

discrimination, the NEA finds that the program would remain viable because it falls under an exception listed in 45 CFR Section 1156.7.

45 CFR Section 1156.6 contains both a general rule and specific rules against age discrimination, and the NEA's education program complies with both. The general rule states that no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. See 45 CFR Section 1156.6(a). The language defining the NEA's education program indicates that the program does not violate this general rule because the program does not limit its coverage of participants based upon age. See *National Endowment for the Arts: Grants to Organizations FY2000*, 11. The curriculum-based projects of the NEA's education program may focus on students grades pre-K through 12, but because these projects do not exclude, deny benefits to, or discriminate against non-students of any age group, the projects still comply with the rules against age discrimination. See *id.* More importantly, the education program's mission statement clearly illustrates the NEA's hope that the program will expand opportunities for children and adults to participate in and increase their understanding of the arts. See *id.* For instance, the field/discipline-based projects of the NEA's education program provide learning activities for children, youths, and adults. See *id.* Thus, the program is inclusive by nature, not exclusive.

The specific rules against age discrimination essentially state that a program cannot directly or indirectly (e.g., contractually, by license, etc.) use age distinctions or take any other actions that may exclude participation, deny or limit benefits, or discriminate on the basis of age. See *id.* The NEA's education program, however, does not violate these specific rules. The NEA finds that its education program complies with the specific rules because none of the program's projects exclude participants, deny or limit benefits, or discriminate based upon age through either "direct" or "indirect" means.

Even if the curriculum-based projects of the NEA's education program were determined to violate 45 CFR Section 1156.6, the NEA finds that these projects would fall under an exception provided in 45 CFR Section 1156.7. 45 CFR Section 1156.7(a) provides, in pertinent part, that a recipient of Federal financial assistance is "permitted to take an action otherwise prohibited by [Section] 1156.6 if the

action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity." The curriculum-based projects of the NEA's education program satisfy the exception because the projects take student-status (based upon age) into account as a factor necessary to the normal operation of the program. In the case of the NEA's projects, the normal operation of these projects inherently requires the use of age because grades pre-K through 12 logistically include mostly children. These projects comply with the exception under 45 CFR Section 1156.7(a) because 1) age is used to determine whether a person is a student (pre-K through 12); 2) as an educational service to schools, the curriculum-based projects, by nature, must determine whether they are serving students if they are to continue the normal operation of the program; 3) age can reasonably determine student-status; and 4) measuring student-status on an individual basis represents an impractical endeavor.

Because the NEA's education program encourages the participation of all age groups and because the curriculum-based projects do not exclude participation, deny or limit benefits, or discriminate based upon age, the NEA finds that its education program complies with the rules against age discrimination as established by 45 CFR 1156.

DATES: Comments must be filed on or before March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Karen Elias, Deputy General Counsel, (202) 682-5418.

Karen Elias,

Deputy General Counsel.

[FR Doc. 99-5332 Filed 3-3-99; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corporation; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Vermont Yankee Nuclear Power Corporation (the licensee) to withdraw its May 1, 1998, application for proposed amendment to Facility Operating License No. DPR-28 for the Vermont Yankee Nuclear Power Station, located in Windham County, Vermont.

The proposed amendment would have revised the facility technical specifications to make several editorial changes to the Administrative Controls section including revisions due to organizational changes, quality assurance changes, editorial changes, and typographical corrections.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on June 17, 1998 (63 FR 33109). However, by letter dated February 1, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 1, 1998, and the licensee's letter dated February 1, 1999, which withdrew the application for license amendment. The above documents 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 room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Dated at Rockville, Maryland, this 11th day of February 1999.

For the Nuclear Regulatory Commission.

Richard P. Croteau,

Project Manager, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 99-5337 Filed 3-3-99; 8:45 am]

BILLING CODE 7590-01-P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Railroad Separation Allowance or Severance Pay Report.

(2) *Form(s) submitted:* BA-9.

(3) *OMB Number:* 3220-0173.

(4) *Expiration date of current OMB clearance:* 4/30/1999.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Business or other for-profit.

(7) *Estimated annual number of respondents:* 27.

(8) *Total annual responses:* 1,072.

(9) *Total annual reporting hours:* 1,340.

(10) *Collection description:* Section 6 of the Railroad Retirement Act provides for a lump-sum payment to an employee or the employee's survivor equal to the Tier II taxes paid by the employee on a separation allowance or severance payment for which the employee did not receive credits toward retirement. The collection obtains information concerning the separation allowances and severance payments from railroad employers.

