furthermore, improved methodologies in the RDA analysis methods (e.g. BNL-NUREG 28109, "Thermal Hydraulic Effects on Center Rod Drop Accident in a BWR," October 1980) indicated that the peak fuel enthalpies resulting from an RDA are significantly lower than previously determined by less refined methodologies.

The RSCS duplicates the function of the RWM. So long as the RWM is operable, the RSCS is not needed since the RWM prevents control rod pattern error. In the event the RWM is out of service, after the withdrawal of the first 12 control rods, the proposed Technical Specifications require that control rod movement and compliance with the prescribed control rod pattern be verified by a second licensed operator or technically qualified member of the technical staff. The verification process is controlled procedurally to ensure a high quality, independent review of control rod movement. In addition, to further minimize control rod movement at low power with the RWM out of service, the proposed Technical Specifications will permit only one plant start-up per calendar year with the RWM out of service prior to or during the withdrawal of the first twelve control rods. All the above taken together demonstrates consistency and applicability to those conclusions reached in the referenced SER, and substantiate the conclusion that there will be no increase in the consequences of an RDA as evaluated in the FSAR as a result of eliminating the RSCS.

There will also be no increase in the consequences of an RDA as evaluated in the FSAR due to lowering the RWM set point from 20% to 10%. The effects of an RDA are more severe at low power levels and are less severe as power level increases. Although the original calculations for the RDA were performed at 10% power, the NRC required that the generic BWR Technical Specifications be written to require operation of the RWM below 20% power in order to ensure conservatism. However, GE continued to perform the RDA analyses at and below 10% power because these produced more conservative analytical results. Recently, more refined calculations by BNL have shown that even with the maximum single control rod position error, and most multiple control rod error patterns, the peak fuel rod enthalpy reached during an RDA from these control rod patterns would not exceed the NRC limit of 280 cal/gm for RDAs above 10% power, confirming the original GE analyses. Hence, lowering the RWM set point from 20% to 10% will not result in an increase in the consequences of an RDA as evaluated in the FSAR. The previously referenced NRC SER has concluded this RWM set point reduction to be acceptable.

2. Create the possibility for an accident or malfunction of a different type than any evaluated in the FSAR.

Operation of the RSCS and RWM cannot cause or prevent an accident. They function to minimize the consequences of an RDA. The RDA is already evaluated in the FSAR, and the effect of this proposed change on the analyses is discussed in Item 1 above.

Elimination of the RSCS and lowering the RWM set point will have no impact on the operation of any other systems, and hence would not contribute to a malfunction in any other equipment nor create the possibility for an accident to occur which has not already been evaluated.

3. Involve a significant reduction in the margin of safety.

Elimination of the RSCS will not lower the margin of safety for the reasons discussed in Item 1 above and summarized below:

(a) An extensive NRC study has determined that the possibility of an RDA resulting in unacceptable consequences is so low as to negate the requirement for the RSCS.

(b) Recent calculations have determined that the consequences of an RDA are acceptable above 10% power.

(c) The RSCS is redundant in function to the RWM. Eliminating the RSCS does not eliminate the control rod pattern monitoring function performed by the RWM.

(d) To ensure that the RWM will be in service when required, the proposed RWM Technical Specification will be revised to allow only one startup per calendar year with the RWM out of service prior to or during the withdrawal of the first twelve control rods. If the RWM is out of service below 10% power, control rod movement and compliance with prescribed control rod patterns will be verified by a second licensed operator or technically qualified member of the technical staff. This situation is controlled by a station procedure which specifically requires the following:

* Plant Management approval is required in order for the operator to bypass the inoperable RWM.

* A second operator or technically qualified staff member, with no other duties, is required to verify the first operator's actions while the first operator performs rod movements.

* The startup and the shutdown sequences with their respective signoff sheets are provided for verification by the second operator for each step and rod movement made by the first operator.

* The operators are provided with shutdown instructions that would allow a shutdown sequence that would result in a control rod pattern which would agree with RWM pattern if that system were not bypassed and was controlling. These instructions identify, for the operator, the RWM shutdown step to be initiated for further rod insertion below the RWM low power setpoint (i.e. 10% reactor power).

There is no significant reduction in the margin of safety resulting from lowering the RWM set point from 20% to 10% because calculations by GE and BNL have shown that even with the maximum single control rod position error, and most multiple error patterns, the peak fuel rod enthalpy during an RDA from these patterns would not exceed the NRC limit (280cal/gm) above 10% power.

In summary GE has provided technical justification for the proposed changes in the Topical Report NEDE-24011-P-A and associated references which justify the acceptability of the proposed changes.

The NRC has reviewed and accepted the GE analysis and provided guidelines for licensees wanting to make the changes proposed in NEDE-24011-P-A and approved in the NRC SER issued December 27, 1987 to J. S. Charnley of General Electric.

The proposed changes are consistent with those approved in the NRC SER and the guidelines setforth therein. Therefore, there is no significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and significant hazards analysis and concurs with the licensee's determination as to whether the proposed amendment involves a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

*Local Public Document Room location:* Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

*Attorney for licensee:* Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

*NRC Project Director:* Walter R. Butler

**Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York**

*Date of amendment request:* December 8, 1988

*Description of amendment request:* The licensee has provided the following description:

Technical Specification 3.4.B provides that if the requirement of three operable auxiliary feedwater pumps cannot be met within 72 hours, the reactor shall be in hot shutdown within the next 12 hours. This wording renders the specification applicable to all possible conditions, independent of the number of the inoperable auxiliary feedwater pumps. The Westinghouse Standard Technical Specifications provide LCOs which are dependent on the number of inoperable auxiliary feedwater pumps. The proposed change will revise Technical Specification 3.4 to reflect the applicable LCOs provided by the Westinghouse Standard Technical Specifications.

*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 consideration 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 possiblity 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 made the following analysis:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response

The proposed amendment involves a revision to the current LCO for the auxiliary feedwater pumps to reflect the applicable LCOs provided by the Westinghouse Standard Technical Specifications. The proposed amendment will provide a LCO based on the number of inoperable pumps. The proposed LCOs for the situations of one and two pumps inoperable are equivalent or more stringent than the existing LCO. The proposed LCO for the situation of three pumps inoperable reflects the fact that continued plant operations with three inoperable auxiliary feedwater pumps is a safer mode of operation than commencing plant shutdown in such a condition. As such, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

The proposed amendment does not involve any physical alteration to the auxiliary feedwater system or to any other plant system or structure. The change does not affect the operation of any plant system. Hence, the possibility of a new or different kind of accident from any accident previously evaluated is not created by this change.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response

The proposed amendment involves a revision to the current LCO for the auxiliary feedwater pumps to reflect the applicable LCOs provided by the Westinghouse Standard Technical Specifications. The proposed amendment will provide a LCO based on the number of inoperable pumps. The proposed LCOs for the situations of one and two inoperable pumps are equivalent or more stringent than the existing LCO. The proposed LCO for the situation of three inoperable pumps reflects the fact that continued plant operations with three inoperable auxiliary feedwater pumps is a safer mode of operation than commencing plant shutdown in such a condition. As such, the proposed amendment does not involve a significant reduction in a margin of safety.

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:* Robert A. Capra, Director

**Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Weld County, Colorado**

*Date of amendment request:* December 19, 1988

*Description of amendment request:* As reported in LER 88-012-01, dated September 21, 1988 (P-88345), an error had been discovered by General Atomics in their computer program code utilized in the development of the environmental qualification profiles for the Fort St. Vrain (FSV) equipment qualification (EQ) program. The error resulted in generating nonconservative building temperatures for a variety of smaller high energy line break (HELB) sizes. Reanalyses of the HELB scenarios confirmed that a number of smaller HELB sizes resulted in higher delayed building temperature peaks than previously analyzed. To reduce those peaks, a modification to the Steamline Rupture Detection/Isolation Setpoint was required. The new Fixed High Temperature Trip Setpoint is based on an Analysis Value of 180 degrees fahrenheit. This trip will allow automatic isolation of those HELBs which do not produce a building temperature rate-of-rise rapid enough to cause a trip of SLRDIS. The Fixed High Temperature Trip Setpoint enhances equipment qualification by reducing the magnitude of the delayed building temperature peaks for smaller HELBs and permits timely operator access to perform any manual actions which may be required. The final EQ composite temperature profile used for future equipment qualification incorporates the new Fixed High Temperature Trip Setpoint in addition to the existing Rate-of-Rise Trip Setpoint as submitted in P-88344 dated September 28, 1988.

This change to the Technical Specifications implements this Fixed High Temperature Trip Setpoint by modifying LCO 4.41 and SR 5.4.1.

*Basis for proposed no significant hazards consideration determination:* The licensee submitted the following evaluation of significant hazards considerations for this amendment request:

The proposed Amendment does not involve a significant hazards consideration because operation of the Fort St. Vrain Nuclear Generating Station in accordance with this proposed modification would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Recent reanalyses determined that certain postulated HELBs could result in temperatures in excess of the original composite temperature profile used in the Environmental Qualification Program. While the initial peak temperatures were reduced, a variety of smaller breaks resulted in higher delayed temperatures. The addition of a new Fixed High Temperature Trip Setpoint will enable SLRDIS to automatically detect and isolate a number of the smaller HELBs which do not produce a temperature rate-of-rise rapid enough to cause a SLRDIS Rate-of-Rise Trip. This trip would significantly mitigate the delayed temperature peaks, thus enhancing equipment qualification and ensuring that the resultant temperatures will not prevent timely building access. The electrical equipment per 10 CFR 50.49 remains qualified with the new composite profile. The consequences of a SLRDIS actuation are addressed in FSAR Section 7.3.10.4. The consequences of SLRDIS actuations are no different than previously analyzed for the Rate-of-Rise Trip Setpoint.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The required function of SLRDIS is to isolate both primary and secondary coolant loops in the event of a HELB, resulting in an interruption of forced circulation cooling (IOFC). The consequences of a SLRDIS actuation have been evaluated in the FSAR. The added Fixed High Temperature Trip Setpoint adds a new point in the elevation of bulk building average temperature at which SLRDIS will trip.

Since the new trip results only in changing the programming, all previous failure modes and malfunctions remain unchanged. Recovery following a SLRDIS actuation may be accomplished by one of three methods: (1) normal keyboard commands provided that the ambient temperature sensed by at least 3 of the 4 sensors has returned below the trip setpoint; or (2) manipulating the SLRDIS detection rack bypass key switch; or (3) removal of the SLRDIS XCR's (control relays) in control board 93-I-10.

3. Involve a significant reduction in a margin of safety.

The basis for SLRDIS in LCO 4.4.1 states that detection of steam leaks is required for environmental qualification of safe shutdown cooling systems. The detection system utilizes a pre-trip fixed temperature alarm to initiate manual operator actions to isolate the steam leak and a Rate-of-Rise Trip Setpoints to initiate an automatic isolation. Both detection points ensure that the resultant harsh environment from a postulated steam leak is limited such that the safe shutdown

systems will be capable of performing their safety function under the environmental conditions and permit timely building access. Adding a new Fixed High Temperature Trip Setpoint enhances the required detection and resultant protective actions to limit the harsh environment. The same system accuracy and setpoint uncertainty methodology were applied to calculate the new Fixed High Temperature Allowable Value and Trip Setpoint. The added trip setpoint neither causes any new single failure points nor compromises the system detection. The operability requirements as defined in the Technical Specifications remain unchanged for the new HELB analyses and SLRDIS Fixed High Temperature Trip Setpoint.

No single failure can result in the actuation of the SLRDIS safety function or preclude the safety function from occurring. EE-EQ-0033, Rev. C has been updated to conservatively reflect the impact of a prolonged loss of HVAC condition on SLRDIS actuation with the new Fixed High Temperature Trip Setpoint. The temperature in either the reactor building or turbine building will not cause a SLRDIS actuation for a loss of HVAC condition of less than or equal to 6 hours. Prior to 6 hours, corrective action, if required, could be implemented to reduce building temperatures. The new trip setpoint is slightly higher than the existing reactor building high temperature scram setpoint of 161 degrees F, which has not actuated in the past and would not be expected to actuate except during a HELB or Design Basis Accident No. 2. Therefore, it is concluded that the probability for inadvertent actuation of SLRDIS is not increased by the 171 degrees F. Fixed High Temperature Trip Setpoint.

The staff has reviewed the licensee's evaluation and agrees with its conclusions. Therefore, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

*Local Public Document Room location:* Greeley Public Library, City Complex Building, Greeley, Colorado

*Attorney for licensee:* J. K. Tarpey, Public Service Company Building, Room 900, 550 15th Street, Denver, Colorado 80202

*NRC Project Director:* Jose A. Calvo

**Rochester Gas and Electric Corporation, Docket No. 50-244, R.E. Ginna Nuclear Power Plant, Wayne County, New York**

*Date of amendment request:* October 10, 1988 as supplemented on December 22, 1988

*Description of Amendment:* The proposed amendment would modify the Technical Specifications to reflect the appropriate titles for corporate positions having responsibility for overall plant safety, and to modify the PORC membership.

*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). 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.

Proposed revisions to the Technical Specifications include an additional member of the Plant Operations Review Committee, Maintenance Planning/ Scheduling Manager, and changes to the following titles: Senior Vice President to Vice President, Training Coordinator to Division Training Manager, Shift Foreman to Shift Supervisor, Plant Health Physicist to plant Health Physicist, and Electric and Steam Production to Production and Engineering. The license also requests addition of the position of Plant Manager, Ginna Station. This position has the responsibility for overall onsite operations of Ginna Station and replaces the titles of Superintendent, Ginna Production; and Station Superintendent, except that the position of Superintendent, Ginna Production continues as chairman of the Plant Operations Review Committee (PORC).

The changes are administrative in nature because they do not change the physical aspects of the plant, equipment, or previously approved operations, and they do not involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any accident previously evaluated; or involve a significant reduction in the margin of safety. Accordingly, the Commission proposes to determine that this revision does not involve a significant hazard.

*Local Public Document Room location:* Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

*Attorney for licensee:* Harry Voigt, Le Boeuf, Lamb, Leiby and McRae, Suite 110, 1133 New Hampshire Avenue, NW., Washington, DC 20036.

**Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama**

*Date of amendment requests:* December 9, 1988 (TS 262)

*Description of amendment requests:* The proposed amendment would change the BFN Technical Specifications (TS) for Units 1, 2, and 3 to add requirement 1.0.MM.6 to the Definitions Section. This requirement would ensure that an Inservice Inspection Program for piping identified in NRC Generic Letter 88-01 be performed in accordance with developed NRC positions.

Specifically, this proposed change would require the implementation of a program to monitor piping made of austenitic stainless steel meeting the operational requirements outlined in Generic Letter 88-01 for any indications of IGSCC. This proposed change has been reviewed and approved by the BFN Plant Operations Review Committee and the Nuclear Safety Review Board.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

NRC 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 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 of consequences of an accident previously evaluated, 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.

1. The proposed change does not involve a significant increase in the probability or consequence of any accident previously evaluated.

BFN Final Safety Analysis Report (FSAR) Chapter 14 provides analysis of Design Basis Accidents (DBA) in which BFN was analyzed and licensed. In reviewing these DBA's the one closest to the IGSCC issue would be the Loss of Coolant Accident (LOCA) discussed in FSAR Section 14.6.3. In that analysis, it is assumed that the reactor is operating at the most severe condition at the time the recirculation pipe breaks, which would maximize the parameter of interest: primary containment response, fission product release or Core Standby Cooling System requirements. In addition, the recirculation loop pipeline is assumed to be instantly severed. This results in the most rapid coolant loss and depressurization with coolant discharged from both ends of the break.

The IGSCC concern of the staff results from various BWR Plants identifying that

they have experienced some cracking in weldments of austenitic stainless steel piping. The proposed TS would require an inspection program be performed in accordance with NRC guidelines to ensure that the potential of pipe weldment cracking be minimized. This TS would apply to all BWR piping made of austenitic stainless steel that is four inches or larger in nominal diameter and contains reactor coolant at a temperature above 200° F during power operation regardless of Code Classification. Implementation of this TS would ensure that weldment cracking would be detected and fixed before a pipe would rupture. As a result, the proposed TS would provide added assurance of not exceeding any assumptions or results for the LOCA analysis stated above.

In Generic Letter 88-01, the Commission stated that unless appropriate remedial actions are taken, BWR plants may not be in compliance with their current design and licensing bases, including 10 CFR 50, Appendix A, General Design Criteria (GDC) 4, 14, and 31. NRC proposes a TS, in which BFN is hereby proposing, which will ensure implementation of a NRC approved program for IGSCC. This program provides appropriate remedial actions, therefore, providing added assurance that BFN is within its design bases and appropriate 10 CFR 50 Appendix A GDC's.

2. The proposed change does not change or modify the operation or design of any safety-related equipment currently installed at BFN. This proposed TS would enhance the overall plant integrity through the implementation of a program that would provide added assurance that the pressure boundary piping integrity would be maintained. This proposed TS change is administrative in nature and does not introduce any new conditions which would create a new or different accident that has been previously analyzed.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change is administrative in nature and in fact enhances the margin of safety at BFN. Implementation of a program in accordance with Generic Letter 88-01 requires an ISI program to monitor specific piping that may be susceptible to IGSCC. This program would assist in detection of weldment cracking in austenitic stainless steel piping as outlined in the subject letter. The addition of this program provides added assurance that any cracking would be detected and fixed therefore, eliminating any added potential of a pipe rupture. The implementation of this TS enhances the overall integrity and safety of BFN. This proposed change also supports the design and licensing bases of BFN, in addition to supporting 10 CFR 50, Appendix A, GDC 4, 14, and 31.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

*Local Public Document Room location:* Athens Public Library, South Street, Athens, Alabama 35611.

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

*NRC Assistant Director:* Suzanne Black

**Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama**

*Date of amendment requests:* December 22, 1988 (TS 264)

*Description of amendment requests:* The Tennessee Valley Authority (TVA or the licensee) proposes to amend the Browns Ferry Technical Specifications (TS) by adding surveillance requirements to the Reactor Protection System (RPS) power monitoring system. In response to a NRC directive, the licensee installed RPS power monitoring system circuit protectors. The proposed surveillance requirements relate to these modifications.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

1. The proposed change does not involve a significant increase in the probability or consequence of any accident previously evaluated.

A modification was made to install redundant class 1E circuit protection devices between the non-class 1E RPS power supplies and the class 1E RPS power supplies. These circuit protective devices consist of a contractor which will open by (1) an overvoltage relay with a trip level setting of less than or equal to 126.5 Vac, (2) an undervoltage relay with a trip level setting of greater than or equal to 113.4 Vac for the MG sets, (3) an undervoltage relay with a trip level setting of greater than or equal to 111.8 Vac for alternate supply, and (4) an underfrequency relay trip level setting of greater than or equal to 57 Hz on all devices.

The cabinets and conduits for each RPS power monitoring system are located in the control building, which is a seismic category 1 structure.

This structure will provide protection from effects of tornadoes, tornado missiles, and external floods. The components of each monitoring system are also seismically qualified for class 1E application as required by GDC 2.

In order to comply to GDC 21, there are two physically independent and fully redundant circuit interrupters provided for each RPS bus, including alternate supply. This redundancy provides single failure protection in case one circuit does not function properly. This also provides sufficient reliability to ensure the RPS performs its intended safety function.

The BFN Final Safety Analysis (FSAR) Section 7.2.3.2 states that the power to each of the two reactor protection trip systems is supplied, via a separate bus, by its own high-inertia, a-c motor generator set. The high inertia is provided by a flywheel. The inertia is sufficient to maintain voltage and frequency within 275% of rates values for at least 1.0 second following total loss of power to the MG set. In applying this to Section 14.5.4.4.b of the FSAR accident analysis, loss of auxiliary power assumes the RPS MG set coastdown time until loss of MG generator output voltage to be 5.0 seconds. Thus the upper and lower bounds for voltage output and time delay are identified as significant performance parameters expected from the MG set design. The RPS power monitoring system installed is designed by the MG sets to provide no time delay. Consequently, the trip level settings for the RPS power monitor must be outside the expected operating range of the MG set. For a nominal 120 Vac MG output voltage, the 5% regulation band (114 to 126 volts) is within the technical specification trip level setting of 113.4 to 126.5 Vac. This will allow the MG set to function within its intended and designed time and voltage range before the RPS power monitoring system trips. These settings support the design and function of the high-inertia MG sets, and therefore, support the assumptions made in the BFN FSAR.

Therefore, the design, trip level settings, and intended function of the RPS power monitoring system are both bounded and support the current BFN FSAR accident analysis.

2. The proposed amendment will not create the possibility of a new or different kind of accident.

The proposed change does not affect the operation or intended function of any currently installed safety related equipment. If all the protective circuits in one MG fail to open, the redundant train of RPS systems is still available to mitigate any design basis accident. The RPS power monitoring system does not perform any specific safety function therefore, failure would, at worst case, be bounded by the current BFN Final Safety Analysis.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

The additional surveillance requirements resulting from the subject modification, enhance to overall dependability of the RPS system. By specifying overvoltage, undervoltage, and underfrequency values ensures that the RPS power monitoring system will protect the RPS components so they perform their intended function.

This system provides no direct safety function. It provides isolation between the non-class 1E RPS power supplies and the class 1E power distribution buses. It functions to isolate the RPS power distribution buses upon detection of

overvoltage, undervoltage, and underfrequency on the RPS power supplies thereby preventing possible adverse operation of the class 1E RPS components outside their designed voltage and current ranges.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

*Local Public Document Room location:* Athens Public Library, South Street, Athens, Alabama 35611.

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

*NRC Assistant Director:* Suzanne Black

**The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio**

*Date of amendment request:* November 28, 1988 as amended December 29, 1988.

*Description of amendment request:* The proposed amendment would increase the minimum critical power ratio (MCPR) in the Technical Specifications (TS) from 1.06 to 1.07 to account for additional uncertainties which normally occur in the second and subsequent operating cycles. It also would add two limiting lattice MAPLHGR (most-limiting average planar linear heat generation rate) curves to the TS to account for two new GE8X8EB fuel types being used this cycle and delete the MAPLHGR curve for the natural uranium bundles which are being totally removed during the refueling outage. The limiting conditions for operation and action statements for the APLHGR would be revised to reflect the lattice-dependent MAPLHGR limits in the GESTAR analysis and the default limits in TS figures for hand calculations. The TS would be reworded to clarify how power-dependent MAPLHGR factors ($MAPFAC_p$) are applied to the lattice MAPLHGR's and reflect NRC guidance in the GESTAR safety evaluation report. Figures and pages would also be renumbered and reordered. The extrapolated value for $MCPR_f$ (figure 3.2.2-1 of the TS) (the calculated MCPR at a given point of core flow) is being corrected by the factor of [1.0 +0.0032 (40-F)] where F = percent of rated core flow, to provide additional conservatism at lower core flows (below 40% of rated flow). Additionally, the flow dependent MAPLHGR factor ($MAPFAC_f$) curve (figure 3.2.1-4) is being extended down to the 20% rated core flow line to account for core flow shortfalls which were demonstrated during the startup testing program. (This figure is also being renumbered, the new number will be 3.2.1-1).

The proposed amendment would also delete two curves (A-A' and B-B') from the current set of MCPR parametric ($MCPR_p$) curves (those curves which specify the power-dependent MCPR limit at reduced feedwater temperatures for various core average exposures and core flows). Thermal margin during the second cycle will be maintained using curve C-C' as the limit and the C-C' designation will be removed. Additionally, the TS related to the LHGR (linear heat generation rate or heat-generation-per-unit-length of fuel rod) would be revised to reflect the higher LHGR associated with the new fuel. The definition of critical power ratio would be generalized by changing GEXL to a GE critical power correlation. The associated bases would also be changed.

*Basis for proposed no significant hazards consideration determination:* The standards used to arrive at a determination that a request for amendment requires no significant hazards consideration are included in the Commission's Regulations, 10 CFR 50.92(c), which states that the 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 licensees have provided the following analysis concerning the above three factors:

1. The proposed changes would not involve a significant increase in the consequences of an accident previously evaluated because MCPR, $MCPR_f$, LHGR, $MAPFAC_f$ and MAPLHGR core operating limits are provided to establish bounds on normal reactor operations which ensure core conditions are maintained within the assumptions and scope of accident analyses. New MAPLHGR and $MAPFAC_f$ curves and LHGR, MCPR and $MCPR_f$ limits are provided to reflect changes in the reactor fuel configuration and design assumptions. Operation within these limits will assure the consequences of affected transients and accidents will remain within the results and bounds of the safety analyses. MAPLHGR, $MAPFAC_f$, $MCPR_f$ and MCPR curves/limits were generated using analytical methods previously approved by the NRC.

The Safety Limit MCPR is determined using a statistical model that combines uncertainties in operating parameters with uncertainties used to calculate the critical power. For reload cores, some of the uncertainties used in the determination of the Safety Limit MCPR are larger than for initial cores. The higher Safety Limit MCPR for reload cores accounts for these increased uncertainties. The Safety Limit MCPR for reload cores has received previous NRC approval and is documented within the Updated Safety Analysis Report (USAR) and in GESTAR.

The critical power ratios in the transient analyses were calculated using the improved critical power correlation, GEXL-Plus. This correlation has been approved by the NRC (SER to Amendment 15 of GESTAR). Its predecessor GEXL was used for the initial core analysis.

The LHGR limit for GE8X8EB fuel was calculated using the GESTR-MECHANICAL code (a fuel rod thermal-mechanical performance model accepted by the NRC in GESTAR). Results from GESTR-MECHANICAL demonstrate that compliance with the new LHGR limit (in concert with appropriate MAPLHGR curves) will further ensure fuel design basis criteria are satisfied for GE8X8EB fuel.

Extended operating domains and modes of operation have been analyzed by GE (using NRC-approved methods) to determine applicable operating restrictions. GE demonstrated that the consequences of changes to the allowable operating region are bounded by the proposed values for MCPR and MAPLHGR. Furthermore, the probability of an accident is not increased because operation in the expanded region does not significantly alter the normal operation of the equipment, for which failures have been previously analyzed.

2. The proposed changes would not create the possibility of a new or different kind of accident from any accident previously evaluated because proposed MCPR, $MCPR_f$, MAPLHGR, $MAPFAC_f$ and LHGR limits do not directly affect the operation or function of any system or component but instead set fuel or core thermal limits so that operation within these limits will maintain the analyzed margins of safety.

The Safety Limit MCPR was adjusted in the conservative direction because of calculational uncertainties associated with reload cores to maintain the margin of safety. MAPLHGR limits are provided for each bundle type to ensure that the requirements of 10 CFR 50.46 and Appendix K are maintained. The limits are results of the reload transient and Emergency Core Cooling System (ECCS) analyses and are designed to maintain the same margins of safety. Therefore, this change would not create the possibility of an accident different than previously evaluated.

Expanded operating regions represent changes to the core power and flow distribution, but do not significantly affect the operation or function of any system or component. Operating limits were

established by analyses to bound all combinations of specified expanded operating domains and equipment out of service within acceptable analyzed conditions to ensure fuel integrity and ECCS criteria. Consequently, there is no significant impact on or addition to any system or equipment whose failure could initiate an accident.

3. The proposed changes would not involve a significant reduction in the margin of safety because all of the proposed changes have been analyzed to the same governing criteria as before and demonstrate that the consequences of transients or accidents are not increased beyond these already evaluated by the NRC for the Perry Nuclear Power Plant.

The Safety Limit MCPR is set at the point at which no fuel damage is expected to occur as discussed in GESTAR. The Safety Limit MCPR is combined with the most limiting transient change to the critical power ratio to establish the operating limit MCPR. The Safety Limit MCPR and the change resulting from the most limiting transient have been calculated by methods described in GESTAR. These methods have received previous NRC approval.

MAPLHGR's are determined by analysis to ensure the acceptance criteria of 10 CFR 50.46 are met and establish the margins of safety for fuel and the ECCS. Calculations using NRC-approved models described in GESTAR yield results within these acceptance criteria.

Furthermore, the fuel used in Cycle 2 is very similar to that used in the previous cycle and the core will be operated using NRC-approved methods.

