

Tuesday  
November 22, 1983

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## Selected Subjects

- Administrative Practice and Procedure**  
National Transportation Safety Board
- Air Carriers**  
Labor-Management Services Administration
- Air Pollution Control**  
Environmental Protection Agency
- Aliens**  
Immigration and Naturalization Service
- Antibiotics**  
Food and Drug Administration
- Aviation Safety**  
Federal Aviation Administration
- Conflict of Interests**  
National Science Foundation
- Endangered and Threatened Species**  
Fish and Wildlife Service
- Exports**  
Animal and Plant Health Inspection Service
- Flood Insurance**  
Federal Emergency Management Agency
- Foreign Trade**  
Census Bureau
- Hazardous Waste**  
Environmental Protection Agency

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### Postal Service

Postal Service

### Privacy

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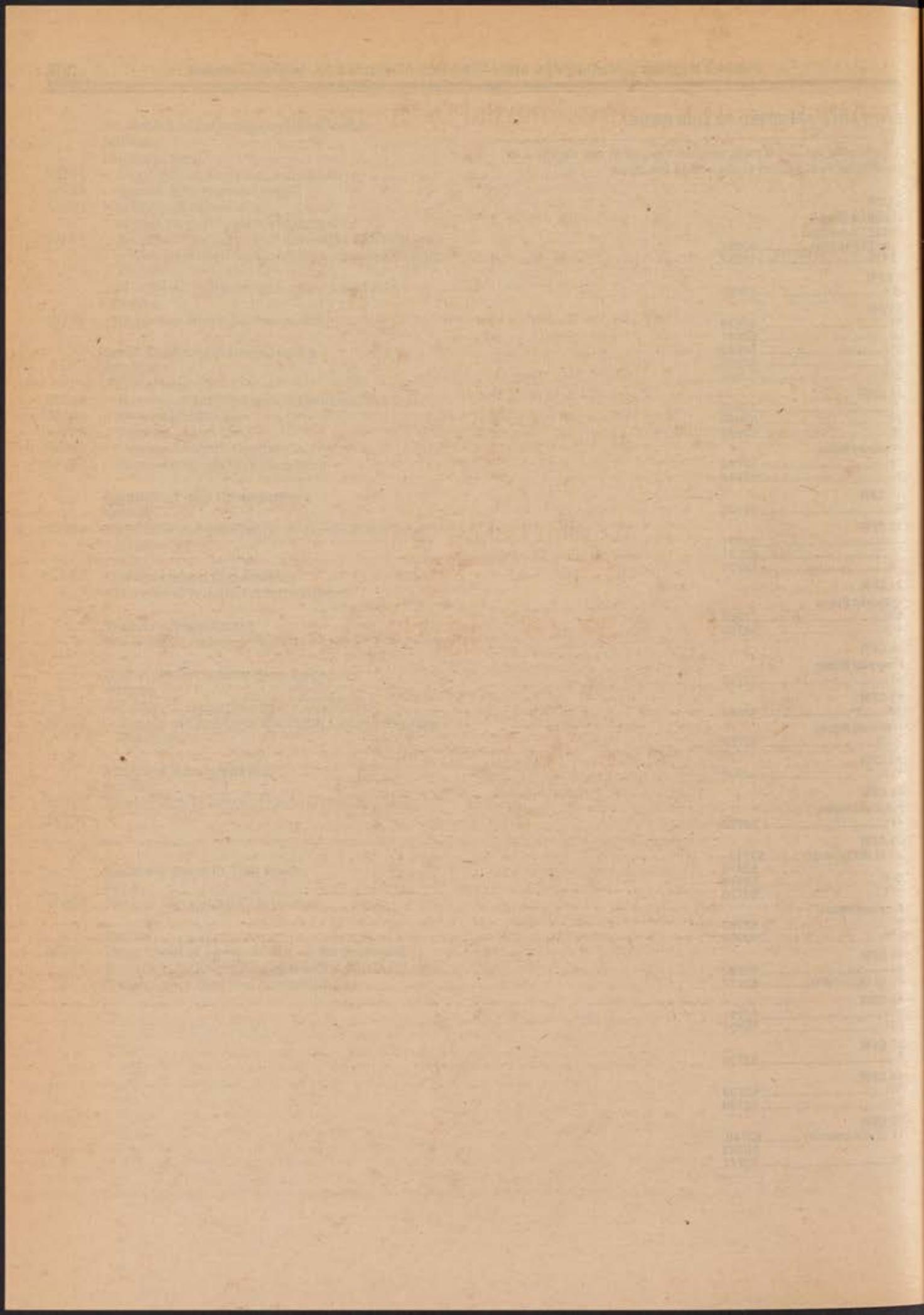
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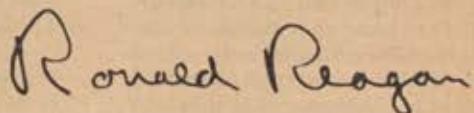
Executive Order 12449 of November 18, 1983

The President

National Bipartisan Commission on Central America

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered that Section 2(b) of Executive Order No. 12433, establishing the National Bipartisan Commission on Central America, is amended to provide as follows:

"(b) The Commission shall report to the President by February 1, 1984."



THE WHITE HOUSE,

*November 18, 1983.*

[FR Doc. 83-31524

Filed 11-21-83; 11:45 am]

Billing code 3195-01-M



# Rules and Regulations

Federal Register

Vol. 48, No. 226

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

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Part 204

##### Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant: Evidence of United States Citizenship

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies additional documentation issued by the Department of State which will be accepted by the Immigration and Naturalization Service as proof of United States citizenship of children born to United States citizens while serving abroad. This rule will facilitate proving United States citizenship when other documents may not be available.

**EFFECTIVE DATE:** November 22, 1983.

#### FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536. Telephone: (202) 633-3048.

For Specific Information: Lloyd Sutherland, Immigration Examiner, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633-3946.

**SUPPLEMENTARY INFORMATION:** This regulatory amendment corrects a variance between the evidence that the Department of State and the Immigration and Naturalization Service will accept as proof of United States citizenship. The State Department will accept the Form FS-240, Report of Birth Abroad of a Citizen of the United States,

as proof of United States citizenship for the purpose of issuing a passport. The Immigration and Naturalization Service, however, has not accepted the Form FS-240 as proof of citizenship when a relative petition was filed. This variance was inconvenient to many United States citizens who attempted to prove their citizenship to the Immigration and Naturalization Service by means of the Form FS-240. Therefore, to remedy this situation and make the Immigration and Naturalization Service requirements consistent with those of the State Department, the Immigration and Naturalization Service is amending 8 CFR 204.2(a)(2) to include the Form FS-240 as an acceptable document for proving United States citizenship.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is not required because the rule deals with Service organization and procedure and will be of benefit to the public.

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

This order is not a rule within the meaning of section 1(a) of E.O. 12291 because it relates to agency management and procedure.

#### List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Citizenship and naturalization, Immigration, Infants and children.

Accordingly, chapter 1 of Title 8 of the Code of Federal Regulations is amended to read as follows:

#### PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

Section 204.2, is amended by revising paragraph (a)(2) to read as follows:

#### § 204.2 Documents.

(a) . . .

(2) *Birth outside the United States.* A petition filed under § 204.1(a) or (b) of this part by a United States citizen born abroad who became a citizen through the naturalization or citizenship of a parent or spouse, and who has not been issued a certificate of citizenship in his

or her name, must be accompanied by evidence of the citizenship and marriage of such parent or spouse, as well as the legal termination of any prior marriages. In addition, if the petitioner claims citizenship through a parent, the petitioner must submit the parent's birth certificate. If the petitioner is a naturalized citizen whose naturalization occurred within 90 days immediately preceding the filing of the petition, or if it occurred prior to September 27, 1906, the naturalization certificate must accompany the petition. Department of State Form FS-240, Report of Birth Abroad of a Citizen of the United States, will be accepted as proof of United States citizenship. An unexpired United States passport issued initially for a full five-year or ten-year period to the petitioner as a citizen of the United States (and not merely as a noncitizen national) will be accepted as proof of the petitioner's United States citizenship. Similarly, a statement executed by a United States consular officer certifying the petitioner to be a United States citizen and the bearer of a currently valid United States passport will be accepted in lieu of the passport.

(Secs. 103, 204 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1154))

Andrew J. Carmichael, Jr.

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-31365 Filed 11-21-83; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 91

[Docket No. 83-064]

#### Ports Designated for Exportation of Animals

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

**ACTION:** Interim rule.

**SUMMARY:** This document amends the "Inspection and Handling of Livestock for Exportation" regulations by adding a facility operated by Petair to the list of export inspection facilities for airport and ocean port services for the port of

San Francisco, California; by adding a facility operated by the Alex Nichols Agency (horses only) to the list of export inspection facilities for airport and ocean port services for the port of New York, New York; and by changing the listing for the port of Los Angeles, California, to specify that it has both airport and ocean port facilities, rather than only airport facilities, for the exportation of animals. This action is necessary because it has been determined that the Petair and the Alex Nichols Agency facilities meet the requirements of the regulations for inclusion in the list of export inspection facilities, and because the port of Los Angeles has ocean port facilities for the exportation of animals.

**DATES:** Effective date: November 22, 1983. Written comments must be received on or before January 23, 1984.

**ADDRESS:** Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:**

Dr. George Winegar, Import/Export Animals and Products Staffs, VS, APHIS, USDA, Room 845, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8383.

**SUPPLEMENTARY INFORMATION:**

**Background**

This document amends the "Inspection and Handling of Livestock for Exportation" regulations in 9 CFR Part 91 (referred to below as the regulations) which regulate the exportation of animals from the United States. In particular, this document amends § 91.14 by adding "Petair, 145 Bel Air Road, P.O. Box 2431, South San Francisco, CA 94080, (415) 877-0200" to the list of export inspection facilities for airport and ocean port services for the port of San Francisco, California; by adding the "Alex Nichols Agency (horses only), P.O. Box 283, Glen Head, NY 11545, (516) 628-9100" to the list of export inspection facilities for airport and ocean port services for the port of New York, New York; and by changing the listing for the port of Los Angeles, California, to specify that it has both airport and ocean port facilities, rather than only airport facilities, for the exportation of animals.

Export inspection facilities are utilized for inspecting, holding, feeding, and watering animals prior to

exportation in order to ensure that the animals meet certain requirements specified in the regulations. The regulations in § 91.14 provide that approval of each export inspection facility shall be based on compliance with specified standards concerning materials, size, inspection implements, cleaning and disinfection, feed and water, access, testing and treatment, location, disposal of animal wastes, lighting, and office and rest room facilities.

Petair and the Alex Nichols Agency requested that their facilities be added to the list of export inspection facilities. As a result of a review of the Petair facility, it has been determined that it meets the requirements for designation as an export inspection facility for animals, and that it should be added to the list of such facilities for airport and ocean port services for the port of San Francisco. As a result of a review of the Alex Nichols facility, it has been determined that it meets the requirements for designation as an export facility for horses, and that it should be added to the list of such facilities for airport and ocean port services for the port of New York.

Prior to the effective date of this document, the "Cow Palace, P.O. Box 34206, San Francisco, CA 94134, (415) 469-6000" was the only export inspection facility listed for the port of San Francisco. With the addition of the Petair facility, § 91.14(a) now lists two export inspection facilities for airport and ocean port services for the port of San Francisco.

Also, prior to the effective date of this document, the "ASPCA, Bldg. 189, J. F. Kennedy International Airport (Cargo Area), Jamaica, NY 11430, (212) 656-6042" was the only export inspection facility listed for the port of New York. With the addition of the Alex Nichols Agency facility (horses only), § 91.14(a) now lists two export inspection facilities for the port of New York.

The regulations also list the port of Los Angeles as a port with only airport facilities. However, the port of Los Angeles is also an ocean port. Therefore, it is necessary to amend § 91.14(a) to reflect that the port of Los Angeles is also an ocean port.

**Executive Order 12291 and Regulatory Flexibility Act**

This document has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a major rule. The Department has determined that this action will not have an annual effect on the economy of \$100 million or more; will not cause a major

increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512-1.

Under these circumstances, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities. It is anticipated that an insignificant number of animals will be exported annually through the Petair facility and the Alex Nichols Agency facility and by ocean from the port of Los Angeles, compared with the total number of animals exported annually from the United States.

The regulations provide for the listing of facilities that request approval as export inspection facilities and meet the conditions set forth in the regulations. Petair and the Alex Nichols Agency have requested such approval for the facilities identified above. It has been determined that the Petair facility meets the requirements for designation as an export inspection facility and that the Alex Nichols facility meets the requirements for designation as an export inspection facility with respect to horses. Therefore, it is necessary to add them to the list of facilities. Also, it is necessary to list the port of Los Angeles as an ocean port to reflect the fact that it is an ocean port.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule are unnecessary, and good cause is found for making this interim rule effective less than 30 days after publication of this document in the *Federal Register*. Comments have been solicited for 60 days after publication of this document, and this interim rule will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the *Federal Register* as soon as possible.

**List of Subjects in 9 CFR Part 91**

Animal diseases, Animal welfare, Exports, Livestock and livestock products, Transportation, Humane animal handling.

**PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION**

Accordingly, § 91.14(a) in 9 CFR Part 91 is amended as follows:

1. The heading of paragraph (a)(1)(i) is amended to read: Los Angeles—airport and ocean port.
2. New paragraphs (a)(1)(ii)(B) and (a)(7)(ii)(B) are added to read as follows:

**§ 91.14 Ports of embarkation and export inspection facilities.**

- (a) \* \* \*
- (1) \* \* \*
- (ii) \* \* \*
- (B) Petair, 145 Bel Air Road, P.O. Box 2431, South San Francisco, CA 94080, (415) 877-0200.
- \* \* \*
- (7) \* \* \*
- (ii) \* \* \*
- (B) Alex Nichols Agency (horses only), P.O. Box 283, Glen Head, NY 11545, (516) 626-9100.
- \* \* \*

Authority: Secs. 4, 5, 23 Stat. 32, as amended; sec. 1, 32 Stat. 791, as amended; sec. 10, 26 Stat. 417; secs. 12, 13, 14, 18, 34 Stat. 1263, as amended; secs. 1, 3(b), 12(a), 12(h), 81 Stat. 584, 588, 592; secs. 3 and 11, 76 Stat. 130, 132; sec. 1109, 72 Stat. 799, as amended; secs. 1 and 2, 26 Stat. 833, as amended; 21 U.S.C. 105, 112, 113, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b; 49 U.S.C. 1509(d); 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C. this 15th day of November, 1983.

K. R. Hook,  
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-31340 Filed 11-21-83; 8:45 am]

BILLING CODE 3410-34-M

**9 CFR Part 92**

[Docket No. 83-056]

**Importation of Horses; Mares From Countries Affected With CEM**

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

**SUMMARY:** This document affirms the interim rule which allowed the importation of mares over 731 days of age from countries affected with contagious equine metritis (CEM) when surgery required to be performed in the country of origin to qualify such mares

for importation is found to be incomplete. This action is needed to provide a means of importing such mares when this can be done without undue risk to the livestock of the United States. The effect of this action is to permit the importation of certain mares over 731 days of age into the United States which would be otherwise refused entry.

**EFFECTIVE DATE:** November 22, 1983.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844-AAA, Federal Building, Hyattsville, MD 20782, 301-436-8170.

**SUPPLEMENTARY INFORMATION:****Background**

Section 92.2(i)(2) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain female horses (mares over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met. One of the requirements is that a licensed veterinarian surgically removes the clitoral sinuses of such mares in the country of origin. This surgical procedure is new, difficult to perform, and difficult to evaluate. Some of the mares presented for importation under this provision have been found to have one or more complete or partial clitoral sinuses still present, even though they have been surgically treated and were accompanied by the required certificate.

Because of the severe hardship which would otherwise be imposed on the owners of such animals, a document was published in the *Federal Register* on April 26, 1982 (47 FR 17795-17797) amending § 92.2(i)(2)(v) of the regulations in 9 CFR Part 92 on an interim basis. This amendment allowed corrective surgery to be performed on such mares in the United States at The School of Veterinary Medicine, Cornell University, Ithaca, New York.

The interim rule was made effective on the date it was signed, April 21, 1982, in order to relieve as soon as possible unnecessary restrictions that had been placed on importers of these mares.

Comments were solicited for 60 days after publication of the amendments. Four comments were received.

One commenter agreed with the amendment, but suggested that the federal veterinarian releasing the mare from Cornell following surgery be instructed to notify the State/Federal veterinarian in the State of destination. In fact, personnel of the Animal and Plant Health Inspection Service (APHIS)

already notify State/Federal veterinarians when such a mare is being moved to their state. This is done as part of the enforcement program. Such mares must be further treated in the state of destination and state and federal officials there need to prepare for the arrival of such an animal.

Another commenter was in agreement with the interim rule, but recommended the regulations be further amended to:

1. Refuse entry for any mare, if, in the opinion of the port veterinarian, a licensed veterinarian in the country of origin had not made a competent effort to remove the clitoral sinuses of the mare;

2. Refuse entry for any mare, if a positive culture is obtained from either the culture taken prior to surgery or from the culture of excised material; and

3. Suspend the importation of mares from a country which repeatedly certifies mares subsequently found to have had incomplete surgery.

APHIS has carefully considered these recommendations. The first suggestion that mares should be refused entry if there has not been a competent attempt to remove the clitoral sinuses is not adopted. In effect, the regulations require that if a mare is presented for entry and no effort at all has been made to remove the clitoral sinuses, that mare would be refused entry. However, considering the newness and difficulty of performing the required surgery, it is impossible to adequately define a "competent attempt" at removal of the clitoral sinuses. For this reason APHIS does not believe that mares should be refused entry if some attempt has been made to perform the surgery and the mare is accompanied by the required certificate.

The second recommendation—that a mare should be refused entry if either the culture prior to surgery or the culture of excised material is positive for CEM—is not adopted as these requirements are already in the regulations. The regulations require cultures to be made in the country of origin prior to surgery, of the excised material, and after surgery. Except as provided for mares which are found to be negative for CEM not less than one year after a positive culture, the required certificate may not be issued under the regulations for any mare from which any of the cultures is positive. Any such mare would be refused entry into the United States.

Finally, as to the third recommendation—that mares from countries which repeatedly incorrectly certify mares should be refused entry—the Department has not had a problem

with any country repeatedly certifying mares which subsequently are found to have had incomplete surgery. If this problem does arise in the future, and the situation does not improve after the country at fault is notified of the problem, then the Department will consider suspending the importation of mares from that country.

Another comment, from the New Jersey Department of Agriculture, opposed the interim rule because it felt that changing the regulations for the sake of only 20 mares out of about 6,000 horses imported into the United States each year seemed frivolous and unnecessary. The Department agrees that very few individuals would directly benefit by this change in the regulations. However, many more individuals and businesses concerned with the importation of horses into the United States, such as breeders and the racing industry, could indirectly benefit. As this change in the regulations is potentially beneficial to many, and because it does not increase costs to the federal government, consumers, individual industries, or other governmental bodies or regions, the Department believes that importers should be offered a means by which mares can be treated under controlled conditions and thereby remain in the United States. It should be noted that under the conditions prescribed in the regulations, the importer must have attempted to comply with the regulations. Also, the importer is responsible for transportation costs and cost of the corrective surgery.

The remaining comment questioned whether mares with incomplete surgery could be imported into California from CEM-infected countries. Since this comment was received, an interim rule was published in the Federal Register (48 FR 13965-13966) on April 1, 1983, further amending the regulations to allow such mares from CEM-infected countries to be imported into the United States under the same conditions as pertain to the horses discussed herein and to be surgically treated at The University of California at Davis, California.

The factual situation which was set forth in the document of April 1, 1982, still provides a basis for the amendments made by that document.

#### Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been

determined that this action will have an annual effect on the economy of less than \$100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment or investment, productivity, innovation, or ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it is anticipated that it will affect only about 20 mares out of about 6,000 horses imported into the United States each year.

#### List of Subjects in 9 CFR Part 92

Animal disease, Imports, Livestock and livestock products, Quarantine, Transportation, Contagious equine metritis (CEM).

Accordingly, it has been determined that the amendments should remain effective as published in the *Federal Register* on April 26, 1982.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 16th day of November, 1983.

D. F. Schwindaman,

*Acting Deputy Administrator, Veterinary Services.*

(FR Doc. 83-31341 Filed 11-21-83; 8:45 am)

**BILLING CODE 3410-34-M**

#### Food Safety and Inspection Service

#### 9 CFR Parts 317, 318 and 319

[Docket No. 77-759F]

#### Margarine or Oleomargarine; Standards Revision

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the present standard for margarine or oleomargarine as contained in the Federal meat inspection regulations. This final revision is needed to avoid unnecessary inconsistencies between the U.S. Department of Agriculture and the Food and Drug Administration standards; and to establish a standard similar to the international standard of the Codex Alimentarius Commission.

#### EFFECTIVE DATE:

December 22, 1983. The Director of the Federal Register approves the incorporation by reference of § 16.206 of the *Official Methods of Analysis of the Association of Official Analytical Chemists*, 13th edition 1980, effective on April 11, 1983.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12291

The Department has determined, in accordance with Executive Order 12291, that this final rule 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 major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This docket has been reviewed for cost effectiveness under Executive Order 12291. The only group affected by this final rule is the margarine industry which would be affected only to the extent that existing industry-wide practices would be added to the Code of Federal Regulations. Margarine manufacturers currently prepare and label their product in accordance with the Food and Drug Administration's (FDA) regulations. Adopting this rule will provide the margarine industry with one standard with which to comply when producing either animal or vegetable margarine.

#### Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because the final rule only formalizes existing industry-wide practices.

#### Comments

The Department published a proposed rule on margarine and oleomargarine in the *Federal Register* of January 28, 1982 (47 FR 4085). An extension of the comment period and corrections to the January 28 proposal were published on

March 29, 1982 (47 FR 13168). A total of five comments were submitted prior to the expiration of the May 28, 1982, comment period.

Of the five comments received, two comments were from industrial concerns, two comments were from industry trade groups, and one comment was submitted by a consumer. Only one comment opposed promulgation of the rule while the remaining four supported one or more aspects of the proposal. Three of the comments that expressed general support agreed particularly with the Department's intent to regulate margarine consistent with FDA and Codex standards. Summaries of the comments and the Department's response to each follow.

(1) One comment requested that the restrictions currently proposed for emulsifier use in margarine be dropped. It supported the provision in the proposed rule that allowed for the use of esterified emulsifiers and polyglycerol esters of fatty acids. However, it criticized the 0.5 percent emulsifier use limitation in margarine as unnecessary because: (1) These are safe substances with no known health risks and are widely used in foods; (2) no reason was given for establishing this limit, nor for the distinction between esterified and non-esterified emulsifiers; (3) these limitations do not exist for other foods; and (4) higher use levels in margarine can enlarge these products' utility to food processors and consumers without any diminution of nutrition or product quality. The commenter suggested that in lieu of the 0.5 percent limitation the clause "sufficient for purpose" should be adopted in the final rule to control emulsifier use.

First, margarine was inadvertently omitted from the proposal as a product in which mono- and diglycerides (glycerol palmitate, etc.) may be used. This final rule corrects that omission by adding oleomargarine to the product column in the entry for mono- and diglycerides under emulsifying agents in 9 CFR 318.7(c)(4).

The Department agrees that the emulsifiers listed in the proposal are safe for food use and are widely used. However, no new data or evidence was submitted to indicate that the safety of these compounds is assured at unlimited use levels. The Department explained in the proposal the rationale for continuation of the 0.5 percent use limit. As stated in the proposed rule, the standard is being revised to avoid unnecessary inconsistencies between USDA and FDA and to provide a standard which is similar to the international standard of the Codex Alimentarius Commission. The FDA, for

example, controls the use of certain emulsifiers at a specific limit of 0.5 percent, and other safe and suitable emulsifiers in accordance with good manufacturing practices, while the Codex standards set specific use limits for emulsifiers in the majority of cases. In view of the stated objective of greater inter- and intra-governmental consistency, the Department is accepting such use limits as applicable to its revised standards.

The Department does not feel that continuation of existing use limits in its standard inhibits the use of margarine in cakes, buns, and sweet dough products nor is it impairing the utility of margarine to food processors making these products. Although higher emulsifier use levels in baked goods may be needed to produce the desired moistness and crumb features, this rule does not prevent processors from adding emulsifiers to the baked goods in addition to those contributed by the margarine itself. In fact, the restrictions placed on margarine are even more important in these cases, as the processor should know the maximum amount of emulsifiers contributed by the margarine in formulating these products.

(2) Two commenters requested that the parenthetical listing of the chemical names following the abbreviations for BHA, BHT, and TBHQ (butylated hydroxyanisole, butylated hydroxytoluene and tertiary butylhydroquinone, respectively) be eliminated. These commenters stated that the FDA permits the declaration of these antioxidants by their abbreviations only (21 CFR Part 172) and accepts these abbreviations as the common or usual name.

The Department emphasizes that the parenthetical listings contained in the proposed rule for BHA, BHT and TBHQ were not intended to change USDA policy which permits these antioxidants to be listed solely by abbreviations. The parenthetical listing of these antioxidants' chemical names served only as a clarification of these abbreviations in the text of the proposed regulation.

(3) Two commenters requested that the use of fructose be permitted together with other nutritive carbohydrate sweeteners, in amounts sufficient for purpose, as an acceptable nutritive carbohydrate sweetener in margarine. These commenters stated that fructose use in margarine is provided for in the FDA regulations and in the Codex standards under the heading of any safe and suitable nutritive carbohydrate sweetener. The commenters further stated that fructose was inadvertently omitted in the proposed rule because

USDA currently allows other sugars which are high in fructose such as honey and corn syrup.

The Department agrees and has amended 9 CFR 318.7(c)(1) and 9 CFR 319.700(b)(3) to allow for the use of fructose in margarine. The use of fructose is permitted, provided that such use meets the minimum specifications for fructose in the Food Chemicals Codex, Third Edition.

(4) One commenter requested that the optional fortification of margarine with 60 international units (I.U.) of vitamin E be permitted. The commenter stated that the optional use of vitamin E may permit American manufacturers to compete more effectively in foreign markets by eliminating or reducing the costs involved in segregating production runs for export only. The commenter also pointed out that Canada, West Germany, and Switzerland are among the countries permitting the optional use of vitamin E, and that the Codex Standards allow optional fortification of margarine with vitamin E. The commenter also argued, based upon the growing importance of vitamin E in the diet and the fact that no national surveys have determined vitamin E intake in the population, that the issue has not been adequately addressed by FDA and USDA.

The Department acknowledges that margarine made from animal fats is not as rich a source of vitamin E as margarine formulated from vegetable oils. However, current USDA policy requires that permission to fortify must be based upon a demonstrated need for the nutrient in the population. In this instance, there is no demonstrated need for the nutrient. According to a report by the National Academy of Sciences (Recommended Dietary Allowance, Ninth revised edition, 1980) "there is no clinical or biomedical evidence that vitamin E status is inadequate in a normal individual ingesting a balanced diet in the United States. The vitamin E activity in the average diet is considered satisfactory." The report states that analyses of the adult human tissue within the last decade have indicated a sufficient amount of vitamin E. Because it is widely distributed in the food supply, there exists little chance of a deficiency through consumption of a balanced diet. Granted, the Codex standard for margarine permits optional fortification with vitamin E. However, the optional addition of vitamin E is qualified by a statement that levels should be decided upon by national legislation in accordance with the needs of each individual country and, when appropriate, the prohibition of the use of

particular vitamins. The Department can find no justification for permitting the optional fortification of margarine with vitamin E.

(5) One commenter explained that vitamin E "tocopherols" are generally recognized as safe (GRAS) as a dietary supplement (21 CFR 182.5890), as a nutrient (21 CFR 182.8890), and also a GRAS preservative antioxidant (21 CFR 182.3890). It was also pointed out that USDA recognizes tocopherol for its antioxidant properties (9 CFR 318.7(c)(4)). The commenter requested that vitamin E tocopherols be allowed as a preservative (antioxidant) in margarine, citing the Codex Alimentarius standards for support.

The Department acknowledges that the Codex standards allow the use of tocopherols as antioxidants in margarine. However, FDA does not. Even though the Codex standards were carefully considered in this rulemaking, the FDA standards must take precedence for products intended for the U.S. population. Further, the Department believes that even though vitamin E tocopherols are a potent source of antioxidants, there are other tocopherols now approved for use which may be more effective (e.g., delta tocopherol).

(6) One commenter agreed with the provision of the proposal that would allow the use of whey in accordance with the FDA standards. The commenter also noted a typographical error in the proposal (9 CFR 319.700(a)(2)(i)), "liquid, condensed, or dry form of whey, when modified by the reduction of lactose and/or minerals" \* \* \* (emphasis added).

The Department regrets any confusion caused by this error, which has been corrected. The final rule will also reflect the common or usual names of whey products established by FDA in its final rule of September 4, 1981 (46 FR 44434).

(7) One commenter wanted the Department to allow the use of phosphoric acid, adipic acid and hydrochloric acid as acidulants and potassium carbonate and potassium bicarbonate as alkalizers. The commenter contends that the Department's limits for acidulant and alkalizer use are subject to a specific list while FDA allows any "safe and suitable" acidulant or alkalizer in amounts "sufficient for purpose." The commenter stated that these concepts should be adopted in the interest of uniformity and manufacturing flexibility.

The pH control agents specifically mentioned in this comment are listed as GRAS pH control agents by the FDA. These include adipic acid, phosphoric acid, hydrochloric acid, potassium carbonate, and potassium bicarbonate.

These are either listed as GRAS, GRAS affirmed, or proposed for GRAS affirmation as pH control agents, and there is no question of their efficacy for that purpose. In addition, potassium carbonate and potassium bicarbonate would be useful in the manufacture of low-sodium products. Therefore, in view of the safety and efficacy of adipic acid, phosphoric acid, hydrochloric acid, potassium carbonate and potassium bicarbonate as pH control agents, and the specific request for their use, the final rule is amended to permit their use for pH control in margarine.

(8) One commenter requested that USDA adopt a "safe and suitable" concept for the approval of additional substance use in margarine, including the use of acidulants, alkalizers, and nutritive carbohydrate sweeteners. The commenter suggested that the "safe and suitable" concept be adopted because it: (1) Authorizes the use of ingredients already approved and available for use in margarine; (2) reduces the burden of a lengthy "shopping list" of approved ingredients; (3) reduces the repetitive ingredient approval process where the ingredients are known to be safe; (4) permits the inclusion of an ingredient provided its safety and functionality is demonstrable; (5) allows quality innovation in production and exploratory research; (6) would provide for those instances when ingredients were approved for use but standards revisions were not made; and (7) has been successfully used by FDA and consequently it would make FDA and USDA standards more compatible.

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) authorize the Secretary of Agriculture to prescribe definitions and standards of identity or composition for articles subject to these Acts. The Acts further stipulate that a product for which a standard has been promulgated is deemed misbranded unless it conforms to the standard, its label bears the name of the food specified in such definition or standard, and the names of the optional ingredients present in such food are listed on the label. Meat and poultry inspection regulations were established for product labeling and standards in response to these provisions of the statutes.

Food product standards specify certain requirements for type or quantity of ingredients, methods of preparation, or other distinguishing characteristics required of or permitted in a product. There are two types of standards. Standards of composition, for example, usually specify only a minimum content of some major characterizing ingredient,

while standards of identity specify mandatory and optional ingredients in addition to a minimum level of the major characterizing ingredient. FDA's adoption of the "safe and suitable" concept was largely in response to difficulties encountered over the years with the establishment of over 300 standards of identity. USDA, on the other hand, has very few of these standards. Most USDA standards are more aptly described as standards of composition. As such there has been little need to adopt the "safe and suitable" concept. Additionally, loosely prescribed standards of composition established by USDA provide more latitude concerning optional ingredients than do the FDA standards of identity.

For example, there are seven specific additives that may be used as antioxidants in the preparation of rendered animal fat. A processor may choose any one of the seven, or a combination thereof, as long as they are used in the amounts prescribed by regulation. In essence, processors of meat and poultry products have available to them optional food additive ingredients. Because of the very nature of standards of composition, processors have a wide choice of non-meat ingredients that make up their products.

In addition, some critics maintain that adoption of the "safe and suitable" concept may represent a potential health threat because it shifts the burden of establishing the safety of an ingredient from the manufacturer to the regulatory agency. After the product is marketed and a potential health hazard is discovered, the Department has the burden of moving against the product, a process which is time consuming and could result in serious health effects. The safety evaluation of a particular product by USDA is made under entirely different statutory authority from that of FDA.

Consumer criticism of the "safe and suitable" policy may also exist in the following areas: (1) It gives manufacturers too much discretion to decide what is "safe and suitable" and permits only post-marketing efforts by the regulatory agency; (2) safeguards of the statute designed to protect the integrity of the food supply are weakened; and (3) more complete labeling of ingredients does not substitute or compensate for having traditional foods made from traditional recipes.

Since the Department prefers to guarantee the exact nature and integrity of a specific standardized food, the "safe and suitable" concept is not being

adopted. The Department will continue prescribing limits for these ingredients.

(9) One commenter requested clarification concerning pasteurization of the aqueous phase, contending that pasteurization is not necessary for water to protect consumers. The commenter explained that the aqueous phase (brine phase) has a less than optimal pH for pathogen growth, although it was admitted that this medium would be conducive to staph growth for which margarine is not an acceptable growth medium. The commenter also explained that staph toxin is heat stable, rendering the pasteurization process useless.

FDA's margarine standard requires pasteurization of ingredients, and since one of the primary purposes of this document was to provide consistency between USDA and FDA standards, and since no supporting data were submitted that would show that the brine phase need not be pasteurized, the final rule remains unchanged.

Upon review of the proposal, the FDA advised the Department that the term "coal tar dyes" as used in the standard was outdated and overinclusive. Accordingly, the reference to "coal tar dyes" in the chart in § 318.7 has been revised to read "color additives," and the reference in § 319.700 has been deleted.

Therefore, the final rule is being promulgated as proposed with the modifications outlined in the preamble.

#### List of Subjects

#### 9 CFR Part 317

Incorporation by reference, Standards of composition, Margarine and oleomargarine

#### 9 CFR Part 318

Incorporation by reference, Standards of composition, Margarine and oleomargarine.

#### 9 CFR Part 319

Incorporation by reference, Standards

of composition, Margarine and oleomargarine.

Accordingly, Parts 317, 318 and 319 of the Federal meat inspection regulations are amended to read as follows:

#### PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for Part 317 is as follows (9 CFR Part 317):

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Section 317.8(b)(24) (9 CFR 317.8(b)(24)) is revised to read as follows:

#### § 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

(b) (24) Section 407 of the Federal Food, Drug, and Cosmetic Act contains provisions with respect to colored margarine or colored oleomargarine (21 U.S.C. 347) which are set forth herein as footnote 1.