FOR FURTHER INFORMATION CONTACT:

Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611-2092 and the OMB reviewer, Laurie Schack (202-395-7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,
Clearance Officer.

[FR Doc. 99-5348 Filed 3-3-99; 8:45 am]

BILLING CODE 7905-01-M

**SECURITIES AND EXCHANGE
COMMISSION**

[Investment Company Act Release No. 23718; 812-11478]

**Warburg Dillon Read LLC; Notice of
Application**

February 25, 1999.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice of application for an order under section 12(d)(J) of the Investment Company Act of 1940 (the "Act") for an exemption from section 12(d)(1) of the Act, under section 6(c) of the Act for an exemption from section 14(a) of the Act, and under section 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Warburg Dillon Read LLC ("Warburg") requests an order with respect to the T-REX securities trusts ("T-REX Trusts")¹ and future trusts that are substantially similar to T-REX Trusts for which Warburg will serve as a principal underwriter (collectively, the "Trusts") that would (i) permit other registered investment companies, and companies

excepted from the definition of investment company under section 3(c)(1) or (c)(7) of the Act, to own a greater percentage of the total outstanding voting stock (the "Securities") of any Trust than that permitted by section 12(d)(1), (ii) exempt the Trusts from the initial net worth requirements of section 14(a), and (iii) permit the Trusts to purchase U.S. government securities from Warburg at the time of a Trust's initial issuance of Securities.

FILING DATE: The application was filed on January 22, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Warburg with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 22, 1999, and should be accompanied by proof of service on Warburg, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicant, 299 Park Avenue, New York, New York 10171.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, at (202) 942-0634, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549 (tel. 942-8090).

Applicant's Representations

1. Each Trust will be a limited-life, grantor trust registered under the Act as a non-diversified, closed-end management investment company. Warburg will serve as a principal underwriter (as defined in section 2(a)(29) of the Act) of the Securities issued to the public by each Trust.

2. Each Trust will, at the time of its issuance of Securities, (i) enter into one or more forward purchase contracts (the "Contracts") with a counterparty to purchase a formulaically-determined number of a specified equity security or

securities (the "Shares") of one specified issuer,² and (ii) in some cases, purchase certain U.S. Treasury securities ("Treasuries"), which may include interest-only or principal-only securities maturing at or prior to the Trust's termination. The Trusts will purchase the Contracts from counterparties that are not affiliated with either the relevant Trust or Warburg. The investment objective of each Trust will be to provide to each holder of Securities ("Holder") (i) periodic cash distributions from the proceeds of any Treasuries, and (ii) participation in, or limited exposure to, changes in the market value of the underlying Shares.

3. In all cases, the Shares will trade in the secondary market and the issuer of the Shares will be a reporting company under the Securities Exchange Act of 1934. The number of Shares, or the value of the Shares, that will be delivered to a Trust pursuant to the Contracts may be fixed (e.g., one Share per Security issued) or may be determined pursuant to a formula, the product of which will vary with the price of the Shares. A formula generally will result in each Holder of Securities receiving fewer Shares as the market value of the Shares increases, and more Shares as their market value decreases.³ At the termination of each Trust, each Holder will receive the number of Shares per Security, or the value of the Shares, as determined by the terms of the Contracts, that is equal to the Holder's pro rata interest in the Shares or amount received by the Trust under the Contracts.⁴

4. Securities issued by the Trusts will be listed on a national securities exchange or traded on the Nasdaq National Market System. Thus, the Securities will be "national market system" securities subject to public

² Initially, no Trust will hold Contracts relating to the Shares of more than one issuer. However, if certain events specified in the Contracts occur, such as the issuer of Shares spinning-off securities of another issuer to the holders of the Shares, the Trust may receive shares of more than one issuer at the termination of the Contracts.

³ A formula is likely to limit the Holder's participation in any appreciation of the underlying Shares, and it may, in some cases, limit the Holder's exposure to any depreciation in the underlying Shares. It is anticipated that the Holders will receive a yield greater than the ordinary dividend yield on the Shares at the time of the issuance of the Securities, which is intended to compensate Holders for the limit on the Holders' participation in any appreciation of the underlying Shares. In some cases, there may be an upper limit on the value of the Shares that a Holder will ultimately receive.

⁴ The Contracts may provide for an option on the part of a counterparty to deliver Shares, cash, or a combination of Shares and cash to the Trust at the termination of each Trust.

¹ "T-REX" is a acronym for Trust-Issued Required Equity Exchange Securities.