The staff has reviewed the licensees' no significant hazards consideration determination. With respect to operation in the extended operating domains, the staff notes that the licensees have implemented procedures, in response to NRC Bulletin 88-07 dated June 15, 1988, which require scramming the plant immediately following a dual recirculation pump trip. Further, while in the maximum extended operating domain region, core flow will be maintained above 45%. These measures significantly reduce the possibility of power oscillations while in the extended operating domain. Given these considerations, the staff concurs with the licensees' no significant hazards determination. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards considerations.

*Local Public Document Room location:* Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

*Attorney for licensee:* Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

*NRC Project Director:* John N. Hannon.

## NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly 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, the Gelman Building, 2120 L 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 Reactor Projects.

**Commonwealth Edison Company, Docket No. 50-237, Dresden Nuclear Power Station, Unit No. 2, Grundy County, Illinois**

*Date of application for amendments:* August 15, 1988

*Brief description of amendments:* The amendment revises the Technical Specifications to support: (1) reload reviews for Cycle 12 by Commonwealth Edison Company in accordance with 10 CFR 50.59; (2) changes resulting from analyses performed to allow equipment out-of-service; and (3) changes provided for clarification or as administrative changes. The amendment also revises the Section 3.F of the license to delete a condition requiring a Safety Evaluation for coastdown operation with abnormal feedwater temperature.

*Date of issuance:* January 6, 1989

*Effective date:* January 6, 1989 and to be implemented within 60 days.

*Amendment No.:* 104

*Provisional Operating License No. DPR-19.:* The amendment revises the Technical Specifications and the license.

*Date of initial notice in* **Federal Register:** October 5, 1988 (53 FR 39166). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 6, 1989.

*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. 50-374, LaSalle County Station, Unit No. 2, LaSalle County, Illinois**

*Date of application for amendment:* September 14, 1988

*Brief description of amendment:* This amendment provides revised Technical Specifications which incorporate new Cycle 3 reload fuel operating limits, and expands operating domains (including operation with equipment out-of-service).

*Date of issuance:* January 6, 1989

*Effective date:* January 6, 1989

*Amendment No.:* 41

*Facility Operating License No. NPF-18.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 16, 1988 (53 FR 46140). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 6, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

**Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan**

*Date of application for amendment:* December 2, 1986, and December 14, 1987.

*Brief description of amendment:* This amendment modified paragraph 3.F of the license to require compliance with the amended Physical Security Plan. This Plan was amended to conform to the requirements of 10 CFR 73.55. Consistent with the provisions of 10 CFR 73.55, search requirements must be implemented within 60 days and miscellaneous amendments within 180 days from the effective date of this amendment.

*Date of issuance:* January 5, 1988

*Effective date:* January 5, 1988

*Amendment No.:* 120

*Provisional Operating License No. DPR-20.* The amendment revises the license.

*Date of initial notice in* Federal Register: May 4, 1988 (53 FR 15909). The Commission's related evaluation of the amendment is contained in a letter to Consumers Power Company dated January 5, 1988 and a Safeguards Evaluation Report dated January 5, 1988.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Van Zoeren Library, Hope College, Holland, Michigan 49423

**Dairyland Power Cooperative, Docket No. 50-409, La Crosse Boiling Water Reactor, La Crosse, Wisconsin**

*Date of application for amendment:* December 21, 1987 as revised February 22, 1988 and October 13, 1988.

*Brief description of amendment:* This amendment revises the Technical Specifications (TS) for radiological environmental monitoring to delete requirements for sampling and analysis of Iodine-131. Iodine-131 is a fission product produced during reactor operations which has an 8.04 day half life and is no longer present at La Crosse since the reactor has been shut down since April 30, 1987.

*Date of issuance:* December 22, 1988

*Effective Date:* December 22, 1988

*Amendment No.:* 64

*Possession-Only License No. DPR-45.* This Amendment revised the Technical Specifications.

*Date of initial notice in* Federal Register: April 8, 1988 (53 FR 11718). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 22, 1988.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

**Duke Power Company, et al., Docket No. 50-413, Catawba Nuclear Station, Unit 1, York County, South Carolina**

*Date of application for amendment:* August 12, 1986, as supplemented December 14, 1987, March 1 and April 18, 1988

*Brief description of amendment:* The amendment substituted the standard fire protection license condition for the existing license condition.

*Date of issuance:* January 3, 1989

*Effective date:* January 3, 1989

*Amendment No.:* 57

*Facility Operating License No. NPF-35.* Amendment revised the Operating License.

*Date of initial notice in* Federal Register: November 30, 1988 (53 FR 48328). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 3, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

**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 application for amendments:* April 15, 1988

*Brief description of amendments:* The amendments modified the Technical Specifications to add one containment penetration conductor overcurrent protective device to Table 3.8-1A for Unit 1 and one to Table 3.8-1B for Unit 2.

*Date of issuance:* January 3, 1989

*Effective date:* January 3, 1988

*Amendment Nos.:* 58 and 51

*Facility Operating License Nos. NPF-35 and NPF-52.* Amendments revised the Technical Specifications.

*Date of initial notice in* Federal Register: November 30, 1988 (53 FR 48329). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 3, 1988.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

**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 application for amendments:* October 6, 1988

*Brief description of amendments:* The amendments revised the Technical Specifications to reflect a modification to the pumphouse pit level instrumentation of the Nuclear Service Water System.

*Date of issuance:* January 10, 1989

*Effective date:* January 10, 1989

*Amendment Nos.:* 59 and 52

*Facility Operating License Nos. NPF-35 and NPF-52.* Amendments revised the Technical Specifications.

*Date of initial notice in* Federal Register: November 16, 1988 (53 FR 46143). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 10, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia**

*Date of application for amendments:* February 28, 1986, as supplemented September 25 and December 23, 1986, and December 15, 1988

*Brief description of amendments:* The amendments extended the expiration dates for the operating licenses.

*Date of issuance:* December 30, 1988

*Effective date:* December 30, 1988

*Amendment Nos.:* 159 and 97

*Facility Operating License Nos. DPR-57 and NPF-5.* Amendments revised the Operating Licenses.

*Date of initial notice in* Federal Register: April 23, 1986 (51 FR 15397). Because the September 25 and December 23, 1986, and December 15, 1988, submittals clarified certain aspects of the original request, the substance of the changes noticed in the Federal Register and the proposed no significant hazards determination were not affected.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 30, 1988

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-424, Vogtle Electric Generating Plant, Unit 1, Burke County, Georgia**

*Date of application for amendment:* October 25, 1988

*Brief description of amendment:* The amendment modified the Technical Specifications to add reference clarifications to Section 6.

*Date of issuance:* January 4, 1989

*Effective date:* January 4, 1989

*Amendment No.:* 15

*Facility Operating License No. NPF-68:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 30, 1988 (53 FR 48331). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 4, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

**GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania**

*Date of application for amendment:* May 4, 1988

*Brief description of amendment:* Revises the listing of components subject to 10 CFR Part 50, Appendix J leak testing to conform to recent piping modifications made on containment penetration No. 417.

*Date of Issuance:* January 3, 1989

*Effective date:* January 3, 1989

*Amendment No.:* 148

*Facility Operating License No. DPR-50.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 30, 1988 (53 FR 48331). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated January 3, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Government Publications Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

**Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas**

*Date of amendment request:* November 7, 1988

*Brief description of amendment:* The amendment changed the Technical Specifications for Unit 1 to the Combined Technical Specifications for Units 1 and 2, added the positive displacement pump in a lock-out condition during cold overpressurization, added a reactor coolant pump seal isolation header pressure interlock, and made minor changes to the administrative section of the Technical Specifications.

*Date of issuance:* December 29, 1988.

*Effective date:* December 29, 1988.

*Amendment No.:* 4

*Facility Operating License No. NPF-76.* Amendment revised the Technical Specification.

*Date of initial notice in* **Federal Register:** November 22, 1988 (53 FR 47283). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 29, 1988.

*No significant hazards consideration comments received:* No.

*Local Public Document Rooms Location:* Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701.

**Illinois Power Company, Docket No. 50-461, Clinton Power Station, Unit 1, DeWitt County Illinois**

*Date of application for amendment:* October 30, 1987

*Description of amendment request:* The proposed changes will achieve consistency with a previously approved change and clarify an existing requirement.

*Date of issuance:* January 5, 1989

*Effective date:* January 5, 1989

*Amendment No.:* 17

*Facility Operating License No. NPF-62.* The amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** January 27, 1988 (53 FR 2318). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 5, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

**Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine**

*Date of application for amendment:* October 26, 1988

*Brief description of amendment:* Removes the offsite and facility organizational charts from the technical specifications.

*Date of issuance:* January 3, 1989

*Effective date:* January 3, 1989

*Amendment No.:* 108

*Facility Operating License No. DPR-36:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 30, 1988 (53 FR 48333). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 3, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578.

**Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine**

*Date of application for amendment:* October 18, 1988

*Brief description of amendment:* The change modifies the Technical Specification 4.2, "Equipment and Sampling Tests," which provides testing requirements for selected plant equipment. The proposed change modifies the specified surveillance interval for the Control Element Assembly (CEA) partial movement test in Table 4.2-2 from performance once every two weeks to monthly to agree with the Combustion Engineering standard technical specifications.

*Date of issuance:* January 4, 1989

*Effective date:* Immediately

*Amendment No.:* 109

*Facility Operating License No. DPR-36.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 30, 1988 (53 FR 48332). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 4, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Wiscasset Public Library, High Street, Wiscasset, Maine 04578.

**Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut**

*Date of application for amendment:* September 13 and September 30, 1988

*Brief description of amendment:* The amendment revises Technical Specification (TS) 4.4.5.1.4.a.8 to allow the inspection of steam generator tubes by insertion of the probe from the cold leg side of the steam generator tube. In addition, the amendment revises TS 3.4.6.1, "Reactor Coolant System Leakage," to decrease the allowable primary-to-secondary leakage (through any one steam generator) from 0.15 to 0.10 gpm.

*Date of issuance:* January 3, 1989

*Effective date:* January 3, 1989

*Amendment No.:* 138

*Facility Operating License No. DPR-65.* Amendment revised the Technical Specifications.

*Date of initial notice in* Federal Register: November 2, 1988 (53 FR 44253) concerning the September 13, 1988 application and November 2, 1988 (53 FR 44254) concerning the September 30, 1988 application. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 3, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

**Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut**

*Date of amendment request:* July 21 and September 2, 1988

*Description of amendment request:* The amendment deletes the following tables, identifying electrical equipment and containment isolation valves, from the Millstone Unit 3 Technical Specifications (TS):

* Table 3.8-1 - "Containment Penetration Conductor Overcurrent Protective Devices"
* Table 3.8-2 - "Motor-Operated Valves Thermal Overload Protection Bypassed Only Under Accident Conditions"
* Table 3.8-2b - "Motor-Operated Valves Thermal Overload Protection Not Bypassed Under Accident Conditions"
* Table 3.6-2 - "Containment Isolation Valves"

The references to the above TS Tables, in their respective TS, are also deleted.

*Date of issuance:* December 19, 1988

*Effective date:* December 19, 1988

*Amendment No.:* 28

*Facility Operating License No. NPF-49.* Amendment revised the Technical Specifications.

*Date of initial notice in* Federal Register: September 7, 1988 (53 FR 34609) concerning the July 21, 1988 application and October 19, 1988 (53 FR 40993) concerning the September 2, 1988 application. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 19, 1988.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

**Northern States Power Company, Dockets Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, Goodhue County, Minnesota**

*Date of application for amendments:* November 24, 1986, September 4, 1987 and November 30, 1987.

*Brief description of amendments:* The amendments modified paragraphs 2.C.(3) of the licenses to require compliance with the amended Physical Security Plan. This Plan was amended to conform to the requirements of 10 CFR 73.55. Consistent with the provisions of 10 CFR 73.55, search requirements must be implemented within 60 days and miscellaneous amendments within 180 days from the effective date of these amendments.

*Date of issuance:* January 5, 1989

*Effective date:* Janaury 5, 1989

*Amendments Nos.:* 85 and 78

*Facility Operating Licenses Nos. DPR-42 and DPR-60.* These amendments revised the licenses.

*Date of initial notice in* Federal Register: April 6, 1988 (53 FR 11375). The Commission's related evaluation of the amendments is contained in a letter to Northern States Power Company dated Janaury 5, 1989 and a Safeguards Evaluation Report dated Janaury 5, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* Technology and Science Department, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

**Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania**

*Date of application for amendment:* May 11, 1988

*Brief description of amendment:* This amendment revised the Technical Specifications to (1) add new valves and controls to the existing list of containment isolation valves which require periodic surveillance and (2) delete Note 28 from Table 3.6.3-1 since it was no longer applicable. The amendment also deleted conditions 2.C.10 and 2.C.11 from License NPF-39 since the requirements have been fully satisfied.

*Date of issuance:* January 10, 1989

*Effective date:* January 10, 1989

*Amendment No.:* 13

*Facility Operating License No. NPF-39.* This amendment revised the Technical Specifications and License.

*Date of initial notice in* Federal Register: October 19, 1988 (53 FR 40994). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 10, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

**Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania**

*Date of application for amendment:* September 29, 1988

*Brief description of amendment:* The amendment changed the Technical Specifications (TSs) to (1) delete the primary containment isolation valves and instrumentation associated with the permanent removal of the reactor vessel head spray piping and (2) modify the reportability requirements for seismic monitor XR-VA-151 whenever the reactor vessel head is removed.

*Date of issuance:* January 11, 1989

*Effective date:* 60 days after date of issuance.

*Amendment No.:* 14

*Facility Operating License No. NPF-39.* This amendment revised the Technical Specifications.

*Date of initial notice in* Federal Register: November 16, 1988 (53 FR 46150). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 11, 1989.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

**Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York**

*Date of application for amendment:* April 14, 1988

*Brief description of amendment:* The amendment resolves inconsistencies between the technical specification limits and the Bases concerning maximum permissible recirculation flow imbalance when the recirculation pumps are operating at the same speed.

*Date of issuance:* December 28, 1988

*Effective date:* December 28, 1988

*Amendment No.:* 121

*Facility Operating License No. DPR-59:* Amendment revised the Technical Specification and Bases.

*Date of initial notice in* **Federal Register:** November 16, 1988 (53 FR 46152). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 28, 1988.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Penfield Library, State University College of Oswego, Oswego, New York.