<sup>1</sup>"Sec. 407(a) Colored oleomargarine or colored margarine which is sold in the same State or Territory in which it is produced shall be subject in the same manner and to the same extent to the provisions of this Act as if it had been introduced in interstate commerce.

(b) No person shall sell, or offer for sale, colored oleomargarine or colored margarine unless—

(1) Such oleomargarine or margarine is packaged;

(2) The net weight of the contents of any package sold in a retail establishment is one pound or less.

(3) There appears on the label of the package (A) The word 'oleomargarine' or 'margarine' in type or lettering at least as large as any other type or lettering on such label, and (B) A full and accurate statement of all the ingredients contained in such oleomargarine, or margarine, and

(4) Each part of the contents of the package is contained in a wrapper which bears the word 'oleomargarine' or 'margarine' in type or lettering not smaller than 20-point type.

The requirements of this subsection shall be in addition to and not in lieu of any of the other requirements of this Act.

(c) No person shall possess in a form ready for serving colored oleomargarine or colored margarine at a public eating place unless a notice that oleomargarine or margarine is served is displayed prominently and conspicuously in such place and in such manner as to render it likely to be read and

#### PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

3. The authority citation for Part 318 is as follows (9 CFR Part 318):

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 21 U.S.C. 71 *et seq.*, 601 *et seq.*

#### § 318.7 (Amended)

4. Section 318.7(c)(1) is revised by adding the words "and fructose" to the parenthetical list as follows: "Common salt, approved sugars (sucrose, cane or beet sugar), maple sugar, dextrose, invert sugar, honey, corn syrup solids, (corn syrup, glucose syrup and fructose)"

5. Under the "Class of Substance" identified as "Antioxidants and oxygen interceptors" in the chart in § 318.7(c)(4), the following is added at the end thereof to read as follows:

(c) (4)

understood by the ordinary individual being served in such eating place or is printed or is otherwise set forth on the menu in type or lettering not smaller than that normally used to designate the serving of other food items. No person shall serve colored oleomargarine or colored margarine at a public eating place, whether or not any charge is made therefor, unless (1) each separate serving bears or is accompanied by labeling identifying it as oleomargarine or margarine, or (2) each separate serving thereof is triangular in shape.

(d) Colored oleomargarine or colored margarine when served with meals at a public eating place shall at the time of such service be exempt from the labeling requirements of section 343 of this Act (except subsection (a) and (f) of section 343 of this title) if it complies with the requirements of subsection (b) of this section.

(e) For the purpose of this section colored oleomargarine or colored margarine is oleomargarine or margarine having a tint or shade containing more than one and six tenths degrees of yellow or of yellow and red collectively, but with an excess of yellow over red, measured in terms of Lovibond tintometer scale or its equivalent" (21 U.S.C. 347).

Class of substance	Substance	Purpose	Products	Amount
Antioxidants and Oxygen Interceptors	BHA (butylated hydroxyanisole), BHT (butylated hydroxytoluene), Octyl gallate, Propyl gallate, Dodecyl gallate, Ascorbyl palmitate, Ascorbyl stearate, TBHQ (tertiary butylhydroquinone).	do	Margarine or oleomargarine	0.02 percent (by wt. of the finished product) individually or in combination with other antioxidants approved for use in margarine. Do.
		do	do	Do.
		do	do	Do.
		do	do	Do.
		do	do	Do.
		do	do	0.02 percent alone or in combination only with BHA and/or BHT based on fat or oil content.

6. The "Class of Substance" identified as "Emulsifying agents" in the chart in § 318.7(c)(4) is amended to read as follows:

Class of Substance	Substance	Purpose	Products	Amount
Emulsifying agents	Acetylated monoglycerides	To emulsify product	Shortening	Do
	Diacetyl tartaric acid esters of mono- and diglycerides	do	Rendered animal fat or a combination of such fat with vegetable fat	Do
	Glycerol-lacto stearate, oleate, or palmitate	do	do	Do
	Lecithin	To emulsify product (also as an Antioxidant)	Oleomargarine, shortening	Sufficient for purpose in shortening; 0.5 percent in oleomargarine
	Mono and diglycerides (glycerol palmitate, etc.)	To emulsify product	Rendered animal fat or a combination of such fat with vegetable fat; oleomargarine	Sufficient for purpose in lard and shortening; 0.5 percent in oleomargarine
	Mono and diglycerides of fatty acids esterified with any of the following acids: acetic, acetyl-tartaric, citric, lactic, tartaric, and their sodium and calcium salts; the sodium sulfocetate derivatives of these mono and diglycerides	do	Margarine or oleomargarine	0.5 percent
	Polyglycerol esters of fatty acids (polyglycerol esters of fatty acids are restricted to those up to and including the decaglycerol esters and otherwise meeting the requirements of § 172.854(a) of the Food Additive Regulations)	do	Rendered animal fat or a combination of such fat with vegetable fat when use is not precluded by standards of identity or composition; oleomargarine	Sufficient for purpose for rendered animal fat or combination with vegetable fat; 0.5 percent for oleomargarine
	1,2-propylene glycol esters of fatty acids	do	Margarine or oleomargarine	2.0 percent
	Polysorbate 60 (polyoxyethylene (20) sorbitan monostearate)	do	Shortening for use in nonstandardized baked goods, baking mixes, icings, fillings, and toppings and in the frying of foods	1 percent when used alone. If used with polysorbate 60 the combined total shall not exceed 1 percent
	Propylene glycol mono and diesters of fats and fatty acids	do	Rendered animal fat or a combination of such fat with vegetable fat	Sufficient for purpose
	Polysorbate 60 (polyoxyethylene (20) sorbitan monostearate)	do	Shortening for use in nonstandardized baked goods, baking mixes, icings, fillings, and toppings and in the frying of foods	1 percent when used alone. If used with polysorbate 60 the combined total shall not exceed 1 percent
	Stearyl-2-lactic acid	do	Shortening to be used for cake icings and fillings	3.0 percent
	Stearyl monoglyceryl citrate	do	Shortening	Sufficient for purpose

7. Under the "Class of Substance" identified as "Flavoring agents; protectors and developers" in the chart in § 318.7(c)(4), the reference to the use of the "Substance" identified as "Benzoic acid, sodium benzoate" is amended to include the calcium and potassium salts of benzoic acid, the "Products" column identified as "Oleomargarine" is amended to include margarine, and the reference to the use of citric acid to protect flavor in oleomargarine is removed, to read as follows:

Class of substance	Substance	Purpose	Products	Amount
Flavoring Agents; Protectors and Developers	Benzoic acid (sodium, potassium and calcium salts)	To retard flavor reversion	Margarine or oleomargarine	0.1 percent individually, or if used in combination or with sorbic acid and its salts, 0.2 percent (expressed as the acids in the wt. of the finished foods)
	Citric acid	Flavoring	Chili con carne	Sufficient for purpose

8. Under the "Class of Substance" identified as "Miscellaneous" in the chart in § 318.7(c)(4), the reference to the use of the "Substance" "Potassium sorbate" in oleomargarine or margarine is deleted and a new "Substance" listing for sorbic acid and its sodium, potassium and calcium salts is added to read as follows:

Class of substance	Substance	Purpose	Products	Amount
Miscellaneous	Potassium sorbate	To retard mold growth.	Dry sausage	2.5 percent in water solution may be applied to casings after stuffing or casings may be dipped in solution prior to stuffing.
	Sorbic acid (sodium, potassium, and calcium salts).	To preserve product and to retard mold growth.	Margarine or oleomargarine	0.1 percent individually, or if used in combination or with benzoic acid or its salts, 0.2 percent (expressed as the acids in the wt. of the finished foods).

9. Under the "Class of Substance" identified as "Miscellaneous" in the chart in § 318.7(c)(4), the following is added at the end thereof to read as follows:

Class of substance	Substance	Purpose	Products	Amount
Miscellaneous	Citric acid (sodium and potassium salts); Lactic acid (sodium and potassium salts); L-Tartaric acid (sodium and sodium potassium salts); Adipic acid	To acidify	Margarine or oleomargarine	Sufficient for purpose
	do	do	do	do
	do	do	do	do
	do	do	do	do
	do	do	do	do
	do	do	do	do
	do	do	do	do
	do	do	do	do
	do	do	do	do
	do	do	do	do

10. Under the "Class of Substance" identified as "Coloring agents (artificial)" in the chart in § 318.7(c)(4), the reference to a "Substance" identified as "coal tar dyes" is revised to read "color additives."

#### PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

11. The authority citation for Part 319 is as follows (9 CFR Part 319):

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

12. Section 319.700 is revised to read as follows:

##### § 319.700 Margarine or oleomargarine.<sup>7</sup>

(a) Margarine or oleomargarine is the food in plastic form or liquid emulsion, containing not less than 80 percent fat determined by the method prescribed under § 16.206 of the "Indirect Methods," in "Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC)," 13th

<sup>7</sup>Insofar as the standard contains provisions relating to margarine or oleomargarine which does

edition 1980.<sup>8</sup> It is produced from one or more of the ingredients designated in paragraph (a)(1) of this section, and one or more of the ingredients designated in paragraph (a)(2) of this section, to which may be added one or more of the optional ingredients designated in paragraph (b) of this section. Margarine or oleomargarine contains Vitamin A as provided for in paragraph (a)(3) of this section.

(1) edible fats and oils or mixtures of these, whose origin is vegetable or rendered animal fats from cattle, sheep, swine or goats.

(2)(i) Water; milk; milk products including, but not limited to, the liquid,

not contain any meat food products, such provisions merely reflect the applicable standard under the Federal Food, Drug, and Cosmetic Act.

<sup>8</sup>Copies may be obtained from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044.

condensed, or dry form of whey, reduced lactose whey, reduced minerals whey, or whey protein concentrate, non-lactose-containing whey components, casein, or caseinate; or other suitable edible protein, including albumin, vegetable proteins, or soy protein isolate; or any mixture of two or more of the articles designated in this subparagraph, in amounts not greater than reasonably required to accomplish the desired effect.

(ii) The articles designated in this subparagraph shall be pasteurized and then may be subjected to the action of harmless bacterial starters. One or more of the articles designated in this subparagraph is intimately mixed with the edible fat or oil ingredients, or both, to form a solidified or liquid emulsion.

(3) Vitamin A in such quantity that the finished margarine or oleomargarine

contains not less than 15,000 International Units (IU) of Vitamin A per pound or 33,000 IU per kilogram.

(b)(1) Vitamin D in such quantity that the finished margarine or oleomargarine contains not less than 1,500 IU of Vitamin D per pound or 3,300 IU per kilogram.

(2) Salt (sodium chloride); or potassium chloride for dietary margarine or oleomargarine.

(3) Nutritive carbohydrate sweeteners listed in § 318.7(c)(1) of this chapter, in amounts sufficient for purpose, namely, sugar, dextrose, invert sugar, honey, corn syrup solids, corn syrup, glucose, sucrose, fructose and maple sugar.

(4) Emulsifiers identified in § 318.7(c)(4) of this chapter, within these maximum amounts in percent by weight of the finished food: Mono- and diglycerides of fatty acids esterified with any or all of the following acids: acetic, acetyltauric, citric, lactic, tartaric, and their sodium and calcium salts, 0.5 percent; such mono- and diglycerides in combination with the sodium sulfoacetate derivatives thereof, 0.5 percent; polyglycerol esters of fatty acids, 0.5 percent; 1,2-propylene glycol esters of fatty acids, 2 percent; lecithin, 0.5 percent.

(5) Preservatives identified in § 318.7(c)(4) of this chapter, within these maximum amounts in percent by weight of the finished food: Sorbic acid, benzoic acid and their sodium, potassium, and calcium salts, individually, 0.1 percent, or in combination, 0.2 percent, expressed as the acids; calcium disodium EDTA, 0.0075 percent; stearyl citrate, 0.15 percent; isopropyl citrate mixture, 0.02 percent.

(6) Antioxidants identified in § 318.7(c)(4) of this chapter, within these maximum amounts in percent by weight of the finished food: propyl, octyl and dodecyl gallates, BHT (butylated hydroxytoluene), BHA (butylated hydroxyanisole), ascorbyl palmitate, ascorbyl stearate, all individually or in combination, 0.02 percent. Instead of these antioxidants, TBHQ (tertiary butylhydroquinone), alone or in combination only with BHT and/or BHA, with a maximum 0.02 percent by weight of the fat and oil content.

(7) Color additives identified in § 318.7(c)(4) of this chapter, in amounts sufficient for purpose: \* Alkanet, annatto, cochineal, green chlorophyll, saffron, and turmeric. For the purpose of this subparagraph, provitamin A (beta-carotene) shall also be deemed to be a color additive.

(8) Flavoring substances in amounts sufficient for purpose.

(9) Acidulants identified in § 318.7(c)(4) of this chapter, in amounts sufficient for purpose: adipic acid; citric and lactic acids and their potassium and sodium salts; phosphoric acid; L-tartaric acid and its sodium and sodium-potassium salts; and hydrochloric acid.

(10) Alkalizers identified in § 318.7(c)(4) of this chapter, in amounts sufficient for purpose: potassium bicarbonate, potassium carbonate, sodium bicarbonate, sodium carbonate, and sodium hydroxide.

(11) For the purposes of this section, the term "milk" unqualified means milk from cows. If any milk other than cow's milk is used in whole or in part, the animal source shall be identified in conjunction with the word "milk" in the ingredient statement.

Done at Washington, D.C., on: November 7, 1983.

Donald L. Houston,  
Administrator, Food Safety and Inspection Service.

[FIR Doc. 83-11389 Filed 11-21-83; 8:45 am]

BILLING CODE 3410-DM-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 71 and 73

[Airspace Docket No. 83-ASO-30]

### Realignment and Establishment of Restricted Areas; Cape Kennedy, FL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

\* Colored margarine or oleomargarine is also subject to the provisions of section 407 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 347), as reflected in § 317.8(b)(24) of this subchapter.

**ACTION:** Final rule; request for comments.

**SUMMARY:** These amendments realign Restricted Areas R-2924 and R-2925 Cape Kennedy, FL; establish R-2931 Cape Kennedy, FL, and include R-2931 in the Continental Control Area, to contain a surveillance radar enclosed in a tethered balloon. This radar is required to enhance surveillance and warning capability for the Air Defense Tactical Air Command. Presently, both R-2924 and R-2925 must be activated to fly the tethered balloon, but the new 2-statute-mile radius restricted area will lessen the burden on the public by reducing the airspace necessary to contain the balloon. This airspace will be joint-use, and nonparticipating aircraft can expect clearance to transit the area after appropriate coordination and approval between controlling and using agencies.

**DATES:** Effective date—January 19, 1984.

Comments must be received on or before January 5, 1984.

**ADDRESSES:** Send comments on the rule in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 83-ASO-30, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

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

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

### FOR FURTHER INFORMATION CONTACT:

Boyd V. Archer, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone: (202) 426-8626.

### SUPPLEMENTARY INFORMATION:

#### Request for Comments on the Rule

Although these actions are in the form

of a final rule, which involve realigning Restricted Areas R-2924 and R-2925 Cape Kennedy, FL; establishing R-2931 Cape Kennedy, FL, and including R-2931 in the Continental Control Area, to contain a surveillance radar enclosed in a tethered balloon, and, thus, were not preceded by notice and public procedure, comments are invited on the rule. This radar is required to enhance surveillance and warning capability for the Air Defense Tactical Air Command. Presently, both R-2924 and R-2925 must be activated to fly the tethered balloon, but the 2-statute-mile radius restricted area will lessen the burden on the public by reducing the airspace necessary to contain the balloon. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule. Send comments on environmental and land use aspects to: Mr. Warren S. Bradford, Eastern Space and Missile Center/DEEV, Patrick AFB, FL 32925.

#### The Rule

The purpose of these amendments to §§ 71.151 and 73.29 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) is to realign Restricted Areas R-2924 and R-2925 Cape Kennedy, FL; establish R-2931 Cape Kennedy, FL, and include R-2931 in the Continental Control Area, to contain a surveillance radar enclosed in a tethered balloon. This radar is required to enhance surveillance and warning capability for the Air Defense Tactical Air Command. Presently, both R-2924 and R-2925 must be activated to fly the tethered balloon, but the new 2-statute-mile radius restricted area will lessen the burden on the public by reducing the airspace necessary to contain the balloon. This airspace will be joint-use, and nonparticipating aircraft can expect clearance to transit

the area after appropriate coordination and approval between controlling and using agencies. Sections 71.151 and 73.29 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to realign Restricted Areas R-2924 and R-2925 Cape Kennedy, FL; establish R-2931 Cape Kennedy, FL, and include R-2931 in the Continental Control Area, to contain a surveillance radar enclosed in a tethered balloon. This radar is required to enhance surveillance and warning capability for the Air Defense Tactical Air Command. Therefore, I find that notice and public procedure are impracticable and that good cause exists for making these amendments effective on the next charting date.

#### List of Subjects in 14 CFR Parts 71 and 73

Continental control area and restricted areas.

#### Adoption of the Amendments

#### PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.151 and § 73.29 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73), are amended, effective 0901 GMT, January 19, 1984, as follows:

##### § 71.151

R-2931 Cape Kennedy, FL [New]

#### PART 73—[AMENDED]

##### § 73.29

R-2924 Cape Kennedy, FL [Amended]

By deleting the words "thence to the point of beginning," and substituting the words "thence to the point of beginning; excluding the area within a 2-statute-mile radius circle centered at lat. 28°27'45"N., long. 80°32'07"W."

R-2925 Cape Kennedy, FL [Amended]

By deleting the words "thence to the point of beginning," and substituting the words "thence to the point of beginning; excluding the area within a 2-statute-mile radius circle centered at lat. 28°27'54"N., long. 80°32'07"W."

R-2931 Cape Kennedy, FL [New]

Boundaries. A 2-statute-mile radius circle centered at lat. 28°27'54"N., long. 80°32'07"W.

Designated altitudes. Surface to 15,000 feet MSL.

Time of designation. Continuous.

Controlling agency. FAA, Miami ARTCC.

Using agency. Eastern Space and Missile Center (ESMC), Patrick AFB, FL.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on November 14, 1983.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-31300 Filed 11-21-83; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 75

[Airspace Docket No. 83-AGL-17]

#### Alteration of Jet Routes—Badger, WI

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment realigns Jet Routes J-34, J-36, J-69 and J-538 located in the vicinity of Badger, WI. This action is necessary to provide adequate means of navigation during the period when Badger VORTAC is decommissioned and Timmerman, WI, VOR is upgraded to a high altitude facility. During this changeover period, Dells, WI, VORTAC is added to the descriptions of the Jet Routes.

#### DATES:

Effective date—January 19, 1984..

Comments must be received on or before January 5, 1984.

**ADDRESSES:** Send comments on the rule in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 83-AGL-17, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60018.

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

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

**FOR FURTHER INFORMATION CONTACT:**  
Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments on the Rule**

Although this action is in the form of a final rule, which involves altering the descriptions of Jet Routes J-34, J-36, J-68 and J-538, located in the vicinity of Badger, WI, by adding Dells, WI, VORTAC, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluation the effect of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

**The Rule**

The purpose of this amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is to realign Jet Routes J-34, J-36, J-68 and J-538, in part, by adding Dells, WI, to their descriptions to provide adequate navigational capability during the period when Badger, WI, VORTAC is decommissioned and Timmerman, WI, VOR, which is located approximately 30 miles to the east of Badger, is upgraded to a high altitude facility. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the descriptions of J-34, J-36, J-68 and J-538 to provide temporary navigational capability during the period when Badger VORTAC and Timmerman VOR's are not operating. In the

meantime, Dells, WI, VORTAC has been upgraded to a high altitude navigational aid. Therefore, I find that notice and public procedure are impracticable and that good cause exists for making this amendment effective on the next charting date.

**List of Subjects in 14 CFR Part 75**

Jet routes.

**Adoption of the Amendment**

**PART 75—[AMENDED]**

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 G.m.t., January 19, 1984, as follows:

**J-34 [Amended]**

By deleting the words "Nodine, MN; Badger, WI;" and substituting the words "Nodine, MN; Dells, WI; Badger, WI."

**J-36 [Amended]**

By deleting the words "Nodine, MN; Badger, WI;" and substituting the words "Nodine, MN; INT Nodine 116" and Badger, WI, 271° radials; Badger."

**J-68 [Amended]**

By deleting the words "From Badger, WI, via" and substituting the words "From Gopher, MI, INT Gopher 109" and Dells, WI, 310° radials; Dells; Badger, WI."

**J-538 [Amended]**

By deleting the words ", to Duluth," and substituting the words "; Duluth; Dells, WI; to Badger, WI."  
(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.69)

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

Issued in Washington, D.C., on November 14, 1983.

**B. Keith Potts,**

*Manager, Airspace-Rules and Aeronautical Information Division.*

[FR Doc. 85-31290 Filed 11-21-85; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF COMMERCE**

**Bureau of the Census**

**15 CFR Part 30**

**Foreign Trade Statistics; Amendment to the Foreign Trade Statistics Regulations**

**AGENCY:** Bureau of the Census, Commerce.

**ACTION:** Technical amendment.

**SUMMARY:** This amendment to the Foreign Trade Statistics Regulations reflects the delegation of authority to the Director, Bureau of the Census, to determine whether the withholding of information from individual Shipper's Export Declarations is contrary to the national interest. The amendment will expedite the processing of an increasing number of requests for access to official copies of the Shipper's Export Declaration in connection with violations of the Export Administration Act and the Census Act.

**EFFECTIVE DATE:** November 22, 1983.

**FOR FURTHER INFORMATION CONTACT:**  
Barry Cohen, Chief, Foreign Trade Division, Bureau of the Census, (301) 763-5342.

**SUPPLEMENTARY INFORMATION:** On August 4, 1975, the Secretary of Commerce issued Department Organization Order 35-2A, Section 3.01a of the order delegated to the Director, Bureau of the Census, authority to perform the functions vested in the Secretary under Title 13, United States Code, under which the Foreign Trade Statistics Regulations are issued. On June 17, 1980, Congress enacted Public Law 96-275, which amended Section 301 of Title 13, United States Code. This amendment stated that "Shipper's Export Declarations (or any successor document), wherever located, shall be exempt for public disclosure unless the Secretary determines that such exemption would be contrary to the national interest." Before the enactment of Public Law 96-275, the confidentiality of the Shipper's Export Declaration was protected by the Export Administration Act.

In accordance with Department Organization Order 35-2A, the Director, Bureau of the Census, will make the national interest determination concerning the confidentiality of Shipper's Export Declarations.

This is not a major rule in accordance with the criteria set forth in Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. Moreover, the amendment imposes no additional

reporting burden on the public, thus satisfying the requirement of the Paperwork Reduction Act of 1980.

#### List of Subjects in 15 CFR Part 30

Economic Statistics, Foreign Trade, Reporting and recordkeeping requirements.

#### Amendment to the Regulations:

The Foreign Trade Statistics Regulations (15 CFR Part 30) are amended as set forth below:

#### PART 30—FOREIGN TRADE STATISTICS

Section 30.91(e) is hereby amended by inserting the words "or delegate" between the fifth and sixth words of the initial sentence. This sentence is further revised by removing the words "he deems" and substituting the word "deemed." Section 30.91 is amended by revising the first sentence of paragraph (e) to read as follows:

**§ 30.91 Confidential Information, Shipper's Export Declarations.**

(e) *Determination by the Secretary of Commerce.* When the Secretary of Commerce or delegate determines that the withholding of information provided by an individual Shipper's Export Declaration is contrary to the national interest, the Secretary or delegate may make such information available, taking such safeguards and precautions to limit dissemination as deemed appropriate under the circumstances.

(Title 13, United States Code, sec. 302; and Title 5, United States Code, sec. 301; Reorg. Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-2A, August 4, 1975, 40 FR 42785)

C.L. Kincannon,

Acting Director Bureau of the Census.

J. M. Walker, Jr.

Assistant Secretary, Department of the Treasury.

October 31, 1983.

[FR Doc. 83-31199 Filed 11-21-83; 8:45 am]

BILLING CODE 3510-07-M

#### COMMODITY FUTURES TRADING COMMISSION

#### 17 CFR Parts 15, 17, and 18

#### Large Trader Reports: Rule Amendments

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission")

has found that because of reductions in open interest and account sizes of individual traders in silver bullion futures since 1979, the Commission no longer receives a satisfactory level of large trader information at all times for adequate market surveillance. Accordingly, the Commission is amending § 15.03(a) to lower the reporting level in silver from 250 contracts in any one future on any one contract market to 100 contracts.

The Commission is also making technical amendments to §§ 15.03(a), 17.00 and 18.04. The amendments to § 15.03(a) remove reference to reporting levels for futures contracts which have not traded for an extended period of time and which are dormant within the meaning of Commission § 5.2. The amendment to § 17.00 makes clear that omnibus accounts are to be reported on a gross basis. Section 18.04 is amended to remove reference to paragraph (e) which no longer exists.

**EFFECTIVE DATE:** December 22, 1983.

**FOR FURTHER INFORMATION CONTACT:** Lamont L. Reese, Associate Director, Market Surveillance Section, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20501, 202/254-3310.

**SUPPLEMENTARY INFORMATION:** On July 18, 1983, the Commission published in the *Federal Register* a proposed amendment that would lower the reporting levels in silver bullion futures from 250 contracts to 100 contracts. 48 FR 32603 (July 18, 1983). Generally, Parts 17 and 18 of the regulations require reports from members of contract markets, FCMs, foreign brokers and traders when a trader holds a reportable position.<sup>1</sup>

The Commission received three comment letters concerning the proposed amendments. The Chicago Board of Trade (CBT) and the Commodity Exchange Inc. (Comex), both of which are contract markets for silver bullion futures, opposed the adoption of the amendment. The Silver Users Association urged the Commission to adopt the amendment.

Both exchanges cited recent renewed growth in their silver futures contracts as evidence that reporting levels need not be reduced. One exchange believed that the Commission and the exchanges' current surveillance systems were adequate and, therefore, the added burden imposed by lowering the

<sup>1</sup> A trader's position is reportable when the open contracts held or controlled by the trader in any one future of a commodity on any one contract market at the close of business on any business day equal or exceed the quantities fixed by the Commission in Rule 15.03(a), 17 CFR 15.00(b) 1982.

reporting level was not justified. In addition, one exchange objected to the fact that the new reporting level would apply equally to both contracts currently traded on the exchanges even though one contract was one-fifth the size of the other.<sup>2</sup> The exchange argued that reporting levels for the smaller contract should be higher, claiming that constant reporting levels for all silver futures contracts is " \* \* \* inequitable and based on vague and unsubstantiated arguments related to surveillance."

The Silver Users Association expressed concern that overall report coverage may still not be adequate since the proposed reporting level applied to positions on only one contract market (as opposed to the combined positions of a trader on all contract markets). Nevertheless, the Association believed the change was a move in the proper direction and strongly supported the proposed amendment.

As noted by one commentator, open interest in silver on both exchanges has increased since May 31, 1983, from 54,000 contracts to about 88,000 contracts. This is still considerably below contract level on both exchanges which in the first instance prompted the Commission to raise levels to 250 contracts.

Moreover, during the period from May 1983 through September 1983, the number of traders about whom the Commission receives information has increased by only one, from 53 to 54, and the total open positions reported to the Commission has remained relatively constant. The Commission has also seen no appreciable increase in the number of reportable traders in the delivery month. This tends to highlight the Commission's current concerns wherein large scale changes in activity in the silver market, such as this increase in open interest, can occur under existing reporting rules with little or no information on this activity available from its routine reports.

With respect to higher reporting levels for smaller contracts, the Commission cannot agree with the commentator. In conducting general surveillance on a single market, a frequent concern of the Commission is the size of a trader's position or position change relative to other positions on the same market. In addition, for markets such as silver reporting levels set independent of contract size provide clear benefits to the Commission in surveillance of maturing futures. For surveillance of

<sup>2</sup> Currently, silver futures contracts traded on the CBT are in 1,000 troy ounce units while those on Comex are 5,000 troy ounce units.

maturing futures, the Commission must consider all contracts traded on the same commodity, particularly contracts that may draw upon the same deliverable supply such as the silver contracts traded on the CBT and Comex. In such instances the Commission is interested in the relative positions of a trader on both markets.<sup>3</sup>

The Commission has also carefully considered the increased reporting burden it may be imposing on the traders who, although relatively large, are currently not required to report. It estimates that the proposed reporting level of 100 contracts in silver futures will currently result in less than 100 traders having reportable positions. The Commission believes that this is a minimal burden on the reporting public which is consistent with Commission goals for obtaining adequate surveillance information. The Commission will, of course, review the amount of information it receives at the new reporting levels and, if necessary, adjust the levels accordingly.<sup>4</sup>

In view of the above, the Commission is adopting its proposed amendments to § 15.03(a) which lowers the reporting levels in silver bullion futures from 250 contracts to 100 contracts.<sup>5</sup> The Commission received no public comments on the technical amendments to Rules 17.00 and 18.04. In view of this, it is adopting these amendments as proposed.

<sup>3</sup> When two or more markets trade futures on the same underlying commodity, traders frequently carry positions on more than one of the markets. In addition to reasons stated above for constant reporting levels on all markets trading the same commodity, such levels may simplify reporting for traders and FCMs.

<sup>4</sup> The Commission routinely reviews the information it receives and acts to adjust reporting levels consistent with its needs. For example, effective July 25, 1983, the Commission raised reporting levels in a number of commodities thereby reducing the reporting burden on the public for large trader reports by about 20 percent. 48 FR 32554 (July 18, 1983).

<sup>5</sup> At this time, the Commission is also making technical amendments to Rule 15.03(a) by removing reference to contracts which have been dormant within the meaning of Commission Rule 5.2 and have not traded over an extended period of time. These include rye, barley and flaxseed. Due to the technical nature of these changes, the Commission finds that the notice and comment procedures envisioned under the Administrative Procedure Act, 5 U.S.C. 553, are not necessary. With respect to the Regulatory Flexibility Act ("RFA"), Pub. L. 96-354, 94 Stat. 1165 (5 U.S.C. 601(2)), a prior general notice of proposed rulemaking has not been published. Therefore, these technical amendments are not "rules" as that term is defined in Section 3(a) of the RFA. And even if they were subject to the requirements of the RFA, the action would have no impact on small entities since the contracts are dormant.

### The Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA")<sup>6</sup> requires that agencies, in proposing rules, consider the impact of those rules on small business. These amendments affect large traders, futures commission merchants and other similar entities. The Commission has defined "small entities" as used by the Commission in evaluating the impact of its rule in accordance with the RFA. 47 FR 18618-18621 (April 30, 1982).

Pursuant to Section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman-Designate, on behalf of the Commission, certified in its July 18, 1983, *Federal Register* notice that this proposed rule would not have a significant economic impact on a substantial number of small entities. The Commission invited comments from any person who believed that the proposed rules would have a significant economic impact upon its operations. No comments were received.

### Paperwork Reduction Act

Pursuant to the provisions of the Paperwork Reduction Act of 1980, the Office of Management and Budget has assigned for use through September 30, 1984, control number 3038-0009 to the regulations which appear herein, the series '01 reports and Forms 103, 40 and 102.

Interested members of the public may obtain a complete copy of the information collection relating to the rules contained herein by contacting Joseph Salazar at (202) 254-9735.

### List of Subjects

#### 17 CFR Parts 15 and 17

Brokers, Commodity futures, Reporting and recordkeeping requirements.

#### 17 CFR Part 18

Commodity futures, Reporting and recordkeeping requirements.

In the consideration of the foregoing and pursuant to its authority under Sections 4g, 4i, 5(b) and 8a(5) of the Commodity Exchange Act, 7 U.S.C. Sections 6(g), 6(i), 7(b) and 12a(5) as amended by the Futures Trading Act of 1982, Pub. L. No. 97-444, 96 Stat. 2294 (1983), the Commission is amending Parts 15, 17 and 18 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

### PART 15—REPORTS—GENERAL PROVISIONS

1. Section 15.03(a) is amended by removing reference to barley, rye and

flaxseed and by changing the reporting levels in silver from 250 contracts to 100 contracts. As revised, paragraph (a) of § 15.03 is set forth below.

#### § 15.03 Quantities fixed for reporting.

(a) The quantities for the purpose of reports filed under Parts 17 and 18 of this chapter are as follows:

Commodity	Quantity
Wheat (bushels)	500,000
Corn (bushels)	500,000
Soybeans (bushels)	500,000
Oats (bushels)	200,000
Cotton (bales)	5,000
Soybean Oil (contracts)	100
Soybean Meal (contracts)	100
Live Cattle (contracts)	100
Hogs (contracts)	50
Sugar (contracts)	100
Copper (contracts)	100
Gold (contracts)	200
Silver Bullion (contracts)	100
Silver Coins (contracts)	50
#2 Heating Oil (contracts)	50
Long-term U.S. Treasury Bonds (contracts)	150
GNMA (contracts)	100
Three-month (13-week) U.S. Treasury Bills (contracts)	50
Long-term U.S. Treasury Notes (contracts)	50
Domestic Certificates of Deposit (contracts)	50
Three-Month Eurodollar Time Deposit Rates (contracts)	50
Foreign Currencies (contracts)	100
Standard and Poor's 500 Stock Price Index (contracts)	100
New York Stock Exchange Composite Index (contracts)	100
All Other Commodities (contracts)	25

### PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

2. Section 17.00 is amended by adding a new paragraph (e)(4) as follows. For the convenience of the reader, the introductory text of paragraph (e) is set forth below.

§ 17.00 Information to be furnished by futures commission merchants, clearing members and foreign brokers.

(e) Gross positions. In the following cases, the futures commission merchant, clearing member or foreign broker shall report gross long and short positions in each future of a commodity in all special accounts:

(4) Positions in omnibus accounts.

### PART 18—REPORTS BY TRADERS

4. The introductory text of § 18.04 is amended by removing reference to paragraph (e) as follows. As revised, the introductory text of § 18.04 is set forth below.

<sup>6</sup> 5 U.S.C. 601 *et seq.*

**§ 18.04 Statement of reporting trader.**

Every trader who holds or controls a reportable position shall file with the Commission a "Statement of reporting trader" on Form 40. Each trader shall file an initial Form 40 at such time as the Commission directs, but not later than the tenth business day following the date the trader assumes the reportable position. Subsequent filings shall be made at the time specified in paragraph (d) of this section. In addition, every trader who holds or controls a reportable option position, as set forth in § 15.00(b)(2)(ii) of this chapter, shall within one business day after a special call upon such trader by the Commission or its designee file a "Statement of Reporting Trader" with respect to such option positions. All traders shall complete Part A of the Form 40 and, in addition, shall complete

Part B—if the trader is an individual, a partnership or a joint tenant.

Part C—if the trader is a corporation or type of trader other than an individual, partnership, or joint tenant.

Issued in Washington, D.C., on November 15, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

FR Doc. 83-31229 Filed 11-21-83; 8:45 am;

BILLING CODE 6351-01-M

**PANAMA CANAL COMMISSION****35 CFR Part 111****Revised Shipping and Navigation Rules for the Panama Canal**

**AGENCY:** Panama Canal Commission.

**ACTION:** Final rule.

**SUMMARY:** In an effort to standardize the rules for the prevention of collisions and in keeping with the international character of the Panama Canal, the Panama Canal Commission is today approving revisions to the Rules for the Prevention of Collisions for the Panama Canal. These revised rules use the International Regulations for Preventing Collisions at Sea as a model, supplemented by rules of particular application in the Panama Canal.

**EFFECTIVE DATE:** December 22, 1983.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Michael Rhode, Jr., Secretary, Panama Canal Commission, (202) 724-0104, or Mr. John L. Haines, Jr., General Counsel, Panama Canal Commission, telephone in Balboa Heights, Republic of Panama, 52-7511.

**SUPPLEMENTARY INFORMATION:** On August 8, 1983, a notice of proposed

rulemaking was published in the **Federal Register** (48 FR 35905) setting forth revised rules for the prevention of collisions for the Panama Canal.

Interested parties were given the opportunity to submit comments by September 19, 1983. During that time period, various comments were received by the agency regarding apparent discrepancies in the proposed rules dealing with the lights and shapes prescribed for vessels engaged in diving operations, § 111.27(f) and §§ 111.27(e) and 111.38. These conflicts have been remedied in the final rule. Specifically, it was pointed out that § 111.27(f) differs from Rule 27(f) of the 72 COLREGS in that the proposed rule would release all vessels of less than 12 meters in length from the requirement of exhibiting the lights or shapes provided for in the rule. This problem, which occurred due to an inadvertent omission, is corrected by inserting the words "except those engaged in diving operations" into the rule, so that § 111.27(f) reads as follows: "Vessels of less than 12 meters in length, except those engaged in diving operations, shall not be required to exhibit the lights and shapes prescribed in the section."

The remaining comments received pertained to an unintentional conflict between §§ 111.27(e) and 111.38 in that both sections prescribe differing lights or signals for vessels engaged in diving operations. In order to resolve the problem, § 111.27(e) is reworded to read as follows: "Whenever the size of a vessel engaged in diving operations makes it impractical to exhibit all lights and shapes prescribed by paragraph (d) of this section, the lights and shapes prescribed by § 111.38 shall be exhibited." In addition to the foregoing changes, corrections of minor typographical errors have been made to the text. The substantive changes hereby adopted by this document are as follows:

Section 111.1 (Rule 1) is a general provision which defines the application of the rules and derives from 35 CFR 111.1. The lookout requirement contained in proposed § 111.5 (Rule 5) follows 35 CFR 111.206 which is a slight variation of the corresponding 72 COLREGS provision. Section 111.7 (Rule 7), paragraph (b) deletes the specific requirement in the 72 COLREGS for the use of long-range radar scanning and radar plotting. Section 111.9 (Rule 9), paragraphs (d) and (e) follow the Unified Inland Rules. Rule 10 in the 72 COLREGS governs traffic separation schemes. As there are no such schemes currently in effect in the Panama Canal, this rule has been reserved. Section 111.26 (Rule 26) in essence prohibits

commercial fishing in the navigable waters of the Canal. Consequently, references to fishing vessels in other provisions have also been deleted. Section 111.28 (Rule 28), which in the 72 COLREGS prescribes the light signals for vessels constrained by their draft, has been reserved, following the Unified Inland Rules. Similarly, the references to vessels constrained by their draft in Rules 3, 18 and 35 of the 72 COLREGS are not incorporated in §§ 111.3, 111.18 and 111.35. The maneuvering and warning whistle signals provided in § 111.34 (Rule 34), paragraphs (a) through (g), follow essentially the corresponding Unified Inland Rules provisions which are more appropriate for channel navigation than the equivalent 72 COLREGS provisions.

However, the bend signals prescribed by Rule 34(e) of the 72 COLREGS and by the Unified Inland Rules, have not been incorporated in this revision inasmuch as bend signals are not used locally and are considered unnecessary. The exemption provisions contained in Rule 38 of the 72 COLREGS have been deleted. In their place, § 111.38 (Rule 38) follows the existing 35 CFR 111.204 governing diving operations. There are other minor departures from the 72 COLREGS in the rules, such as the deletion of references to falling snow and sandstorms in § 111.3 (Rule 3), paragraph (1) and to minesweeping operations in § 111.27 (Rule 27), paragraph (b).

Rules of particular application to the Panama Canal which have been incorporated throughout the text include the following: Section 111.3 (Rule 3), paragraph (1) follows 35 CFR 111.163(b); Section 111.6 (Rule 6), paragraphs (c), (d) and (f) follow 35 CFR 111.162 (a), (b) and (c), respectively, paragraph (e) is a new provision, and paragraph (g) follows essentially 35 CFR 111.162(d) and 111.162(a); Section 111.8 (Rule 8), paragraph (f) follows essentially 35 CFR 111.145(d); Section 111.9 (Rule 9), paragraph (h) follows 35 CFR 111.146; Section 111.13 (Rule 13), paragraphs (a) and (e) follow 35 CFR 111.150 (a) and (e), respectively; Section 111.14 (Rule 14), paragraph (d) follows 35 CFR 111.151; Section 111.18 (Rule 18), paragraph (d) follows 35 CFR 111.152; Section 111.19 (Rule 19), paragraph (f) follows 35 CFR 111.161 (d) and (e); Section 111.23 (Rule 23), paragraph (d) follows 35 CFR 111.146; Section 111.30 (Rule 30), paragraph (g) follows 35 CFR 111.58(d); Section 111.34 (Rule 34), paragraph (h) follows 35 CFR 111.157; Section 111.36 (Rule 36), paragraph (b) follows 35 CFR 111.65; Section 111.38 (Rule 38) follows 35 CFR 111.203; Section 111.39 (Rule 39) follows

35 CFR 111.204; Section 111.40 (Rule 40) follows 35 CFR 111.205; and, Section 111.41 (Rule 41) follows essentially 35 CFR 111.48, except that pipelines will be marked at night with amber lights.

The Commission has determined that this rule does not constitute a major rule within the meaning of Executive Order 12291 dated February 17, 1981 (47 FR 13193). The bases for that determination are, first, that the rule, when implemented would not have an annual effect on the economy of \$100 million or more per year, and secondly, that the rule would not result in a major increase in costs or prices for consumers, individual industries, local governmental agencies or geographic regions. Further, the agency has determined that implementation of the rule would not have a significant adverse effect on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Finally, the Commission has determined that this rule is not subject to the requirements of Sections 603 and 604 of Title 5, United States Code, in that its promulgation will not have a significant impact on a substantial number of small entities, and the Administrator of the Commission so certifies pursuant to 5 U.S.C. 605(b).

#### List of Subjects in 35 CFR Part 111

Vessels, Anchorage grounds, Harbors, Marine safety, Maritime carriers, Navigation (Water).

Accordingly, under the authority vested in the President by Sec. 1801, Pub. L. 96-70, 93 Stat. 492 (22 U.S.C. 3811) and E.O. 12215, 45 FR 36043, it is proposed to revise 35 CFR Part 111 as follows:

### PART 111—RULES FOR THE PREVENTION OF COLLISIONS

#### Subpart A—General

##### Sec.

- 111.1 Application (Rule 1).
- 111.2 Responsibility (Rule 2).
- 111.3 General definitions (Rule 3).

#### Subpart B—Steering and Sailing Rules

##### Conduct of Vessels in Any Condition of Visibility

- 111.4 Application (Rule 4).
- 111.5 Lookout (Rule 5).
- 111.6 Safe speed (Rule 6).
- 111.7 Risk of collision (Rule 7).
- 111.8 Action to avoid collision (Rule 8).
- 111.9 Narrow channels (Rule 9).
- 111.10 (Reserved) (Rule 10).

##### Conduct of Vessels in Sight of One Another

- 111.11 Application (Rule 11).

#### Sec.

- 111.12 Sailing vessels (Rule 12).
- 111.13 Overtaking (Rule 13).
- 111.14 Head-on situation (Rule 14).
- 111.15 Crossing situation (Rule 15).
- 111.16 Action by give-way vessel (Rule 16).
- 111.17 Action by stand-on vessel (Rule 17).
- 111.18 Responsibilities between vessels (Rule 18).

#### Conduct of Vessels In Restricted Visibility

- 111.19 Conduct of vessels in restricted visibility (Rule 19).

#### Subpart C—Lights and Shapes

- 111.20 Application (Rule 20).
- 111.21 Definitions (Rule 21).
- 111.22 Visibility of lights (Rule 22).
- 111.23 Power-driven vessels underway (Rule 23).
- 111.24 Towing and pushing (Rule 24).
- 111.25 Sailing vessels under way and vessels under oars (Rule 25).
- 111.26 Fishing vessels (Rule 26).
- 111.27 Vessels not under command or restricted in their ability to maneuver (Rule 27).
- 111.28 (Reserved) (Rule 28).
- 111.29 Pilot vessels (Rule 29).
- 111.30 Anchored vessels and vessels aground (Rule 30).
- 111.31 Seaplanes (Rule 31).

#### Subpart D—Sound and Light Signals

- 111.32 Definitions (Rule 32).
- 111.33 Equipment for sound signals (Rule 33).
- 111.34 Maneuvering and warning signals (Rule 34).
- 111.35 Sound signals in restricted visibility (Rule 35).
- 111.36 Signals to attract attention (Rule 36).
- 111.37 Distress signals (Rule 37).

#### Subpart E—Miscellaneous

- 111.38 Diving operations (Rule 38).
- 111.39 Water skiing prohibited (Rule 39).
- 111.40 Operation of small craft and recreational vessels in Canal waters (Rule 40).
- 111.41 Lights; marking of pipelines laid in navigable waters (Rule 41).

Authority: Issued under authority vested in the President by § 1801, Pub. L. 96-70, 93 Stat. 492 (22 U.S.C. 3811); EO 12215, 45 FR 36043.

#### Subpart A—General

##### § 111.1 Application (Rule 1).

The provisions of this Part incorporate most of the Rules of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) and the maneuvering and warning whistle signals of the Inland Navigational Rules Act of 1980, supplemented by rules of particular application in the Panama Canal and shall be applicable to vessels and seaplanes upon the navigable waters of the Canal operating areas, as the same are described in Annex A of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977, and as they are depicted on Attachment 1 to that Annex, between a line connecting the East Breakwater

Light and West Breakwater Light at the Atlantic Entrance to the Canal in Limon Bay and a line passing through Channel Buoys 1 and 2 extended to the Canal boundary lines at the Pacific Entrance in Panama Bay, and in the Ports of Balboa and Cristobal. Where any naval or military vessel of special construction as certified by the Secretary of the Navy or the Secretary of Transportation in the case of Coast Guard vessels operating under the Transportation Department, or by a corresponding official of a state, other than the United States, shall by virtue of statute, convention or treaty, be exempted from compliance with the International Rules (72 COLREGS), such vessel shall similarly be exempted from compliance with any corresponding requirement under the provisions of this Part.

##### § 111.2 Responsibility (Rule 2).

(a) Nothing in this Part shall exonerate any vessel, or the owner, master or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(b) In construing and complying with this Part due regard shall be had to all dangers of navigation and collision and to any special circumstance, including the limitations of the vessels involved, which may make a departure from this Part necessary to avoid immediate danger.

##### § 111.3 General Definitions (Rule 3).

For the purpose of this Part, except where the context otherwise requires:

(a) The word "vessel" includes every description of water craft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water.

(b) The term "power-driven vessel" means any vessel propelled by machinery.

(c) The term "sailing vessel" means any vessel under sail provided that propelling machinery, if fitted, is not being used.

(d) The term "vessel engaged in fishing" means any vessel fishing with nets, lines, trawls or other fishing apparatus which restrict maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability.

(e) The word "seaplane" includes any aircraft designed to maneuver on the water.

(f) The term "vessel not under command" means a vessel which

through some exceptional circumstance is unable to maneuver as required by this Part and is therefore unable to keep out of the way of another vessel.

(g) The term "vessel restricted in her ability to maneuver" means a vessel which from the nature of her work is restricted in her ability to maneuver as required by this Part and is therefore unable to keep out of the way of another vessel. The term "vessels restricted in their ability to maneuver" shall include but not be limited to:

(1) A vessel engaged in laying, servicing or picking up a navigation mark, submarine cable or pipeline;

(2) A vessel engaged in dredging, surveying or underwater operations;

(3) A vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

(h) The word "under way" means that a vessel is not at anchor, or made fast to the shore, or aground.

(i) The words "length" and "breadth" of a vessel means her length overall and greatest breadth.

(j) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other.

(k) The term "restricted visibility" means any condition in which visibility is restricted by fog, mist, heavy rainstorms or any other similar causes.

(l) A "motorboat" means a power-driven vessel no more than 20 meters in length as measured from end to end over the deck.

## Subpart B—Steering and Sailing Rules

### Conduct of Vessels in Any Condition of Visibility

#### § 111.4 Application (Rule 4).

Sections 111.5 through 111.10 apply in any condition of visibility.

#### § 111.5 Lookout (Rule 5).

Every vessel shall at all times while under way in the Canal and adjacent waters maintain a proper lookout by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision. The person acting as lookout shall have no other assigned duties and shall report promptly all relevant and material information to the person in charge of the navigation of the vessel.

#### § 111.6 Safe Speed (Rule 6).

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing

circumstances and conditions. In determining a safe speed the following factors shall be among those taken into account:

(a) By all vessels:

(1) The state of visibility;

(2) The traffic density including concentrations of small craft or any other vessels;

(3) The maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

(4) At night the presence of background light such as from shore lights or from back scatter of her own lights;

(5) The state of wind, sea and current, and the proximity of navigational hazards;

(6) The draft in relation to the available depth of water.

(b) Additionally, by vessels with operational radar:

(1) The characteristics, efficiency and limitations of the radar equipment;

(2) Any constraints imposed by the radar range scale in use;

(3) The effect on radar detection of the sea state, weather and other sources of interference;

(4) The possibility that small vessels and other floating objects may not be detected by radar at an adequate range;

(5) The number, location and movement of vessels detected by radar;

(6) The more exact assessment of the visibility that may be possible when radar is used to determine the range of vessel or other objects in the vicinity.

(c) A vessel shall not exceed the speeds designated below, except in an emergency:

	Knots
Atlantic entrance to Gatun Locks	12
Gatun Lake in a 1,000-ft. channel	18
Gatun Lake in a 800-ft. channel	15
Gatun Lake in a 650-ft. channel	12
When rounding Buoy No. 17 in Gatun Reach northbound	10
Gaillard Cut, in the straight reaches	8
Gamboa: When passing reserve fleet basin, concrete dock, or floating crane berth; and when entering Gaillard Cut	8
When using a tug astern	6
Miraflores Locks to Buoy No. 14	6
Buoy No. 14 to Pacific entrance	12

(d) A vessel in Panama Canal waters at locations other than those specified in paragraph (c) of this section, including Gatun Anchorage, Bohio Bend, Mamei Curve, Miraflores Lake, and in or near the locks, shall not exceed a speed that is safe under the existing circumstances and conditions, except in an emergency.

(e) Whenever a vessel is maneuvering in an area where paragraph (c) of this section limits the speed to 6 knots, and the vessel's speed at dead slow ahead

exceeds 6 knots, she is permitted to proceed at the slowest speed possible required to safely maintain maneuverability.

(f) The Chief, Navigation Division may authorize departures from the maximum speeds established by paragraph (c) of this section in the case of particular vessels whose handling characteristics are such as to indicate that a higher speed or speeds can be prudently allowed.

(g) Paragraph (c) of this section does not apply to motorboats or to vessels of the Panama Canal Commission. Nevertheless, motorboats and vessels of the Panama Canal Commission when underway shall proceed at a speed which is reasonable under the circumstances and conditions and which does not create a hazard to life or property.

#### § 111.7 Risk of Collision (Rule 7).

(a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt, such risk shall be deemed to exist.

(b) Proper use shall be made of radar equipment if fitted and operational.

(c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.

(d) In determining if risk of collision exists the following considerations shall be among those taken into account:

(1) Such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change;

(2) Such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

#### § 111.8 Action to Avoid Collision (Rule 8).

(a) Any action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.

(b) Any alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course or speed should be avoided.

(c) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and

does not result in another close-quarters situation.

(d) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(e) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.

(f) When two vessels are proceeding in such directions as to involve risk of collision, a power-driven vessel or sailing vessel or motorboat that is entering or preparing to enter the main channel of the Canal from either side shall not cross the bow of a vessel proceeding in either direction along the Canal axis and shall keep clear until the vessel proceeding along the Canal axis has passed.

#### § 111.9 Narrow Channels (Rule 9).

(a) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.

(b) A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel which can safely navigate only within a narrow channel or fairway.

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within such channel or fairway. The latter vessel shall use the danger signal prescribed in § 111.34(d) [Rule 34(d)] if in doubt as to the intention of the crossing vessel.

(e) (1) In a narrow channel or fairway when overtaking, the vessel intending to overtake shall indicate her intention by sounding the appropriate signal prescribed in § 111.34(c) [Rule 34(c)]. The overtaken vessel, if in agreement, shall sound the same signal. If in doubt she shall sound the danger signal prescribed in § 111.34(d) [Rule 34(d)].

(2) This section does not relieve the overtaking vessel of her obligation under § 111.13 (Rule 13).

(f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution.

(g) Any vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

(h) When two power-driven vessels are meeting end on, or nearly end on, in the Canal in the vicinity of an obstruction, e.g., a dredge, drill barge, slide, etc., the vessel whose side of the Canal is clear shall have the right-of-way and the other vessel shall hold back and keep out of the way until the privileged vessel is clear.

#### § 111.10 [Reserved] (Rule 10).

#### Conduct of Vessels in Sight of One Another

##### § 111.11 Application (Rule 11).

Sections 111.12 through 111.18 apply to vessels in sight of one another.

##### § 111.12 Sailing Vessels (Rule 12).

(a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

(1) When each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;

(2) When both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward;

(3) If a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, she shall keep out of the way of the other.

(b) For the purpose of this section the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

##### § 111.13 Overtaking (Rule 13).

(a) Notwithstanding anything contained in sections 111.4 through 111.18, any vessel overtaking any other shall keep out of the way of the overtaken vessel, except that within the Canal channel all pleasure vessels and craft, even though they are an overtaken vessel, shall keep out of the way of transiting vessels and Panama Canal Commission floating equipment.

(b) A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam, that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the sternlight of that vessel but neither of her sidelights.

(c) When a vessel is in any doubt as to whether she is overtaking another,

she shall assume that this is the case and act accordingly.

(d) Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of this Part or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

(e) Except as specially authorized by the Chief, Navigation Division or his designee, an overtaking power-driven vessel shall not overtake and pass another power-driven vessel in Gaillard Cut, Mamei Curve or Bohio Bend between buoys 38 and 40: *Provided, however,* That this paragraph shall not apply where either the overtaking or the overtaken vessel is less than 150 feet in length or is a Panama Canal Commission power-driven vessel or a U.S. Army or U.S. Navy local tug, with or without a tow.

##### § 111.14 Head-on Situation (Rule 14).

(a) When two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other.

(b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she could see the masthead lights of the other in a line or nearly in a line or both sidelights and by day she observes the corresponding aspect of the other vessel.

(c) When a vessel is in any doubt as to whether such a situation exists she shall assume that it does exist and act accordingly.

(d) In the Canal channel every power-driven vessel encountering another vessel while proceeding along the line of the channel, shall keep to that side of the fairway or mid-channel which lies on its starboard side. When two such vessels so proceeding are bound in opposite directions, they shall, when it is safe and practicable, be governed by paragraph (a) of this section even when, by reason of an intervening bend in the channel, their headings are not substantially opposite when they first sight each other; and neither of them shall alter course to port across the course of the other. Tugs and motorboats shall, whenever practicable, keep well over to that side of the Canal which is to their starboard when large vessels are passing.

##### § 111.15 Crossing Situation (Rule 15).

When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep

out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

**§ 111.16 Action by Give-way Vessel (Rule 16).**

Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

**§ 111.17 Action by Stand-on Vessel (Rule 17).**

(a) (1) Where one of two vessels is to keep out of the way the other shall keep her course and speed.

(2) The latter vessel may however take action to avoid collision by her maneuver alone, as soon as it becomes apparent to her that the vessel required to keep out of the way is not taking appropriate action in compliance with this Part.

(b) When, from any cause, the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the action of the give-way vessel alone, she shall take such action as will best aid to avoid collision.

(c) A power-driven vessel which takes action in a crossing situation in accordance with paragraph (a)(2) of this section to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on her own port side.

(d) This section does not relieve the give-way vessel of her obligation to keep out of the way.

**§ 111.18 Responsibilities Between Vessels (Rule 18).**

Except where §§ 111.9 and 111.13 (Rules 9 and 13) otherwise require:

(a) A power-driven vessel underway shall keep out of the way of:

(1) A vessel not under command;  
(2) A vessel restricted in her ability to maneuver.

(b) A sailing vessel underway shall keep out of the way of:

(1) A vessel not under command;  
(2) A vessel restricted in her ability to maneuver;

(3) A power driven vessel, except a motorboat.

(c) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the §§ 111.4 through 111.18 of this Subpart.

(d) Panama Canal floating equipment at work in a stationary position shall have a privileged right to such position, and no passing vessel shall foul such equipment or its moorings, or pass at

such speed as to create a dangerous wash or wake. Floating equipment of the Canal from which divers are working, and floating equipment so moored, and vessels under repair and in such condition, that a high wash might cause swamping or be hazardous to the workmen, shall be passed by all vessels at a speed sufficiently slow as not to create a dangerous wash or wake.

**Conduct of Vessels in Restricted Visibility**

**§ 111.19 Conduct of Vessels in Restricted Visibility (Rule 19).**

(a) This section applies to vessels not in sight of one another when navigating in or near an area of restricted visibility.

(b) Every vessel shall proceed at a safe speed adapted to the prevailing circumstances and conditions of restricted visibility. A power-driven vessel shall have her engines ready for immediate maneuver.

(c) Every vessel shall have due regard to the prevailing circumstances and conditions of restricted visibility when complying with the §§ 111.4 through 111.9 (Rules 4 through 9) of this Subpart.

(d) A vessel which detects by radar alone the presence of another vessel shall determine if a close-quarters situation is developing or risk of collision exists. If so, she shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:

(1) An alteration of course to port for a vessel forward of the beam, other than for a vessel being overtaken; and

(2) An alteration of course towards a vessel abeam or abaft the beam.

(e) Except where it has been determined that a risk of collision does not exist, every vessel which hears apparently forward of her beam the fog signal of another vessel, or which cannot avoid a close quarters situation with another vessel forward of her beam, shall reduce her speed to the minimum at which she can be kept on her course. She shall if necessary take all her way off and in any event navigate with extreme caution until danger of collision is over.

(f) Except as provided in paragraph (g) of this section, vessels moored or at anchor shall not get underway when, because of atmospheric conditions, visibility is less than 1,000 feet and vessels underway in such conditions shall anchor or moor as soon as practicable and report immediately to the Chief, Navigation Division, or his designee by radio or other available means.

(g) Vessels specially equipped to navigate under conditions restricting

visibility and which have a pilot aboard, and vessels which have a pilot aboard and which are assisted by Panama Canal Commission vessels which are specially equipped to navigate under such conditions, may, at the discretion of the Chief, Navigation Division or his designee, be navigated when visibility is less than 1,000 feet.

**Subpart C—Lights and Shapes**

**§ 111.20 Application (Rule 20).**

(a) Sections 111.20 through 111.31 (Rules 20–31) in this Subpart shall be complied with in all weathers.

(b) The regulations concerning lights shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in this Part or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout.

(c) The lights prescribed by this Part shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.

(d) The regulations concerning shapes shall be complied with by day.

(e) The lights and shapes specified in this Part shall comply with the provisions of Annex I to the 72 COLREGS.

**§ 111.21 Definitions (Rule 21).**

(a) "Masthead light" means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel.

(b) "Sidelights" means a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. In a vessel of less than 20 meters in length the sidelights may be combined in one lantern carried on the fore and aft centerline of the vessel.

(c) "Sternlight" means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 87.5 degrees from right aft on each side of the vessel.

(d) "Towing light" means a yellow light having the same characteristics as the "sternlight" defined in paragraph (c) of this section.

(e) "All-round light" means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(f) "Flashing light" means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

**§ 111.22 Visibility of Lights (Rule 22).**

The lights prescribed in this Part shall have an intensity as specified in Section 8 of Annex I to 72 COLREGS so as to be visible at the following minimum ranges:

(a) In vessels of 50 meters or more in length:

- (1) A masthead light, 6 miles;
- (2) A sidelight, 3 miles;
- (3) A sternlight, 3 miles;
- (4) A towing light, 3 miles;
- (5) A white, red, green or yellow all-round light, 3 miles.

(b) In vessels of 12 meters or more in length but less than 50 meters in length:

- (1) A masthead light, 5 miles; except that where the length of the vessel is less than 20 meters, 3 miles;

(2) A sidelight, 2 miles.

(3) A sternlight, 2 miles;

(4) A towing light, 2 miles;

- (5) A white, red, green or yellow all-round light, 2 miles.

(c) In vessels of less than 12 meters in length:

- (1) A masthead light, 2 miles;
- (2) A sidelight, 1 mile;
- (3) A sternlight, 2 miles;
- (4) A towing light, 2 miles;
- (5) A white, red, green or yellow all-round light, 2 miles.

(d) In inconspicuous, partly submerged vessels or objects being towed:

- (1) A white all-round light, 3 miles.
- (2) [Reserved].

**§ 111.23 Power-driven Vessels Under Way (Rule 23).**

(a) A power-driven vessel under way shall exhibit:

- (1) A masthead light forward;
- (2) A second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 meters in length shall not be obliged to exhibit such light but may do so;

(3) Sidelights; and

(4) A sternlight.

(b) An air-cushion vessel when operating in the non-displacement mode shall, in addition to the lights prescribed in paragraph (a) of this section, exhibit an all-round flashing yellow light.

(c) (1) A power-driven vessel of less than 12 meters in length may in lieu of the lights prescribed in paragraph (a) of this section exhibit an all-round white light and sidelights;

(2) A power-driven vessel of less than 7 meters in length and whose maximum speed does not exceed 7 knots may, in

lieu of the lights prescribed in paragraph (a) of this section, exhibit an all-round white light, and shall, if practicable, also exhibit sidelights:

(3) The masthead light or all-round white light on a power-driven vessel of less than 12 meters in length may be displaced from the fore and aft centerline of the vessel if centerline fitting is not practicable, provided that the sidelights are combined in one lantern which shall be carried on the fore and aft centerline of the vessel or located as nearly as practicable in the same fore and aft line as the masthead light or the all-round white light.

(d) A vessel employed in the transportation or transfer of flammable, explosive, or otherwise dangerous commodities shall carry, in addition to her appropriate mooring, anchor, or navigation lights, where it can best be seen, a red light of such a character as to be visible all around the horizon at a distance of at least 2 miles. By day she shall display, where it can best be seen, a red flag.

**§ 111.24 Towing and Pushing (Rule 24).**

(a) A power-driven vessel when towing shall exhibit:

(1) Instead of the light prescribed in § 111.23(a)(1) or § 111.23(a)(2), two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 200 meters, three such lights in a vertical line;

(2) Sidelights;

(3) A sternlight;

(4) A towing light in a vertical line above the sternlight; and

(5) When the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(b) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in § 111.23 (Rule 23).

(c) A power-driven vessel when pushing ahead or towing alongside, except in the case of a composite unit, shall exhibit:

(1) Instead of the light prescribed in § 111.23(a)(1) or § 111.23(a)(2) (Rule 23(a)(1) or (a)(2)), two masthead lights in a vertical line;

(2) Sidelights; and

(3) A sternlight.

(d) A power-driven vessel to which paragraphs (a) or (c) of this section apply shall also comply with § 111.23(a)(2) (Rule 23(a)(2)).

(e) A vessel or object being towed, other than those mentioned in paragraph (g) of this section, shall exhibit:

(1) Sidelights;

(2) A sternlight; and

(3) When the length of the two exceeds 200 meters, a diamond shape where it can best be seen.

(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel:

(1) A vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights;

(2) A vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights.

(g) An inconspicuous, partly submerged vessel or object, or combination of such vessels or objects being towed, shall exhibit:

(1) If it is less than 25 meters in breadth, one all-round white light at or near the forward end and one at or near the after end except that dracones need not exhibit a light at or near the forward end;

(2) If it is 25 meters or more in breadth, two additional all-round white lights at or near the extremities of its breadth;

(3) If it exceeds 100 meters in length, additional all-round white lights between the lights prescribed in paragraphs (g)(1) and (2) of this section so that the distance between the lights shall not exceed 100 meters;

(4) A diamond shape at or near the aftermost extremity of the last vessel or object being towed and if the length of the tow exceeds 200 meters an additional diamond shape where it can best be seen and located as far forward as is practicable.

(h) Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights or shapes prescribed in paragraph (e) or (g) of this section, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

(i) Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed in paragraph (a) or (c) of this section, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distress or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being towed as authorized by § 111.36 (Rule 36), in particular by illuminating the towline.

**§ 111.25 Sailing Vessels Under way and Vessels Under Oars (Rule 25).**

(a) A sailing vessel under way shall exhibit:

- (1) Sidelights; and
- (2) A sternlight.

(b) In a sailing vessel of less than 20 meters in length the lights prescribed in paragraph (a) of this section may be combined in one lantern carried at or near the top of the mast where it can best be seen.

(c) A sailing vessel under way may, in addition to the lights prescribed in paragraph (a) of this section, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this section.

(d) (1) A sailing vessel of less than 7 meters in length shall, if practicable, exhibit the lights prescribed in paragraph (a) or (b) of this section, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(2) A vessel under oars may exhibit the lights prescribed in this section for sailing vessels, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(e) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downwards.

**§ 111.26 Fishing Vessels (Rule 26).**

Vessels engaged in fishing, as defined in § 111.3 (d) (Rule 3 (d)) of this Part, shall stay well clear of the navigable waters of the Canal Operating Areas.

**§ 111.27 Vessels Not Under Command or Restricted in their Ability to Maneuver (Rule 27).**

(a) A vessel not under command shall exhibit:

- (1) Two all-round red lights in a vertical line where they can best be seen;

(2) Two balls or similar shapes in a vertical line where they can best be seen;

(3) When making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(b) A vessel restricted in her ability to maneuver shall exhibit:

(1) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall

be red and the middle light shall be white;

(2) Three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;

(3) When making way through the water, masthead light or lights, sidelights and a sternlight, in addition to the lights prescribed in paragraph (b)(1) of this section:

(4) When at anchor, in addition to the lights or shapes prescribed in paragraphs (b)(1) and (2) of this section, the lights or shapes prescribed in § 111.30 (Rule 30).

(c) A vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from her course shall, in addition to the lights or shapes prescribed in § 111.24 (a) (Rule 24 (a)), exhibit the lights or shape prescribed in paragraphs (b)(1) and (2) of this section.

(d) A vessel engaged in dredging or underwater operations, when restricted in her ability to maneuver, shall exhibit the lights and shapes prescribed in paragraphs (b)(1), (2) and (3) of this section and shall in addition, when an obstruction exists, exhibit:

(1) Two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;

(2) Two all-round green lights or two diamonds on a vertical line to indicate the side in which another vessel may pass;

(3) When at anchor, the lights or shapes prescribed in this paragraph instead of the lights or shape prescribed in § 111.30 (Rule 30).

(e) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit all lights and shapes prescribed by paragraph (d) of this section, the lights and shapes prescribed by § 111.38 shall be exhibited:

(1) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(2) A rigid replica of the International Code flag "A" not less than 1 meter in height. Measures shall be taken to ensure all-round visibility.

(f) Vessels of less than 12 meters in length, except those engaged in diving operations, shall not be required to exhibit the lights or shapes prescribed in this section.

(g) The signals prescribed in this section are not signals of vessels in distress and requiring assistance. Such signals are contained in § 111.37 (Rule 37).

**§ 111.28 [Reserved] (Rule 28).****§ 111.29 Pilot Vessels (Rule 29).**

(a) A vessel engaged on pilotage duty shall exhibit:

(1) At or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;

(2) When under way, in addition, sidelights and a sternlight;

(3) When at anchor, in addition to the lights prescribed in paragraph (a)(1) of this section, the light, lights or shape prescribed in § 111.30 (Rule 30) for vessels at anchor.

(b) A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a similar vessel of her length.

**§ 111.30 Anchored Vessels and Vessels Aground (Rule 30).**

(a) A vessel at anchor shall exhibit where it can best be seen:

(1) In the fore part, an all-round white light or one ball;

(2) At or near the stern and at a lower level than the light prescribed in paragraph (a)(1) of this section, an all-round white light.

(b) A vessel of less than 50 meters in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this section.

(c) A vessel at anchor may, and a vessel of 100 meters and more in length shall, also use the available working or equivalent lights to illuminate her decks.

(d) A vessel aground shall exhibit the lights prescribed in paragraph (a) or (b) of this section and in addition, where they can best be seen:

(1) Two all-round red lights in a vertical line; and

(2) Three balls in a vertical line.

(e) A vessel of less than 7 meters in length, when at anchor, not in or near a narrow channel, fairway or anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in paragraphs (a) and (b) of this section.

(f) A vessel of less than 20 meters in length, when aground, shall not be required to exhibit the lights or shapes prescribed in paragraphs (d)(1) and (2) of this section.

(g) Vessels not more than 20 meters in length, when at anchor in any special anchorage designated by the Commission for such vessels, shall not be required to carry or exhibit the lights or shape specified in paragraph (a) of this section.

**§ 111.31 Seaplanes (Rule 31).**

Where it is impracticable for a seaplane to exhibit lights and shapes of

the characteristics or in the positions prescribed in the sections of this Subpart she shall exhibit lights and shapes as closely similar in characteristics and position as is possible.

#### Subpart D—Sound and Light Signals

##### § 111.32 Definitions (Rule 32).

(a) The word "whistle" means any sound signaling appliance capable of producing the prescribed blasts and which complies with the specifications in Annex III to the 72 COLREGS.