**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:* August 5, 1987 as supplemented by letter dated October 20, 1988 (TS 87-27)

*Brief description of amendments:* The amendments modify the Sequoyah, Units 1 and 2 Technical Specifications. The changes revise Surveillance Requirement 4.5.2.d.1 for both units. The changes reduce the setpoint, where the automatic isolation and interlock action of the residual heat removal system is verified to act, from a reactor coolant system pressure of above 750 psig to above 700 psig.

*Date of issuance:* December 29, 1988

*Effective date:* December 29, 1988

*Amendment Nos.:* 92, 82

*Facility Operating Licenses Nos. DPR-77 and DPR-79.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 30, 1987 (52 FR 49233). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 29, 1988.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

**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:* June 21, 1988 (TS 88-23)

*Brief description of amendments:* The amendment changes the expiration date for Sequoyah Nuclear Plant (SQN), Operating License DPR-77 (Unit 1) from May 27, 2010 to September 17, 2020 and for SQN Operating License DPR-79 (Unit 2) from May 27, 2010 to September 15, 2021.

*Date of issuance:* December 29, 1988

*Effective date:* December 29, 1988

*Amendment Nos.:* 93, 83

*Facility Operating Licenses Nos. DPR-77 and DPR-79.* Amendments revised the license.

*Date of initial notice in* **Federal Register:** October 5, 1988 (53 FR 39178). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 29, 1988.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

**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:* November 17, 1987 (TS 87-40)

*Brief description of amendments:* The amendments revise the Sequoyah Nuclear Plant (SQN) Units 1 and 2 Technical Specifications. The revisions are to increase, in the conservative direction, the auxiliary feedwater (AFW) suction pressure-low trip setpoint and the allowable value of Table 3.3-4, Item 6.g, for both units for the turbine-driven AFW pump.

*Date of issuance:* December 29, 1988

*Effective date:* December 29, 1988

*Amendment Nos.:* 94, 84

*Facility Operating Licenses Nos. DPR-77 and DPR-79.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** February 10, 1988 (53 FR 3960). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 30, 1988.

*No significant hazards consideration comments received:* No

*Local Public Document Room location:* Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

**Virginia Electric and Power Company, et al., Docket No. 50-338, North Anna Power Station, Unit No. 1, Louisa County, Virginia**

*Date of application for amendment:* September 30, 1988

*Brief description of amendment:* This amendment revised license condition 2.D.3(d) to the NA-1 Facility Operating License No. NPF-4 to state: "VEPCO may use two (2) fuel assemblies containing fuel rods clad with an advanced zirconium base alloy cladding material as described in the licensee's submittals dated February 20, 1987 and September 30, 1988." These two fuel assemblies meet the guidelines for lead test fuel assemblies and are enveloped by the existing NA-1 reload design and safety analysis limits.

NA-1 is currently operating with two (2) assemblies containing fuel rods clad with an advanced zirconium based material as approved by NRC in Amendment No. 94 for NA-1 Facility Operating License No. NPF-4 issued on May 13, 1987. The two fuel assemblies presently in place also meet the guidelines for lead test fuel assemblies and are enveloped by the existing NA-1 reload design and safety analysis limits. This amendment also granted an exemption from the requirements of 10 CFR 50.46. The evaluation of the granting of this exemption is contained in the Safety Evaluation issued with this amendment.

*Date of issuance:* January 3, 1989

*Effective date:* January 3, 1989

*Amendment No.:* 111

*Facility Operating License No. NPF-4:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 30, 1988 (53 FR 48338). The Commission's related evaluation of the amendment is contained in an Environmental Assessment dated December 9, 1988, and in a Safety Evaluation dated January 3, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

**Virginia Electric and Power Company, et al., Docket No. 50-338, North Anna Power Station, Unit No. 1, Louisa County, Virginia**

*Date of application for amendment:* June 17, 1987 (Partial)

*Brief description of amendment:* This amendment revised the Technical Specifications (TS) in accordance with

Virginia Electric and Power Company's Statistical DNBR Evaluation Methodology for a less restrictive negative moderator temperature coefficient for the remainder of the current NA-1 operating Cycle No. 7 only.

*Date of issuance:* January 3, 1989

*Effective date:* January 3, 1989

*Amendment No.:* 112

*Facility Operating License No. NPF-4:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 30, 1988 (53 FR 48339). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 3, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

**Virginia Electric and Power Company, et al., Docket No. 50-338, North Anna Power Station, Unit No. 1, Louisa County, Virginia**

*Date of application for amendment:* October 19, 1988

*Brief description of amendment:* This amendment allowed a one-time extension of 6 months for test intervals for certain surveillance tests specified in the NA-1 TS. This one-time extension is necessary to compensate for the NA-1 unscheduled steam generator tube rupture repair outage from July 15, 1987 to October 13, 1987. This unscheduled outage, together with additional time allowed for optimum fuel burnup before the next refueling outage, has resulted in a 6-month deferral of the next refueling outage for NA-1.

*Date of issuance:* January 9,1989

*Effective date:* January 9, 1989

*Amendment No.:* 113

*Facility Operating License No. NPF-4:* Amendment revised the License.

*Date of initial notice in* **Federal Register:** November 16, 1988 (53 FR 46159). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 9, 1989.

*No significant hazards consideration comments received:* No.

*Local Public Document Room location:* The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

## NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION

During the period since publication of the last biweekly notice, individual notices of issuance of amendments have been issued for the facilities as listed below. These notices were previously published as separate individual notices. They are repeated here because this biweekly notice lists all amendments that have been issued for which the Commission has made a final determination that an amendment involves no significant hazards consideration.

In this case, a prior Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing was issued, a hearing was requested, and the amendment was issued before any hearing because the Commission made a final determination that the amendment involves no significant hazards consideration.

Details are contained in the individual notice as cited.

**Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida**

*Date of application for amendments:* September 21, 1988

*Brief description of amendments:* These amendments revised Section 3.1.2 of the Technical Specifications (TS) by incorporating modified pressure and temperature (P/T) limits for the reactor coolant system and pressurizer. The revised P/T limits are applicable up to 20 effective full power years (EFPY); the previous P/T limits expired after 10 EFPY. The amendments also revised the applicable "Bases" discussion to be consistent with the new limits, and reformatted the TS to be consistent with more recent standard TS.

*Date of issuance:* January 10, 1989

*Effective date:* January 10, 1989

*Amendment Nos.:* 134 and 128

*Facility Operating Licenses Nos. DPR-31 and DPR-41:* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** October 19, 1988 (53 FR 40988)

Dated at Rockville, Maryland, this 24th day of January, 1989.

For the Nuclear Regulatory Commission

**Gus C. Lainas,**

*Acting Director, Division of Reactor Projects-I/II Office of Nuclear Reactor Regulation*

[Doc. 89-2195 Filed 1-31-89; 8:45 am]

BILLING CODE 7590-01-D

## Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 2 to Regulatory Guide 3.44, "Standard Format and Content for the Safety Analysis Report for an Independent Spent Fuel Storage Installation (Water-Basin Type)," has been revised to conform with recent changes to 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste" (53 FR 31651). This guide identifies the information needed by the NRC staff in its evaluation of the Safety Analysis Report for an independent spent fuel storage installation and suggests a format for presenting this information.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082, telephone

(202) 275–2060 or (202) 275–2171. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a)).

Dated at Rockville, Maryland this 24th day of January 1989.

For the Nuclear Regulatory Commission.

**Eric S. Beckjord,**

*Director, Office of Nuclear Regulatory Research.*

[FR Doc. 89–2300 Filed 1–31–89; 8:45 am]

BILLING CODE 7590–01–M

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**[Docket No. 50–206]**

## Southern California Edison L. Co. and San Diego Gas and Electric Co., San Onofre Nuclear Generating Station, Unit No. 1; Denial of Amendment to Provisional Operating License and Opportunity For a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by the licensees for amendment to Provisional Operating License No. DRP–13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), for operation of San Onofre Nuclear Generating Station, Unit No. 1 (the facility), located in San Diego County, California.

The application for amendment was dated March 20, 1987 as supplemented July 22, 1988. Notice of Consideration of Issuance of Amendment was published in the **Federal Register** on September 7, 1988 (53 FR 34611).

The amendment as proposed by the licensees, would consist of the following changes to the Technical Specifications (Appendix A to Provisional Operating License No. DPR–13):

1. Editorial changes to the test pressure and schedule for Type B containment air lock leak rate testing,

2. A modified requirement to test the air lock prior to establishing containment integrity only if maintenance has been performed on the air lock which could affect the sealing capability, and

3. A change to the reduced pressure test for the air lock from 10 psig to 3 psig.

The portion of the application which would change the reduced pressure test from 10 psig to 3 psig has been denied. The licensee's supplemental letter of July 22, 1988 stated that test data to support this change would be available and provided to the NRC staff by September 30, 1988. To date this information has not been provided.

The licensees were notified of the Commission's denial of this request by letter dated January 20, 1989. The other changes requested by the application have been approved by the issuance of Amendment No. 118.

By March 3, 1989 the licensees may demand a hearing with respect to the denial described above and any persons whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or 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, 2120 L Street, NW., Washington, DC, by the above date.

A copy of the petition should also be sent to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, and to Charles R. Kocher, Assistant General Counsel and James Beoletto, Esq., Southern California Edison Company, P.O. Box 800, Rosemead, California 91770, attorneys for the licensees.

For further details with respect to this action, see (1) the application for amendment dated March 20, 1987, as supplemented July 22, 1988, and (2) the Commission's letter and Safety Evaluation issued with Amendment No. 118 to DPR–13 dated January 20, 1989. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713. Single copies of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 20th day of January, 1989.

For the Nuclear Regulatory Commission.

**Charles M. Trammell,**

*Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.*

[FR Doc. 89–2301 Filed 1–31–89; 8:45 am]

BILLING CODE 7590–01–M

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–26492; File No. SR–DTC–88–18]**

## Self Regulatory Organizations; Depository Trust Company; Order Extending Temporary Approval of a Proposed Rule Change Concerning the International Institutional Delivery System

On October 26, 1988, the Depository Trust Company ("DTC") filed a proposed rule change (File No. SR–DTC–88–18) with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The proposal established a pilot program for DTC's International Institutional Delivery ("IID") System. The Commission published notice of the proposal in the **Federal Register** on November 10, 1988.[2]

On December 20, 1988, the Commission temporarily approved the proposed rule change through January 31, 1989.[3] DTC has requested that the pilot program be extended through February 28, 1989.[4] The extension will give DTC more time to gain experience with the IID System. For the reasons expressed in Securities Exchange Act Release No. 26374, the Commission believes the proposal is consistent with the Act, and is therefore extending temporary approval of the proposed rule change through February 28, 1989. The Commission understands that, when DTC has gained sufficient experience operating the pilot program for the IID System, DTC will file another proposed rule change requesting approval of the IID System as a full service.

It is therefore ordered, pursuant to section 19(b) of the Act, that DTC's proposed rule change (File No. SR–DTC–88–18) be, and it hereby is, approved temporarily through February 28, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 26, 1989.

**Jonathan Katz,**

*Secretary.*

[FR Doc. 89–2286 Filed 1–31–89; 8:45 am]

BILLING CODE 8010–01–M

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[1] 15 U.S.C. 78(b)(1).

[2] Securities Exchange Act Release No. 26249 (November 3, 1988), 53 FR 45637.

[3] Securities Exchange Act Release No. 26374 (December 20, 1988), 53 FR 55283.

[4] *See* letter from Karen Lind, Associate Counsel, DTC, to Sandra Sciole, Special Counsel, Commission, dated January 26, 1989.

[Release No. 34-26490; File No. SR-NYSE-88-43]

## Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1988, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Item 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.[1]

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is instituting increases affecting selected sales practices fees including the Annucal Branch Office Fee and the Annual Maintenance Fee per Registered Person, to be effective January 1, 1989.

The Exchange is instituting price increases affecting most of its facility and equipment fees. This price increase includes booths, posts, odd-lot system fees, equipment and other related floor fees. These increases will be effective January 1, 1989.

The Exchange has established a new feature within its Automated Bond System. The Multi-Bond Display. This optional feature enable subscribers to monitor trading in up to 15 bonds on a display "page" over many pages on ABS. The Exchange is revising its ABS subscriber fees to include a charge for the Multi-Bond Display of $50.00 per month per terminal. This new fee will be charged commencing April 1, 1989 to those subscribers who choose to receive the Multi-Bond Display.

In addition, the Exchange is revising its Equity Transaction Charges. This charge currently is based on both commissions and shares transacted and will not be solely based on shares transacted. This revision will be effective for all transactions reported for January 1989.

[1] Copies of the specific fee increases can be found at the NYSE or the Commission's Public Reference Section.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section (A), (B), and (C) below of the most significant aspect of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(1) *Purpose*—The purpose of increasing the Exhange's branch offices and registered persons maintenance fees is to offset in part its increased costs in the oversight of member organizations' sales practices activities. The costs include manpower, systems, and other costs associated with providing such services.

It is necessary to increase facility and equipment fees in view of the investment the Exchange has made in capital and software to respond to the increasing demands on its trading floor capacity.[2] The Exchange will begin charging a fee for its new Multi-Bond Display service. This new fee will enable the Exchange to begin to recover some of its development and operating costs related to this feature.

The purpose of the transaction charge revision is to eliminate the Exchange's sensitivity to commission rates which vary from firm to firm. The current transaction charge is based upon both volume and member firm commissions. Under the revised transaction charge, member firm commissions will no longer be used as a partial basis for such charge. Charges per share will be increased to compensate for the loss of commission related revenue.

Although the proposed transaction charge schedule is revenue neutral to the Exchange, it will affect individual firms differently. To minimize the impact in 1989, no firm's charges will increase more than 4% of what it would have been under the current schedule, nor will any firm's charges decrease more than 5% below current rates.

(2) *Basis Under the Act for the Proposed Rule Change.* The basis under the Act for the proposed rule change is section 6(b)(4) permitting the rules of an Exchange to provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

The Exchange has neither solicited nor received written comments from members or other interested parties regarding the rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Act and subparagraph (c) of Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such action if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

### 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 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 persons, 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC

[2] The NYSE states that recent enhancements to Exchange systems include improvements to the Limit Order System, Intermarket Trading System and the SuperDot System. The number of specialists electronic display books has doubled in the past year. In addition, the odd-lot order pricing and reporting system has been completely replaced.