(b) The term "short blast" means a blast of about one second's duration.

(c) The term "prolonged blast" means a blast of from four to six seconds' duration.

##### § 111.33 Equipment for Sound Signals (Rule 33).

(a) A vessel of 12 meters or more in length shall be provided with a whistle and a bell and a vessel of 100 meters or more in length shall, in addition, be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with the specifications in Annex III to the 72 COLREGS. The bell or gong or both may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the prescribed signals shall always be possible.

(b) A vessel of less than 12 meters in length shall not be obliged to carry the sound signaling appliances prescribed in paragraph (a) of this section but if she does not, she shall be provided with some other means of making an efficient sound signal.

##### § 111.34 Maneuvering and Warning Signals (Rule 34).

(a) When power-driven vessels are in sight of one another and meeting or crossing at a distance within half a mile of each other, each vessel under way, when maneuvering as authorized or required by this Part:

(1) Shall indicate that maneuver by the following signals on her whistle: one short blast to mean "I intend to leave you on my port side"; two short blasts to mean "I intend to leave you on my starboard side"; and three short blasts to mean "I am operating astern propulsion".

(2) Upon hearing the one or two blast signal of the other shall, if in agreement, sound the same whistle signal and take the steps necessary to effect a safe passing. If, however, from any cause, the vessel doubts the safety of the proposed maneuver, she shall sound the danger signal specified in paragraph (d) of this

section and each vessel shall take appropriate precautionary action until a safe passing agreement is made.

(b) A vessel may supplement the whistle signals prescribed in paragraph (a) of this section by light signals:

(1) These signals shall have the following significance: one flash to mean "I intend to leave you on my port side"; two flashes to mean "I intend to leave you on my starboard side"; three flashes to mean "I am operating astern propulsion";

(2) The duration of each flash shall be about one second, the interval between flashes shall be about one second, and the interval between successive signals shall be not less than ten seconds;

(3) The light used for this signal shall, if fitted, be an all-round white light, visible at a minimum range of 5 miles, and shall comply with the provisions of Annex I of the 72 COLREGS.

(c) When in sight of one another:

(1) A power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by the following signals on her whistle: one short blast to mean "I intend to overtake you on your starboard side"; two short blasts to mean "I intend to overtake you on your port side"; and

(2) The power-driven vessel about to be overtaken shall, if in agreement, sound a similar sound signal. If in doubt she shall sound the danger signal prescribed in paragraph (d).

(d) When vessels in sight of one another are approaching each other and from any cause either vessel fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall immediately indicate such doubt by giving at least five short and rapid blasts on the whistle. This signal may be supplemented by a light signal of at least five short and rapid flashes.

(e) If whistles are fitted on a vessel at a distance apart of more than 100 meters, one whistle only shall be used for giving maneuvering and warning signals.

(f) When a power-driven vessel is leaving a dock or berth, she shall sound one prolonged blast.

(g) A vessel that reaches agreement with another vessel in a meeting, crossing or overtaking situation by using radiotelephone on the customary frequencies is not obliged to sound whistle signals prescribed by this section, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.

(h) When a power-driven vessel or motorboat is approaching a pipeline

obstructing the channel, and desires to pass through the gate, she shall give a signal of two blasts, namely, one prolonged blast followed by a short blast, which signal shall be promptly answered by the gate tender with the same signal if she is ready to have the approaching vessel pass or by the danger signal if it is not safe for her to pass. In no case shall the approaching vessel attempt to pass until the gate tender signifies by a signal of one prolonged and one short blast that the channel is open. The gate tender shall so signify as soon as practicable, and the approaching vessel shall answer with a similar signal.

##### § 111.35 Sound Signals in Restricted Visibility (Rule 35).

In or near an area of restricted visibility, whether by day or night, the signals prescribed in this section shall be used as follows:

(a) A power-driven vessel making way through the water shall sound at intervals of not more than 2 minutes one prolonged blast.

(b) A power-driven vessel under way but stopped and making no way through the water shall sound at intervals of not more than 2 minutes two prolonged blasts in succession with an interval of about 2 seconds between them.

(c) A vessel not under command, a vessel restricted in her ability to maneuver, a sailing vessel and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this section, sound at intervals of not more than 2 minutes three blasts in succession, namely one prolonged followed by two short blasts.

(d) A vessel restricted in her ability to maneuver when carrying out her work at anchor, shall instead of the signals prescribed in paragraph (g) of this section sound the signal prescribed in paragraph (c) of this section.

(e) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than 2 minutes sound four blasts in succession, namely one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.

(f) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and shall give the signals prescribed in paragraphs (a) or (b) of this section.

(g) A vessel at anchor shall at intervals of not more than one minute ring the bell rapidly for about 5 seconds.

In a vessel of 100 meters or more in length the bell shall be sounded in the forepart of the vessel and immediately after the ringing of the bell the gong shall be sounded rapidly for about 5 seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession, namely one short, one prolonged and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.

(b) A vessel aground shall give the bell signal and if required the gong signal prescribed in paragraph (g) of this section and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.

(i) A vessel of less than 12 meters in length shall not be obliged to give the above-mentioned signals, but, if she does not, shall make some other efficient sound signal at intervals of not more than 2 minutes.

(j) A pilot vessel when engaged on pilotage duty may in addition to the signals prescribed in paragraphs (a), (b) or (g) of this section sound an identity signal consisting of four short blasts.

#### § 111.36 Signals to attract Attention (Rule 36).

(a) If necessary to attract the attention of another vessel, any vessel may make light or sound signals that cannot be mistaken for any signal authorized elsewhere in this Part, or may direct the beam of her searchlight in the direction of the danger, in such a way as not to embarrass any vessel. Any light to attract attention of another vessel shall be such that it cannot be mistaken for any aid to navigation. For the purpose of this section the use of high intensity intermittent or revolving lights, such as strobe lights, shall be avoided.

(b) Under no circumstances shall the rays of a searchlight or any other type of blinding light be directed into the pilot house, or in any other manner or direction which would interfere with the navigation of another vessel.

#### § 111.37 Distress Signals (Rule 37).

(a) Need of assistance. The following signals used or exhibited either together or separately, indicate distress and need of assistance:

(1) A gun or other explosive signal fired at intervals of about a minute;

(2) A continuous sounding with any fog-signaling apparatus;

(3) Rockets or shells, throwing red stars fired one at a time at short intervals;

(4) A signal made by radiotelegraphy or by any other signaling method consisting of the group . . . . . (SOS) in the Morse Code;

(5) A signal sent by radiotelephony consisting of the spoken word "mayday";

(6) The International Code Signal of distress indicated by N.C.:

(7) A signal consisting of a square flag having above or below it a ball or anything resembling a ball;

(8) Flames on the vessel (as from a burning tar barrel, oil barrel, etc.);

(9) A rocket parachute flare or a hand flare showing a red light;

(10) A smoke signal giving off orange-colored smoke;

(11) Slowly and repeatedly raising and lowering arms outstretched to each side;

(12) The radiotelegraph alarm signal;

(13) The radiotelephone alarm signal;

(14) Signals transmitted by emergency position-indicating radio beacons.

(b) The use of exhibition of any of the foregoing signals except for the purpose of indicating distress and need of assistance and the use of other signals which may be confused with any of the above signals is prohibited.

(c) Attention is drawn to the relevant sections of the International Code of Signals, the Merchant Ship Search and Rescue Manual and the following signals:

(1) A piece of orange-colored canvas with either a black square and circle or other appropriate symbol (for identification from the air);

(2) A dye marker.

#### Subpart E—Miscellaneous

##### § 111.38 Diving Operations (Rule 38).

(a) When industrial or commercial diving operations are under way in the Canal, or waters adjacent thereto, a revolving red light shall be displayed in all weathers from sunset to sunrise from the diving barge or other craft serving the diver. The light shall be so mounted and of sufficient intensity as to be visible for not less than 1 mile. A flag of the type described in paragraph (b) of this section shall be displayed from such craft from sunrise to sunset. Vessels approaching or passing an area where diving operations are under way shall reduce speed sufficiently to avoid creating a dangerous wash or wake.

(b) Recreational skin diving in waters of the Canal, including Gaillard Cut and the channel through Gatun and Miraflores Lakes and in the waters of all ships' anchorages is prohibited unless authorized in writing by the Chief, Navigation Division or his designee. Authorization shall not be given for skin diving at night. When recreational skin

diving activities are under way in the Canal, or waters adjacent thereto, a flag with a hoist or height of not less than 12 inches and a fly or length of not less than 18 inches and having a red background and a 3½ inch diagonal white stripe, running from the upper corner of the staff end of the flag to the lower corner of the outside end of the flag, shall be displayed from the mast of the craft serving the skin-diver. Flags larger than the foregoing minimum dimensions shall preserve the same proportions. Vessels approaching an area where such skin diving activities are under way shall reduce speed sufficiently to avoid creating a dangerous wash or wake.

##### § 111.39 Water Skiing Prohibited (Rule 39).

No person shall operate a motorboat or other vessel in or across the navigable channels or merchant vessel anchorages while towing a person or persons on water skis, or aquaplane or similar device at any time.

##### § 111.40 Operation of small craft and recreational vessels in the Canal waters (Rule 40).

(a) For the purpose of this section, a small craft is defined as any vessel for recreational purposes which is not required to have the assistance of locomotives when transiting the locks.

(b) A small craft shall not be operated by any person who is intoxicated or who is a habitual user, or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely operating the craft or vessel. The fact that one lawfully is or has been using any drug shall not constitute a defense against a charge of violating this section.

(c) No person shall operate a small craft so close to a transiting or other vessel so as to hamper the safe operation of either vessel; nor shall any person operate a small craft in a negligent manner so as to endanger life or property.

(d) No person shall operate a small craft in the navigation channels of the Canal except when such operation is incidental to movement between points on either side of the navigation channel.

##### § 111.41 Lights; Marking of Pipeline Laid in Navigable Waters (Rule 41).

Whenever a pipeline is laid in navigable waters, it shall be marked at night by amber lights at intervals of 200 feet. The lights marking the limits of the gate shall be a vertical display of a white and a red light, the white light to be at least 4 feet above the red light. These lights shall be so constructed as

to show all around the horizon and be visible from a distance of at least 1 mile.

Dated: October 21, 1983.

D. P. McAuliffe,  
Administrator

[FR Doc. 83-31205 Filed 11-21-83 8:45 am]

BILLING CODE 3640-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[A-9-FRL 2470-3]

#### Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision for the Yolo-Solano Air Pollution Control District

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

**ACTION:** Final rulemaking.

**SUMMARY:** In today's notice EPA is finalizing action on rule revisions of the Yolo-Solano Air Pollution Control District (APCD) proposed for approval on June 24, 1983 (48 FR 29012). The rule revisions were initially approved on June 18, 1983 (47 FR 26379) in a direct to final rulemaking. However, because of comments received the approval was withdrawn (48 FR 28988) and approval proposed on June 24, 1983. EPA reviewed this rule with respect to the Clean Air Act and determined that it should be approved.

**EFFECTIVE DATE:** This action is effective December 22, 1983.

**ADDRESSES:** Copies of the revisions are available for public inspection during normal business hours at the EPA Region 9 office and the following locations:

Public Information Reference Unit,  
Environmental Protection Agency, 401  
M Street SW., Washington, D.C. 20460  
The Office of the Federal Register, 1100  
L Street NW., Room 3401,  
Washington, D.C. 20460

California Air Resources Board, 1102 Q  
Street, P.O. Box 2815, Sacramento, CA  
95812

Yolo-Solano Air Pollution Control  
District, P.O. Box 1006, Woodland, CA  
95695.

**FOR FURTHER INFORMATION CONTACT:**  
Douglas Grano, Chief, State  
Implementation Plan Section, Air  
Management Division, Environmental  
Protection Agency, Region 9, 215  
Fremont Street, San Francisco, CA  
94105, (415) 454-8213.

## SUPPLEMENTARY INFORMATION:

### Background

The California Air Resources Board (ARB) submitted rule revisions for the Yolo-Solano APCD which cover New Source Review on February 25, 1980. They were evaluated with respect to Section 110 of the Clean Air Act and it was determined by EPA that they should be approved. This was done in a direct to final rulemaking which was published on June 18, 1982 (47 FR 26379). However, because EPA received a request for opportunity for public comment, the earlier approval was withdrawn on June 24, 1983 (48 FR 28988) and approval formally proposed, also on June 24, 1983 (48 FR 29012).

The proposal provided a 30 day review and comment period. During this time EPA received two comment letters from James Koslow, Air Pollution Control Officer of the Yolo-Solano Air Pollution Control District (APCD) dated July 18 and 19, 1983.

### Public Comments

The first letter dated July 18, 1983 reiterated many of the comments which were discussed in the notice of proposed rulemaking of June 24, 1983.

#### Comment 1

ARB adoption and subsequent submittal to EPA of Rules 3.4.1, "Standards for Granting Applications" and 3.4.2, "Conditional Approval" is opposed by Mr. Koslow because he feels they are not as effective as the original rules adopted by the District. In addition, Mr. Koslow opposes the deletion of two District provisions of "long standing".

#### EPA Response to Comment 1

This is a matter of difference between the Yolo-Solano APCD and the ARB which cannot be resolved by the EPA. EPA approves ARB submittals if they are in accordance with the Clean Air Act. In this case, Rules 3.4.1 and 3.4.2 meet all the necessary criteria for EPA approval.

#### Comment 2

Mr. Koslow is of the opinion that the ARB indexing system conflicts with the indexing system which was initially established by the District.

#### EPA Response to Comment 2

Here again, a change was made by the ARB which does not conflict with EPA's standards of approvability for the rules.

#### Comment 3

Mr. Koslow feels that "public interest and local prerogative would best be served by disapproving the rules based on no improvement to regulatory

requirement." It is recommended that the rules be withdrawn by ARB.

#### EPA Response to Comment 3

The ARB has not withdrawn the rules. Also, what Mr. Koslow perceives as no improvement to the regulatory requirement is interpreted as being such by the ARB.

The letter dated July 19, 1983 also reflects similar points raised previously

#### Comment 1

Mr. Koslow questions the validity of a statement which appears in the Federal Register notice of June 24, 1983 (48 FR 29012). It concerns the differing versions of the disputed rules which resulted after ARB review and subsequent submittal to EPA.

#### EPA Response to Comment 1

This statement is true when taken in context with the rest of the paragraph. The rules were initially adopted by the District, then submitted to EPA by the ARB. What the ARB submitted to EPA can as a matter of course differ from the District adopted rules.

#### Comment 2

Mr. Koslow reiterates his concern that the ARB changes involve not only indexing, but also wording and substance, which does "not benefit the control framework."

#### EPA Response to Comment 2

Although the substance of the rules might have been altered, the rules are still approvable and meet EPA standards.

#### Comment 3

Mr. Koslow questions the need for "technical corrections" of the rules by the ARB and disputes whether any of the technical aspects of the rules were improved. He also questions the validity of ARB's reasoning for amending District rules in order to improve consistency with other APCD's in the State.

#### EPA Response to Comment 3

Technical corrections or changes can result in various degrees of improvement or no improvement. If however, the resultant rule is evaluated using established EPA standards and the criteria are met, then the rule is approvable.

#### Comment 4

Mr. Koslow proposes that since EPA has approved the previous District rules and because they were used in the new rules, the District rules should be

retained and the ARB submit only minor revisions.

**EPA Response to Comment 4**

Normal procedure dictates that EPA approve the latest submittal for incorporation into the SIP.

**Comment 5**

Mr. Koslow suggests disapproving the ARB adopted rules because of a lack of improvement to existing regulatory provisions.

**EPA Response to Comment 5**

EPA has no valid reason for disapproving these rules because they meet all applicable criteria.

**Final Action**

Because no substantive deficiencies were found in the ARB rules and because these rules are consistent with the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 EPA, in accordance with the procedure described above, EPA is approving Yolo-Solano Rules 3.4.1 and 3.4.2.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP actions do not have a significant economic impact on a substantial number of small entities. The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

**List of Subjects in 40 CFR Part 52**

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

Authority: Section 110(a) and 301(a), Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Dated: November 7, 1983.

William D. Ruckelshaus,  
Administrator.

**Part 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**Subpart F—California**

1. In § 52.220, paragraph (c)(54)(iv)(C) is revised to read as follows:

**§ 52.220 Identification of plan.**

- (c) • • •
- (54) • • •
- (iv) • • •
- (C) New or amended Rule 3.13.

[FR Doc. 83-31273 Filed 11-21-83, 8:45 am]

**BILLING CODE 6560-50-M**

**40 CFR Part 52**

[FL-002; AD-FRL-2466-2]

**Approval and Promulgation of Implementation Plans Florida; Prevention of Significant Deterioration**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** On August 7, 1980 (45 FR 52676), EPA promulgated revised regulations for Prevention of Significant Air Quality Deterioration (PSD) and requirements for States to develop and submit revised regulations for PSD. The State of Florida developed and on December 23, 1981, submitted to EPA regulations substantially meeting all of EPA's requirements except one. In certain situations, the procedure which Florida uses to calculate increment consumption for the short-term standards can lead to lower estimates of increment consumption than the procedure which is used by EPA. Accordingly, EPA is today conditionally approving the PSD plan submitted by Florida to allow the State to demonstrate that its increment consumption determinations are consistent with PSD requirements.

**DATE:** This action is effective December 22, 1983.

**ADDRESSES:** Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit,  
Library Systems Branch,  
Environmental Protection Agency, 401  
M Street, SW., Washington, D.C.  
20460

Air Management Branch, EPA, Region  
IV, 345 Courtland Street, NE., Atlanta,  
Georgia 30365

Library, Office of the Federal Register,  
1100 L Street, NW., Room 8401,  
Washington, D.C. 20005

Florida Department of Environmental  
Regulation, Bureau of Air Quality  
Management, Twin Towers Office  
Building, 2600 Blair Stone Road,  
Tallahassee, Florida 32301.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. Barry Gilbert, Air Management

Branch, EPA Region IV at the above address and telephone number 404/881-3286 or FTS 257-3286.

**SUPPLEMENTARY INFORMATION:** On December 5, 1974, EPA published regulations for PSD under the 1970 version of the Clean Air Act. These regulations established a program for protecting areas with air quality cleaner than the national ambient air quality standards (NAAQS). The Clean Air Act Amendments of 1977 changed the 1970 act and EPA's regulations in many respects, particularly with regard to PSD. In addition to mandating certain immediately effective changes to EPA's PSD regulations, the new Clean Air Act, in sections 160-169, contains comprehensive new PSD requirements. These new requirements are to be incorporated by States into their implementation plans.

On June 19, 1978 (43 FR 26380), EPA promulgated regulations setting forth minimum requirements for SIP approval of State PSD regulations. On August 7, 1980 (45 FR 52676), EPA promulgated amended regulations containing such requirements.

The State of Florida, to comply with these requirements, adopted PSD regulations on June 10 and October 28, 1981. On December 23, 1981, the Florida Department of Environmental Regulation (FDER) submitted the following sections of 17-2, Florida Administrative Code (FAC): 100, 210, 220, 260, 270, 310, 400, 420, 430, 440, 450, 500, 520, and 630. On December 14, 1982 (47 FR 55964), EPA proposed to conditionally approve the Florida PSD plan. A thirty-day comment period was provided to the public.

Several provisions of the Florida submittal which had been identified as areas of concern by EPA have now been sufficiently clarified by FDER. Section 17-2.210(3) exempts certain sources from PSD permitting provision. Florida has assured EPA that all of the exempt sources are minor sources. EPA proposed to approve and is approving the exemption provisions based upon the State's assurance that the exemption will not allow major stationary sources to escape PSD review.

Section 17-2.100(39) stated in part, "'Commence Construction'—As applied to the construction or modification of a facility, means that the owner has all preconstruction permits and approvals required under Federal air pollution control laws and regulations which are part of the SIP or which are part of Chapter 17-2 to the extent that the provisions of this chapter specify conditions or requirements for obtaining a state construction permit for an air

pollution source . . . ." As written, the definition discusses permits required under Federal laws in the SIP but not permits required under Federal laws *not* in the SIP. The phrase ". . . and those air pollution control laws and regulations" was inadvertently omitted after "regulations". The definition should and now does read, "Commerce Construction—As applied to the construction or modification of a facility, means that the owner has all preconstruction permits and approvals required under federal air pollution control laws and regulations *and those air pollution control laws and regulations* which are part of the State Implementation Plan (SIP) or which are part of Chapter 17-2 to the extent that the provisions of this chapter specify conditions or requirements for obtaining a state construction permit for an air pollution source . . . ." FDER submitted an SIP revision on December 23, 1982, which made this correction.

In the revision of December 23, 1982, FDER also changed Rule 17-2.500, Table 500-3, PSD, De Minimis Ambient Impacts, to correct a technical error in the existing rule. This change makes it clear that the de minimis impact for nitrogen dioxide is based on an annual average concentration, rather than a 24-hour average as originally indicated in the table.

Florida's PSD program does not apply to sources locating on Indian lands or to permits previously issued by EPA. EPA will retain jurisdiction to issue PSD permits for sources locating on Indian lands and to enforce its previously issued permits.

The remaining area of concern is Section 17-2.100(18) of the Florida submittal which provides for FDER to establish both a baseline concentration and a total concentration by modelling, and then use the difference as the PSD increment consumption. For short-term averages, the baseline concentration is defined as the second-highest value predicted to occur at a point as a result of baseline sources; the difference between the second-highest concentration predicted to occur at the point as a result of all sources and the baseline concentration is defined as the increment consumption. EPA's procedure is to model all sources to verify maintenance of the standard, and model only increment-consuming sources to determine the increment consumption (43 FR 26400, June 19, 1978). Under present EPA policy, Florida's method of determining increment consumption is not consistent with the Clean Air Act and 40 CFR 51.24 with respect to determining

consumption of the short-term increments. This is due to the fact that under certain conditions, the predicted concentrations from increment-consuming sources can be higher than the differences between the concentration attributable to baseline sources alone and the one attributable to all sources. Florida believes that although this situation can occur, their approach is consistent with the Clean Air Act and EPA regulations (40 CFR 51.24).

Three comments were received during the comment period regarding the relationship between EPA and Florida's method of determining increment consumption. One commenter (Environmental Science and Engineering) first provides five example cases of how EPA and Florida methods would calculate increment. In four of the cases, EPA's method results in a higher value for increment consumption. In the other (first) case, the results are identical. The commenter then presents four conclusions drawn from the examples.

EPA agrees with the analysis of how increment is calculated in the five examples, but disagrees with the conclusions.

First, EPA does not ignore the existence of the baseline concentration, nor does it not use the baseline as a starting point. EPA's method recognizes and uses the baseline concentration just as does Florida's method. In order to use EPA's method, one must fix the baseline concentration in time by describing which emissions contribute to the baseline. Without this fixing of the baseline concentration, EPA's method could not be used.

Second, there is no reason to believe that EPA's method results in significantly different values for the majority of cases, as the commenter contends. Significantly different results occur only when a baseline source is located close to a PSD source. Further, as the emission points get very close together, such as two points in the same plant, the difference subsides. Therefore, only in a limited set of circumstances would the difference be significant.

In its third conclusion, the commenter states that the EPA method will often not account for increment expansion occurring after the baseline date (i.e., emission decreases). This is true only for cases where the emission decrease does not mitigate the effect of the emission increase with respect to air quality at a receptor under a given set of meteorological conditions. In these cases, it is not consistent with EPA's present policy to give such credit.

The last conclusion is that EPA's approach leads inevitably to a more stringent emission limit than Florida's approach. In fact, EPA's approach leads to an *equal or* more stringent limit. Usually, the limits would be identical.

The commenter then discusses the legislative and regulatory history of the definition of baseline concentration and increment consumption. As the commenter points out, the Preamble to the June 1978 PSD regulations stated: "The regulations promulgated today no longer suggest that the baseline concentration be formally established. The Administrator feels that increment consumption can best be tracked by tallying changes in the emissions due to new sources."

The August 1980 PSD regulations mention no changes to this procedure. The EPA PSD Workshop Manual, which was issued in October 1981 to assist in implementing the 1980 rules, confirms that the baseline concentration need not be established. Thus Florida's method of calculating increment consumption is not in accordance with present EPA policy. The remainder of this comment addresses previous EPA rules and proposals and the question of whether EPA's policy and rules are consistent with the Act. However, EPA's position is that present policy and regulations on this issue are consistent with the Act. EPA will reconsider these comments along with the DER's submittal to demonstrate compliance of its procedure with the Act. In the current approval, however, present EPA policy is not being changed. Since the Florida method is not consistent with EPA's present policy, Florida's approach can only be conditionally approved at this time.

Next, the commenter states that only two sources of guidance exist for calculating increment consumption—the PSD Workshop Manual and the Guideline on Air Quality Models. The commenter states that these two documents are vague, and do not clearly answer the question of whether the EPA or Florida method is correct.

The commenter failed to include the Preamble to the 1978 regulations. As discussed earlier, the Preamble clearly outlines EPA's method, which is inconsistent with Florida's method.

Since it is impossible to use Florida's procedure without knowing the baseline concentration, Florida's procedure is at variance with the guidance. Further, in the example described in the Workbook, it is clear that EPA's method is used.

With respect to the Guideline on Air Quality Models, the commenter describes how the Guideline would be followed if Florida's method of

calculating baseline is used. However, since EPA's method does not calculate the baseline, this discussion does not demonstrate whether Florida's method is correct.

Lastly, the commenter asserts that Florida's method more closely resembles measuring increment consumption through monitoring, which the commenter states is the ideal situation as intended by the Act. EPA's method is equally consistent with this ideal as Florida's method. If each receptor point could be monitored, either method could be used to calculate increment consumption. The measurement of the difference between two absolute values which vary with time and space (increments) is a different concept than the measurement of a single absolute value (NAAQS).

Another commenter (Florida Coordination Group) agrees with EPA's approval of the plan, but disagrees with the conditional approval. This commenter contends there is no basis for EPA's opinion that Florida's method of calculating increment is inconsistent with the Act or EPA regulations, and the requirement for dual permitting in the interim period is unduly burdensome. He asks EPA to unconditionally approve Florida's PSD rules.

The basis for EPA's concern about the consistency of Florida's approach with PSD requirements is set forth above. As noted, the conditional approval provides the State with the opportunity to allay this concern. As for the extra burden on applicants during this interim period, the situations requiring two permits are expected to be rare, as the commenter recognizes in his letter. In most cases EPA's and Florida's methods will give equal results.

Where multiple source interaction of plumes is occurring, dual modeling analyses could be required. The dual modeling would be required, in fact, to demonstrate that an EPA permit is not needed. EPA recognizes that this could be an extra burden on applicants; therefore, FDER has agreed to accept modeling using EPA's procedures in lieu of FDER's procedures. Until the FDER demonstrates that the Florida rule is consistent with the Act and EPA regulations, EPA cannot unconditionally approve the rule.

The commenter also points out that, where a new PSD source is being proposed in conjunction with a decrease at a baseline source, the Florida method would recognize an increment expansion, where EPA's method would not. This statement can be misleading. The situation described is treated no differently than any other source interaction. The EPA method does

recognize increment expansion. The only time the expanded increment would not help the new source to be accommodated is when the new source impacts a receptor on critical days when the existing source does not. EPA does not recognize this as increment expansion because the receptor does not benefit from the reduced emissions for the worst of the short term periods.

One commenter (National Park Service) asked EPA to confirm that the Florida rule employed a statewide baseline area, which the commenter supports in order to protect air quality in Everglades National Park. The Florida rule does essentially employ a statewide baseline area. The baseline date for the Everglades National Park is December 27, 1977, the same as the remainder of the attainment and unclassifiable areas in Florida.

*Action.* Based on the foregoing, EPA hereby conditionally approves the Florida submittal as satisfying the requirements of an acceptable plan for implementing PSD. EPA is retaining authority to issue PSD permits for sources on Indian lands and to enforce its previously issued PSD permits. The State has agreed to prepare and submit to EPA a report by December 14, 1983, showing why its approach for determining increment consumption is consistent with the law and regulations. After submission of the report to EPA, and after consideration of any additional comments regarding this matter, EPA will reexamine whether the Florida approach is consistent with the law and regulations. If the approach is deemed consistent, EPA will then fully approve their plan. If not, the DER has agreed to propose a change to its regulation to implement EPA's approach. In the interim, EPA conditionally approves the Florida PSD rules upon the condition that if a PSD source can be approved under Florida's rules, but would not be approved under EPA's rules, the source must obtain a PSD permit from EPA before beginning construction. This condition applies only to sources which would be disapproved by EPA solely because of the different methods of calculating increment consumption.

Although EPA is conditionally approving the Florida revision, it should be noted that certain portions of the revisions would require inclusion of vessel emissions in the review of certain stationary sources. In connection with EPA's recent amendments to SIP new source review requirements, 47 FR 27554, 27555-27556 (June 25, 1982), several members of the maritime industry raised the claim that states are implicitly preempted from requiring such

reviews by the Ports and Waterways Safety Act, as amended, 46 U.S.C. 391(a) *et seq.* EPA is currently considering these claims. Accordingly, a final decision on whether to approve the vessel emission provisions of the revised regulations is deferred until this issue is resolved. It should be noted, however, that any EPA decision on whether to approve these revisions, insofar as they apply to vessel emissions, will not affect the applicability of the rules for purposes of State law.

The definitions contained in Florida regulation 17-2.100 apply under State law to both Florida's PSD program and Florida's new source review program for nonattainment areas. EPA is conditionally approving regulation 17-2.100 only under Part C, Subpart 1, of Title I of the Clean Air Act as providing adequate definitions for an acceptable PSD plan. EPA is taking no action on the definitions under Part D of Title I of the Act. Although regulation 17-2.100 will be applicable to Florida's nonattainment new source review program under State law, the definitions will not be approved by EPA as satisfying the requirements of Part D. EPA is taking no action at this time on any of the recent amendments to Florida's nonattainment program. The new source review regulations approved by EPA on March 18, 1980 (45 FR 17140), will continue to be the approved Part D SIP for Florida.

This action is effective December 22, 1983.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA and any response are available for public inspection at the EPA Region IV office (see address above).

*Note.*—Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1982.

#### List of Subjects in 40 CFR Part 52

Air pollution control,  
Intergovernmental relations, Ozone,  
Sulfur oxides, Nitrogen dioxide, Lead,  
Particulate matter, Carbon monoxide,  
Hydrocarbons.

(Secs. 110 and 161 of the Clean Air Act (42 U.S.C. 7410 and 7471))

Dated: November 7, 1983.  
 William D. Ruckelshaus,  
 Administrator.

## PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

### Subpart L—Florida

1. In § 52.520, paragraph (c) is amended by adding paragraph (51) as follows:

#### § 52.520 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.

(51) Regulations for Prevention of Significant Deterioration, submitted on December 23, 1981, and December 23, 1982, by the Florida Department of Environmental Regulation. (No action is taken on the provisions for review involving vessel emissions or nonattainment areas.)

2. Section 52.530 is amended by revising paragraphs (a) and (b) and adding paragraph (d) to read as follows:

#### § 52.530 Significant deterioration of air quality.

(a) EPA approves the Florida Prevention of Significant Deterioration (PSD) rule on condition that the State submit to EPA by December 14, 1983, a demonstration that its method of calculating increment consumption is consistent with Federal law and regulations. After receipt of the submittal and consideration of additional comments, EPA will, if it finds the State's method to be consistent, fully approve the Florida plan. If not, the State will change its regulation to implement EPA's approach.

(b) Pending final full approval of the State's PSD plan by EPA, if a source's application can be approved under Florida's rules, but not under EPA's rules, solely because of the different methods of calculating increment consumption, the source must obtain a PSD permit from EPA before beginning construction.

(d) The requirements of Sections 160 through 165 of the CAA are not met since the Florida plan, as submitted, does not apply to certain sources. Therefore, the provisions of § 52.21(b) through (w) are hereby incorporated by reference and made a part of the Florida plan for:

(1) Sources proposing to locate on Indian reservations in Florida; and

(2) Permits issued by EPA prior to approval of the Florida PSD rule.

[FR Doc. 83-31353 Filed 11-21-83; 8:45 am]

BILLING CODE 6550-50-M

### 40 CFR Part 52

[EPA Docket No. (AWO34bPA) (AD-FRL 2474-3)]

### Commonwealth of Pennsylvania; Proposed Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** The Commonwealth of Pennsylvania has submitted a revision to its State Implementation Plan (SIP) to incorporate an alternative emission reduction plan or "bubble". Pennsylvania has requested that the plan be approved by EPA for the Fairless Works of the United States Steel Corporation (USSC) in Fairless Hills, Bucks County, Pennsylvania. This plan consists of a bubble permit and regulations which apply to sulfur dioxide emissions from the power boilers, coke oven batteries, open hearth furnaces, soaking pits, annealing furnaces, and other miscellaneous heat treating furnaces. The plan allows sulfur dioxide emissions from the coke ovens to exceed the currently applicable Pennsylvania SIP limitation. These higher sulfur dioxide emissions will be offset by burning low sulfur oil and natural gas in the other sources listed above. In support of this bubble, an air quality analysis was conducted in accordance with EPA's Emissions Trading Policy of April 7, 1982 (47 FR 15076). EPA has reviewed this analysis and has concluded that no significant air quality impacts will occur on an annual or short-term (24-hour) basis when this bubble is implemented. This bubble plan was proposed in the *Federal Register* on May 2, 1983 (48 FR 19748).

**EFFECTIVE DATE:** November 22, 1983.

**ADDRESSES:** Copies of the SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency,  
 Air Management Branch, 6th &  
 Walnut Streets, Curtis Building,  
 Philadelphia, PA 19106, ATTN: Mr.  
 David L. Arnold  
 Pennsylvania Department of  
 Environmental Resources, Bureau of  
 Air Quality Control, 200 North 3rd

Street, Harrisburg, PA 17120, ATTN:  
 Mr. Gary L. Triplett  
 Public Information Reference Unit,  
 Room 2922, EPA Library, U.S.  
 Environmental Protection Agency, 401  
 M Street, SW. (Waterside Mall),  
 Washington, D.C. 20460  
 Office of the Federal Register, 1100 L  
 Street, NW., Room 8401, Washington,  
 D.C. 20408

**FOR FURTHER INFORMATION CONTACT:**  
 Mr. David L. Arnold at the above  
 address, or at (215) 597-7936.

**SUPPLEMENTARY INFORMATION:** The changes to the Pennsylvania State Implementation Plan (SIP) were submitted by the Pennsylvania Department of Environmental Resources (PaDER) on July 7, 1983 and were proposed in the *Federal Register* on May 2, 1983 (48 FR 19748). The changes will allow the implementation of an alternative emission reduction plan (bubble) in accordance with EPA's Emission Trading Policy of April 7, 1982 (47 FR 15076). EPA and the PaDER processed this proposal concurrently. All written comments received by EPA during the 30-day comment period were considered in today's action.

The bubble being approved involves 96 sulfur dioxide (SO<sub>2</sub>) emission sources at the Fairless Works of the United States Steel Corporation (USSC). This plan consists of a bubble permit and regulations which apply to SO<sub>2</sub> emissions from five boilers, two coke oven batteries, nine open hearth furnaces, thirty-six soaking pit furnaces, thirty-one annealing furnaces, and thirteen miscellaneous heat treating furnaces. The plan will allow sulfur dioxide emissions from the coke ovens to exceed the currently applicable Pennsylvania SIP limitation. These higher sulfur dioxide emissions will be offset by burning low sulfur oil and natural gas in the other sources listed above. The Company estimates its savings in capital pollution control costs to be approximately \$15,000,000 as a result of implementing this plan.

The current Pennsylvania SIP (25 PA Code Section 123.21, 123.22(e)(3), and 123.23(b)) prohibits the combustion of coke oven gas that contains hydrogen sulfide in concentrations greater than 50 grains per 100 dry standard cubic feet; requires control of the boilers to a level of 0.6 pounds SO<sub>2</sub> per million Btu and the remaining sources in the bubble to a level of 500 ppm (vol) of SO<sub>2</sub>. The bubble regulations establish a short term plant emission limit of 0.8 pounds SO<sub>2</sub> per million Btu applied on a weekly basis. To restrict extreme variations in daily emission levels, the emission limit

is calculated using a rolling average. Using the rolling average method, one day's emissions are included in the calculation for compliance seven times instead of once. This technique is also applied to the long term emission limit which is set at 0.6 pounds SO<sub>2</sub> per million Btu (52 week rolling average). In addition, to prevent daily emission levels from increasing because of production increases, a maximum overall limit of 54,000 pounds SO<sub>2</sub> per day is also contained in the State regulation. This emission limit is 46% lower than the facility's maximum actual emissions and 75% lower than the facility's allowable emissions.

The PaDER has also established separate emission limits for the plant during times of economic slowdown or lower production. Based upon historical operating data, a total facility heat demand of less than 400 billion Btu per week has been used to define low production activity. During these periods, the PaDER established an emission limit of 0.9 pounds SO<sub>2</sub> per million Btu based on a seven-day rolling average. To prevent daily emission levels from increasing during low production, a maximum overall limit of 36,000 pounds SO<sub>2</sub> per day is also listed in the regulations. This limit is 18,000 lbs./day less than what is allowed to be emitted during normal operations.

Table 1 below lists the sources involved in the emissions trade and summarizes the hourly SO<sub>2</sub> emission rates for each under the base case and the alternate case. The base case emission rates were developed using historical operating data and represent the facility's maximum actual emissions of sulfur dioxide. (Exception: the emission rates listed in Table 1 for the boilers and coke batteries reflect SIP allowable rates since actual emissions were greater than allowable emissions). The alternate case emission rates were derived from the daily pounds of SO<sub>2</sub> limitation (54,000 lbs./day) and represent the worse case emissions configuration at the facility.

TABLE I.—SULFUR DIOXIDE EMISSIONS FROM USSC—FAIRLESS WORKS IN POUNDS PER HOUR

Facility (No. of Units)	Base case	Alternate case
Boilers (5)	1,125	442
Coke Batteries (2)	125	780
Open Hearth Shop (9)	539	308
No. 1 Soaking Pits (20)	372	112
No. 2 Soaking Pits (16)	220	67
80° Reheat (4)	978	350
40° Reheat (2)	125	63
10° Reheat (1)	84	25
Batch Anneal Furnaces (30)	175	53
Skelp Reheat (1)	140	49
Weld Furnaces (2)	300	91

TABLE I.—SULFUR DIOXIDE EMISSIONS FROM USSC—FAIRLESS WORKS IN POUNDS PER HOUR—Continued

Facility (No. of Units)	Base case	Alternate case
Galvanize Furnace (1)	12	4
Total	4,195	2,344

In accordance with EPA's Emissions Trading Policy and modeling guidelines, a Level II air quality analysis was conducted by USSC to support the bubble plan. A Level II analysis is required when the proposed emissions trade will result in no net increase in baseline emissions and the relevant sources are *not* in the same immediate vicinity. Air dispersion modeling analyses were conducted using the bubble emission rates and the base case emission rates (Table 1). The Company used the PTMAX model to establish appropriate grid boundaries. The ISC long term and short term models were then used to evaluate ambient in the surrounding area of the plant. The predicted highest 24-hour concentration of SO<sub>2</sub> due entirely to emissions from the coke-battery stacks (increasing sources) was 13.1 micrograms per cubic meter. When considering the effect of the decreasing sources in the emissions trade, the highest predicted 24-hour concentration was reduced to 7.9 micrograms per cubic meter. An evaluation of annual concentrations was also conducted. An improvement in air quality was found at every receptor point. Based upon the results of the above analyses, EPA has concluded that no significant increase in air quality impact will occur on either an annual or short-term (24-hour) basis. In addition, EPA has concluded that the PSD increment for SO<sub>2</sub> will not be violated as a result of this action.

The regulation implementing this plan will become Section 128.15 of the PaDER Air Resources Regulations. Subsection (a) of the Section identifies the sources affected by this plan.

Subsection (b) and (c) prohibits sulfur dioxide emissions from the identified sources in the bubble in excess of the specified emission limits. Subsection (d) prohibits the use of residual fuel oil which contains sulfur in excess of 0.5% (wt). Subsection (e) prohibits the charging of the coke ovens with blended coal containing sulfur in excess of 1.0% (wt). Subsection (f) relieves USSC from compliance with Section 123.21, 123.22 and 123.23 when in compliance with this Section. Subsection (g) voids the bubble if one or more of the sources identified in subsection (a) is permanently shut down. Finally, subsection (h) renders

Section 128.15 null and void on December 31, 1985, unless reenacted.

In order for the PaDER to determine compliance with these regulations, monitoring, recordkeeping and reporting requirements have been developed as conditions in the operating permit. USSC will be required to monitor and record all natural gas, fuel oil and coke oven gas usage on a daily basis. In addition, the company must analyze all fuel oils for sulfur and heat content; blended coal for sulfur content; and coke oven gas for hydrogen sulfide content on a daily basis. The above analyses must be conducted in accordance with approved State/EPA methods. All daily and weekly sulfur dioxide emission calculations must be performed in accordance with the instructions prescribed in the State operating permit.

Two changes were made to this bubble plan during the comment period. The list of sources contained in subsection (a) of § 128.15 was shortened. Rather than listing each individual furnace and number, similar furnaces have been grouped together under descriptions such as annealing furnaces; weld furnaces; etc. The individual listing of all emission points did not provide any additional enforcement capability and only resulted in a cumbersome regulation. The second change was the addition of subsection (h), which renders Section 128.15 null and void on December 31, 1985, unless reenacted. EPA has reviewed the above changes and has determined that they do not affect the approvability of this bubble.

#### Public Comments

The bubble plan being approved today was proposed in the *Federal Register* on May 2, 1983 (48 FR 19748). During the 30-day public comment period followed, one written comment from Conoco, Inc. was received supporting this action. EPA also received a written comment from the State of New Jersey. New Jersey's comments and EPA's responses follow:

*Comment:* A lower average emission level would be attained using a 0.5% sulfur in fuel limit rather than a 0.6 lb./MMBtu emission limit.

*Response:* The bubble regulations do impose a 0.5% sulfur in fuel limitation under Section 128.15(d). This is a requirement that was not contained in the previously applicable Pennsylvania SIP regulations (see paragraph no. 3 under Supplementary Information).

*Comment:* The yearly average emissions could be as high as 0.9 lb./MMBtu if the plant operates at a reduced level.

**Response:** EPA agrees with the above comment. However, during times of low production, overall emissions will be limited to 36000 lbs./day. Thus, during periods of low production, overall emissions will be 33% lower than during normal operations.

**Comment:** The PaDER has stated the actual three year emission average for the plant was 0.568 lb./MMBtu. Therefore, there may be no decrease in SO<sub>2</sub> levels if the 0.6 lb./MMBtu limit is adopted.

**Response:** EPA agrees that the production based limit of 0.6 lb./MMBtu is essentially equivalent to the three year average emission rate. However, by also imposing a daily pounds of SO<sub>2</sub> limitation, this will result in a decrease in SO<sub>2</sub> compared to the facility's maximum actual emissions.

**Comment:** Emission reduction credit is obtained by burning 0.5% sulfur fuel in the power plant instead of 2.5% sulfur fuel. Since 0.5% sulfur oil is the emission standard, there should be no credit for burning such fuel. 2.5% sulfur oil is not permitted.

**Response:** The 0.5% sulfur in fuel limitation contained in the existing Pennsylvania regulations does not apply to the power boilers. The boilers are exempt from this rule because they fire non-commercial fuels such as coke oven gas or blast furnace gas (in addition to oil) whose heat value exceeds 50% of the heat input. In this case, 25 PA. Code Section 123.22(e)(3) established a limitation of 0.6 lb./MMBtu. Historically, the power boilers could burn a fuel oil of 2.5% sulfur and comply with the 0.6 lb. SO<sub>2</sub>/MMBtu emission standard. Therefore, burning 0.5% sulfur oil will result in reducing SO<sub>2</sub> emissions.

**Comment:** Allowing the emission rate to increase with reduced production levels without defining "permanent shutdown" which would make the bubble null and void appears to give bubble credit for shutdowns.

**Response:** Pennsylvania defines "permanent shutdown" as a source which has been out of operation or production for a period of one year or more. Reactivation of such a source is prohibited unless the company receives approval by the PaDER and is issued a permit to operate. This requirement is contained in 25 PA. Code Section 127.11. In addition, the bubble regulation includes a sunset date of December, 1985. At this time, the PaDER must review the bubble regulation to assess its effectiveness and impact on air quality.

#### EPA Action

EPA is today approving this bubble plan as a SIP revision since it has met

the requirements of the April 7, 1982 Emissions Trading Policy (47 FR 15076). In addition, 40 CFR 52.2020 (Identification of Plan) is amended to reflect the inclusion of this bubble plan in the State Implementation plan for Pennsylvania.

The Office of Management and Budget has exempted this rule from requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b) the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981).

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceeding to enforce its requirements. (See 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Authority: 42 U.S.C. 7401-7842.

Dated: November 15, 1983.

William D. Ruckelshaus,  
Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Pennsylvania was approved by the Director of the Federal Register on July 1, 1982.

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Part 52, Subpart NN of the Code of Federal Regulations is amended as follows:

##### Subpart NN—Pennsylvania

###### § 52.2020 [Amended]

In § 52.2020 *Identification of plan*, (c)(55) is added to read as follows:

(c) The plan revision listed below was submitted on the date specified . . .

(55) Regulations and supporting documents implementing an SO<sub>2</sub> bubble plan for U.S. Steel Corporation's Fairless Works in Fairless Hills, PA was submitted by the Secretary of the Pennsylvania Department of Environmental Resources on July 7, 1983.

[FR Doc. 83-31238 Filed 11-21-83; 8:45 am]

BILLING CODE 8560-50-M

#### 40 CFR Part 265

[SW-FRL 2448-2]

#### Hazardous Waste Management System: Interim Status Standards for Owners and Operators of Hazardous Waste, Treatment, Storage and Disposal Facilities

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final amendment.

**SUMMARY:** The Environmental Protection Agency (EPA) is today amending the regulations for hazardous waste management under the Resource Conservation and Recovery Act to clarify the scope and applicability of the interim status standards to hazardous waste management facilities. It is amending the provision that explains who is subject to the interim status regulations to clarify that these regulations apply to all hazardous waste management facilities in existence on November 19, 1980, including those facilities which have failed to qualify fully for interim status.

**EFFECTIVE DATE:** December 22, 1983.

#### FOR FURTHER INFORMATION CONTACT:

The RCRA Hotline at (800) 424-9346, or in Washington, D.C., 382-3000; or Deborah Wolpe, Office of Solid Waste, U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2222.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

EPA has promulgated regulations implementing Subtitle C of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6901 *et seq.*, establishing a comprehensive program for the handling and management of hazardous waste (40 CFR Parts 260-265, 270, 271, 124). The regulations, among other things, require facilities which treat, store, or dispose of hazardous waste to obtain a permit from EPA or an authorized state<sup>1</sup> and require that hazardous wastes be designated for, delivered to, and treated, stored, or disposed or only in these permitted facilities.

Recognizing that EPA would be able to issue permits to all hazardous waste management (HWM) facilities at once, Section 3005(e) of RCRA provides that a hazardous waste management facility

<sup>1</sup> Section 3006 of RCRA provides that the Administrator of EPA shall authorize state hazardous waste management programs which meet minimum EPA guidelines to operate in their states in lieu of the Federal program. See 40 CFR Part 271, Subpart A and B.

that meets certain requirements will be treated as having been issued a permit until final administrative action is taken on its permit application. This statutory authorization to operate a HWM facility between the effective date of the Subtitle C program (November 19, 1980) and the issuance or denial of a final permit is known as "interim status". Facilities operating under interim status are subject only to the operating standards in 40 CFR Part 265, which are known as the "interim status standards". These standards do not contain the full set of technical design and operating standards contained in 40 CFR Part 264, the standards to be used when issuing permits to such facilities.

Interim status is conferred directly by Section 3005(e) upon a person who:

(1) Owns or operates a facility which is required to have a permit under Section 3005 and is in existence on November 19, 1980;

(2) Has complied with the requirements of Section 3010(a) of RCRA, regarding notification of hazardous waste activity; and,

(3) Has made an application for a permit, under Section 3005 of RCRA. Interim status cannot be granted or conferred by EPA. Therefore, if an owner or operator of a facility failed to meet one or more of the statutory requirements for interim status, EPA cannot, under a literal construction of Section 3005(e) consider the facility as having achieved interim status. Any person treating, storing or disposing of hazardous waste without a permit or without having achieved interim status may be ordered by the Agency to cease that operation and may be subject to civil penalties and/or subject to fine and imprisonment.

As EPA indicated in a Federal Register notice on November 19, 1980 (45 FR 76630), such a literal construction of Section 3005(e) may have the effect of preventing owners or operators of certain well-managed facilities from qualifying for interim status and require that they cease operations until such time as they receive a RCRA permit. Accordingly, the Agency has adopted a policy that allows certain facilities in existence on November 19, 1980, that have failed to achieve interim status to continue operation if continued operation is in the public interest, and the facility owner or operator complies with the appropriate RCRA performance standards. See 45 FR 76630-36 (November 19, 1980). Under this policy, EPA may, by compliance order issued under Section 3008 of RCRA, extend the date by which the owner or operator of an existing facility may submit Part A of its permit application, thereby allowing

the facility to obtain interim status, if that is the only requirement for interim status that the facility fails to meet. See 40 CFR 270.10(e)(3). An existing facility which has failed to notify as required by Section 3010(a) of RCRA, however, can never achieve interim status but may be allowed to continue operation through the issuance of either a compliance order under Section 3008 or an Interim Status Compliance Letter (ISCL). See 45 FR 76630-36 (November 19, 1980). As a part of this enforcement policy EPA will require facilities operating under compliance orders or ISCL's to comply with appropriate management practices as a condition of continued operation. It has been EPA policy that existing facilities operating without interim status or a permit should, at a minimum, comply with the Part 265 interim status standards.

## II. Amendment to and Clarification of Application of Interim Status Regulations

Section 3004 of RCRA requires EPA to promulgate performance standards which apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes. These Section 3004 standards are independently enforceable national standards which are separable from the Section 3005 permitting requirements. See 45 FR 33158 (May 19, 1980).

EPA promulgated both the Part 264 general permitting standards and the Part 265 interim status standards under the authority of Section 3004. EPA has, by regulation, limited the requirements for facilities with interim status to those found in 40 CFR Part 265. See 40 CFR 270.71(b). The language of 40 CFR 265.1(b), which defines the general application of the interim status standards provides that "[t]he standards in this Part apply to owners and operators of facilities which treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status . . .". This regulatory language has created some uncertainty as to whether the Part 265 standards apply to existing facilities which have failed to qualify for interim status. EPA believes that this language does not preclude application of the interim status standards to non-interim status facilities given that § 265.1(b) does not expressly limit the application of the Part 265 standards to only interim status facilities. Therefore, EPA has both the statutory and regulatory authority to apply either the Part 264 general permitting standards or the Part 265 interim status standards to existing facilities which have failed to qualify for interim status.

As indicated above, EPA has announced its intent to exercise prosecutorial discretion where appropriate to allow continued operation of existing facilities that did not qualify for interim status if such facilities complied with applicable EPA Part 265 regulations.

The interim status regulations, for the most part, consist of general administrative and non-technical operating standards. These standards were designed to be self-implementing, without need for substantial interpretation by, or negotiation with, EPA. These same considerations suggest that the Part 265 regulations are the most appropriate standards to apply to all existing unpermitted facilities, including those facilities which have failed to qualify for interim status. EPA also believes that, in order to ensure consistent application of the RCRA regulations, the Agency should apply the same set of RCRA performance standards to all existing unpermitted facilities.

As stated above, EPA believes that it has authority to apply the Part 265 standards to these facilities that have not fully qualified for interim status. However, to avoid any possible confusion on this point, EPA is today amending 40 CFR 265.1(b) in order to provide clear notice to owners or operators of existing facilities without interim status or a permit that they must comply with the Part 265 regulations until such time as final administrative disposition of their permit application is made.

## III. Comments

The Agency received five comments on the proposed amendment which was published in the *Federal Register* on January 19, 1983, at 48 FR 2514. Two of the comments favored the proposed amendment; two opposed the change and one suggested conditions for the change.

The comments opposing the proposed amendment focussed on the language in the preamble that certain existing facilities not meeting the technical requirements of interim status be allowed to continue operation "if continued operation is in the public interest". The commenters are objecting to the potential broad application of this policy. One comment suggested limiting the policy to facilities which could demonstrate certain findings, such as good cause for failure to provide timely notification.

These comments are directed to EPA's exercise of its enforcement policy, and not at the regulatory changes.

promulgated today. Today's amendments simply explain that those facilities without interim status can be sued for violation of Part 264 or 265. EPA intends to exercise its enforcement policy of allowing facilities to continue if continued operation is in the public interest very carefully. Although the policy appears to have broad implications, it will be administered quite narrowly. Certainly EPA will consider such factors as good cause for failure to notify in deciding whether to apply the policy to particular facilities.

EPA proposed the amendment promulgated today to clarify that HWM facilities failing to achieve interim status do not thereby escape liability under Part 265. The Agency may still enforce against facilities which are operating improperly by ordering them either administratively or judicially, to cease operations.

#### IV. Regulatory Impacts

##### A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis (RIA). A major rule is one which results in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices to industry, consumers, Federal, State or local government agencies or geographic regions; or (3) causes significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Agency does not anticipate that today's amendment will have any of the effects which characterize a rule as "major" under the Executive Order. It merely clarifies how the existing regulations apply to existing facilities which have failed to achieve interim status.

This amendment was submitted to the Office of Management and Budget as required by Executive Order 12291. Any comments from OMB and any EPA response to those comments are available at the Office of Solid Waste Docket, Room S-212, U.S. EPA, Washington, D.C. 20460.

##### B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must estimate the paperwork burden created by any information collection requests in a proposed or final rule. Because there would be no information collection activities created by this

amendment, the requirements of the Paperwork Reduction Act do not apply.

##### C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency is required to publish 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 proposed or final rule on small entities (i.e., small businesses, small organizations, and small governmental entities). The Administrator may certify, however, that the rule will not have a significant impact on a substantial number of small entities.

This amendment will generally have no economic impact on small entities. It merely clarifies already existing responsibilities. Accordingly, I hereby certify that this regulation would not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

##### V. List of Subjects in 40 CFR Part 265

Hazardous materials, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

Dated: November 15, 1983.

William D. Ruckelshaus,  
Administrator.

##### PART 265—[AMENDED]

Title 40 of the Code of Federal Regulations is amended as follows:

1. The Authority for Part 265 reads as follows:

Authority: Secs. 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended (42 U.S.C. 6905, 6912, and 6924).

2. Section 265.1(b) is revised to read as follows:

##### § 265.1 Purpose, scope and applicability.

(b) The standards in this Part apply to owners and operators of facilities which treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status under Section 3005(e) of RCRA and § 270.10 of this Chapter, until final administrative disposition of their permit application is made, and to those owners and operators of facilities in existence on November 19, 1980, who have failed to provide timely notification as required by Section 3010(a) of RCRA, and/or failed to file Part A of the Permit

Application as required by 40 CFR § 270.10 (e) and (g). These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after the effective date of these regulations, except as specifically provided otherwise in this Part or Part 261 of this Chapter. [Comment: As stated in Section 3005(a) of RCRA, after the effective date of regulations under that Section, i.e., Parts 270 and 124 of this Chapter, the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility which meets certain conditions until final administrative disposition of the owner's and operator's permit application is made.]

[FIR Doc. 83-31352 Filed 11-21-83; 8:45 am]

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#### 40 CFR Part 271

[ISW-3-FRL 2475-2]

##### District of Columbia; Phase I and II, Components A and B, Interim Authorization of the State Hazardous Waste Management program

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

**SUMMARY:** Pursuant to the Resource Conservation and Recovery Act of 1976 (RCRA) provisions, the District of Columbia has applied for Interim Authorization Phase I and Phase II, Components A and B. The Environmental Protection Agency (EPA) has reviewed the District's application for Phases I and II, Components A and B, Interim Authorization, and has determined that the District's hazardous waste program is substantially equivalent to the Federal program covered by Phases I and II, Components A and B.

The District of Columbia is hereby granted Interim Authorization for Phases I and II, Components A and B to operate the District's hazardous waste program in lieu of the Federal program.

**EFFECTIVE DATE:** November 22, 1983.

**FOR FURTHER INFORMATION CONTACT:** Anthony J. Donatoni, Chief, State Programs Section, Waste Management Branch, U.S. EPA Region III, 6th and Walnut Streets, Philadelphia, PA 19106 (215) 597-7937.

**SUPPLEMENTARY INFORMATION:****Background**

In the May 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA) as amended, to protect human health and the environment from improper management of hazardous waste. Included in these regulations, which became effective November 19, 1980, were provisions for a transitional stage in which States would be granted interim program authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program has taken effect. Phase I of the Federal program, published in the May 19, 1980 **Federal Register** (45 FR 33063), includes regulations pertaining to the identification and listing of hazardous wastes; standards applicable to generators and transporters of hazardous waste, including a manifest system; the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

In the January 26, 1981 **Federal Register** (26 FR 7965), the Environmental Protection Agency announced the availability of portions of the second phase of Interim Authorization. Phase II of the Federal Program includes permitting procedures and standards for hazardous waste management facilities. EPA made the second phase of Interim Authorization available in components, in order to authorize State programs as expeditiously as possible and because some of the standards for hazardous waste treatment, storage, and disposal facilities (40 CFR Part 264) have been promulgated at different times. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments, and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting surface impoundments, waste piles, land treatment facilities and landfills. These Component C standards for permitting surface impoundments and waste piles superseded the Component A standards for permitting storage and treatment in surface impoundments and waste piles published on January 12, 1981. The District of Columbia applied for Phase I and Phase II, Components A and B,

Interim Authorization which would enable them to permit storage and treatment in containers and tanks and to permit hazardous waste incinerators in lieu of the Federal program.

On August 10, 1983, EPA published a notice in the **Federal Register** inviting the public to comment on the District's application for Interim Authorization, Phases I and II, Components A and B, at a public hearing on September 13, 1983. This notice also invited the public to submit written comments on the District's application to Region III by September 20, 1983. Notice was also given in the *Washington Post* and was mailed to persons on both the District and EPA mailing lists.

**Discussion**

The District of Columbia submitted an application for Phase I and Phase II, Components A and B, Interim Authorization on July 18, 1983. The application addressed all of the Federal requirements in 40 CFR Part 271, Subpart B, necessary for Interim Authorization for Phase I and Phase II, Components A and B and was deemed a complete application on July 25, 1983. Minor issues requiring clarification by the District were identified in the review of the complete application. The District of Columbia has adequately addressed these minor issues. The District's program is substantially equivalent to the Federal program.

**Responsiveness Summary**

Region III held the public hearing on the District's application for Phase I and Phase II, Components A and B, Interim Authorization, in Washington, D.C., at EPA Headquarters. Two (2) members of the public attended in addition to Region III and District agency representatives. One presentation was made by the president of a small hazardous waste management firm who commended the District for pursuing delegation of the hazardous waste program. The public comment period closed on September 20, 1983. EPA did receive one comment on September 26, 1983. Although the comment was received late EPA has chosen to include the comment as part of the public participation process.

**Response**

The one commentator felt that a one-year hazardous waste permit in the District will be a significant burden to the regulated community and it will discourage the long-term construction of land treatment and land disposal facilities. EPA views a one-year permit as being more stringent than the Federal program. A state's program may be more

stringent than the Federal program and, therefore, EPA considers the District's program to be substantially equivalent to the Federal program. The District realizes the burden associated with a one-year permit and is planning to make a legislative change that will increase the permit life to ten years. In regard to the commentator's concern that the District's one-year permit will discourage land treatment and land disposal, it is EPA's belief that the District is planning to ban from operation all land treatment and land disposal facilities. The District did not yet apply for Component C which includes land disposal and, therefore, comments regarding land disposal will not be considered for this application. All comments in regard to the District's intentions regarding land disposal should be directed to the District.

**Decision**

I have determined that the District of Columbia's program is substantially equivalent to the Federal program for Phase I and Phase II, Components A and B, Interim Authorization, as defined in 40 CFR Part 271, Subpart B (formerly 40 CFR Part 123, Subpart F). In accordance with Section 3006(c) of RCRA, the District of Columbia is hereby granted Interim Authorization to operate its hazardous waste program in lieu of Phase I and Phase II, Components A and B of the Federal hazardous waste program.

**Authority**

This notice is issued under the authority of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 and Solid Waste Disposal Act Amendments of 1980, 42 U.S.C. 6901 et seq.

**Compliance With Executive Order 12291**

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

**Certification Under the Regulatory Flexibility Act**

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the District's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the District. It does not impose any new burdens on small entities. This rule,

therefore, does not require a regulatory flexibility analysis.

#### List of Subjects in 40 CFR Part 271

Hazardous materials, reporting and recordkeeping requirements, Waste supply, Intergovernmental relations, Penalties, Confidential business information.

Thomas P. Eichler,  
Regional Administrator.

[FR Doc. 83-31351 Filed 11-21-83; 8:45 am]  
BILLING CODE 6560-50-M

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

#### 44 CFR Part 64

[Docket No. FEMA 6572]

#### List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; Virginia

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule, deletion.

**SUMMARY:** This document will delete Accomack County, Va. from a final rule, List of Communities Eligible for the Sale of Insurance under the National Flood Insurance Program (NFIP), published July 1, 1983, 48 FR 30386.

Due to the rescindment of the final determination for Accomack County, Virginia, the six months compliance period scheduled to end May 16, 1983 was cancelled. In addition, the proof copies of the Flood Insurance Study and Flood Insurance Rate Map did not become effective on May 16, 1983.

These actions make Accomack County ineligible to participate in the regular program. Inadvertently, the community was enrolled in the regular phase of the NFIP. Effective November 14, 1983, FEMA has withdrawn the community's eligibility to participate in the regular program; however, Accomack County's eligibility to participate in the emergency program has been reestablished effective November 14, 1983.

**EFFECTIVE DATE:** November 14, 1983.

**FOR FURTHER INFORMATION CONTACT:** Richard W. Krimm, Assistant Associate Director, Office of Natural and Technological Hazards Programs, (202) 287-0176, 500 C Street, Southwest, FEMA—Room 506, Washington, D.C. 20472.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: November 7, 1983.

Dave McLoughlin,

*Deputy Associate Director, State and Local Programs and Support.*

[FR Doc. 83-31323 Filed 11-21-83; 8:45 am]

BILLING CODE 6718-03-M

19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: November 15, 1983.

Dave McLoughlin,

*Deputy Associate Director, State and Local Programs and Support.*

[FR Doc. 83-31324 Filed 11-21-83; 8:45 am]

BILLING CODE 6718-03-M

#### 44 CFR Part 67

#### National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** Dr. Brian R. Mrazik, Chief, Engineering Branch, National Flood Insurance Program, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287-0230.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the *Federal Register* for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 [Pub. L. 90-448]), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a

substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

#### List of Subjects in 44 CFR Part 67

##### Flood insurance, Flood plains.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the

address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

State	City, town, and county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	City of Pine Bluff, Jefferson County (FEMA-6546)	Brumby Bayou Bayou Bartholomew	Just upstream of Apple Street Approximately 3,000 feet downstream of Hazel Street	*233 *208
Maps available for inspection at Zoning Administration Office or the Environmental Planner Office, City Hall, 200 East Eighth Avenue, Pine Bluff, Arkansas 71601.				
California	Imperial County (unincorporated areas) (FEMA-6539)	Alamo River Myer Creek Arroyo Salada Colorado River Salton Sea	125 feet upstream from center of Zenos Road Intersection of Mesquite Road and Seminole Avenue 150 feet downstream from center of State Route 86 Arnold Road at R23W/R22W line in Township 85 Intersection of Barbara Drive and Eddie Avenue in Salton Sea Beach	*-52 *380 *-141 *-144 *-226
Maps available for inspection at Department of Planning, Imperial County Courthouse, El Centro, California 92243.				
California	Larkspur (city) Marin County (FEMA-6539)	San Francisco Bay Costa Madera Creek	At the intersection of Midway Road and Liberty Street At the intersection of Creek and the Upstream corporate limit.	* 6 * 7
Maps available for inspection at City Manager's Office, 400 Magnolia Avenue, Larkspur, California.				
California	Monterey County (unincorporated areas) (FEMA-6527)	Arroyo Del Ray Arroyo Seco Calera Creek Carmel River Castroville Boulevard Wash Cimarron Canyon Creek El Toro Creek Elkhorn Slough Gabilan Creek Natividad Creek Pajaro River Pajaro River—Without Consideration of Levee Pine Canyon Creek Reclamation Ditch Salinas River Salinas River (Near King City) Salinas River (Near San Ardo) San Lorenzo Creek San Miguel Canyon Creek Santa Rita Creek Temblierado Slough Thomasello Creek Carr Lake Pacific Ocean	80 feet upstream from center of Blue Lakespur Lane 40 feet upstream from center of Miller's Ranch Road dip crossing 50 feet upstream from center of Robley Road 50 feet upstream from center of State Highway 1 50 feet upstream from center of Boronda Road 10 feet upstream from center of Ormant Road 25 feet upstream from center of Garin Road 50 feet upstream from center of State Highway 68 50 feet upstream from center of San Miguel Canyon Road 25 feet downstream from center of Natividad Road 50 feet downstream from center of Sherwood Lane 50 feet upstream from center of State Highway 1 At the intersection of Trafton Road and McGowan Road 50 feet upstream from center of Jolon Road 50 feet upstream from center of Boronda Road At the intersection of Nashua Road and Cooper Road 50 feet upstream from center of U.S. Highway 101 Southbound 250 feet downstream from center of Cattlemen Road 50 feet upstream from center of 1st Street At the intersection of Reese Circle and Cross Road At the intersection of Paul Avenue and Rogge Road At the intersection of Preston Road and Salinas Street A point 100 feet northwest of intersection of creek and road on Pajaro River levee Confluence of Gabilan Creek, Natividad Creek, and Reclamation Ditch At the intersection of Elkhorn Slough and center of State Highway 1.	*229 *617 *402 *27 *233 *26 *44 *225 *32 *139 *56 *27 *14 *309 *38 *25 *291 *415 *323 *26 *123 *12 *45 *44 *6
Maps available for inspection at Monterey Flood Control and Water Conservation District, 855 E. Laurel Drive, Salinas, California.				
Colorado	Delta County (unincorporated areas) (FEMA-6526)	Gunnison River and river North Fork Gunnison River Uncompahgre River Minnesota Creek Surface Creek	At the intersection of G-50 Road 50 feet upstream of State Highway 92 At the intersection of 3400 Road and river 100 feet downstream of State Highway 187 100 feet upstream of 1500 Road At the intersection of B Road and river At the intersection of 4110 Drive and creek 10 feet upstream of 2305 Drive	*4,896 5,007 *5,293 *5,635 *5,017 *5,143 *5,672 *6,002
Maps available for inspection at the Planning Department, 5th & Palmer, Delta, Colorado.				
Connecticut	Stratford, town, Fairfield County (FEMA-6535)	Long Island Sound	Western corporate limits to Jefferson Street Jefferson Street to Stratford Point Stratford Point to Crimbo Point Fifth Avenue extended York Street extended Short Beach Road extended Homestead Avenue extended	*15 *16 *15 *15 *16 *15 *13
Maps available for inspection at the Office of the Commissioner of Buildings, Stratford, Connecticut.				
Florida	Manatee County (unincorporated areas) (FEMA-6535)	Manatee River	Center of intersection of Gates Creek Road and Upper Manatee River Road	*10

State	City, town, and county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Bradon River	At the intersection of Linger Lodge Road and Bradon River Road.	*9
		Gamble Creek	125 feet south from the center of intersection of Jim Davis Road and Golf Course Road.	*18
		Mill Creek	Center of Upper Manatee River Road crossing.	*12
		Bowles Creek	Center of intersection of Danny Drive and Magellan Drive.	*16
		Frog Creek	80 feet upstream from the center of U.S. Highway 41.	*10
		Little Manatee River	At the northeastern crossing of the county limit and the stream.	*32
		Myakka River	Center of State Highway 70 crossing.	*39
		Gulf of Mexico	150 feet west from the center of intersection of Vacanti Street and State Highway 789.	*15
		Tampa Bay	150 feet west from the center of intersection of 3rd Avenue and 36th Street.	*14
			Center of U.S. Highway 19.	*14
			At the center of intersection of Flamingo Road and Spoonbill Road West.	*13
			150 feet west from the center of intersection of 45th Street and 8th Avenue Boulevard West.	*12
			At the center of intersection of Bayshore Drive and Horseshoe Loop Road.	*11
			At the center of intersection of Tarpon Road and Dolphin Lane.	*10
			At the center of intersection of Seaboard Coast Line Railroad and Armstrong Road.	*9
			At the center of intersection of 50th Street N.W. and Riverview Boulevard N.W.	*8
		Sarasota Bay	80 feet west from the center of intersection of Somerset Avenue and Longbay Boulevard.	*18
			170 southwest from the center of intersection of Bay Drive and Smith Avenue.	*17
			At the center of intersection of 22nd Street and Bay Drive.	*16
			At the center of intersection of Westmoreland Drive and Gaines Avenue.	*15
			At the center of intersection of Pearl Avenue and Broughton Drive.	*14
			At the center of intersection of Smith Avenue and Auburn Avenue.	*13
			At the center of intersection of 34th Street West and Bayshore Gardens Parkway.	*12
			At the center of intersection of 8th Street and Cortez Road.	*11
			550 feet southeast from the center of intersection of 7th Street North and Vacanti Street.	*10
		Lake Manatee	At the center of State Highway 64 crossing.	*45

Maps are available for inspection at the Planning and Development Department, 212 8th Avenue East, Bradenton, Florida.