20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-88-43 and should be submitted by February 22, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 25, 1989.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 98-2287 Filed 1-31-89; 8:45am]

BILLING CODE 8010-01-M

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**[Release No. 34-26489; File No. SR-PHLX-88-06]**

## Self-Regulatory Organizations; Filing and Immediate Effectiveness Of Proposed Rule Change of the Philadelphia Stock Exchange Relating to Foreign Currency Options Trading Hours

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 January 19, 1989, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or the "Exchange") pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 ("Act"), submits a proposed rule change notifying the commission of specific hours for trading of PHLX foreign currency options.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*A. Self-Regualtory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change*

On September 16, 1988, the Commission approved SR-PHLX-88-25, a proposed rule change modifying the hours that trading of foreign currency options may be conducted on the Exchange. The rule provides flexibility for the Exchange to establish specific hours on the condition, among others, that the Exchange apprise the Commission of any changes in hours via a rule change filed pursuant to section 19(b)(3)(A) under the Act. Accordingly, the Exchange hereby notifies the Commission that commencing on January 20, 1989, trading of foreign currency options will start at 4:30 a.m. Eastern Time rather than 8:00 a.m. Eastern Time. In no other manner will hours of trading be changed.

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to further promote the mechanism of a free and open market and to protect investors and the public interest.

*B. Self-Regulatory Organizations Statement on Burden on Competition*

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

No written comments were either solicited or received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

### 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 Commision's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. 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 February 22,1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 25, 1989.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-2288 Filed 1-31-89; 8:45 am]

BILLING CODE 8010-01-M

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**[Rel. No. IC-16782; (811-3144)]**

## EGT Money Market Trust; Application

January 26, 1989.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Deregisration under the Investment Company Act of 1940 (the "1940 Act").

*Applicant:* EGT Money Market Trust.

*Relevant 1940 Act Section:* Section 8(f) and Rule 8f-1 thereunder.

*Summary of Application:* Applicant seeks an order declaring that it has ceased to be an investment company.

*Filing Date:* The application was filed on January 3, 1989, and a letter correcting a typographical error was submitted on January 23, 1989.

*Hearing or Notification of Hearing:* If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 21, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request

notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicant, Federated Investors Tower, Pittsburgh, PA 15222–3779.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Heaney, Financial Analyst (202) 272–3420, or Brion R. Thompson, Branch Chief (202) 272–3016 (Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch in person, or the SEC's commercial copier, (800) 231–3282 (in Maryland, (301) 258–4300).

**Applicant's Representations**

1. On February 17, 1981, Applicant filed Form N–8A to register under the 1940 Act as an open-end, diversified management investment company. On February 17, 1981, Applicant also filed Form N–1 pursuant to the Securities Act of 1933, which registration statement became effective on April 28, 1981, the date upon which the initial public offering of Applicant's shares commenced. Applicant was organized as a Massachusetts business trust.

2. On August 26, 1988, the Applicant's Board of Trustees approved its Agreement and Plan of Acquisition (the "Plan") and recommended its submission to Applicant's shareholders. At a special meeting held on November 29, 1988, a majority of Applicant's shareholders approved the Plan. Pursuant to the Plan, on December 10, 1988, the Applicant transferred all of its assets and liabilities to Princor Cash Management Fund, Inc. (the "Fund"). The Fund was registered under the 1940 Act on October 31, 1982 (File No. 811–3585). Applicant's net asset value on the implementation date of the Plan was $26,435,906 or $1.00 per share, and each shareholder of Applicant received in exchange an equal number of shares of the Fund which also maintains a net asset value of $1.00 per share. Thus, the merger of Applicant into the Fund was effectuated on the basis of their relative net asset values per share. No portfolio securities were sold and no brokerage commissions were paid during the implementation of the Plan. The adviser to the Fund assumed all of the fees and expenses associated with implementing the Plan.

3. Applicant has no shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged, nor does it propose to engage in any business activities other than those necessary to wind up its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89–2289 Filed 1–31–89; 8:45 am]

BILLING CODE 8010–01–M

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**[Rel. No. IC–16780; (812–7190)]**

## Equus Capital Partners, L.P. et al.; Application

January 25, 1989.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

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*Applicants:* Equus Capital Partners, L.P. ("Partnership") and Equus Capital Corporation ("ECC").

*Relevant 1940 Act Sections:* Exemption requested pursuant to section 6(c) from the provisions of sections 2(a)(19) and 2(a)(3)(D).

*Summary of Application:* Applicants seek an order determining that (i) the Independent General Partners (as hereinafter defined) of the Partnership are not "interested persons" of such Partnership or of ECC by reason of being general partners of the Partnership and co-partners with ECC and (ii) persons who become limited partners ("Limited Partners") of the Partnership who own less than 5% of the limited partnership interests in such Partnership will not be "affiliated persons" of the Partnership or any of its other partners solely by virtue of their status as Limited Partners.

*Filing Dates:* The application was filed on December 7, 1988, and amended on January 18, 1989.

*Hearing or Notification of Hearing:* If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 21, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, 1600 First Interstate Bank Plaza, 1000 Louisiana, Houston, Texas 77002, Attention: John T. Unger, Esq.

**FOR FURTHER INFORMATION CONTACT:** Thomas Mira, Staff Attorney (202) 272–3047, or Brion R. Thompson, Branch Chief (202) 272–3016 (Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

**Applicants' Representations**

1. The Partnership is a recently formed Delaware limited partnership. The Partnership has elected to be a business development company and, thus, will be subject to sections 55 through 65 of the 1940 Act and to those sections of the 1940 Act made applicable to business development companies by section 59 thereof. The Partnership will terminate no later than December 31, 1989, or 9 years from the final closing, if later, unless extended for up to four additional one-year periods.

2. The Partnership filed a registration statement under the Securities Act of 1933 with respect to an aggregate offering of up to 150,000 units of limited partners' interests in the Partnership ("Units"). Equus Securities Incorporated will act as the selling agent for the Units on a "best efforts" basis.

3. The General Partners of the Partnership will consist initially of three Independent General Partners (defined to be individuals who are natural persons and who are not "interested persons" of such Partnership within the meaning of the 1940 Act) and ECC, as managing general partner. A majority of the General Partners must be Independent General Partners. The Partnership Agreement provides that if at any time the number of Independent General Partners is less than a majority of the General Partners, then within 90 days thereafter, the remaining Independent General Partners shall designate and admit one or more Independent General Partners so as to restore the number of Independent General Partners to a majority of the General Partners.

4. ECC will be responsible, subject to the supervision of the Independent General Partners, for approving the Partnership's investments, assisting portfolio companies in arranging debt financing, providing managerial assistance to portfolio companies and for the admission of additional or

assignee Limited Partners to the Partnership. Equus Capital Management Corporation ("ECMC") will act as the management company to the Partnership pursuant to an agreement ("Management Agreement") with the Partnership. Under the Management Agreement, ECMC will be responsible for the identification of all investments to be made by the Partnership and will perform other functions carried out by an investment adviser to a business development company. Pursuant to a separate agreement, ECMC will also provide certain administrative services to the Partnership. ECC and ECMC are registered investment advisers under the Investment Advisers Act of 1940 ("Advisers Act")

5. The Partnership will be managed solely by the Independent General Partners thereof, except with regard to those specific activities of such Partnership for which ECC, in its capacity as the managing general partner of the Partnership, will be responsible. The Independent General Partners of the Partnership will provide overall guidance and supervision of Partnership operations and will perform the same functions as directors of a corporation. The Independent General Partners will assume the responsibilities and obligations imposed by the 1940 Act and the regulations thereunder on the non-interested directors of a registered investment company formed as a corporation.

6. The Limited Partners of the Partnership have no right to control the Partnership's business, but may exercise certain rights and powers under the Partnership Agreement, including voting rights and the giving of consents and approvals provided for in the Partnership Agreement. Limited Partners will be afforded all voting rights required by the 1940 Act. It is the opinion of counsel to the Partnership, which is relying on the opinion of Delaware counsel, that the existence of these voting rights does not subject the Limited Partners to liability as general partners under the Revised Uniform Limited Partnership Act of the State of Delaware. In addition, the Partnership Agreement will obligate the General Partners of the Partnership to take all action which may be necessary or appropriate to protect the limited liability of the Limited Partners. An insurance policy to provide coverage to persons who become Limited Partners in the Partnership has not been obtained. The Independent General Partners of the Partnership will review periodically the question of the appropriateness of obtaining an errors and omissions insurance policy for the Partnership.

**Applicants' Legal Analysis**

1. Applicants request that the Partnership and the Independent General Partners of the Partnership be exempted from section 2(a)(19) of the 1940 Act to the extent that the Independent General Partners would be deemed "interested persons" of the Partnership or of ECC within the meaning of that Section because they are general partners of the Partnership and "co-partners" with ECC. Section 2(a)(19) of the 1940 Act excludes from the definition of "interested persons" of an investment company formed as a corporation those individuals who would be "interested persons" solely because they are directors of such investment company, but there is no equivalent exception for partners of an investment company formed as a partnership.

2. Applicants further requests an exemption from section 2(a)(3)(D) of the 1940 Act to the extent it makes any Limited Partner an "affiliated person" of the Partnership, any other Limited Partner, any of the Independent General Partners or ECC solely because such Limited Partner is a partner of the Partnership. Limited Partners have no exclusion under the 1940 Act comparable to that provided under section 2(a)(3) to shareholders owning less than 5% of the shares of an investment company in corporate form.

3. Applicants believe that the requested relief will place investments in the Partnership on a footing more equal with investment in business development companies organized as corporations. Applicants submit that the request for an order exempting the Independent General Partners of the Partnership from section 2(a)(19) and Limited Partners who own less than 5% of the Units from section 2(a)(3)(D), is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

**Applicants' Conditions**

If the requested order is granted, Applicants expressly consent to the following conditions:

1. The Partnership will be structured so that the Independent General Partners are the functional equivalent of the non-interested directors of an incorporated investment company registered under the 1940 Act.

2. Under the Partnership Agreement, the Partnership is authorized to make in-kind distributions of its portfolio securities to its partners. However, the Partnership agrees not to make any in-kind distributions of portfolio securities to its partners until obtaining either a "no-action" letter from the staff of the SEC confirming the Partnership's interpretation of section 205 of the Advisers Act (i.e., that realized gains or losses attributable to securities distributed in-kind to partners are properly deemed realized upon such distribution) or an exemption from section 205 of the Advisers Act by a SEC order issued pursuant to section 206A of the Advisers Act permitting the Partnership to deem such gains or losses to be realized upon in-kind distributions.

3. Applicants will obtain an opinion of counsel satisfactory to the Independent General Partners that the distributions and allocations to ECMC can be paid in accordance with section 205 of the Advisers Act. Applicants do not request SEC review or approval of such opinion.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-2290 Filed 1-31-89; 8:45am]

BILLING CODE 8010-01-M

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**[Rel. No. IC-16783; (812-7202)]**

## Kagan Media Partners, L.P., et al.; Application

January 26, 1989.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

*Applicants:* Kagan Media Partners, L.P. ("Partnership"), Kagan Media Capital Inc. ("Investment Adviser") and Paine Webber Media Inc. ("Administrative General Partner").

*Relevant 1940 Act Sections:* Exemption requested under section 6(c) from provisions of sections 2(a) (19) and 2(a)(3)(D) of the 1940 Act.

*Summary of Application:* Applicants seek an order determining that (1) the Independent General Partners (as hereinafter defined) are not "interested persons" of the Partnership, the Investment Adviser or the Administrative General Partner within the meaning of section 2(a) (19) of the 1940 Act solely by reason of their status as partners of the Partnership and (2) the limited partners who own less than a 5% limited partnership interest in the Partnership will not be deemed "affiliated persons" of the Partnership or

its partners within the meaning of section 2(a)(3)(D) of the 1940 Act solely by virtue of their status as limited partners of the Partnership.

*Filing Dates:* The application was filed on December 20, 1988, and amended on January 23, 1989.

*Hearing or Notification of Hearing:* If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this Application, or ask to be notified if a hearing is ordered. Any requests for a hearing must be received by the SEC by 5:30 p.m., on February 21, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, c/o Peter F. Olberg, Esq., Battle Fowler, 280 Park Avenue, New York, NY 10017.

**FOR FURTHER INFORMATION CONTACT:** Thomas Mira, Staff Attorney (202) 272–3047, or Brion Thompson, Branch Chief (202) 272–3016 (Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

**Applicants' Representations**

1. The Partnership is a newly formed limited partnership organized under Delaware law which will be governed by an Amended and Restated Agreement of Limited Partnership (the "Partnership Agreement"). The Partnership will elect to operate as a business development company under the 1940 Act and, therefore, will be subject to sections 55 through 65 of the 1940 Act and to those sections of the 1940 Act made applicable to business development companies by section 59 thereof. The Partnership will have a term of twelve years from the date of the initial closing for units representing beneficial interest in the Partnership ("Units").

2. The Partnership has been designed to provide individuals the opportunity to participate in the financing or acquisition of existing cable television systems and radio and broadcast television stations ("Media Properties"). On November 17, 1988, the Partnership filed a registration statement with respect to an aggregate offering by the Partnership of up to 3,000,000 Units. The initial public offering price will be $20.00 per Unit, with a maximum aggregate offering price of $60,000,000. PaineWebber Incorporated will act the selling agent for the Partnership of a "best efforts" basis.

3. The General Partners of the Partnership will consist of the Investment Adviser, the Administrative General Partner (collectively the Investment Adviser and the Administrative General Partner are referred to as the "Operating General Partners") and three natural persons who would not, but for their status as partners, be "interested persons" of the Partnership, as that term is defined in the 1940 Act ("Independent General Partners"). A majority of the General Partners must be Independent General Partners.

4. The Investment Adviser will be a registered investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") and will act as the investment adviser to the Partnership pursuant to an investment advisory contract between the Partnership and the Investment Adviser ("Advisory Agreement"). The Investment Adviser will be solely responsible for locating and proposing the investments for the Partnership. If a proposed investment is within the investment guidelines approved by the Independent General Partners, the investment may be made if it is approved by both Operating General Partners, or, by the Investment Adviser and a majority of the Independent General Partners; if it is not within such guidelines, it may be made only if it is approved by both Operating General Partners and a majority of the Independent General Partners. In addition, the Investment Adviser will have ongoing responsibility for the day to day operation and management of the Partnership's investments, including the provision of "significant managerial assistance" (as that term is defined in section 2(a)(48)) to Media Property operators.