Florida	Pasco County (unincorporated areas) (FEMA-6539)	Gulf of Mexico	Intersection of Jasmine Boulevard and Old Dixie Highway. Intersection of Driftwood Drive and Lakeview Boulevard. 300 feet downstream of the intersection of River and State Highway 52.	*12 *16 *55
		Pithlachascotee River	At confluence with South Branch Anclote River.	*37
		South Branch Anclote River	100 feet upstream of the intersection of River and Seaboard Coast Line Railroad.	*49
		Hillsborough River	250 feet downstream of the intersection of River and Rock Pit Road.	*72
		Bear Creek	Intersection of New York Avenue and Memorial Highway (State Highway 52).	*16
		Cypress Creek	Downstream intersection of the Creek and Interstate Highway 75.	*54
		Cypress Creek Distribution	Intersection of Cypress Drive and Quail Hollow Boulevard.	*68
		Tributary 1	At confluence with Cypress Creek.	*59
		Withlacoochee River	Intersection of River Road and Auton Road.	*79
		Near River	Intersection of Loury Drive and Bridge Drive.	*65
		Crews Lake	At Pithlachascotee River.	*59

Maps available for inspection at Planning Department, West Pasco Government Center, 4025 Moonlake Road, New Port Richey, Florida.

Florida	(T) Sewalls Point, Martin County (FEMA-6541)	Indian River	Shoreline from northern corporate limit to High Point Road. About 450 feet west of shoreline from northern corporate limit to Fieldway Drive. About 650 feet west of shoreline from State Route A1A to Fieldway Drive. About 450 feet west of shoreline from State Route A1A to Palmetto Drive. About 700 feet west of shoreline from Palm Road to Palmetto Drive. Shoreline from northern corporate limit to High Point Road.	*10 *8 *8 *8 *8 *9
		St. Lucie River		

Maps available for inspection at Town Hall, 1 South Sewalls Point Road, Jensen Beach, Florida.

Georgia	City of Hulen, White County (FEMA-6541)	Chattahoochee River	Approximately 100 feet upstream of State Highway 75 and 17 (Unicoi Turnpike and Main Street).	*1,422
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State	City, town, and county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Approximately 100 feet upstream of Hamby Street	*1,431
Maps available for inspection at City Hall, Chattahoochee Street, Helen, Georgia 30545.				
Illinois	(C) Bloomington, McLean County (FEMA-6539)	Sugar Creek	Just downstream of Interstate 55 and 74 Just upstream of White Oak Road Just upstream of Linden Avenue Just downstream of Airport Road At mouth	*736 *749 *773 *808 *738
		Goose Creek	About 150 feet upstream of Springfield Road Just downstream of Main Street Just upstream of Market Street	*786 *810 *746
		Skunk Creek	About 1,700 feet upstream of Market Street Just upstream of Emerson Street About 100 feet downstream of Empire Street and Colton Avenue	*748 *773 *780
		High School Branch Sugar Creek	Just upstream of Empire Street and Colton Avenue Just upstream of Country Club Way	*785 *816
		Little Kickapoo Creek	Just upstream of Ireland Grove Road Just upstream of Lincoln Street Just downstream of Oakland Avenue	*821 *824 *825
		Brookridge Branch, Little Kickapoo Creek	About 600 feet downstream of Hershey Road About 1,600 feet upstream of Hershey Road	*821 *825
		East Tributary Skunk Creek	About 600 feet upstream of U.S. Route 150 About 1,100 feet upstream of U.S. Route 150	*782 *763
Maps available for inspection at the Department of Engineering, City Hall, 109 East Olive Street, Bloomington, Illinois.				
Illinois	(V) Walnut, Bureau County (FEMA-6527)	Walnut Creek	About 1,400 feet downstream of Main Street About 2,225 feet upstream of Main Street	*685 *698
Maps available for inspection at the Village President's Office, Village Hall, Jackson Street, Walnut, Illinois.				
Indiana	(T) Spring Lake Hancock County (FEMA-6541)	Sugar Creek	About 1,100 feet downstream of confluence of Hall Ditch Just downstream of Conrail	*822 *824
Maps available for inspection at the Spring Lake Town Hall, Greenfield, Indiana.				
Iowa	(C) Emerson Mills County (FEMA-6539)	Indian Creek	About 3,900 feet downstream of US Highway 59 Just upstream of Morton Avenue	*1,050 *1,059
Maps available for inspection at the City Hall, Emerson, Iowa.				
Louisiana	Unincorporated areas of Cameron Parish (FEMA-6546)	Gulf of Mexico	Intersection of State Highway 27 and State Highway 82 Intersection of First Bayou and State Highway 27 Intersection of Second Bayou and State Highway 27 Intersection of State Highways 27 and 82 and State Road 1142 Intersection of State Highways 82 and Merrimantau River Intersection of State Highway 82 and State Highway 27 Intersection of Starks Canal and State Highway 27 Intersection of State Highway 27 and Black Lake Bayou (Hackberry) Intersection of State Highway 27 and Intra-coastal Waterway	*19 *17 *16 *15 *14 *12 *11 *11 *8
Maps available for inspection at Executive Secretary's Office, Police Jury Annex, Courthouse Square, Cameron, Louisiana 70631.				
Maine	York, town, York County (FEMA-6541)	Cape Neddick River	Confluence with Atlantic Ocean Downstream of U.S. Route 1 Upstream of Private Road Confluence with Cape Neddick River	*9 *20 *27 *28
		Tributary 1 to Cape Neddick River	Approximately .20 mile upstream of confluence with Cape Neddick River Approximately .27 mile upstream of Cat Mountain Road	*42 *54
		Dolly Gordon Brook	Confluence with York River Approximately .25 mile upstream of Maine Turnpike Approximately .02 mile upstream of U.S. Route 1	*9 *11 *18
		Cider Hill Creek	Confluence with York River Upstream of South Berwick Road Approximately .67 mile upstream of South Berwick Road	*9 *9 *12
		Bridges Swamp	Upstream of Long Beach Avenue Long Beach Avenue Downstream of Ridge Road Upstream of Ridge Road	*10 *20 *35 *47
		Atlantic Ocean	Shoreline of York River at Brave Boat Harbor Road Shoreline of York River at Scotland Bridge Road Shoreline of Brave Boat Harbor at Raynes Neck Road (extended) Shoreline of community at Woodbridge Road (extended) Shoreline of community at approximately 1.3 miles east of intersection of Rogers Road and Ridge Road Shoreline of community at northeast corporate limits	*9 *9 *13 *24 *35 *23
Maps available for inspection at the Planning Board Office in the Town Hall, York, Maine.				

State	City, town, and county	Source of flooding	Location	#Depth in feet above ground Elevation in feet (NGVD)
Massachusetts	Oakham, town, Worcester County (FEMA-6541)	Fivemile River	Downstream corporate limits	*668
			Upstream South Road	*703
			Upstream Farm Road	*735
			Approximately 1,565 feet upstream of Spencer Road	*797
			Confluence with Fivemile River	*697
			Upstream South Road	*719
			Approximately 80 feet upstream of North Brook Field Road	*732

Maps available for inspection at the Town Clerk's Office, Town Hall, Oakham, Massachusetts.

Massachusetts	Williamstown, town, Berkshire County (FEMA-6541)	Hoosic River	Downstream corporate limits	*566
			Approximately 1,600 feet upstream of confluence of Broad Brook	*581
			Upstream Simonds Road (North Street)	*590
		Green River	Upstream Cole Avenue	*601
			Upstream corporate limits	*613
			Confluence with Hoosic River	*605
		Hemlock Brook	Approximately 1,500 feet upstream of Main Street	*627
			Approximately 1.23 miles upstream of Main Street	*670
			Upstream Blair Road	*722
			Upstream Mount Hope Farm Bridge 1	*780
			Upstream Green River Road Bridge 1	*824
			Confluence of West Branch Green River	*859
			Upstream New Ashford Road Bridge 1	*934
			Upstream corporate limits	*1,004
			Confluence with Hoosic River	*584
			Upstream Buckley Street	*625
			Upstream Cold Spring Road	*678
			Approximately .66 mile upstream of Cold Spring Road	*724

Maps available for inspection at the Town Hall, Williamstown, Massachusetts.

Michigan	(Chtd. Twp.) Bridgeport, Saginaw County (FEMA-6492)	Lull Drain	Just upstream Sheridan Road	*500
			About 300 feet upstream Grand Trunk Western Railroad	*601
			King Drain	*595
		Cass River	Just upstream Sheridan Road	*607
			Just downstream of Dixie Highway	*595
			About 1.8 miles downstream Chesse System	*587
			About 0.36 miles upstream Chesse System	*587

Maps available for inspection at the Township Hall, 6206 Dixie Highway, Bridgeport, Michigan.

Mississippi	City of Biloxi, Harrison County (FEMA-6492)	Gulf of Mexico/Mississippi Sound	Intersection of Pine Street and U.S. Highway 90	*14
			Intersection of Howard Avenue and Myrtle Street	*12
		Beck Bay of Biloxi	Intersection of Bay Side Drive and Glenview	*11

Maps available for inspection at Planning Commission Office, Dantzer House, 1028 West Beach Boulevard, Biloxi, Mississippi 39533.

Mississippi	Unincorporated areas of Jackson County (FEMA-6539)	Gulf of Mexico/Mississippi Sound	Approximately 500 feet south of the intersection of Breach Street and Branch Street	*11
			Approximately 5,000 feet south of the intersection of Ladner Road and Groveline Road	*15
			Approximately 4,000 feet east of the intersection of Bluff Road and Hastings Road	*7
			Approximately 3,000 feet north of the intersection of Oak Street and U.S. Highway 90	*8
		Pascagoula River	Approximately 8,500 feet southeast of the intersection of Frank Drive and Coda Road	*7
			Approximately 5,000 feet west of the intersection of Old Mobile Highway and Interstate Highway 10	*7
			Intersection of Reynor Street and Old U.S. Highway 90	*11
			Approximately 3,000 feet east of the intersection of Racetrack Road and Reynor Street	*12
		Escatawpa River		
		Biloxi Bay		

Maps available for inspection at County Chancery Clerk's Office, Jackson County Courthouse, 3109 County Street, Pascagoula, Mississippi 39567.

Mississippi	City of Moss Point, Jackson County (FEMA-6541)	Escatawpa River	Intersection of Martin Street and Gregory Street	*7
			Intersection of Grierson Street and East Street	*7
		Pascagoula River	Intersection of Bryant Avenue and Magnolia Street	*6
			Intersection of Belview Street and Devon Street	*5

Maps available for inspection at City Clerk's Office, City Hall, 4412 Denny Street, Moss Point, Mississippi 39563.

Mississippi	City of Pascagoula, Jackson County (FEMA-6541)	Gulf of Mexico/Mississippi Sound	Intersection of McKinley Avenue and Garfield Avenue	*10
			Intersection of Beach Boulevard and Oliver Street	*12
			Intersection of Lake Avenue and Pine Street	*8
			Intersection of Ingalls Avenue and Nashville Railroad	*9
		Mississippi Sound/Pascagoula River	Intersection of Orchard Avenue and Brazil Street	*10
			Intersection of Fairmont Drive and Louise Street	*10
		Mississippi Sound/Bayou Casote		

Maps available for inspection at City Manager's Office, City Hall, 603 Watts Avenue, Pascagoula, Mississippi 39567.

Missouri	(unincorporated) Lincoln County (FEMA-6394)	Mississippi River	About 6.0 miles downstream of Lock and Dam No. 25	*444
			About 4.0 miles upstream of Lock and Dam No. 25	*447
			At upstream county boundary	*451
			Just downstream of Burlington Northern Railroad	*445
			At confluence of Big Creek	*456
			About 2.2 miles downstream of confluence of Buchanan Creek	*464
			About 500 feet downstream of State Route 47	*472

State	City, town, and county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Buchanan Creek	About 1.9 miles upstream of State Route 47 At mouth at Cuivre River Just downstream of Old Cap Au Gris Street Just upstream of Abandoned Railroad About 0.21 mile upstream of U.S. Highway 61 About 0.32 mile upstream of Main Street (in City of Troy)	*478 *469 *472 *478 *499 *508
		Town Branch	At mouth at Buchanan Creek	*472
		McLean Creek	About 1.0 mile upstream of State Route 47 About 0.15 mile downstream of Burlington Northern Railroad	*476 *446
		Mill Creek	About 0.37 mile upstream of State Route 79 At mouth at North Fork Cuivre River About 0.76 mile upstream of County Route E	*453 *511 *520
		North Fork Cuivre River	About 0.2 mile downstream of confluence of Mill Creek About 0.2 mile upstream of County Route E	*510 *514
		Big Creek	Just downstream of U.S. Route 61 About 2.8 miles upstream of U.S. Route 61	*468 *479
Maps available for inspection at the Lincoln County Courthouse, Troy, Missouri.				
Montana	Choteau (city), Teton County (FEMA-6442)	Teton River Spring Creek	Intersection of 3rd Street, SW and 5th Avenue, SW Intersection of 4th Avenue, NE and 2nd Street, NE	*3,807 *3,819
Maps available for inspection at City Hall, Choteau, Montana.				
New Jersey	Franklin, borough, Sussex County (FEMA-6521)	Watauga River	Downstream corporate limits Upstream concrete weir Confluence of Watauga River Tributary Upstream Church Street Confluence of Black Creek Upstream corporate limits	*479 504 *511 *517 *534 *556
Maps available for inspection at the Municipal Building, 46 Main Street, Franklin, New Jersey.				
New Jersey	Glen Ridge Borough, Township, Essex County (FEMA-6541)	Toney's Brook	Downstream corporate limits Downstream of Hillside Avenue	*132 *151
Maps available for inspection at the Municipal Building, 825 Bloomfield Avenue, Glen Ridge, New Jersey.				
New Jersey	Hamburg, borough, Sussex County (FEMA-6521)	Watauga River	Downstream corporate limits Upstream Wheatsworth Road Upstream second dam	*403 434 *479
Maps available for inspection at the Municipal Building, 6 Watauga Avenue, Hamburg, New Jersey.				
New York	Cold Spring, village, Putnam County (FEMA-6541)	Hudson River	Entire shoreline affecting community	*8
Maps available for inspection at the Office of the Village Clerk, Main Street, Cold Spring, New York.				
New York	Fishkill, village, Dutchess County (FEMA-6541)	Fishkill Creek Tributary to Fishkill Creek Upstream of U.S. Route 9	Approximately .96 miles downstream of downstream corporate limits Downstream corporate limits Upstream corporate limits Approximately 400 feet downstream of Givens Lane	*212 *214 *216 *218 *224
Maps available for inspection at the Office of the Village Clerk, Village Hall, Main Street, Fishkill, New York.				
New York	Floyd, town, Oneida County (FEMA-6539)	Mohawk River Skenes Creek	Downstream corporate limits Upstream corporate limits Confluence with New York State Barge Canal Upstream of State Route 267/365 bridge Upstream corporate limits	*420 *424 *423 *431 *442
Maps available for inspection at the Town Hall, Route 365, Floyd, New York.				
New York	Frankfort, village, Herkimer County (FEMA-6541)	Mohawk River	Upstream corporate limits Downstream corporate limits	*397 *396
Maps available for inspection at the Frankfort Village Offices, 107 West Main Street, Frankfort, New York.				
New York	Mamaroneck, village, Westchester County (FEMA-6541)	Long Island Sound	Edgewater Point near western corporate limits At shoreline and Nine Acres Lane (extended) Eastern corporate limits	*19 *18 *16
Maps available for inspection at the Office of the Village Engineer, Municipal Building, Mamaroneck, New York.				
New York	Middleburgh, town, Schoharie County (FEMA-6218)	Schoharie Creek Line Creek Stoney Creek	Downstream corporate limits Confluence of Line Creek Confluence with Schoharie Creek Upstream of State Route 30 Approximately 2,800 feet upstream of State Route 30 Confluence with Schoharie Creek 2,400 feet upstream of confluence with Schoharie Creek	*615 *644 *644 *663 *742 *640 *703
Maps available for inspection at the Municipal Building, Middleburgh, New York.				
New York	Middleburgh, village, Schoharie County (FEMA-6224)	Schoharie Creek Schoolhouse Creek Stoney Creek	Downstream corporate limits Upstream corporate limits Upstream of Main Street Approximately 1,000 feet upstream of Main Street Approximately 1,900 feet upstream of Main Street Approximately 2,750 feet upstream of Main Street Confluence with Schoharie Creek Upstream of Clauvenwie Avenue	*637 *640 *648 *670 *695 *725 *640 *650

State	City, town, and county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary A	Upstream of State Route 145 Corporate limits Corporate limits Approximately 2,800 feet upstream of corporate limits	*722 *751 *637 *638
			Maps available for inspection at the Municipal Building, Middleburgh, New York.	
Ohio	(V) Carlisle, Montgomery, Warren Counties (FEMA-6384)	Great Miami River	About 0.14 mile downstream of Chicago & North Western Railroad	*677
		Shallow Flooding (overflow from Subdivision Tributary)	About 0.65 miles upstream of Park Avenue About 2.6 miles north of Intersection of Janet Avenue and Chestnut Avenue	*685 *690
		Dry Run	Intersection of Janet Avenue and Oak Drive About 0.2 miles downstream of Lake Avenue	*691 *671
		Carlisle Drain	Just downstream of Chessie System About 0.57 mile upstream of Chamberlain Road	*693 *705
		Subdivision Tributary	About 0.47 mile downstream of Chamberlain Road About 0.49 mile upstream of Sheri Lane	*668 *671
		Twin Creek	Just upstream of Chamberlain Road Just upstream of Montgomery Avenue About 0.06 mile upstream of Montgomery Avenue 0.83 mile downstream of Chamberlain Road 0.23 mile upstream of Chamberlain Road	*681 *689 *690 *679 *687
			Maps available for inspection at the Village Hall, 760 Central Avenue, Carlisle, Ohio.	
Ohio	(C) Urbana, Champaign County (FEMA-6541)	Dugan Run	Just upstream of Edgewood Avenue Just upstream of Conrail Spur About 300 feet upstream of Miami Street	*1,017 *1,019 *1,026
		Dugan Run Tributary	About 350 feet downstream of Russell Street Just downstream of Dettinger Road At confluence with Dugan Run Just downstream of City Park Dam	*1,030 *1,062 *1,052 *1,066
			Just upstream of City Park Dam Just downstream of Washington Avenue	*1,071 *1,077
			Maps available for inspection at the Engineer's Office, Municipal Building, S. Main and Market Streets, Urbana, Ohio.	
Oregon	Reedsport (city), Douglas County (FEMA-6527)	Umpqua River Scholfield Creek	At the Southern Pacific Railroad bridge crossing At the intersection of Winchester Avenue and Scholfield Creek	*11 *11
			Maps available for inspection at Planning Department and Engineering Department, 451 Winchester Avenue, Reedsport, Oregon 97467.	
Pennsylvania	Darby, township, Delaware County (FEMA-6535)	Darby Creek	Downstream corporate limits Upstream Hook Road	*11 *17
		Cobbs Creek	Upstream corporate limits Confidence with Darby Creek	*19 *19
		Muskingum Creek	Upstream corporate limits Downstream corporate limits Upstream footbridge	*20 *68 *83
			Upstream corporate limits	*93
			Maps available for inspection at the Darby Township Building, 1063 Cedarwood Avenue, Glenolden, Pennsylvania.	
Pennsylvania	Upper St. Clair, township, Allegheny County (FEMA-6526)	Chartiers Creek McLaughlin Run	.12 miles upstream of corporate limits At Mayview Road Downstream of CONRAIL Upstream corporate limits At downstream corporate limits At downstream footbridge Upstream of Dirt Road Upstream of Lesnett Road Upstream of Morrow Road Downstream of Washington Road Downstream of Bethel Church Road/Drake Road Upstream corporate limits	*834 *840 *853 *859 *842 *862 *883 *905 *927 *967 *998 *1,012
			Maps available for inspection at the Upper St. Clair Township Municipal Building, 1820 McLaughlin Run Road, Upper St. Clair, Pennsylvania.	
Rhode Island	Tiverton, town, Newport County (FEMA-6539)	Sakonnet River Mount Hope Bay Nanquaket Pond	Shoreline at Sakonnet bridge Shoreline at Stone bridge Shoreline at Leonard Drive extended Shoreline at North Court Drive extended Shoreline at High Hill Point Entire shoreline of Nonquit Pond Shoreline approximately 1,000 feet southwest of Randolph Road extended Shoreline at Randolph Road extended Shoreline at Cornell Street extended Shoreline approximately 400 feet southwest of intersection of Baker Height and Sunderland Height Entire shoreline	*15 *20 *25 *18 *28 *13 *29 *26 *16 *33 *14
			Maps available for inspection at the Town Hall, Tiverton, Rhode Island.	
South Carolina	City of Charleston, Charleston County (FEMA-6528)	Atlantic Ocean/Stono River Atlantic Ocean/Ashley River Atlantic Ocean/Charleston Harbor	Intersection of Kensington Drive and Hollywood Drive At the confluence of Julia Water Way and Stono River Intersection of Burning Tree Road and Joseph Street At the confluence of Orange Grove Creek and Ashley Intersection of Church Street and South Battery Street	*10 *11 *12 *13 *14
			Maps available for inspection at Director of Public Services Office, 118 Meeting Street, Charleston, South Carolina 29402	

State	City, town, and county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
South Carolina	Township of Folly Beach, Charleston County (FEMA-6526).	Atlantic Ocean	Intersection of Center Street and Cooper Avenue	*13
			Intersection of Ashley Avenue East and 13th Street East	*14
Maps available for inspection Town Hall, 17 Center Street, Folly Beach, South Carolina 29439.				
South Carolina	Town of Mount Pleasant, Charleston County (FEMA-6526).	Atlantic Ocean/Charleston Harbor	Intersection of Beach Street and Haddrell Street	*17
			Venning Street extended to Charleston Harbor	*15
			Intersection of Banks Street and Pitt Street	*12
			Intersection of Center Street and Hindman Avenue	*12
			Intersection of Coleman Boulevard and Intersection of Highway 17.	*11
Maps available for inspection at Town Hall, 302 Pitt Street, Mount Pleasant, South Carolina 29464.				
Texas	Bonney, town, Brazoria Co. (FEMA-6535).	Oyster Creek	Southern corporate limits near Access Road (upstream side) located south of FM 655	*44
			FM 655 (upstream side)	*45
			Northern corporate limits	*47
Maps available for inspection at the Town Hall, Rosharon, Texas.				
Texas	Unincorporated areas of Kenedy County (FEMA-6546).	Gulf of Mexico/Laguna Madre	Approximately 9,500 feet west of the Intracoastal Waterway of the southern county limits	*11
			Approximately 5.8 miles west of a point located on the Intracoastal Waterway 16.9 miles north of the southern county limits	*8
		Laguna Madre	Approximately 0.7 miles west of a point located on the Intracoastal Waterway 3 miles south of the northern county limits	*9
Maps available for inspection at Kenedy County Courthouse, Sarita, Texas 78385.				
Washington	Snohomish County (unincorporated areas) (FEMA-6539).	Sauk River	100 feet upstream from center of Sauk Prairie Road	*515
		Lower Stillaguamish River	At the center of Marine Drive	*10
		Stillaguamish River	50 feet upstream from center of State Highway 530	*31
		Hat Slough	200 feet upstream from center of Marine Drive	*16
		South-Cook Slough	200 feet upstream from center of State Highway 530	*34
		Stillaguamish River Split Flow	At the center of Oike Road	*64
		North Fork Stillaguamish	100 feet upstream from center of Oso Loop Road (221st Street NE)	*182
			50 feet upstream from center of Mine Road (Swede Heaven Road)	*420
		South Fork Stillaguamish	25 feet upstream from center of State Highway 530 (Talcott Bridge)	*71
			100 feet upstream from center of Mountain Loop Highway	*980
		Canyon Creek	100 feet upstream from center of Scott Paper Road Bridge	*537
		Snohomish River	50 feet upstream from center of State Highway 9	*25
		Pilchuck River	At the center of the intersection of Division Street and Machias Road	*114
		Snoqualmie River	At the center of Crescent Lake Road	*46
		Skykomish River	100 feet upstream from center of State Highway 203	*56
		North Fork Skykomish River	50 feet upstream from center of U.S. Highway 2	*250
		Sultan River	100 feet upstream from center of Fifth Street	*535
		Wallace River	10 feet upstream from center of Burlington Northern Railroad crossing	*114
		May Creek	At the center of Chappell Road	*148
		Possession Sound	150 feet upstream from center of Picklefarm Road	*213
		Port Susan	At Port Gardner Bay	*9
		Puget Sound	At Mouth of Hat Slough	*10
		Skagit Bay	At town of Woodway western corporate limit	*10
			At the center of the intersection of Logan Road 102nd Avenue NW	*10
Maps available for inspection at Risk Management Department, 3000 Rockefeller, Everett, Washington.				
West Virginia	Matewan, town, Mingo County (FEMA-6546).	Tug Fork	Downstream corporate limits	*691
			Upstream Norfolk and Western Railway	688
			Upstream Buskirk-Matiwan Bridge	700
		Mata Creek	Upstream corporate limits	703
			Confluence with Tug Fork	*701
			Upstream corporate limits	*707
Maps available for inspection at the Matewan Town Hall, Matewan, West Virginia.				
West Virginia	Wyoming County (FEMA-6499).	Guyandotte River	Downstream County Boundary	*887
			Downstream of RD Bailey Dam	*896
			Approximately 2.0 miles downstream of Lanes Branch	*1,162
			Downstream of County Route 10-7	*1,181
			Upstream of Norfolk & Western Railway	*1,211
			Upstream of County Route 160	*1,239
			Upstream of County Route 18	*1,367
			Upstream of State Route 10	*1,396
			Upstream of State Route 16 (downstream crossing)	*1,444
			Upstream of County Route 41	*1,479

State	City, town, and county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of County Route 114	*1,510
			Upstream of County Route 16-2	*1,525
			Upstream corporate limits	*1,566
			Downstream corporate limits	*1,279
			Upstream of County Route 30	*1,351
			Downstream of State Route 10	*1,363
			Upstream of County Route 34	*1,758
			Upstream of Norfolk & Western Railway (1st crossing)	*1,813
			Upstream of Norfolk & Western Railway (2nd crossing)	*1,823
			Approximately 0.8 mile upstream of Norfolk & Western Railway (2nd crossing)	*1,839
			Approximately 0.48 mile downstream of most downstream Private Road	*1,215
			At confluence of McDonald Mill Creek	*1,220
			Upstream of State Route 971	*1,234
			Approximately 0.25 mile upstream of Norfolk & Western Railway	*1,241
			Confluence with Laurel Fork	*1,730
			Upstream of Abandoned Railway	*1,757
			Upstream of Norfolk & Western Railway	*1,794
			Upstream of County Route 5	*1,805
			Approximately 1.93 miles upstream of County Route 5	*1,823
			Approximately 1.37 miles downstream of Turkey Wallow Road	*1,269
			Upstream of Turkey Wallow Road	*1,292
			Upstream of most upstream Private Road	*1,506
			Approximately 200 feet downstream of State Route 16	*1,558
			Downstream corporate limits	*1,502

Maps available for inspection at the Office of the County Clerk, County Courthouse, Pineville, West Virginia.

Wisconsin	(C) Beaver Dam, Dodge County (FEMA-6541)	Beaver Dam River	Southern corporate limit about 0.55 mile downstream of Cooper Street Just downstream of Beaver Dam Lake Dam	*840 *865
		Shaw Creek	Southern corporate limit about 1.0 mile downstream of State Trunk Highway 33	*865
		Beaver Dam Lake	Just upstream of Chicago, Milwaukee, St. Paul, and Pacific Railroad At shoreline	*892 *873

Maps available for inspection at City Engineer's Office, c/o Bruce Gail, 705 S. Lincoln Avenue, Beaver Dam, Wisconsin

Wisconsin	(unincorporated) La Crosse County (FEMA-6541)	Mississippi River	At downstream county boundary About 0.2 mile downstream of Lock and Dam No. 7 About 0.4 mile downstream of upstream county boundary About 0.3 mile downstream of Burlington Northern Railroad Just upstream of U.S. Highway 16 About 0.5 mile upstream of Interstate Highway 90 Just downstream of County Highway C At confluence with La Crosse River Just downstream of State Highway 16 Just upstream of Baker Road About 0.45 mile downstream of County Highway M Just downstream of State Highway 108 Just downstream of County Highway C Just upstream of County Highway T (upstream crossing) About 0.6 mile downstream of Wallness Hill Road Just downstream of Wallness Hill Road At confluence with La Crosse River *Just downstream of County Highway YY *Just upstream of County Highway M *Just downstream of County Highway II About 2,150 feet downstream of U.S. Highway 14 About 1,400 feet downstream of Drive-In Road Just downstream of Hagen Road Just upstream of Hagen Road About 100 feet downstream of Hass Farm Drive Just downstream of State Highway 33 About 1,550 feet upstream of confluence of Upper Boma Coulee About 400 feet upstream of Calvert Road About 1,200 feet upstream of Park Lane Just downstream of Drive-In Road Just upstream of 32nd Street Just upstream of Hiawatha Avenue Just downstream of Hagen Road At confluence with State Road Coulee About 100 feet downstream of State Highway 33 Just upstream of State Highway 33 About 500 feet upstream of Boma Road At confluence with Tributary A Just downstream of divergence with State Road Coulee At confluence with State Road Coulee About 1,150 feet upstream of confluence with State Road Coulee Just upstream of 29th Street About 500 feet upstream of 29th Street	*639 *646 *651 *646 *656 *673 *695 *647 *656 *697 *740 *773 *808 *857 *920 *983 *669 *716 *740 *779 *640 *666 *687 *691 *703 *752 *850 *920 *644 *606 *673 *665 *677 *689 *741 *744 *752 *785 *753 *758 *794 *820 *671 *676
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State	City, town, and county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Ebner Coulee West Bank	Just upstream of 29th Street	*662
		Ebner Coulee Southeast Bank	About 500 feet upstream of 29th Street	*669
		Lake Neshonoc	Just upstream of Ward Avenue	*656
			Just downstream of Glendale Avenue	*656
			Shoreline	*702

Maps available for inspection at the Zoning Administrator's Office, County Courthouse, La Crosse, Wisconsin.

Wisconsin	(V) Soldiers Grove, Crawford County (FEMA-6492)	Baker Creek	Mouth at Kickapoo River	*731
			About 1,760 feet upstream from confluence of Unnamed Tributary to Baker Creek (near U.S. Highway 61)	*780
		Johnson Valley Creek	Mouth at Kickapoo River	*726
		Kickapoo River	Northern corporate limit	*757
			About 900 feet downstream of confluence of Johnson Valley Creek	*726
		Sheridan Creek	About 4,200 feet upstream from "A" Street	*735
			Mouth at Baker Creek	*755
		Unnamed Tributary to Baker Creek	Eastern corporate limit	*807
			Mouth at Baker Creek	*764
			Southern corporate limit	*902

Maps available for inspection at the Village Clerk's Office, Village Hall, Soldiers Grove, Wisconsin.

Wisconsin	(V) Spring Valley, Pierce and St. Croix Counties (FEMA-6541)	Eau Gallie River	About 400 feet downstream of Wagon Road	*905
		Burkhart Creek	Just upstream of Sixth Street	*918
			At confluence with Eau Gallie River	*912
		Mines Creek	About 540 feet upstream of McKay Avenue	*925
			About 1,120 feet upstream of Apartment Driveway	*956
		Burro Lane Tributary	At confluence with Eau Gallie River	*917
			About 50 feet upstream of Spillway	*925
			About 2,100 feet upstream of Spillway	*937
			At confluence with Eau Gallie River	*907
			About 730 feet upstream of Bahr Street	*959

Maps available for inspection at the Village Hall, P.O. Box 276, Spring Valley, Wisconsin.

Wisconsin	(V) Wheeler, Dunn County (FEMA-6541)	Hay River	About 1.67 miles downstream of State Highway 25	*902
			About 2,700 feet upstream of Bridge Street	*909

Maps available for inspection at the Village Hall, 620 2nd Street, Wheeler, Wisconsin.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Appeals of the proposed base flood elevations were received and have been resolved by the Agency.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Nebraska	(V) Homer, Dakota County (FEMA-6218)	Omaha Creek	Just upstream of County Road (near downstream extraterritorial limits)	*1,094
			Just downstream of Burlington Northern Railroad	*1,104
		Omaha Creek Old Channel	About 1.56 miles upstream of John Street (near upstream extraterritorial limits)	*1,119
			About 3,100 feet downstream of divergence with Omaha Creek	*1,105

Maps available for inspection at City Hall, Homer, Nebraska.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: November 3, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-31274 Filed 11-21-83; 8:45 am]

BILLING CODE 6718-03-M

## NATIONAL SCIENCE FOUNDATION

### 45 CFR Parts 681 and 684

**Conflicts or Potential Conflicts in Handling Proposals and Awards; Rules for Consultants, Board Members, and Other "Special Employees"**

AGENCY: National Science Foundation.

### ACTION: Final rule.

**SUMMARY:** These amendments clarify NSF conflict of interests rules, primarily to make explicit a long-tacit understanding that members of the National Science Board should not represent private interests, especially not their own interests, in negotiations

or other dealings with NSF officials, and to confirm that research is not made ineligible for NSF support because a member of the Board is leading or otherwise participating in the research.

**EFFECTIVE DATE:** November 22, 1983.

**FOR FURTHER INFORMATION CONTACT:** Office of the General Counsel, National Science Foundation, 1800 G Street, NW.,

Washington, DC 20550, Attention: Lewis E. Grotke (202/357-7439).