5. The administrative General Partner will have overall responsibility for the discharge of all necessary Partnership administrative functions and will assist the Investment Adviser in structuring investments and borrowings of the Partnership. The Administrative General Partner will be solely responsible for the coordination of investor relations with the Partnership.

6. The Independent General Partners will provide overall guidance and supervision with respect to the operations of the Partnership, including supervision of the compensation arrangements between the Partnership and the Operating General Partners, annual approval of the Advisory Agreement and relevant portions of the Partnership Agreement and the right to approve the investment guidelines for the Partnership. The Independent General Partners will act by majority vote, will perform essentially the same functions as directors of a corporation and will, in addition, assume the responsibilities and obligations imposed by the 1940 Act, and the regulations thereunder, with respect to non-interested directors of an incorporated business development company.

7. The limited partners cannot participate in the management or control of the Partnership. However, the limited partners will be afforded all voting rights required by the 1940 Act. In addition, the Partnership Agreement provides that limited partners will have the right to approve certain specified matters, including the admission of persons as general or limited partners, the amendment of the Partnership Agreement, the dissolution of the Partnership, the election or removal of General Partners, the initial approval or disapproval of the Advisory Agreement and the approval of the sale of substantially all of the Partnership's assets. It is the opinion of counsel for the Partnership that the existence or exercise of these voting rights by the limited partners does not subject them to liability as general partners under the Revised Uniform Limited Partnership Act of the State of Delaware. In addition, the Partnership Agreement will obligate the General Partners to take all actions as may be necessary or appropriate to protect the limited liability of the limited partners.

8. The Partnership has considered the possibility of obtaining errors and omissions insurance. In light of the view of the staff of the SEC that substantial insurance coverage is appropriate in view of the special problems of using the limited partnership form for registered investment companies, the General Partners will periodically review the question of the appropriateness of obtaining an errors and omissions insurance policy for the Partnership.

**Applicants' Legal Analysis**

1. Applicants request that the Partnership and the Independent General Partners of the Partnership be exempted from the provisions of section 2(a)(19) of the 1940 Act to the extent that the Independent General Partners would otherwise be deemed to be "interested

persons" of the Partnership, the Investment Adviser and the Administative General Partner by reason of their status as partners of the Partnership. Section 2(a)(19) of the 1940 Act excludes from the definition of "interested persons" of an investment company those individuals who would be "interested persons" solely by reason of their status as directors of an incorporated investment company. There is no equivalent exception for partners of an investment company formed as a partnership.

2. Applicants further request that limited partners owning less than a 5% interest of the Units not be deemed to be "affiliated persons" of the Partnership, any other limited partner, any of the Independent General Partners, the Investment Adviser or the Administrative General Partners within the meaning of section 2(a)(3)(D) of the 1940 Act solely because such limited partners are partners of the Partnership as well as each other limited partner and the General Partner. Section 2(a)(3) of the 1940 Act exempts from the definition of "affiliated person" shareholders of an incorporated investment company who own less than a 5% interest in such corporation. There is no comparable exception for partnerships.

3. Applicants submit that the requested relief will place investments in the Partnership on a more equal footing with investments in business development companies organized as corporations. Applicants further submit that granting the requested exemptions from provisions of sections 2(a)(19) and 2(a)(3)(D) of the 1940 Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

**Applicants' Conditions**

If the requested order is granted, Applicants agree to the following conditions:

1. The Partnership will be structured so that the Independent General Partners will be the functional equivalents of non-interested directors of an incorporated investment company under the 1940 Act.

2. The Partnership will not make any in-kind distributions of portfolio securities to the General Partners of the Partnership unless and until the Partnership has obtained either a "no-action" letter from the SEC staff or, alternatively, an order of exemption pursuant to section 206A of the Advisers Act permitting such distributions.

3. The Partnership will obtain an opinion of counsel satisfactory to the Independent General Partners that the distributions and allocations to the Operating General Partners can be paid in accordance with section 205 of the Advisers Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-2291 Filed 1-31-89; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. IC-16778; (812-7150)]**

## Merrill Lynch Institutional Fund, Inc., et al.; Application

January 25, 1989.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Amendment of Order of Exemption under the Investment Company Act of 1940 (the "Act").

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*Applicants:* Merrill Lynch Institutional Fund Inc., Merrill Lynch Government Fund Inc., Merrill Lynch Institutional Tax-Exempt Fund, Merrill Lynch Institutional Intermediate Fund, Merrill Lynch Funds for Institutions Series, Merrill Lynch Institutional Index Series, and each open-end management investment company to be established, advised or managed in the future by Merrill Lynch Asset Management, Inc. ("MLAM") or Fund Asset Management, Inc. ("FAMI"), or to be distributed by Merrill Lynch Funds Distributor, Inc. ("MLFD") (all of the foregoing being referred to as the "Applicants").

*Relevant 1940 Act Section:* Exemption is requested under section 6(c) of the Act from the provisions of section 2(a)(19) of the Act.

*Summary of Application:* Applicants seek an order amending a prior order dated May 24, 1984 (Investment Company Act Release No. 13962) ("1984 Order"). The requested amended order will declare that Charles C. Cabot, Jr., a director/trustee of the Applicants, shall not be deemed an "interested person" of the Applicants or their investment adviser, MLAM or FAMI, or their principal underwriter, MLFD by reason of his being a partner of the law firm of Sullivan & Worcester.

*Filing Dates:* The Application was filed on October 14, 1988.

*Hearing or Notification of Hearing:* If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 16, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Merrill Lynch Asset Management, Inc., P.O. Box 9011, Princeton, New Jersey 08543-9011.

**FOR FURTHER INFORMATION CONTACT:** Bibb L. Strench, Staff Attorney (202) 272-2856 or Karen L. Skidmore, Branch Chief (202) 272-3023, Office of Investment Company Regulation.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

**Applicant's Representations**

1. Applicants are diversified, open-end management investment companies registered under the Act. Applicants are designed primarily for institutional investors. Each Applicant has entered into or will enter into an investment advisory or management agreement with MLAM or FAMI and a Distribution Agreement with MLFD. FAMI is a wholly owned subsidiary of MLAM, which is a wholly owned subsidiary of Merrill Lynch & Co., Inc., a publicly held corporation. MLAM and FAMI have substantially the same identity with the same directors and executive officers and insofar as investment company operations, the same employees.

2. An applicantion was filed with the Commission on March 8, 1984 ("1984 Application") requesting an order pursuant to section 6(c) of the Act that Charles C. Cabot, Jr. shall not be deemed an "interested person" by reason of his being a partner of the law firm Sullivan & Worcester within the meaning of section 2(a)(19) of the Act of Merrill Lynch Institutional Fund Inc., Merrill Lynch Government Fund Inc., Merrill Lynch Institutional Tax-Exempt Fund, FAMI or MLFD ("Prior Applicants"). An Order granting the requested relief was issued on May 24, 1984 (Investment Company Act Release No. 13911). The order was conditioned on Sullivan & Worcester not acting as legal counsel to the Prior Applicants.

3. In the 1984 Application, the Prior Applicants represented that Sullivan & Worcester had performed certain limited legal services for Merrill Lynch & Co., Inc. and its wholly owned subsidiaries Merill Lynch, Pierce, Fenner & Smith ("MLPFS"), and Government Securities Inc. These legal services primarily involved litigation conducted on behalf of MLPFS and Sullivan & Worcester had on occasion acted as counsel for the underwriters of municipal bond or note issues with respect to which MLPFS served as one of the underwriters in the selling syndicate. They further represented that Mr. Cabot had never participated in Sullivan & Worcester's representation of MLPFS or any of its affiliates except with respect to the bond and note issues mentioned above.

4. Applicants seek to amend the 1984 Order to declare that Mr. Cabot shall not be deemed an "interested person" of the Applicants or their investment adviser, MLAM or FAMI, or their principal underwriter, MLFD, by reason of his being a partner of the law firm of Sullivan & Worcester.

5. Applicants note that since the issuance of the 1984 Order described above, Mr. Cabot has joined the Board of Trustees of Merrill Lynch Institutional Intermediate Fund, Merrill Lynch Funds for Institutions Series and Merrill Lynch Institutional Index Series, all of which have been named additional applicants. Futhermore, MLAM, rather than FAMI, acts as investment adviser to the recently formed applicants.

6. In addition to the legal services referred to in the 1984 Application, Sullivan & Worcester has recently served as counsel to MLPFS with respect to certain investment banking services provided by MLPFS in connection with a proposed leverage buyout. Applicants represent that from time to time, Sullivan & Worcester has performed, continues to perform, and may in the future perform, certain legal services described in the application to Merrill Lynch & Co., Inc. and its wholly owned subsidiaries, including MLPFS ("Merrill Lynch Entities"). Mr. Cabot has informed the Applicants that the annual income to Sullivan & Worcester for providing such services continues to represent less than 1 percent of the firm's total annual income.

7. Applicants state that Mr. Cabot has had no professional or business relationships with any Merrill Lynch Entities other than his position as director/trustee of Applicants and that since the issuance of the 1984 Order, he has not participated personally in Sullivan & Worcester's representation of Merrill Lynch Entities. Other than the additional applicants and investment adviser, and a slight difference in the types of services currently being provided by Sullivan & Worcester to MLPFS, there has been no change in the arrangements described in the application filed in connection with the 1984 Order issued by the Commission.

**Applicants' Legal Conclusion**

Applicants state that because of the legal services provided by Sullivan & Worcester to Merrill Lynch Entities, Mr. Cabot may be deemed an interested person of the Applicants, MLAM, FAMI and MLFD within the meaning of section 2(a)(19) of the Act, although Mr. Cabot does not fall within the express terms of section 2(a)(19) because neither he nor Sullivan & Worcester has ever provided legal services to the Applicants, MLAM, FAMI or MLFD.

**Applicants' Condition**

The Applicants agree that any order granted in connection with the Application will be conditioned on Sullivan & Worcester and Mr. Cabot not providing any legal services to the Applicants MLAM, FAMI or MLPFS.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-2292 Filed 1-31-89; 8:45 am]

BILLING CODE 8010-01-M

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**[Rel. No. IC-16781; 812-6555]**

## Principal Mutual Life Insurance Company, et al.; Application

January 25, 1989.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

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*Applicants:* Principal Mutual Life Insurance Company ("PMLIC"), Princor Government Securities Income Fund, Inc. ("Fund"), and Principal Mutual, Inc. ("PIMC").

*Relevant 1940 Act Sections:* Order requested under sections 6(c) and 17(b).

*Summary of Application:* Applicants seek an order to permit the Fund, subject to certain conditions, to purchase mortgage-backed securities guaranteed by the Government National Mortgage Association ("GNMA Certificates") from PMLIC at prices which will be 1/64 of a dollar less than the prices at which PMLIC would sell such securities to dealers.

*Filing Date:* The application was filed on December 9, 1986, with amendments filed on April 5, 1988 and December 27, 1988.

*Hearing or Notification of Hearing:* If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on February 21, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. PMLIC, Fund and PIMC, 711 High Street, Des Moines, Iowa 50309.

**FOR FURTHER INFORMATION CONTACT:** Jeremy N. Rubenstein, Staff Attorney, at (202) 272-2847, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Office of Investment Company Regulation, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

**Applicant's Representations**

1. PMLIC is a mutual life insurance company originally incorporated under the laws of the State of Iowa in 1879. The Fund is a corporation organized under the laws of Maryland on September 5, 1984, and is registered under the 1940 Act as an open-end diversified management company. PIMC, incorporated under the laws of Iowa in 1969, is an indirect wholly-owned subsidiary of PMLIC and is the investment manager and dividend disbursing and transfer agent for the Fund.

2. The investment objective of the Fund is to obtain a high level of current income consistent with liquidity and safety of principal. The Fund seeks to achieve its objective through the purchase of certain types of securities issued or guaranteed by the United States Government or its agencies. The Fund purchased approximately $23,000,000 of GNMA Certificates in 1985, $64,000,000 in 1986 and $13,000,000

in 1987, which purchases represented approximately 95% of the Fund's total investments (other than short-term cash instruments) for each of those years.

3. PMLIC is an approved issuer of GNMA Certificates. In connection with its residential mortgage loan operation, PMLIC routinely forms pools of mortgages and applies to GNMA for approval of the issuance of GNMA Certificates for such pools. The aggregate annual volume of GNMA Certificates issued by PMLIC was appropriately $348,000,000 for 1985, $549,000,000 for 1986 and $566,000,000 for 1987. In the past, PMLIC has sold GNMA Certificates to buyers in the open market. These buyers, normally securities dealers, in turn sell the GNMA Certificates to investors with a mark-up generally of twenty/one-hundredths to fifty/one-hundredths of a percent.

4. Since its inception, the Fund has purchased GNMA Certificates only from a limited group of creditworthy dealers which maintain inventories of such securities. The fund now seeks to be able to buy GNMA Certificates from PMLIC under conditions designed to ensure that the Fund receives prices more favorable than it would otherwise receive from dealers in GNMA Certificates.

5. Applicants propose that in managing the portfolio of the Fund, PIMC may, when deeded appropriate for the Fund, purchase original issue GNMA Certificates representing underlying pools of recently closed loans for the Fund directly from PMLIC rather than in the market, subject to compliance with the conditions listed below. The Fund will be not knowingly purchase any GNMA Certificates from PMLIC which represents an interest in a pool of mortgage loans that includes a loan to any affiliated person of PMLIC, the Fund, PIMC, or any affiliated person of those persons. All GNMA Certificates sold to the Fund by PMLIC will be issued directly to the Fund by PMLIC during the initial distribution period, and no secondary trading in GNMA Certificates will transpire between PMLIC and the Fund.

6. PMLIC will sell GNMA Certificates to the Fund at a price 1/64 of a dollar better (for the Fund) than the prices at which it would sell such certificates to a dealer in the open market. Thus, any markup in the price of the certificates will be eliminated, and in fact the Fund will purchase GNMA Certificates from PMLIC at a better price than would be paid by dealers who would expect to resell those securities at a mark-up. As a result, the Fund will receive a higher yield on those GNMA Certificates than if it were to purchase them from dealers.

7. The Fund will effect purchases and deliveries in the same manner as it currently does with any broker/dealer. It will give PMLIC delivery instructions and those instructions will be given to the Fund's custodian, Northwest Bank, for receipt of the purchased securities versus payment. PMLIC will give notice to its custodian, Bankers Trust, for delivery to the Fund versus payment. Transfer and delivery will occur in the regular course of business for both the Fund and PMLIC.

8. Applicants request exemption from section 17(a) of the 1940 Act only to the extent necessary to permit the transactions with respect to GNMA Certificates issued by PMLIC outlined in paragraphs 5 through 7 above.

**Applicants' Legal Conclusions**

1. Applicants submit that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned. PMLIC will offer its GNMA Certificates to the Fund at a price 1/64 of a dollar better than the price at which it could sell them to unaffiliated dealers in the open market. The purchase price to the Fund would accordingly be less than the price it would otherwise have to pay to purchase GNMA Certificates from dealers, which would involve mark-ups. To determine that the price to the Fund will always be no more than the price obtainable by PMLIC in the market, PMLIC will obtain current (up to the minute) quotes from two or three dealers, selected on a rotating basis from those dealers to whom PMLIC regularly sells GNMA Certificates, before setting the price. The Fund's purchases from PMLIC will be reviewed no less frequently than quarterly by the Board of Directors of the Fund, which has a majority of disinterested directors.

2. Applicants assert that the proposed transactions are consistent with the general purposes of the 1940 Act. Section 1(b)(2) of the 1940 Act declares that the public interest and interest of investors are adversely affected when an investment company is organized and managed in the interest of affiliated persons thereof, rather than in the interest of the company's security holders. While PMLIC, as an organizer of the Fund and potential supplier of GNMA Certificates, will have an interest in the proposed transactions, that interest will not be adverse to the interests of the Fund's shareholders. PMLIC will be offering to the Fund only GNMA Certificates which it could otherwise sell in the market at a better price than that paid by the Fund. On the other hand, the Fund and its shareholders will benefit through purchases at prices which do not include dealer mark-up and which are better than the prices that would be paid by a dealer.

3. Applicants further assert that the proposed transactions are necessary or appropriate in the public interest. Failure to obtain the relief requested would result in the Fund's foregoing the opportunity of obtaining an enhanced return from purchasing GNMA Certificates at a price that more than eliminates dealer mark-up. Applicants know of no other way for the Fund to purchase GNMA Certificates at such a favorable price. Issuers of GNMA Certificates do not maintain inventories of those securities as do dealers.

**Applicants' Conditions**

Applicants agree that the order granting the application may be expressly conditioned upon their compliance with the following:

1. Before any purchase is effected from PMLIC, PMLIC personnel responsible for executing orders for the Fund will check with at least two dealers in GNMA Certificates to obtain competitive quotations to insure that the prices to be paid by the Fund to PMLIC will be better than the price available from independent dealers. To satisfy this test, the PMLIC price offered to the Fund must be at least 1/64th of a dollar better than the lowest bid price of the independent dealers. The dealers selected will be rotated among those dealers to whom PMLIC ordinarily sells GNMA Certificates.

2. No more than 20% of the Fund's GNMA Certificate purchases in a given fiscal year (measured by dollar amount) may be from PMLIC. No more than 20% of PMLIC's sales of GNMA Certificates in a given fiscal year (measured by dollar amount) may be to the Fund.

3. The Fund will maintain and preserve pursuant to the requirements of Rule 31a-2(a)(2) under the 1940 Act records with respect to its purchases from PMLIC, including documentation of the competitive quotations obtained from dealers, and those records will be available to SEC representatives upon request. In addition, the Fund will file a schedule of its transactions with PMLIC as an Exhibit to each Form N-SAR.

4. PMLIC's law department will prepare and draft guidelines and submit them to the Board of Directors of the Fund for approval, including approval by a majority of the directors who are not interested persons of the Fund. The law department will then circulate to PIMC and PMLIC personnel whose responsibilities may relate to the transactions described in the application

the guidelines in the form so approved and information relating to the appropriate implementation thereof to insure that such personnel are thoroughly familiar with the constraints imposed in respect of such transactions. The law department also will periodically monitor the Fund's transactions with PMLIC to make certain that the requirements of these guidelines are strictly adhered to.

5. The Fund's independent auditors will annually review transactions and activities relating thereto to determine compliance with the requirements of the exemptive order and guidelines. The auditors will issue a special report in accordance with Generally Accepted Auditing Standards consistent with SAS No. 14 and SAS No. 35, as appropriate, reporting on compliance with the guidelines. That special report will be filed by the Fund as an exhibit to the Form N-SAR filed after the end of the Fund's fiscal year.[1]

6. The Board of Directors of the Fund or a committee thereof (including a majority of the directors who are not interested persons of the Fund or PMLIC) at least quarterly will review all transactions between the Fund and PMLIC to insure compliance with the Exemptive Order and that all requirements of the guidelines of the Fund with respect to such transactions have been observed and, at least annually, will review the special report prepared by the Fund's independent auditors and the appropriateness of continuing the policy of purchasing GNMA Certificates from PMLIC.

7. The proposed transactions will only be effected provided PMLIC has maintained a claims-paying rating in one of the top two categories of at least one nationally recognized rating organization.

Applicants submit that the foregoing conditions provide assurance that the requested relief will be consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89-2293 Filed 1-31-89; 8:45 am]

BILLING CODE 8010-01-M

[1] By letter dated January 25, 1989, Counsel for Applicants informed the Division of Investment Management that, at a minimum, the procedures to be employed by the Fund's independent auditors in connection with the preparation of the special report will include the following: (a) Review of the application; (b) obtaining a schedule of purchases of GNMA Certificates for the applicable year; (c) agreeing (*i.e.*, comparing) the pool number, interest rate, maturity date, principal amount and purchase price of each listed certificate with the Fund's owned, sold and acquired listing; (d) examining the documentation from the security file supporting the price and dealer identity for each competitive bid; (e) comparing the purchase price to the lowest competitive bid to determine whether such price is at least 1/64 of a dollar lower than this competitive bid, and (f) tracing each purchase to approval in the minutes of the meetings of the Fund's Board of Directors on the date indicated.

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[Rel. No. 35-24808]

## Filings Under the Public Utility Holding Company Act of 1935 ("Act")

January 26, 1989.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 21, 1989 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the manner. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

### Jersey Central Power & Light Company (70-7603)

Jersey Central Power & Light Company ("JCP&L"), Madison Avenue at Puch Bowl Road, Morristown, New Jersey 07960, a wholly owned subsidiary of General Public Utilities Corporation, a registered holding company, has filed an application pursuant to section 6(b) of the Act and Rule 50(a)(5) thereunder.

JCP&L proposes to issue and sell from time to time through December 31, 1990 up to: $500 million of first mortgage bonds ("New Bonds"); (2) $500 million of medium-term securities as either unsecured notes or first mortgage bonds ("MTNs"); and (3) a stated value of $100 million of Cumulative Preferred Stock ("New Preferred Stock"), provided that the total principal amount of all such securities to be issued and sold does not exceed $500 million.

The New Bonds and any MTNs issued as first mortgage bonds are to be issued under JCP&L's Mortgage and Deed of Trust ("Mortgage"). The New Bonds will have a term of not less than one and not more than 35 years but will be subject to earlier redemption or retirement upon the occurrence of certain events. In addition, the New Bonds may be subject to optional redemption in whole or in part, by JCP&L beginning not earlier than one year after issuance thereof, at various premiums above the principal amount thereof. The New Bonds may also be entitled to mandatory sinking fund provisions.

Unsecured MTNs would be issued under an indenture between JCP&L and a trustee to be selected. JCP&L will publicly offer the MTNs from time to time through one or more agents. The MTNs will be sold primarily based on their credit ratings with interest rates negotiated at the time of sale based on spreads over comparable maturity U.S. Treasury securities. The maturity dates of the MTNs will range from 9 months to 10 years to be determined by agreement between JCP&L and the respective purchasers. The MTNs will not be redeemable by JCP&L except that MTNs with a maturity in excess of five years will be redeemable at JCP&L's option five years after issuance.

The New Preferred Stock will be similar to JCP&L's outstanding series of cumulative preferred stock, i.e. (1) the New Preferred Stock will have a stated value of not in excess of $100 per share; (2) the dividend rate and redemption prices of the New Preferred Stock will be determined either by competitive bidding or negotiation with underwriters; (3) the New Preferred Stock will contain a refunding limitation providing that the New Preferred Stock may not be redeemed for a period less than ten years from the date if issuance; and (4) the New Preferred Stock may be entitled to a mandatory sinking fund.

JCP&L proposes to issue and sell the New Bonds and the New Preferred Stock either on a competitive basis, subject to the requirements of Rule 50(b) and (c), or under an exception from Rule 50 pursuant to Rule 50(a)(5). JCP&L proposes to issue and sell the MTN's under an exception from Rule 50 persuant to Rule 50(a)(5). JCP&L has requested that it be authorized to begin negotiations with potential agents to

place the New Bonds, the New Preferred Stock and MTN's. It may do so.

**Alabama Power Company (70–7609)**

Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary of The Southern Company, a registered holding company, has filed a declaration pursuant to section 12(d) of the Act and Rule 44 thereunder.

Alabama proposes to sell an 8.16% undivided ownership interest ("Undivided Interest") in Units No. 1 and 2 of Alabama's James H. Miller, Jr. Steam Electric Generating Plant and related facilities ("Miller Units 1 and 2"), to Alabama Electric Cooperative, Inc. ("AEC"), a generating and transmitting cooperative, pursuant to a Purchase and Ownership Agreement. It is proposed that the sale will be closed on or after January 1, 1991 and no later than June 1, 1992.

The purchase price to be paid by AEC for the Undivided Interest in Miller Units 1 and 2 will be calculated at the time of sale in accordance with a formula contained in the Purchase and Ownership Agreement. This formula generally provides that the purchase price will be equal to Alabama's net book value of the facilities being sold, plus construction work in progress and an amount representing taxes, if any, incurred by Alabama as a result of the sale. The purchase price which would be produced currently by the formula would be approximately $50 million.

Alabama and AEC have entered into a separate operating agreement providing that Alabama will be solely responsible for the operation and maintenance of Miller Units 1 and 2 and that payments for the operation and maintenance will be provided by Alabama and AEC equal to their respective ownership interests in Miller Units 1 and 2.

**Appalachian Power Company (70–7620)**

Appalachian Power Company ("APCo"), 40 Franklin Road, Roanoke, Virginia 24022, an electric public utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a declaration pursuant to section 12(d) of the Act and Rule 44 promulgated thereunder.

APCo proposes to sell to its industrial customer, Virginia Polytechnic Institute and State University ("VPI–SU"), certain transformation and other related equipment ("Facilities") located at APCo's Blacksburg 69/12 KV Station in Blacksburg, Virginia, for a purchase price of $450,000 in cash, which represents the original cost less accumulated depreciation. The Facilities are situated on real property owned by VPI–SU in Blacksburg, Virginia and are now employed by APCo for providing service exclusively to VIP–SU. It is stated that the Facilities are not adaptable, at that location, for use in serving any other customer.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 89–2294 Filed 1–31–89; 8:45 am]

BILLING CODE 8010–01–M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster Loan Areas #2327 and 2328; Amdt. #1]**

### Missouri and Contiguous Counties in the State of Arkansas; Declaration of Disaster Loan Area

The above-numbered Declaration (54 FR 1834) is hereby amended to authorize physical disaster assistance to victims located in all counties contiguous to Barry County, Missouri. All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on March 6, 1989, and for economic injury until the close of business on October 4, 1989.

The number assigned to this disaster for physical damage for contiguous counties in the State of Arkansas is 232812.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 18, 1989.

**James Abdnor,**

*Administrator.*

[FR Doc. 89–2307 Filed 1–31–89; 8:45 am]

BILLING CODE 8025–01–M

### Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VI Advisory Council, located in the geographical area of New Orleans will hold a public meeting scheduled at 9:00 a.m. on Thursday, February 9, 1989, at the Small Business Administration Office, 1661 Canal Street, Suite 2000, New Orleans, Louisiana, to discuss such matters as may be presented by members, staff of the U. Small Business Administration, or others present.

For further information, write or call Abby H. Carter, District Director, U.S. Small Business Administration, 1661 Canal Street, Suite 2000, New Orleans, Louisiana 70112–2890, 504/589–2744.

**Jeannette M. Pauli,**

*Acting Director, Office of Advisory Councils.*

January 26, 1989.

[FR Doc. 89–2308 Filed 1–31–89; 8:45 am]

BILLING CODE 8025–01–M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement; San Jose, CA

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Santa Clara County, California.

**FOR FURTHER INFORMATION CONTACT:** D.L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95812–1915, Telephone: (916) 551–1314.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the California Department of Transportation and the City of San Jose, will prepare an Environmental Impact Statement (EIS) on a proposal to upgrade existing State Route 87 (Guadalupe Parkway) in San Jose, California. The proposed improvement would involve construction of additional lanes, grade separations, and interchanges on Route 87 between Julian Street and U.S. Route 101, a distance of approximately 3.1 miles.

Locations on Route 87 being considered for grade separations are West Hedding Street and Airport Parkway. Locations on Route 87 being considered for interchanges are West Taylor Street, Skyport Drive, and Airport Parkway. No interchange between Route 87 and I–880 is being proposed as a part of this project. Alternatives under consideration include (1) taking no action; and (2) various designs and locations for the proposed grade separations and interchanges.

The action is being proposed to provide for the existing and projected traffic demand resulting from overall growth, growth of downtown San Jose, and expansion of the adjacent San Jose International Airport.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local

agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings and workshops will be held in the project area; public notice will be given of the time and place of these meetings and workshops. In addition, a formal scoping meeting will be held at 7:00 p.m. on Thursday, February 16, 1989 in the City Council Chambers, San Jose City Hall, 801 North First Street, San Jose.