**SUPPLEMENTARY INFORMATION:** The National Science Board is established by the National Science Foundation Act of 1950 to establish policy for the Foundation. Because members rarely, if ever, serve the Government more than sixty days a year, they are technically not subject to many of the general conflict-of-interests statutes applying to full-time employees of the Government, instead being subject only to certain limited restrictions also imposed on consultants and other "special Government employees." The Board has imposed on its members more stringent conflicts rules than are required by Federal statute, believing that the policymaking role of the Board requires this additional stringency.

These amendments to the National Science Foundation's conflict-of-interests regulations reflect changes the Board has adopted to clarify these special rules that govern its members.

The amendments:

(1) Make explicit a longstanding tacit understanding that Board members should not represent private interests including their own interests, in negotiations with NSF officials;

(2) Confirm that research or other scientific work in which a Board member participates, as principal investigator or otherwise, is eligible for NSF support on the same competitive basis (involving scientific review by external peers) as any other research, as long as the Board member would receive no compensation from the NSF funds;

(3) Provide that if a Board member is exercising or would exercise scientific leadership on a project receiving or being proposed for NSF support, the member should be identified openly as principal investigator in proposals or awards;

(4) Require that if an NSB member is or would be principal investigator on a proposal or award, a substitute negotiator will be named to handle all negotiations or other representational dealings with NSF staff;

(5) Extend existing NSF conflicts procedures for special scrutiny and special handling of certain proposals or other applications to any proposal or application that involves the work of an NSB member; and

(6) Require that any proposed award (but not declination) for work in which a Board member would be an active participant will be presented to the Board, which may require any further

review other Board members believe appropriate.

These changes reflect recent study of the Board's procedures by a Committee of the Board. The full report of the Committee is available on request.

**Note.**—These amendments have been approved by the Office of Personnel Management, Office of Government Ethics, and are issued pursuant to 5 CFR 735.104.

The Foundation has determined that these regulations are not a major rule as defined in Executive Order 12291 dated February 17, 1981 (3 CFR, 1981 Comp., p. 127).

#### List of Subjects in 45 CFR Parts 681 and 684

Conflict of interests.

#### Amendments to Regulations

Accordingly, Chapter VI of Subtitle B, Title 45, Code of Federal Regulations is hereby amended by amending Parts 681 and 684 as shown.

#### PART 681—[AMENDED]

1. Amend § 681.20 by revising paragraph (b) to read as follows:

##### § 681.20 Introduction.

(b) If you become aware that another NSF employee—including a prospective employee or a recent employee (one who has left the NSF within the past year)—or a current member of the National Science Board has an involvement or interest in a proposal or other application you are handling, § 681.23 explains what you should do.

2. Amend § 681.23 by revising paragraph (a) to read as follows:

##### § 681.23 When a prospective, current, or recent NSF employee has an involvement or interest.

(a) If you become aware that a prospective, current, or recent NSF employee has an involvement or interest in any proposal or other application you are handling, you must bring the matter to the attention of a directorate conflicts official. For this purpose a member of the National Science Board is an employee. The conflicts official will decide how the matter should be handled and instruct you accordingly. If the file reflects that a conflicts official has already been consulted and has decided how the matter should be handled, you may proceed as the conflicts official has directed unless something of possible significance has changed.

3. Amend § 681.40 by revising paragraph (a)(2) to read as follows:

##### § 681.40 Summary, responsibilities of conflicts officials.

(a) \* \* \*

(2) You determine how to handle a proposal, or other application when a prospective, current, or recent NSF employee or a current member of the National Science Board has an involvement or interest in it. Section 681.43 describes the potential conflicts you should be concerned with in such a case.

4. Amend § 681.42 by adding a new paragraph (c)(4):

##### § 681.42 Disclosure, disqualification, and other special handling.

(c) \* \* \*

(4) In any case involving a current member of the National Science Board, you must always require that any proposed award, additional funding for an award, or continuing grant increment be presented to the Board for its information before any final action is taken.

#### PART 684—[AMENDED]

5. Amend Part 684 by revising § 684.22 to read as follows, and by adding a new § 684.23 as follows:

##### § 684.22 Negotiations with NSF staff.

During your term on the National Science Board you must not represent yourself or any other private party in negotiations or other dealings with an NSF official on any proposal, project, or other matter.

##### § 684.23 Participation in proposals and projects.

(a) *General; substitute negotiator.* You may prepare a proposal for submission to the NSF and may be principal investigator on the proposal and on any subsequent award. The proposal should also name a substitute negotiator to represent the project and the institution in dealings with NSF officials from which you would be restricted as a member of the Board. If you were principal investigator under an existing award before your appointment to the Board, your institution will be asked to name a substitute negotiator for the

same purpose before the appointment becomes official.

(b) *Scientific and technical information.* You may respond to requests from a program officer or another NSF official for scientific and technical information relating to an award or proposal, such as might be needed to respond to reviewer comments. You must not, however, couple the information you supply with any attempt to influence action on the proposal other than what inheres in the provision of the information itself. (If possible, have someone else respond.)

(c) *Compensation; reimbursement of expenses.* No NSF award made while you are a member of the Board may be charged for any compensation paid to you. An award may be charged, however, for actual expenses you incur in doing work supported by the award. If you are already an investigator or consultant under an NSF award when you became a Board member, the award may be charged for compensation to you to the extent established before your nomination.

Edward A. Knapp,  
Director.

[FR Doc. 83-31292 Filed 11-21-83; 8:45 am]  
BILLING CODE 7555-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 5

[Gen. Docket No. 82-469; FCC 83-471]

#### Amendment of the Commission's Rules to Diminish Restrictions on Licensing and Use of Stations in the Experimental Radio Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Communications Commission has amended Part 5 of its Rules by adding a new provision to permit limited market studies under an Experimental Authorization. This action also eliminates certain regulations pertaining to transmitter emissions, to the qualifications of station operators, and to some mandatory reporting requirements. In addition the requirement for the filing of a petition for Rule Making usually associated with an experimental/developmental authorization has been eliminated. This proceeding was initiated by the Commission to streamline Part 5 to make it more efficient and less burdensome to the Commission and the public.

**EFFECTIVE DATE:** January 1, 1984.

#### FOR FURTHER INFORMATION CONTACT:

George Harenberg (202) 653-6288, Frank Wright (202) 653-8137, Office of Science and Technology, Washington, D.C. 20554.

#### List of Subjects in 47 CFR Part 5

Experimental radio, Radio, Research, Students.

#### Report and Order (Proceeding Terminated)

In the matter of amendment of Part 5 of the Commission's Rules to diminish restrictions on the licensing and use of stations in the Experimental Radio Services (other than Broadcast); Gen. Docket No. 82-469, FCC 83-471.

Adopted: October 19, 1983.  
Released: November 16, 1983.  
By the Commission.

#### Introduction

1. This *Report and Order* amends several provisions of Part 5 of the Commission's Rules concerning the Experimental Radio Service (other than Broadcast). A provision is added under scope of service to clarify our policy to permit limited market studies under an experimental authorization. Certain regulations pertaining to technical characteristics of emissions, qualification of station operators, and some mandatory reporting requirements are deleted. Also, the requirement for the filing of a petition for rule making with experimentation of a developmental nature is eliminated.

2. On July 22, 1982, the Commission adopted a *Notice of Proposed Rule Making*, 47 FR 35535 (August 16, 1982), to streamline Part 5 and to make it more efficient and less burdensome for the Commission as well as for the public.<sup>1</sup> The *Notice* proposed to delete rules which appear no longer useful and to eliminate or reduce those regulatory restrictions in Part 5 which create, for the Commission and the public, burdens in excess of benefits. The *Notice* was issued as a result of studies conducted by our staff and was undertaken as part of our continuing agency-wide regulatory review.

#### Routine Reporting Requirements

3. The *Notice* proposed to eliminate the mandatory routine reporting requirements for most classes of experimental operation authorized under Part 5. It also proposed to replace the automatic reporting requirement with a rule requiring a report only upon specific request, as specified by the

<sup>1</sup>Nine formal comments, no reply comments, and one informal comment were submitted by ten parties in response to the *Notice*. See Appendix A for a list of parties who filed comments.

Commission in the authorization document.

4. All the comments received were in general agreement with this proposal. These comments confirmed our belief that the elimination of the submission of unnecessary detailed information, that is often of a proprietary nature, would reduce the burden and expense on both the Commission and the applicant. It would also serve to promote utilization of the Experimental Radio Service and to encourage further technological developments. In addition, it was pointed out that the Commission will have as much information as is realistically needed from the initial application for experimental authority. When additional information is needed, some comments argued, it can be selectively requested on a case-by-case basis. Thus it would focus costly reports on more useful and explicit areas of interest and eliminate the loss of proprietary information. In any event, the comments indicate that if the program of experimentation is successful, all necessary information can be obtained at the rulemaking stage.

5. We concur with the comments that the filing of detailed reports is burdensome and expensive and is not necessary or desirable under our experimental rules. We are therefore replacing the automatic reporting requirement with a rule requesting a report from the licensee only upon specific Commission request or as indicated on a case-by-case basis in the authorization document.

#### Station Technical Characteristics

6. The *Notice* proposed several amendments to the Regulations concerning the technical characteristics of experimental stations. It proposed to eliminate the requirements: (1) That an experimental station have a frequency tolerance no greater than that of regularly authorized stations operating within the same frequency band and (2) that the experimental station emission power must roll-off as a prescribed function of frequency within and beyond the limits of the assigned bandwidth. The *Notice* also proposed to delete Section 5.105, which limits the power and antenna height of stations, and Section 5.107, which required that the transmitter operating characteristics (Carrier Frequency, Power and Modulation) be measured when the equipment is originally installed, or when changes are made to the operation which might result in a change to the transmitter characteristics. However, the Commission in the *Notice* proposed: (1) To require applicants to specify these

technical parameters in the technical section of the application and (2) to reserve the right to impose restrictions on these as well as other system parameters as may be necessary to control interference to regularly authorized services.

7. The comments generally concurred with the proposals to eliminate these technical constraints on experimental stations except for the proposed deletion of § 5.107(a). RCA Corporation (RCA) stated that the requirement should be retained so that the licensee would continue to measure transmitter parameters to assure that its operations would be conducted on the authorized frequency. Although we share the concern of RCA that the equipment perform as authorized, we do not believe it is necessary to dictate to the licensee how this is to be accomplished. Our objective is to preclude harmful interference to other users of the spectrum. There appears to be a sufficient safeguard to protect against interference with the requirement that if harmful interference is caused to regular services, the licensee must immediately cease the experimental station operation.

8. GE and Rockwell indicated that imposition of technical standards on experimental stations is neither desirable nor necessary. They maintained that innovation thrives best when left free and open to choices. In terms of communication technology, that innovation translates into eliminating standards barriers that are neither necessary nor desirable. Technological evolution involves departure from current technical standards constraints. We agree with these comments to the extent outlined below. Therefore, we are deleting from the rules, as indicated in Appendix B, the constraints on (1) the emission power roll-off (Sections 5.103 and 5.104), (2) the power and antenna height of a station (Section 5.105), and (3) transmitter measurements (Section 5.107). The new rule (Section 5.103) herein on emission limitations, however, requires the authorization to show the maximum authorized bandwidth to be occupied by the emission. Hence, the only restriction remaining concerning the power roll-off of the emission is determined by the definition of occupied emission bandwidth.<sup>2</sup>

9. As proposed in the *Notice*, we are also replacing the rules on frequency tolerance with a rule that if an applicant proposes to use a frequency tolerance

greater than the tolerance set forth in the rules governing the service to which the frequencies are assigned,<sup>3</sup> then the frequency tolerance should be provided as part of the filing in the application for a station license. We also reserve the right to impose restrictions on all the above characteristics as well as other system parameters in the experimental authorization as may be necessary on a case-by-case basis to control interference to regularly authorized services.

#### *Operator Qualifications and Station Operations*

10. The *Notice* proposed to eliminate certain requirements pertinent to experimental station operations and to the qualifications of station operators. Specifically § 5.154, relating to mobile installations in vehicles not under the continuous control of the licensee, was proposed to be deleted. This change leaves the responsibility for selecting the proper means of control of the station to the licensee. Also the *Notice* proposed to eliminate several provisions concerning operator licensing for experimental stations, again giving to the licensee the responsibility of ensuring that stations are operated by qualified operators.<sup>4</sup>

11. The comments affirmed the Commission view that the nature of experimentation often requires flexibility in where a station may be located, such as on vehicles not owned by the applicant (ocean-going ships, aircraft, city bus, etc.). Also, the comments indicated that there is a need for an increased latitude regarding the requirement for a radio operator license. It was asserted that many engineers and technicians have infrequent need to hold a radio operator license. Yet these technical people may be occasionally involved in an experiment where it would be convenient and less costly to have them operate a transmitter rather than to obtain an additional person holding a radio operator license solely for this purpose.

12. Accordingly, we are adopting, as proposed in the *Notice*, those rule changes dealing with the requirements for licensed operators and for control of transmitters. We are deleting the requirement that the station operator hold a radio operator license. The responsibility of ensuring that stations are operated by qualified operators will

be the responsibility of the licensee (Section 5.155). Also, § 5.154, concerning mobile installations in vehicles not under the continuous control of the licensee, is deleted. This action, we believe, permits the installation and operation of radio stations in vehicles, aircraft, and vessels not under the direct control of the licensee. We emphasize, however, that this action does not relieve the licensees of the responsibility of maintaining control over their stations. It will, however, give them more latitude in how they accomplish this control.

#### *Requirements for the Filing of a Rule Making Petition*

13. The *Notice* proposed to delete the requirement that a petition for rulemaking accompany those experimental applications which propose to experiment with a new use of radio for which operating rules have not been promulgated or proposed, or which propose to extend an existing radio use into a new frequency band.

14. The comments on this proposal were divided. AT&T did not support eliminating the requirement for a petition for rulemaking for developmental operations. AT&T argued that the Commission does not place applications for experimental licenses on public notice and, therefore, does not open a public record. AT&T further states that proposals to experiment with new standards or new frequencies for a radio service deserve detailed consideration to determine whether they are in the public interest. In particular, other users of the frequency of interest, AT&T asserts, should have the opportunity to evaluate experimental proposals and submit their views to the Commission. Moreover, the requirement to file a rulemaking petition at the outset of an experiment, they believe, encourages more careful thought and planning by the applicant. AT&T therefore urges the Commission to retain Subpart F, §§ 5.251 through 5.253, suitably modified to maintain the developmental/research distinction and at least to continue the petition for rulemaking requirement for proposals to use frequencies previously assigned to other uses.

15. The majority of comments received were in favor of deleting the requirement to file a petition for rulemaking. They argue that it is an unnecessary paperwork burden on both the Commission and the applicant, and it serves no beneficial objective. They stated that the program of experimentation may not be successful, or may alter the direction of

<sup>2</sup>Table of Frequency Allocations of Part 2 of this chapter.

<sup>3</sup>The Commission is also considering requirements for licensed operators in various radio services in a Notice of Proposed Rulemaking, General Docket 83-322, FCC 83-113, released April 20, 1983.

<sup>4</sup>Section 2.202 of the Commission's Rules indicates that the occupied bandwidth of the emission contain 99% of the total mean power radiated.

development, thus readily changing the direction of the rulemaking proposal. Also, they assert that in many cases the results of the experimentation may be needed before the essential details of any proposed rules can be formulated. The logical time to file, they state, is after the results of the experiment have been analyzed and changes made to the original plan. Concern, however, was expressed in the comments that by deleting the petition for rulemaking requirement, the public would not be officially informed as to what new services are being developed.<sup>5</sup>

16. Although we recognize the concerns expressed in the comments, we believe a continued requirement for a petition for rulemaking would serve little purpose. Consistent with our proposal, we are, therefore, deleting these requirements. The applicant is not precluded from filing petitions for rulemaking; he may do so at whatever time he deems appropriate. Furthermore, the granting of an experimental authorization does not provide any degree of permanence for the experimental use within the particular frequency band. The only way that the experimental use can be authorized on a permanent basis is through a rulemaking proceeding. At the time of filing a petition for rulemaking the results of the experiment can be made available as part of the public record. The Commission can then determine the appropriateness of the proposed experimental radio use among the other radio users within the particular frequency band based upon a more complete public record through the normal rulemaking proceeding. On the other hand, we acknowledge that the public should be aware of what services are being developed that could affect them. Therefore, we will continue to issue a public notice listing new authorizations for experimental radio stations. We believe this action is sufficient to inform the public of new radio services being developed. Experimental applications are fully coordinated within the Commission and other Executive Branch agencies before any grant and, of course, an experimental license can be quickly withdrawn if difficulties develop. Should a rulemaking petition be filed, there will be an ample opportunity to record concerns.

<sup>5</sup> Since at the present time experimental applications do not go on public notice, the public may not be aware of new services that are being developed.

#### *Limited Market Studies*

17. The *Notice* proposed to extend the scope of Part 5 to include market experimentation by adding limited market studies as a specific category under scope of service. It also proposed to require the licensee: 1) to maintain ownership of any transmitting or receiving equipment used in the experiment by members of the public and 2) to inform anyone who participates in the experiment that the authorization of the service or device is strictly temporary and experimental and is subject to immediate termination in the event of interference or as the Commission may otherwise deem necessary. The size and scope of the experiment would also be subject to limitations on a case-by-case basis to ensure that it is held to the minimum size necessary for a meaningful market test.

18. All comments were in favor of expanding Part 5 to include limited market studies. However, the conditions associated with limited market studies were very controversial. RCA asserted that the public should be given more information than is provided in the proposed regulations. RCA recommended that, in order to further inform the public, each piece of equipment or device that is used in market trials be labeled conspicuously and legibly as additional notification of the status of such equipment. We are however requiring the licensee engaged in a market study to inform participating members of the public that their use of the radio facilities provided by the licensee is subject to immediate termination without advance notice and to caution the public against too great a reliance on the continued availability of that equipment or investment in peripheral facilities. In certain cases it may be necessary to sell equipment to the public in order to obtain the appropriate market data. Under these circumstances, we will require labels advising the public the equipment is being used as part of an experiment which may end without notice. If a licensee violates the authorization and does not inform the public that the equipment being used is in furtherance of an experiment, we may invoke the Commission's forfeiture provisions.

19. The remaining comments dealt with the question of equipment ownership. The comments requested that the proposed rules be expanded so that the licensee be required to own only the transmitting equipment. The reception equipment could be owned by participants in the market trials other than the public. In support, Rockwell

International Corporation cited an experiment in which the experimental aspects of a market trial could relate only to the ancillary devices associated with, or attached to, transmitters or receivers which are already in service and owned by others. CBS, in its comments, indicated that proposed § 5.206(a) would prohibit a licensee from leasing or borrowing equipment from a manufacturer or another party to conduct the experiment. Also, it asserts the rule is intended to protect the "public", but the "public" in certain market trials may be other business entities, where no special protection is needed.

20. We agree that there may be good reasons for the borrowing or pooling of equipment to be used in an experiment. Indeed, many industry committees use such a borrowing system in order to evaluate and select among competing systems. In order to reduce the potential financial risk to members of the public, we are adopting the rules as proposed in the *Notice*, with some modifications. We are requiring that all transmitting facilities authorized on the experimental license as well as all receiving equipment (including antennas) involved in the market study, not already owned by members of the public, be owned by the licensee, unless otherwise stated on the instrument of authorization. The leasing or borrowing of equipment from a manufacturer or another party will be permitted as appropriately needed in the experiment and as it is determined to be in the public interest. However, the Commission assigns all responsibility for the proper operation of this equipment to the experimental station licensee. The licensee may rent or lease these facilities to members of the public, but the licensee will nevertheless retain responsibility for its proper operation. We are also requiring the licensees engaged in market studies to inform participating members of the public that their use of the radio facilities provided by the licensee is subject to immediate termination without advance notice and to caution the public against too great a reliance on the continued availability of that equipment or investment in peripheral facilities. We believe these requirements would adequately protect members of the public against potential financial loss due to precipitous termination of a market study, without being so constraining as to prevent meaningful results.

21. We also recognize that certain market studies may need to use existing equipment already owned by the public and in service for other purposes, such

as home TV receivers. As long as the public is not required to purchase equipment specifically needed solely for the experiment, we believe the use of such existing equipment should be permitted in the experiment.

Accordingly, we are also permitting the use of existing equipment already owned by the public and in service for other purposes to be used in the experiment. However, the existing equipment need not be the responsibility of the licensee.

22. Under the above conditions we are extending the scope of Part 5 to include the authorization of limited market studies. This is being accomplished by including limited market studies as a specific category under the scope of service and by modifying § 5.151 to permit the rendering of a communications service. An applicant for a limited market study will be required to give a full explanation of the nature of the service or device which is to be examined. Also, like other Part 5 licenses, a license for limited market studies will be issued for a period of 2 years. It will be subject to technical and operating restrictions as may be necessary to control potential interference. Operation is authorized on a non-interference basis to regular services. The size and scope of the experiment will also be subject to limitations by the Commission on a case-by-case basis to ensure that it is held to the minimum size necessary for a meaningful limited market study. This limitation could take many forms, including limitations on the numbers of transmitters and receivers involved, on the geographical areas to be covered, on times of operation, etc. The keeping of special records and the filing of status reports may also be required, depending on the nature and scope of the experiment and Commission concerns about potential interference.

#### Other Issues

23. As an administrative matter, we have also proposed in the *Notice* to eliminate the Form 440A which applicants must now file if requesting the renewal of a station license used to fulfill a contract with an agency of the United States Government. This additional one page form entitled "Supplemental Information For Applications in the Experimental Radio Service Involving Government Contracts" is used for coordination with the Government agency involved for confirmation of the contract. The data contained on this form which are not part of the main application are the contract number and the name of the contracting agency. This information is

still required, but can be provided more efficiently if made a part of the application Form, i.e., FCC Form 442. We are therefore eliminating Form 440A and appropriately modifying Form 442.

24. RCA requested that the Commission delete the requirement for the transmission of a station identification where it is obvious that it is impractical to transmit a station identifier in accordance with the terms of § 5.152. RCA stated that, under some conditions of operation, there are no specified standard voice or morse code receiving methods. Also, it is impractical or impossible for some equipment radiating with specialized emission signatures to transmit a station identifier. This condition has been routinely accepted as justification for station identification waiver requests in the past. RCA stated that normal Commission review processes should incorporate a provision of this condition without the necessity for a special request. We are retaining § 5.152 concerning station identification unchanged. However, we are modifying form 442 to require the applicant to certify whether or not the experimental equipment can comply with the station identification requirement. This action relieves the applicant of the burden of requesting a waiver in instances where the equipment is not capable of station identification.

25. Equatorial Communication Services (Equatorial) states that they hold developmental licenses under Part 25 (Satellite) Rules. Since Equatorial is a common carrier on common carrier frequencies they must file under Part 25. Equatorial believes that the benefits arising out of Part 5 rule changes proposed in the *Notice* should also be made available to those conducting developmental activities involving satellite earth stations. They suggest § 25.390 be amended to incorporate changes analogous to the changes proposed in the *Notice*. Since this proceeding concerns only amendments to Part 5, changes to § 25.390 are outside the scope of this proceeding.

26. Comments of the Association of Maximum Service Telecasters Inc. (MST) stress that this action is a relaxation of existing procedures only and that it should be made clear that the various protections against interference from experimental stations have not been relaxed. Since we had no intention of relaxing the various protections against interference from experimental stations, we are keeping intact those protections against interference that currently exist. Experimental stations will continue to operate on a

noninterference basis to regular services, and must accept harmful interference should it occur.

#### Conclusion And Summary

27. We have concluded that the overall record in this proceeding supports our initial assessment that certain technical requirements and mandatory reporting requirements for Part 5 experimental radio stations should be eliminated. In addition, certain station operation requirements should be relaxed and Part 5 should be expanded to include provision for limited market studies. The rule changes as proposed in the *Notice* serve both the Commission and the public interest, and we are adopting herein specific rules consistent with these proposals. In view of the foregoing, Experimental Radio Service (other than Broadcast) Part 5 is revised as given in Appendix B attached. These new rules should provide reasonable control of interference to other radio communications services from Part 5 Experimental Stations and devices while at the same time not being unreasonably burdensome to the licensee.

#### Procedural Matters

28. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final regulatory flexibility analysis is as follows:

##### I. Need for and Purpose of the Rules

29. The Commission has concluded that permitting limited market studies and eliminating certain regulations pertaining to technical characteristics of stations, qualifications of station operators and some mandatory reporting requirements for stations in the Experimental Radio Service would enhance the public interest. It provides opportunities for new, innovative services and for improving efficiency of spectrum utilization.

##### II. Summary of Issues Raised by Public Comments in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result.

###### A. Issues Raised

30. No issues or concerns were raised specifically in response to the initial Regulatory Flexibility Analysis. However, a number of issues and points that pertain to small businesses were mentioned in the comments. Most of these remarks were positive, although a few expressed concern that the ownership of transmitting equipment by

the licensee would hinder the experimental process.

#### B. Assessment

31. The Commission views the absence of specific claims of adverse impact with respect to its proposal for diminished restrictions on the licensing and use of stations in the Experimental Radio Service as indicative of their lack of potential for negative effects on small business. We also believe that this report corrects the problems associated with the ownership of transmitting equipment as proposed in the *Notice*.

#### C. Changes Made as a Result of Such Comments

32. The Commission will authorize transmitting and associated equipment to be owned by persons other than the licensee on a case-by-case basis.

#### III. Significant Alternative Considered and Received

33. The Commission's other alternatives were: (1) not to diminish restrictions on the licensing and use of stations in the Experimental Radio Service or (2) to adopt a more restrictive approach. To retain the present restrictions would forego the rulemaking. Similarly, a more restrictive approach to regulation likely would interfere with realization of the full potential and benefits of the Experimental Radio Service and would represent a degree of regulation unnecessary to attain the Commission's objective in this area.

34. Accordingly, it is ordered, that Pursuant to the authority contained in Section 4(i) and 303(g) of the Communications Act of 1934, as amended, that Part 5 of the Commission's Rules is amended as set forth in Appendix B. Effective January 1, 1984.

35. It is further ordered that this proceeding is terminated.

36. For further information concerning this proceeding, contact George Harenberg, (202) 653-6288, or Frank Wright (202) 653-8137, Office of Science and Technology.

Federal Communications Commission.

William J. Tricarico,

Secretary.

#### Appendix A

##### Parties Filing Formal Comments in the Part 5 Proceeding

1. American Telephone and Telegraph Co. (AT&T).
2. Equatorial Communications Services (Equatorial).
3. Rockwell International Corp. (Rockwell).

4. RCA Corp. (RCA).
5. General Electric Co. (G.E.).
6. Contemporary Communications Corp. (CCC).
7. CBS, Inc. (CBS).
8. Hughes Aircraft Co. Microwave Communication Products, Inc. (Hughes).
9. The Association of Maximum Service Telecasters (MST).

#### Other Comments

1. National Telecommunication and Information Administration (NTIA).

#### Appendix B

Part 5 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 5—[AMENDED]

##### §§ 5.2, 5.104, 5.105, 5.107, 5.154, 5.156, 5.404 [Reserved]

1. Part 5 is amended by removing and reserving the following sections:
  - Section 5.2.
  - Section 5.104.
  - Section 5.105.
  - Section 5.107.
  - Section 5.154.
  - Section 5.156.
  - Section 5.404.

##### §§ 5.51, 5.53, 5.57, 5.62, 5.63, 5.66, 5.67, 5.68, 5.102, 5.158, 5.159, 5.160, 5.163 [Amended]

2. Part 5 is amended by removing the words "Experimental Radio Services" or "Experimental Service (Research)" or "experimental radio services" or "experimental services" or "Experimental Services" and inserting in their place the words "Experimental Radio Service" in the following places:
  - Section 5.51(a).
  - Section 5.53(a).
  - Section 5.57(d).
  - Section 5.62.
  - Section 5.63 (a) and (c).
  - Section 5.66.
  - Section 5.67(a).
  - Section 5.68.
  - Section 5.102.
  - Section 5.158.
  - Section 5.159.
  - Section 5.160.
  - Section 5.163.

3. Section 5.3 is amended by revising paragraphs (c) and (d) and by removing and reserving paragraph (e) to read as follows:

##### § 5.3 Definition of terms.

- Experimental Radio Service. A service in which Radio waves are employed for purposes of experimentation in the radio art or for purposes of providing essential communications for research projects

which could not be conducted without the benefit of such communications.

(d) Experimental Station. A station utilizing radio waves in experiments with a view to the development of science or technique

(e)[Reserved.]

4. Section 5.55 is amended by revising paragraph (d) to read as follows:

##### § 5.55 Forms to be used.

(d) Application for renewal of station authorization. Application for renewal of station license shall be submitted on FCC Form 405. A blanket application may be submitted for renewal of a group of station licenses in the same class in those cases where the renewal requested is in exact accordance with the terms of the existing authorizations. The individual stations covered by such applications shall be clearly identified thereon. Unless otherwise directed by the Commission, each application for renewal of license shall be filed at least 60 days prior to the expiration date of the license to be renewed.

5. Section 5.57 is amended by revising paragraphs (b) and (c) to read as follows:

##### § 5.57 Supplementary statements required.

(b) Applications involving government contracts. In addition to the requirement of paragraph (a) of this section, if the authorization is to be used for the purpose of fulfilling the requirements of a contract with an agency of the United States Government, the applicant shall submit the name of the contracting agency and the contract number.

(c) Applications involving development of equipment for export purposes. In addition to the requirements of paragraph (a) of this section, if the authorization is to be used for the purpose of developing equipment for exportation to be employed by stations under the jurisdiction of a foreign government, the applicant shall submit the contract number and the name of the foreign government concerned.

6. Section 5.67 is amended by revising paragraph (c) as follows:

##### § 5.67 Policy governing the assignment of frequencies.

(c) The frequencies available for use in the Experimental Radio Service are set forth in § 5.203.

7. Section 5.101 is revised to read as follows:

**§ 5.101 Frequency stability.**

If an applicant proposes to use a frequency tolerance greater than the tolerance set forth in the rules governing the service to which the frequencies are assigned in the Table of Frequency Allocations of Part 2 of this chapter, the frequency tolerance should be provided as part of the filing in the application for a station license.

8. Section 5.103 is revised to read as follows:

**§ 5.103 Authorized bandwidth.**

Each authorization issued to a station operating in this service will show, as the prefix to the emission classification, a figure specifying the maximum necessary bandwidth in kilohertz for the emission used. The authorized bandwidth is considered to be the occupied or necessary bandwidth whichever is greater. This bandwidth should be determined in accordance with § 2.202 of part 2 of this Chapter.

9. Section 5.106 is revised to read as follows:

**§ 5.106 Transmitter control requirements.**

Each licensee shall be responsible for maintaining control of the transmitter authorized under its station authorization. This includes both ensuring that transmissions are in conformance with the operating characteristics prescribed in the station authorization and that the station is operated only by persons duly authorized by the licensee.

10. The introductory paragraph of § 5.108 is revised to read as follows:

**§ 5.108 Wildlife tracking and ocean buoy tracking operations.**

Except as provided in §§ 5.101, 5.102, 5.103 and 5.106, the use of frequencies in the bands 40.66-40.70 MHz and 216-220 MHz for the tracking of and telemetry of scientific data from ocean buoys and animal wildlife are subject to the following conditions:

11. Section 5.151, paragraphs (a) introductory text and (b) are revised to read as follows:

**§ 5.151 General limitations of use.**

(a) The following transmission limitations are applicable to all classes of stations in the Experimental Radio Service:

(b) If experimental stations are to be used to retransmit signals of any other station or to transmit programs intended for public reception or render any communications service, a full

disclosure of this must be made in the application for license.

12. Section 5.155 is revised to read as follows:

**§ 5.155 Operator requirements.**

(a) The licensee shall ensure that all transmitter adjustments which affect the proper operation of a station shall be made by a person qualified to perform such adjustments.

(b) The licensee shall be responsible for ensuring that the person operating the transmitter is qualified to operate said station.

(c) When transmitting radiotelegraphy by any type of Morse Code, the operator shall have proved his ability to transmit by hand and receive by ear texts in Morse Code signals.

(d) The provisions of this section shall not be construed to change or diminish in any respect the responsibility of station licensees to have and to maintain control over the stations licensed to them, or for proper functioning and operation of those stations in accordance with the terms of the licenses of those stations.

13. Section 5.163 is amended by removing paragraph (b)(3) and revising paragraphs (b)(1) and (b)(2) as follows:

**§ 5.163 Content of station records.**

(b) \* \* \*

(1) Pertinent details of all duties performed by the operator or under the operator's supervision; and

(2) The operator's name and address.

14. Subpart E is revised to read as follows:

**Subpart E—Experimental Authorizations**

**Sec.**

- 5.201 Eligibility of license.  
 5.202 Scope of service.  
 5.203 Frequencies for the Experimental Radio Service.  
 5.204 Experimental report.  
 5.205 Frequencies for field strength surveys or equipment demonstration.  
 5.206 Limited Market Studies.

**Subpart E—Experimental Authorizations**

**§ 5.201 Eligibility of license.**

(a) Authorizations for stations in the Experimental Radio Service will be issued only to persons qualified to conduct experimentations utilizing hertzian waves for scientific or technical operation data directly related to a use of radio not provided by existing rules; for communications in connection with research projects when existing communication facilities are inadequate.

(b) Applicants eligible for authorizations in an established service, and seeking to develop operational data or techniques directed toward the improvement or extension of that service shall file applications and conduct such projects under the developmental rules of the established service.

**§ 5.202 Scope of service.**

Stations operating in the Experimental Radio Service will be permitted to conduct the following type of operations:

- (a) Experimentations in scientific or technical radio research.  
 (b) Experimentations under contractual agreement with the United States Government, or for export purposes.  
 (c) Communications essential to a research project.  
 (d) Technical demonstrations of equipment or techniques.  
 (e) Field strength surveys by persons not eligible for authorization in any other service.

(f) Demonstration of equipment to prospective purchasers for proposed stations in existing services by persons engaged in the business of selling radio equipment.

(g) Testing of equipment in connection with production or type approval of such equipment.

(h) Development of radio technique, equipment or engineering data not relating to an existing or proposed service, including field or factory testing or calibration of equipment.

(i) Development of radio technique, equipment, operational data or engineering data related to an existing or proposed radio service.

(j) Limited market studies.

(k) Other types of experiments that are not specifically covered under (a) through (j) above will be considered.