The draft EIS will be available for public and agency review prior to a public hearing on the project.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties including the views of agencies which may have knowledge about historic reources potentially affected by the proposal or interested in the effect of the project on historic properties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided on page 1 of this document.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 24, 1989.

**David L. Eyres,**

*District Engineer, Sacramento, California.*

[FR Doc. 89-2263 Filed 1-31-89; 8:45 am]

BILLING CODE 4910-22-M

## Federal Railroad Administration

**[FRA Waiver Petition Docket Number PB-88-4]**

### Public Hearing on Association of American Railroads' Waiver Petition on Air Flow System

In accordance with 49 CFR 211.41, notice is given that the Federal Railroad Administration (FRA) will hold a public hearing on the Association of American Railroads' (AAR) petition for a waiver of compliance with certain provisions of FRA's power brake regulations, in order to use the air flow method (AFM) for train brake qualification as an alternate to the leakage test. This proceeding is identified as FRA Waiver Petition Docket Number PB-88-4.

AAR's specific request is for relief from certain provisions of the power brake regulations set forth in 49 CFR 232.12 and 232.13 relative to leakage tests. AAR seeks this waiver on behalf of its member railroads; all railroads owned by, controlled by or affiliated with its member railroads; and all railroads owned by, controlled by, or affiliated with its other member companies. (For further details, see FRA notice published at 43 FR 36935-36936, September 22, 1988).

The Railway Labor Executives' Association, Brotherhood of Locomotive Engineers, and Alabama Public Service Commission have protested AAR's application and requested a hearing. After examining AAR's petition, the protests and hearing requests, and the available facts, FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on March 7, 1989, in Room 2230 at 400 Seventh Street SW., Washington, DC 20590.

The hearing will be an informal, nonadversary proceeding and will be conducted by a representative designated by FRA. Strict rules of evidence will not apply, and cross-examination will be somewhat limited. The FRA representative will make an opening statement outlining the scope of the hearing. Then each person in attendance will be permitted to make an initial statement. After each initial statement is completed, the hearing officer, the technical panel, and the audience will be allowed to question the witness. After all the initial statements are completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so, in the same order in which they made their initial statements. In addition, written statements or other documents may be submitted at the hearing for inclusion in the record of this proceeding. If practical, eight copies of each written statement or other document should be submitted. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC on January 13, 1989.

**J.W. Walsh,**

*Associate Administrator for Safety.*

[FR Doc. 89-2251 Filed 1-31-89; 8:45 am]

BILLING CODE 4910-06-M

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

**[Supplement to Department Circular—Public Debt Series—No. 2-89]**

### Treasury Notes, Series V-1991

January 26, 1989.

The Secretary announced on January 25, 1989, that the interest rate on the notes designated Series V-1991, described in Department Circular—Public Debt Series—No. 2-89 dated January 19, 1989, will be 9 percent. Interest on the notes will be payable at the rate of 9 percent per annum.

**Marcus W. Page,**

*Acting Fiscal Assistant Secretary.*

[FR Doc. 89-2306 Filed 1-31-89; 8:45 am]

BILLING CODE 4810-40-M

## VETERANS' ADMINISTRATION

### Scientific Advisory Committee to the National Vietnam Veterans Readjustment Study; Meeting

In accordance with Pub. L. 92-463, the Veterans' Administration gives notice that a meeting of the Scientific Advisory Committee to the National Vietnam Veterans Readjustment Study will be held at the Stouffer Concourse Hotel, 2399 Jefferson Davis Highway, Arlington, Virginia, on February 23, 1989, beginning at 9 a.m. The purpose of this meeting is to review publication policies and evaluate further analysis of the National Vietnam Veterans Readjustment Study, mandated by Pub. L. 98-160.

The meeting will be open to the public (to the seating capacity of the room) until noon during which time the committee will cover administrative matters, discuss the general status of the study, and review publication policies. During the closed session, beginning at 1 p.m. the Committee will be further analyzing the study. Disclosure of this discussion, including specific survey techniques, could serve as a source of sample contamination that could invalidate the total research effort. Thus, the closing is in accordance with section 552b, subsection (c)(9)(B), 5 U.S.C., and the determination of the Administrator of Veterans Affairs under section 10(d) of Pub. L. 92-463 as amended by section 5(c) of Pub. L. 94-409.

Due to the limited seating capacity of the room, those who plan to attend the open session should contact Dr. Thomas L. Murtaugh, Project Officer, National Vietnam Veterans Readjustment Study, 1521 A South Edgewood St., Baltimore, MD 21227 (Phone—301/646-5604) at least 5 days before the meeting.

Dated: January 27, 1989.

By direction of the Administrator.

**Rosa Maria Fontanez,**

*Committee Management Officer.*

[FR Doc. 89-2359 Filed 1-31-89; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register
Vol. 54, No. 20
Wednesday, February 1, 1989

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).

**FEDERAL COMMUNICATIONS COMMISSION**

*Deletion of Agenda Item from January 30th Open Meeting*

January 30, 1989.

The following item has been deleted from the list of agenda items scheduled for consideration at the January 30, 1989 Open Meeting and previously listed in the Commission's Notice of January 23, 1989.

*Agenda, Item No., and Subject*

Common Carrier—1—Title: In the Matter of Policy and Rules concerning Rates for Dominant Carriers, CC Docket No. 87-313. Summary: The Commission will consider further actions regarding the regulation of rates for dominant carrier interstate basic service offerings (price caps). Issued: January 30, 1989.

Additional information concerning this meeting may be obtained from Audrey Spivack, Office of Public Affairs, telephone number (202) 632-5050.

Federal Communications Commission.

**Donna R. Searcy,**

*Secretary.*

[FR Doc. 89-2440 Filed 1-30-89; 2:27 pm]

BILLING CODE 6712-01-M

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

January 26, 1989.

**TIME AND DATE:** 10:00 a.m., Thursday, February 2, 1989.

**PLACE:** Room 600, 1730 K Street NW., Washington, DC.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following:

1. Possible revisions to Commission Procedural Rules 45 & 46, and 56-60, 29 CFR §§ 2700.45 and 2700.46, and 2700.56-2700.60.

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, (202) 653-5629/(202) 566-2673 for TDD relay.

**Jean H. Ellen,**

*Agenda Clerk.*

[FR Doc. 89-2413 Filed 1-30-89; 11:20 am]

BILLING CODE 6735-01-M

**DEPARTMENT OF JUSTICE**

Parole Commission

Pursuant to the Government in the Sunshine Act (Pub. L. 94-409) [5 U.S.C. 552b]

**DATE AND TIME:** Tuesday, February 7, 1989, 2:00 a.m., Eastern Standard Time.

**PLACE:** 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

**STATUS:** Open—Meeting.

**MATTERS TO BE CONSIDERED:** Due to a legal opinion from the Assistant Attorney General, Criminal Division of the Department of Justice, received on January 27, 1989, the following matter has been added to the agenda for the open Parole Commission meeting:

Proposal to modify the language of 28 CFR 2.57 for automatic forfeiture of street time in special parole term revocation cases.

**AGENCY CONTACT:** Linda Wines Marble, Director, Case Operations and Program Development, United States Parole Commission, (301) 492-5952.

Dated: January 30, 1989.

**Michael A. Stover,**

*General Counsel, U.S. Parole Commission.*

[FR Doc. 89-2444 Filed 1-30-89; 1:59 pm]

BILLING CODE 4410-01-M

# Corrections

Federal Register
Vol. 54, No. 20
Wednesday, February 1, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Announcement of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the United Mexican States

*Correction*

In notice document 88-29770 beginning on page 52461 in the issue of Wednesday, December 28, 1988, make the following correction:

1. On page 52462, in the first page-column, in the second table-column, the 12th entry should read "1,202,020 kilograms".

2. On the same page, in the same page-column, in the first table-column, the 14th entry should read "369-U[1]".

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 704

[OPTS-82013C; FRL-3368-1]

### Comprehensive Assessment Information Rule

*Correction*

In rule document 88-26445 beginning on page 51698 in the issue of Thursday, December 22, 1988, make the following corrections:

1. On page 51709, in the table, in the first table-column, the first entry should read "EPA/OTS/ECAD[2]".

2. On the same page, in the fourth table-column, the fifth entry was omitted and should read "1".

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-240083; FRL-3477-6]

### State Registration of Pesticides

*Correction*

In notice document 88-26431 beginning on page 46112 in the issue of Wednesday, November 16, 1988, make the following corrections:

1. On page 46113, in the third column, under **Georgia**, in the third line, "Relex" should read "Reflex".

2. On the same page, in the same column, under **Georgia**, in the second paragraph, in the first line, "SLNB" should read "SLN".

3. On the same page, in the same column, under **Hawaii**, in the first line, "Rohn" should read "Rohm".

4. On page 46114, in the second column, under **Mississippi**, in the fourth line, "fames" should read "forms".

5. On the same page, in the same column, under **Nebraska**, in the third line, "arious" should read "various".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE TREASURY

### Customs Service

### 19 CFR Part 152

### Dutiability of Quota Charges; Solicitation of Comments

*Correction*

FR Doc. 89-1447, extending the comment period on the dutiability of quota charges, published at page 3443 in the issue of Tuesday, January 24, 1989, incorrectly appeared in the Rules section. It should have appeared in the Proposed Rules section.

BILLING CODE 1505-01-D

federal register

Wednesday
February 1, 1989

Part II

# Department of the Treasury

## Customs Service

## Notice That Entry/Entry Summary Required for Importation of Hong Kong Textiles; Change of Effective Date

# Federal Register

## DEPARTMENT OF THE TREASURY

### Customs Service

### Notice That Entry/Entry Summary Required for Importation of Hong Kong Textiles; Change of Effective Date

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Notice of Change of Effective Date.

**SUMMARY:** Customs published a notice in the **Federal Register** (54 FR 349) on January 5, 1989, stating that Customs will require the filing of an entry/entry summary ("live" entry) for all textiles and textile articles of Hong Kong origin which have a textile category number. The effective date set for the requirement stated in that notice was February 1, 1989. A determination has been made to delay the effective date of the requirement until April 1, 1989.

**EFFECTIVE DATE:** April 1, 1989.

**FOR FURTHER INFORMATION CONTACT:** Dick Crichton, Office of Trade Operations, (202) 566–9443.

**SUPPLEMENTARY INFORMATION:** On January 5, 1989, Customs published a document in the **Federal Register** (54 FR 349) stating that Customs will require the filing of an entry/entry summary ("life" entry) for all textiles and textile articles of Hong Kong origin which have a textile category number. The effective date set for the requirement stated in that notice was February 1, 1989. A correction document for that notice was published on January 17, 1989 (54 FR 1844).

A decision has been made by Customs to delay the effective date of the entry/entry summary requirements for Hong Kong textiles and textile articles until April 1, 1989. This document is notice of the delayed effective date.

Michael H. Lane,

*(Acting) Commissioner of Customs.*

Dated: January 30, 1989.

[FR Doc. 89–2508 Filed 1–31–89; 10:19 am]

BILLING CODE 4820–02–M

federal register

Wednesday
February 1, 1989

Part III

# United States Information Agency

## Culturally Significant Objects Imported for Exhibition; Determination; Notice

# Digest of Public General Bills

Wednesday
February 7, 1996

Part III

## United States Information Agency

Declassify Significant Options Imposed for Publication Determination Review

## UNITED STATES INFORMATION AGENCY

### Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Treasurers from the Fitzwilliam Museum" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art in Washington, DC, beginning on or about March 19, 1989, to on or about June 18, 1989, at the Kimbell Art Museum in Fort Worth, Texas, beginning on or about July 15, 1989, to on or about October 8, 1989, at the National Academy of Design in New York, NY, beginning on or about November 5, 1989, to on or about January 28, 1990, at the High Museum of Art in Atlanta, Georgia, beginning on or about February 20, 1990, to on or about May 6, 1990, and at the Los Angeles County Museum of Art in Los Angeles, California, beginning on or about June 21, 1990, to on or about September 9, 1990, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

R. Wallace Stuart,

*Acting General Counsel.*

Date: January 31, 1989.

[FR Doc. 89–2518 Filed 1–31–89; 11:04 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202–485–7979, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547.

# Reader Aids

Federal Register

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## INFORMATION AND ASSISTANCE

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## FEDERAL REGISTER PAGES AND DATES, FEBRUARY



## CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

## LIST OF PUBLIC LAWS

**Last List November 30, 1988**

The **List of Public Laws** will be resumed when bills are enacted into public law during the first session of the 101st Congress, which convened on January 3, 1989. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

## TABLE OF EFFECTIVE DATES AND TIME PERIODS—FEBRUARY 1989

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

| DATE OF FR PUBLICATION | 15 DAYS AFTER PUBLICATION | 30 DAYS AFTER PUBLICATION | 45 DAYS AFTER PUBLICATION | 60 DAYS AFTER PUBLICATION | 90 DAYS AFTER PUBLICATION |
|---|---|---|---|---|---|
| February 1 | February 16 | March 3 | March 20 | April 3 | May 2 |
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| February 3 | February 21 | March 6 | March 20 | April 4 | May 4 |
| February 6 | February 21 | March 8 | March 23 | April 7 | May 8 |
| February 7 | February 22 | March 9 | March 24 | April 10 | May 8 |
| February 8 | February 23 | March 10 | March 27 | April 10 | May 9 |
| February 9 | February 24 | March 13 | March 27 | April 10 | May 10 |
| February 10 | February 27 | March 13 | March 27 | April 11 | May 11 |
| February 13 | February 28 | March 15 | March 30 | April 14 | May 15 |
| February 14 | March 1 | March 16 | March 31 | April 17 | May 15 |
| February 15 | March 2 | March 17 | April 3 | April 17 | May 16 |
| February 16 | March 3 | March 20 | April 3 | April 17 | May 17 |
| February 17 | March 6 | March 20 | April 3 | April 18 | May 18 |
| February 21 | March 8 | March 23 | April 7 | April 24 | May 22 |
| February 22 | March 9 | March 24 | April 10 | April 24 | May 23 |
| February 23 | March 10 | March 27 | April 10 | April 24 | May 24 |
| February 24 | March 13 | March 27 | April 10 | April 25 | May 25 |
| February 27 | March 14 | March 29 | April 13 | April 28 | May 30 |
| February 28 | March 15 | March 30 | April 14 | May 1 | May 30 |