**§ 5.203 Frequencies for the Experimental Radio Service.**

Stations operating in the Experimental Radio Service may be authorized to use any government or non-government frequency designated in the Table of Frequency Allocations set forth in Part 2 of this Chapter as available for assignment to this service. Provided that the need for the specific frequency(ies) requested is fully justified by the applicant.<sup>1</sup>

<sup>1</sup>Notwithstanding the broad frequency provision for this Service, applicants desiring authorization for the purpose of wildlife or ocean buoy telemetering and/or tracking should, to the extent practicable, use frequencies in the bands 40.66-40.70 MHz or 216-220 MHz, in accordance with footnote Continued

**§ 5.204 Experimental report.**

(a) Unless specifically stated as a condition of the authorization, licensees are not required to file a report on the results of the experimental program carried on under this subpart.

(b) The Commission may, as a condition of authorization, request the licensee to forward periodic reports in order to evaluate the progress of the experimental program.

(c) An applicant may request that the commission withhold from the public certain reports and associated material and the Commission will withhold the same unless the public interest requires otherwise.

**§ 5.205 Frequencies for field strength surveys or equipment demonstrations.**

(a) Authorizations issued under § 5.202(e) and (f) will normally not have specific frequencies designated in a station license. Prior to the commencement of a survey or demonstration, the licensee will request a specific frequency assignment and submit the following information:

(1) Time, date and duration of survey.  
 (2) Frequency to be used.  
 (3) Location of transmitter and geographical area to be covered.  
 (4) Purpose of survey.  
 (5) Method and equipment to be used.  
 (6) Names and addresses of persons for whom the survey is conducted.

(b) Upon receipt of authority from the Commission to conduct a particular survey, the licensee shall furnish the Engineer-in-Charge of the radio district in which the survey is to be conducted, sufficiently in advance to assure receipt before commencement thereof, the following information: Time, date, duration, frequency, location of transmitter, area to be covered, and purpose of survey.

**§ 5.206 Limited market studies.**

Unless otherwise stated in the instrument of authorization, licenses granted for the purpose of limited market studies pursuant to § 5.202(j) are subject to the following conditions:

(a) All transmitting and/or receiving equipment used in the study shall be owned by the licensee.

(b) The licensee is responsible for informing anyone participating in the experiment that the service or device is granted under an experimental

authorization and is strictly temporary.

(c) The size and scope of the market study may be subject to limitations on a case-by-case basis as the Commission shall determine.

**Subpart F—[Reserved]****15. Subpart F—[Reserved]**

[FR Doc. 83-31074 Filed 11-21-83 8:45 am]

**BILLING CODE 6712-01-M**

**NATIONAL TRANSPORTATION SAFETY BOARD****49 CFR Parts 831 and 845****Aircraft Accident/Incident Investigation Procedures; Rules of Practice in Transportation; Accident/Incident Hearings and Reports**

**AGENCY:** National Transportation Safety Board.

**ACTION:** Final rule.

**SUMMARY:** This amendment revises the Board's rules applicable to aircraft accident/incident investigations (Part 831) and to transportation accident/incident hearings and reports (Part 845) to clarify procedures and terminology regarding (a) the submission of proposed findings prior to the Board's determination of probable cause and (b) the filing of petitions for reconsideration following issuance of the Board's report.

**EFFECTIVE DATE:** November 22, 1983.

**FOR FURTHER INFORMATION CONTACT:**

John M. Stuhldreher, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594 (202-382-6540).

**SUPPLEMENTARY INFORMATION:** The Board has decided to adopt several amendments to clarify its procedural regulations governing accident/incident investigations, hearings and reports. These regulations currently provide for the submission to the Board of "recommendations" to be drawn from the evidence. The word "recommendations", as used in §§ 831.12 and 845.27, is being replaced with "proposed findings", "probable cause", and "safety recommendations", which is more descriptive of the submissions the Board desires to receive and which will avoid any confusion with the Board's own safety recommendations.

In another clarification of terminology, the word "request" (for reconsideration or modification), as used in § 845.41, is being changed to "petition", which comports with general usage at the present time.

Section 845.41 provides that petitions will be entertained only if based on the discovery of new evidence or "on a showing that the Board's findings, as to the facts, conditions and circumstances, are erroneous." A question has been raised as to whether the quoted language restricts petitions to allegations of *factual* error, or whether it also permits petitions alleging error in the Board's *analysis* of those facts and in the Board's findings and determination of probable cause. In order to make it clear that petitions may allege either factual or analytical errors, the phrase "facts, conditions and circumstances" is being deleted so that a petition, in addition to being based on new evidence, can be based "on a showing that the Board's findings are in error."

Finally, the parties to an investigation or hearing other than the petitioner have implicitly had the right to comment on a petition. Section 845.41(b) is being amended to make this right explicit by affording parties 90 days following service of a petition to file comments.

Since these are amendments to the Board's procedural rules that clarify and expand the opportunity for public participation in the Board's proceedings and do not impose a burden on any segment of the public, the Board finds that notice and public procedure are unnecessary and that the amendments may become effective less than 30 days from the date of publication in the *Federal Register*.

**Regulatory Flexibility**

Under the criteria of the Regulatory Flexibility Act, these amendments to Parts 831 and 845 will not impose any kind of regulatory burden on any entity. These amendments are intended to clarify the Board's procedures in respect to accident/incident investigations, hearings and reports.

**Paperwork Reduction**

The amendments that are adopted herein will not alter in any way the paperwork involved in the submission of proposed findings or petitions for reconsideration.

**List of Subjects****49 CFR Part 831**

Administrative practice and procedure, Aircraft, Aviation safety, Investigation.

**49 CFR Part 845**

Administrative practice and procedure, Investigation, Safety, Transportation.

Accordingly, Parts 831 and 845 of Title 49 of the Code of Federal Regulations are amended as follows:

**PART 831—AIRCRAFT ACCIDENT/ INCIDENT INVESTIGATION PROCEDURES**

Section 831.12 is revised to read as follows:

**§ 831.12 Proposed findings.**

Any person, Government agency, company, or association whose employees, functions, activities, or products were involved in an accident under investigation may submit to the Board, prior to its determination of probable cause, proposed findings to be drawn from the evidence produced during the course of the accident investigation, a proposed probable cause, and proposed safety recommendations designed to prevent future accidents.

**PART 845—RULES OF PRACTICE IN TRANSPORTATION; ACCIDENT/ INCIDENT HEARINGS AND REPORTS**

1. Section 845.27 is revised to read as follows:

**§ 845.27 Proposed findings.**

Any party may submit proposed findings to be drawn from the testimony and exhibits, a proposed probable cause, and proposed safety recommendations designed to prevent future accidents. The proposals shall be submitted within the time specified by the presiding officer at the close of the hearing, and shall be made a part of the public docket. Parties to the hearing shall serve copies of their proposals on all other parties to the hearing.

2. Section 845.41 is revised to read as follows:

**§ 845.41 Petitions for reconsideration or modification.**

(a) Petitions for reconsideration or modification of the Board's findings and determination of probable cause filed by a party to an investigation or hearing or other person having a direct interest in the accident investigation will be entertained only if based on the discovery of new evidence or on a showing that the Board's findings are erroneous. The petitions shall be in writing. Petitions which are repetitious of proposed findings submitted pursuant to § 845.27, or of positions previously

advanced, and petitions filed by a party to the hearing who failed to submit proposed findings pursuant to § 845.27 will not be entertained. Petitions based on the discovery of new matter shall: identify the new matter; contain affidavits of prospective witnesses, authenticated documents, or both, or an explanation of why such substantiation is unavailable; and state why the new matter was not available prior to Board's adoption of its findings. Petitions based on a claim of erroneous findings shall set forth in detail the grounds relied upon.

(b) When a petition for reconsideration or modification is filed with the Board, copies of the petition and any supporting documentation shall be served on all other parties to the investigation or hearing and proof of service shall be attached to the petition. The other parties may file comments no later than 90 days after service of the petition.

(c) Oral presentation before the Board normally will not form a part of proceedings under this part. However, the Board may permit oral presentation where a party or interested person makes an affirmative showing that the written petition for reconsideration or modification is an insufficient means to present the party's or person's position to the Board. Where oral presentation is allowed, the Board will specify the issues to be addressed and all parties to the investigation or hearing will be given notice and the opportunity to participate.

3. Section 845.50 is amended by revising paragraph (a) to read as follows:

**§ 845.50 Public docket.**

(a) The public docket shall include all factual information concerning the accident. Proposed findings submitted pursuant to §§ 831.12 or 845.27 and petitions for reconsideration and modification submitted pursuant to § 845.41, comments thereon by other parties, and the Board's rulings, shall also be placed in the public docket.

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(Title VII, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1421, *et seq.*, and Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166, 49 U.S.C. 1901, *et seq.*)

Signed at Washington, D.C. on November 14, 1983.

Patricia A. Goldman,

Vice Chairman.

[FR Doc. 83-31187 Filed 11-21-83; 8:45 am]

BILLING CODE 4910-58-M

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Final Rule To Remove the Florida Population of the Pine Barrens Treefrog From the List of Endangered and Threatened Wildlife and To Rescind Previously Determined Critical Habitat**

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service makes a final determination to remove the Florida population of the Pine Barrens treefrog (*Hyla andersonii*) from the List of Endangered and Threatened Wildlife and to rescind the Critical Habitat that has been designated for this population. This action is being taken because recent evidence indicates that the species is much more widely distributed than originally known. Removal of this species from the List of Endangered and Threatened Wildlife eliminates all protection provided it by the Endangered Species Act of 1973, as amended.

**DATE:** This rule becomes effective on December 22, 1983.

**ADDRESS:** The complete file for this rule is available for public inspection by appointment during normal business hours at the Service's Regional Office, 75 Spring Street, SW., Room 1282, Atlanta, Georgia 30303.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marshall P. Jones, Endangered Species Staff Specialist, at the above address (404/221-3583 or FTS 8/242-3583).

**SUPPLEMENTARY INFORMATION:****Background**

On April 5, 1977, the Service published a proposed rule in the *Federal Register* (42 FR 18109-18111) advising that sufficient evidence was on file to support a determination that the Florida population of the Pine Barrens treefrog (*Hyla andersonii*) was an Endangered species, as provided for by the Endangered Species Act of 1973, as amended. After a thorough review and consideration of all the information available, the Service published a final rule on November 11, 1977 (42 FR 58754-58756), determining that the Florida population of the species was in danger of extinction throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a)(1) of the Act. The

Endangered determination was based primarily on factor number one, "the present or threatened destruction, modification, or curtailment of its habitat or range." At that time the only known existing breeding sites were limited to seven small areas in Okaloosa County.

The total number of individuals at these sites was estimated at less than 500. Four other breeding groups, including the only ones known from Walton County, were reported to have been extirpated in the period following the frog's discovery in 1970. It appeared that without the protection afforded by the Endangered Species Act, the remaining Florida population would likely be lost. The final rule classifying the Florida population as Endangered and designating Critical Habitat became effective on December 8, 1977. At that time, other populations of the Pine Barrens treefrog were known from the Carolinas and New Jersey. The Service is reviewing the status of these populations on the basis of notices published in the *Federal Register* of August 2, 1977 (42 FR 39119-39120), and September 27, 1982 (47 FR 42387-42388).

In the spring of 1978, the Florida Game and Fresh Water Fish Commission began a project to assess habitat needs and distribution limits of the species. This work was conducted pursuant to an Endangered Species Cooperative Agreement between the Service and the State as authorized under Section 6 of the Endangered Species Act. Survey results for 1978 and 1979 revealed a number of new populations in Okaloosa, Walton, and Santa Rosa Counties. In consequence of the more extensive distribution of the species, the Service contracted with the Florida Game and Fresh Water Fish Commission in December 1979 (Contract No. 14-16-004-79-145) to develop recommendations regarding possible reclassification of the species. The report, subsequently transmitted to the Service in January 1980, entitled "The Florida Population of the Pine Barrens Treefrog (*Hyla andersonii*), A Status Review," recommended that the species be removed from the Federal List of Endangered and Threatened Wildlife. The forenamed report was supplemented later in 1980 by the State's grant-in-aid final study report covering the period of May 1, 1978, to June 30, 1980 (Project No. E-1, Study No. I-R). Data were presented which expanded the species' known Florida distribution from seven Okaloosa County sites to a total of over 150 sites in Okaloosa, Walton, Santa Rosa, and Holmes Counties. Incidental

investigations conducted in nearby Alabama areas revealed six other sites in Escambia and Covington Counties.

To provide a more complete picture of the Florida-Alabama population as a whole, the Service contracted during 1980 for a thorough status survey in southern Alabama. This survey turned up an additional 16 sites in the Geneva-Escambia-Covington County area. The frogs at these Alabama sites were not covered by the 1977 rule which listed the Florida population as Endangered. However, knowledge of their existence does provide further evidence of the species' overall well-being in what is a much larger area than that originally known.

Although the species appears to be limited to only four counties in Florida, it is of widespread occurrence within this area (Moler, 1981). A considerable amount of potential habitat within the Florida range has not been investigated, and results from the 1978-1980 survey indicate that much of this habitat is very likely to harbor the species. The large number of known and potential habitat sites suggests that the Florida population is relatively secure for the immediate future. On September 15, 1982, the Service published a proposed rule in the *Federal Register* (47 FR 40673-40676) advising that this new status information was considered sufficient to permit removal of the Florida population from the List of Endangered and Threatened Wildlife and to rescind the designated Critical Habitat.

#### Summary of Comments and Recommendations

In the September 15, 1982, *Federal Register* proposed rule, all interested parties were invited to submit comments or suggestions which might contribute to the formulation of a final rule. Letters were sent to the States of Alabama and Florida, to county governments, and to Federal agencies and interested parties, soliciting their comments. Notifications were also published in local newspapers. Official comments were received from the Florida Game and Fresh Water Fish Commission and from Eglin Air Force Base. Comments were also received from four additional individuals or organizations.

Of the six written responses received by the Service on this proposal, five favored and one opposed the proposal action. Those respondents having direct knowledge of the species through recent survey work, including the Florida Game and Fresh Water Fish Commission, Eglin Air Force Base, and Dr. Robert H. Mount, Auburn University, concurred with the proposal. Dr. Roy W.

McDiarmid, Research Zoologist/Curator with the National Museum of Natural History, also concurred on the basis of the available data. The Florida Audubon Society, represented by Dr. Peter C. H. Pritchard, Vice President of Science and Research, guardedly concurred with the proposal on the condition that land use policies on Federal holdings continue to protect the species.

One private individual opposed the proposal on the basis that the species should be monitored for at least 10 years to ensure that its restoration is permanent. In the case of the Pine Barrens treefrog, however, it has not been a matter of restoring the species, but a matter of discovering unknown populations which, for the most part, have undoubtedly existed in the past.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all the available information, the Service has determined that the Florida population of the Pine Barrens treefrog (*Hyla andersonii*) should be removed from the List of Endangered and Threatened Wildlife, and that designated Critical Habitat for the species should be rescinded. This determination is based upon an evaluation of the five factors in section 4(a)(1) of the Act for determining whether a species is Endangered or Threatened. These factors and their application to the Florida population of the Pine Barrens treefrog are as follows:

*A. The present or threatened destruction, modification, or curtailment of its habitat or range.* Recent data do not substantiate any significant trend in habitat loss. Of the 112 new habitat sites surveyed by the Florida Game and Fresh Water Fish Commission between May 1978 and June 1980, 4 had been degraded to some degree by siltation or runoff, but still supported the frogs, and 15 of the localities were within or adjacent to clear-cut areas, but there was no immediate evidence of adverse effects to the frog population. Drainage of bogs for agricultural or silvicultural purposes does represent a potential threat, but to date such drainage has not been extensively practiced within the species' Florida range.

Some of the Pine Barrens treefrog's habitat has likely been lost through the creation of artificial lakes and ponds within bog areas utilized by the species. Manmade impoundments are common throughout the frog's Florida range, and new impoundments will likely continue to pose at least a minor threat.

The herb bog and shrub habitats required by the Pine Barrens treefrog are

subclimax communities maintained by periodic fire. In total absence of fires, these habitats are converted through plant succession to "mixed swamp" or "bayhead communities" (Means and Moler, 1979). Many of these subclimax communities have apparently disappeared during the last several centuries as the result of wildfires being suppressed or limited through human activity. However, Means and Moler (1979) suggest that in some cases other disturbance factors may be a suitable substitute for fire. They cite clear-cutting of surrounding uplands, such as may occur with the construction and maintenance of electric and gas transmission lines, as increasing groundwater seepage by reducing evapotranspiration, thus contributing to formation of herb bogs. Numerous population sites were found along such transmission lines during the Florida Game and Fresh Water Fish Commission's 1978-1980 survey of the species (Moler, 1981).

A review of the data indicates that the Florida population is apparently even larger and more secure than the New Jersey population which historically has been the best known enclave and long considered the stronghold of the species (Moler, 1980a, 1980b). The Florida population has a further advantage in that many of the presently known breeding sites are located on large tracts of public land (Blackwater River State Forest and Eglin Air Force Base) that will presumably forestall extensive residential and industrial development.

In summary, it should be noted that while some losses of habitat will occur, such losses are not expected to be significant within the foreseeable future.

**B. Overutilization for commercial, recreational, scientific, or educational purposes.** This factor has apparently had no significant effect. Only the males can be easily located, and the number calling at any one site fluctuates erratically from night to night.

**C. Disease or predation.** Not applicable.

**D. The inadequacy of existing regulatory mechanisms.** The Florida Game and Fresh Water Fish Commission has regulatory authority to regulate collecting of the species. Removal of the prohibitions afforded by the Act would not likely have any effect since collecting is not considered to represent a significant threat. The State of Florida protects the species as a "species of special concern;" permits are required to collect the treefrog within that State.

**E. Other natural or manmade factors affecting its continued existence.** None.

#### Critical Habitat

The Act defines "Critical Habitat" as (i) the specific areas within the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination that such areas are essential for the conservation of the species.

The data presented above in regard to section 4(a)(1) of the Act indicate that the Florida population of the Pine Barrens treefrog is biologically neither Endangered nor Threatened at this time. Accordingly, the need for Critical Habitat is negated, and the areas previously designated in Okaloosa County are rescinded concurrent with the determination to remove this species from the List of Endangered and Threatened Wildlife.

#### Effects of the Final Rule

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all Endangered wildlife. These prohibitions no longer apply to the Florida population of the Pine Barrens treefrog. This rule eliminates the Federal prohibitions on such actions as taking, possessing, or selling in interstate or foreign commerce. Any Federal Endangered species permit requirements, as codified at 50 CFR 17.22 and 17.23, are also eliminated.

The protection afforded the Pine Barrens treefrog under section 7(a) of the Act is terminated. Section 7(a) requires Federal agencies to insure that actions they authorize, fund, or carry out, are not likely to jeopardize listed species or result in the destruction or adverse modification of designated Critical Habitat.

Survey work leading to the recommendation for delisting was made possible by partial funding under section 6 of the Act. An attendant effect of delisting will be to lower the Federal funding priority under the grant program. However, in view of the currently known status of the Florida population, neither the failure to conduct such studies nor the loss of protective measures under sections 7 and 9 of the Act could be expected to have any appreciable effect upon the species.

Furthermore, retention of the species in the category of "special concern" on the State of Florida list will help to insure that attention is still given to the species.

#### National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals which held that the preparation of NEPA documentation was not required as a matter of law for listing under the Endangered Species Act. *PLF v Andrus* 657 F.2d 829 (6th Cir. 1981).

#### Author

The primary author of this rule is Thomas W. Turnipseed, U.S. Fish and Wildlife Service, 75 Spring Street, SW, Room 1282, Atlanta, Georgia 30303.

#### References

- Means, D.B., and P.E. Moler. 1979. The Pine Barrens treefrog: fire seepage bogs, and management implications. In Odum, R.R. and L. Landers (eds.), Proceedings of the Rare and Endangered Wildlife Symposium. Georgia Dept. Nat. Res., Game & Fish Div., Tech. Bull. WL 4. pp. 77-83.
- Moler, P.E. 1980. The Florida population of the Pine Barrens treefrog (*Hyla andersonii*), a status review. Rept. to the U.S. Fish Wildl. Serv., Atlanta, Georgia. 44 pp.
- Moler, P.E. 1980b. Pine Barrens treefrog population. Study completion rept., Florida Endangered Species Project No. E-1, Study No. I-R (Available from the Florida Game & Fresh Water Fish Commission, Tallahassee, Florida).
- Moler, P.E. 1981. Notes on *Hyla andersonii* in Florida and Alabama. J. Herpetol. 15(4):441-444.

#### List of Subjects in 50 CFR Part 17

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

#### Regulations Promulgation

#### PART 17—[AMENDED]

Accordingly, Part 17, Subpart B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; and Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

## § 17.11. (Amended)

2. Amend § 17.11(h) by removing the Florida population of the Pine Barrens treefrog under Amphibians from the List of Endangered and Threatened Wildlife.

## § 17.95. (Amended)

3. Amend § 17.95(d), Amphibians, by removing the Critical Habitat for the Pine Barrens treefrog.

Dated: October 18, 1983.

J. Craig Potter.

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-30344 Filed 11-21-83; 8:45 am]

BILLING CODE 4310-55-M

## 50 CFR Part 17

**Endangered and Threatened Wildlife and Plants; Final Rule To Determine *Senecio franciscanus* (San Francisco Peaks groundsel) To Be a Threatened Species and Determination of Its Critical Habitat.**

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

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service determines a plant, *Senecio franciscanus* (San Francisco Peaks groundsel), to be a Threatened species and determines its Critical Habitat under the authority contained in the Endangered Species Act of 1973, as amended. This plant is endemic to the San Francisco Peaks, north of Flagstaff, Arizona. The known populations occur on land administered by the U.S. Forest Service. The plants are currently threatened by trampling from off-trail hiking. This determination of *Senecio franciscanus* to be a Threatened species with Critical Habitat implements the protection provided by the Endangered Species Act of 1973, as amended.

**DATE:** The effective date of this rule is December 22, 1983.

**ADDRESS:** The complete file for this rule is available for inspection during normal business hours by appointment at the Region 2 Office of Endangered Species, U.S. Fish and Wildlife Service, 421 Gold Avenue, SW., Room 407, Albuquerque, New Mexico.

**FOR FURTHER INFORMATION CONTACT:**

Dr. Russell L. Kologiski, Botanist, Region 2 Endangered Species staff (see ADDRESSES above) (505/766-3972), or Mr. John L. Spinks, Jr., Chief, Washington Office of Endangered Species, U.S. Fish and Wildlife Service Washington, D.C. 20240 (703/235-2771)

**SUPPLEMENTARY INFORMATION:**

**Background**

*Senecio franciscanus* was first discovered by Edward L. Greene in 1884 and described by him in 1889. It is a dwarf alpine species, 3.2 to 10.2 centimeters tall. The leaves are deeply lobed, with the upper leaves reduced. The yellow flower heads are 0.9 to 1.3 centimeters wide when in bloom, and are single or in a compact cluster of up to six. The plants are locally common for a distance of approximately 3.2 kilometers, in a total area of less than 2.6 square kilometers between Humphreys and Agassiz Peaks. The elevation of its occurrence is mainly between 3,350 and 3,750 meters. This plant grows on talus slopes as a primary successional species. As an isolated and endemic species, *Senecio franciscanus* is a good example for scientific studies. *Senecio franciscanus* is found in alpine tundra areas of Southwestern spruce-fir forests. Dominant associated species are bristlecone pine (*Pinus aristata*), Engelmann spruce (*Picea engelmannii*), avens (*Geum turbinatum*), alumroot (*Heuchera versicolor*), and gooseberry (*Ribes montigenum*) (Phillips and Peterson, 1980; Fletcher, 1978).

Reproduction is mainly vegetative, by rhizomes, but sexual reproduction does occur. Flowering is in August to early September, and the fruits begin to mature in mid-September. The plants are in winter dormancy by early October. Individuals in more exposed sites produce fewer flowers and fruits than those in more protected locations (Phillips and Peterson, 1980).

Past actions affecting *Senecio franciscanus* 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 No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the *Federal Register* (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the 1973 Act (Section 4(b)(3)(A) now), and of its intention thereby to review the status of the plant taxa included within. On June 16, 1976, the Service published a proposed rule in the *Federal Register* (41 FR 24523) to determine approximately 1,700 vascular plant species to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-

51 and the July 1, 1975, *Federal Register* publication (40 FR 27823). *Senecio franciscanus* was included in the July 1, 1975 notice of review and the June 16, 1976 proposal. General comments on the 1976 proposal were summarized in an April 26, 1978 *Federal Register* publication (43 FR 17909).

**The Endangered Species Act**

Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of the withdrawal of the June 16, 1976 proposal along with four other proposals that had expired (44 FR 79796). The Service was again petitioned to list *Senecio franciscanus* on June 18, 1980, by the Navajo Medicinemen's Association, and their petition was accepted by the Service. *Senecio franciscanus* was included in a revised list of plants under review for Threatened or Endangered classification in the December 15, 1980, *Federal Register* (42 FR 82480-82569). On November 22, 1982, the Service published a proposed rule in the *Federal Register* (47 FR 52483-52487) to determine *Senecio franciscanus* to be a Threatened species and to determine its Critical Habitat.

**Summary of Comments and Recommendations**

In the November 22, 1982 proposed rule (47 FR 52483-52487) and associated notifications and press releases, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Letters were sent to the State of Arizona, appropriate Federal, State, and county agencies, scientific organizations, and other interested parties notifying them of the proposed rule and soliciting their comments and suggestions. A newspaper notice was published in the *Arizona Daily Sun* on March 31, 1983, which invited general public comment. Six comments were received during the initial comment period, November 22, 1982, through January 21, 1983, and during an extended comment period March 15, 1983, through May 16, 1983 (48 FR 10896). Written comments were received from the U.S. Forest Service, the Museum of Northern Arizona, and the Flagstaff Chapter of the Arizona Native Plant Society. Three written statements were received representing six private individuals. No public hearing was requested or held.

The U.S. Forest Service stated that their information confirms that *Senecio franciscanus* has a biological status that

merits listing as Threatened. A modification of the Critical Habitat was suggested: deletion of the S 1/2 of the NW 1/4 of Section 5, T22N, R7E; addition of the NW 1/4 of Section 5, T22N, R7E; and addition of the NW 1/4 Section 29, T23N, R7W. This modification was suggested because it more closely outlines the expected lower limits of the preferred habitat of *Senecio franciscanus*. The Forest Service requested additional explanation concerning the effects of the present ski area and effects of increased recreational use of the area. The Forest Service agreed that the economic impact on their agency would be minimal, although any increased expenses would affect other agency programs.

The Service accepts the Forest Service's recommended changes in the Critical Habitat boundaries as more accurately reflecting the biological needs of the species. The operation of the ski lift will not be affected by this final rule. The effect of the ski lift on *Senecio franciscanus* is indirect; it facilitates recreational access to the area, and summer hikers and recreationists could impact the species if use of the trails is not controlled.

The Museum of Northern Arizona, the Arizona Native Plant Society, and the six individuals supported the proposal. Two of these individuals believe that the issuance of the use permits for the skiing facility by the U.S. Forest Service is in violation of the Endangered Species Act because of the potential impact to *Senecio franciscanus*, because the permits were issued after the publication of the proposed rule to list the species as Threatened, because there was no "contact or formal consultation" with the Service, and because no comprehensive biological opinion was prepared.

The Service responds that Federal agencies are not obligated to initiate formal consultation with the Service on actions that may affect a proposed species. Federal agencies are required to informally confer if their actions are likely to jeopardize the continued existence of a proposed species or destroy or adversely modify its proposed Critical Habitat. The Forest Service believed that none of their presently planned activities are likely to jeopardize the continued existence of the proposed species or result in the destruction or adverse modification of the proposed Critical Habitat. The Fish and Wildlife Service agreed.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all available

information, the Service has determined that *Senecio franciscanus* (San Francisco Peaks groundsel) should be classified as a Threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424, under revision to accommodate 1982 amendments) were followed. A species may be determined to be an Endangered or Threatened species due to one or more of the factors described in section 4(a)(1). These factors and their application to *Senecio franciscanus* Greene (San Francisco Peaks groundsel) are as follows.

*A. The present or threatened destruction, modification, or curtailment of its habitat or range.* Most of the natural habitat of *Senecio franciscanus* has not been disturbed by unnatural factors such as human disturbance. The proposed expansion of the Snow Bowl ski area could indirectly affect the habitat in which this species is found, however, through an increase in numbers of people using the trail system, which could result in trampling of the plants. A small percentage of the habitat was destroyed by the existing chair lift.

The most severe threat to this species is the activity of summer hikers. Trampling is seriously disturbing some plants along the trails. This includes approximately 25 percent of the population located between the ski lift and Mt. Agassiz. Numerous parallel trails have been worn along the western face and on top of Humphreys Peak. Use of these trails has an adverse affect on all vegetation in and along the trails. The remainder of the plants are undisturbed. Very serious disruption can occur when an occasional hiker crosses or descends the mountain on a loose talus slope (Phillips and Peterson, 1980).

Whether or not expansion of the ski area will have a serious detrimental effect on this species depends on the amount of care taken to minimize such effects. The most serious effect of expansion on the plants would be an increase in summer hikers within the Critical Habitat (Fletcher, 1978; Goodwin, 1981 pers. comm.). Proper planning and routing of hiker traffic away from the plants can alleviate a great percentage of the threat at a minimal cost.

*B. Overutilization for commercial, recreational, scientific or educational purposes.* Recreational impacts are discussed in Part A. No other threats from overutilization of this species are known to exist at this time (Phillips and Peterson, 1980).

*C. Disease or predation (including grazing).* There is no evidence that either disease or predation is a contributing factor to the Threatened status of this species (Phillips and Peterson, 1980).

*D. The inadequacy of existing regulatory mechanisms.* At present, there is little to regulate off-trail hiking except a sign explaining the fragility of the tundra and requesting people to stay on the trails. There are multiple trails through the tundra which contribute to the uncontrolled off-trail hiking. Increased recreational pressure on the Peaks will make this situation additionally detrimental to all of the alpine vegetation, including *Senecio franciscanus*. Establishment of a single trail through an area could decrease hiking on the tundra, and could be designed to direct traffic away from large populations of *Senecio franciscanus*. Existing Federal regulations in 36 CFR 261.9 prohibit taking of this species in Coconino National Forest; however, this regulation is difficult to enforce. State law does not protect *Senecio franciscanus*. The Endangered Species Act will provide additional protection for this species through Section 7 (interagency cooperation) requirements and through Section 9, which prohibits taking with intent to reduce to possession on Federal lands.

*E. Other natural or manmade factors affecting its continued existence.* The steep mountain slopes are unstable because of loose cinder talus. Larger species commonly grow in soil at the base of large, relatively stable rock. Smaller plants, such as *Senecio franciscanus*, tend to grow in loose cinders, which are unstable. In winter, steep slopes are subject to avalanche, an extreme natural disturbance.

#### Critical Habitat

Critical Habitat, as defined by section 3 of the Act and at 50 CFR Part 424, means: (i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection, and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Act requires that Critical Habitat be designated to the maximum extent

prudent and determinable concurrent with the determination that a species is Endangered or Threatened. Critical Habitat for *Senecio franciscanus* is being determined in Coconino National Forest, Coconino County, Arizona. The location is: T22N, R7E, N $\frac{1}{2}$  of the NW $\frac{1}{4}$  Sec. 5; T23N, R7E, W $\frac{1}{2}$  Sec. 32 and W $\frac{1}{2}$  Sec. 32 and W $\frac{1}{2}$  Sec. 29. This area includes the summits of Agassiz and Humphrys Peaks and the surrounding slopes and alpine area, which comprise the entire known range of *Senecio franciscanus*. This area provides the species with space for its continued existence, growth, and reproduction of individuals and the one known population. The primary constituent elements are the loose cinder talus slopes of the San Francisco Peaks alpine tundra system. Management of this area to reduce disturbance of the talus slopes is necessary to protect the species.

Section 4(b)(8) of the Act requires any proposal or final rule to determine Critical Habitat to be accompanied by a brief description and evaluation of those activities (public and private) which may adversely modify such habitat if undertaken, or may be impacted by such designation. Off-trail hiking has occurred in some parts of the habitat. The disturbance presently affect a small part of the population, but could impact additional individuals if not controlled. Development and implementation of a management plan would aid the preservation of the habitat by regulating off-trail hiking and by monitoring the status of the population. Management might include eliminating some of the existing multiple trails, development of new trails away from large populations of the *Senecio*, or posting signs prohibiting off-trail hiking. Protection of the Critical Habitat will only require minimal expenditures on the part of the U.S. Forest Service to protect this unique plant. Designation of *Senecio franciscanus* as a Threatened species could be used to promote public education about Threatened and Endangered species and could enhance the recreational value of the area (Fletcher, 1978; Fletcher, 1981 pers. comm.).

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared an impact analysis and believes that economic and other impacts of this action on the Forest Service are not significant in the foreseeable future, as discussed in the preceding paragraph. The Fish and Wildlife Service is working with the Forest Service, which has jurisdiction

over the land involved in this action. State and local agencies and other interested organizations also were requested to submit information on economic or other impacts of the proposed action and this information was utilized in completing this analysis. No impacts to these other parties were identified. The economic impact analysis concluded that Federal program costs would initially be less than \$15,000 with subsequent annual costs under \$6,000. No economic impacts on individuals or state and local governments were identified, and no impact on the national or regional economy, commerce, or employment was discerned. The Service's final economic impact analysis was used as part of the basis for the Service's decision not to exclude any area from Critical Habitat for *Senecio franciscanus*.

#### Available Conservation Measures

Conservation measures provided to species listed as Endangered or Threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by other Federal, State, and private agencies, groups, and individuals. The Endangered Species Act requires that recovery actions be carried out for all listed species and these are initiated by the Service following listing. The protection required of Federal agencies and the taking prohibitions are discussed below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species which is proposed or listed as Endangered or Threatened. Federal agencies are required under Section 7(a)(4) to confer with the Service on any action that is likely to jeopardize proposed species or result in destruction or adverse modification of its Critical Habitat. When species are 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 the listed species, and to ensure that their actions are not likely to result in the destruction or adverse modification of its Critical Habitat which has been determined by the Secretary. Provisions for Interagency Cooperation, which implement section 7 of the Act, are codified at 50 CFR Part 402. Possible effects of this rule on the Forest Service have already been discussed. National forest management is not likely to be affected in any significant way. The

Forest Service has stated that *Senecio franciscanus* has a biological status meriting listing as Threatened.

The Act and implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions which apply to all Threatened plant species. With respect to *Senecio franciscanus* all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, would apply. Seeds from cultivated specimens of Threatened plants are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. 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 a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exemptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving Threatened species, under certain circumstances. International and interstate commercial trade in *Senecio franciscanus* is not known to exist. It is not anticipated that many trade permits involving plants of wild origin would ever be issued since this plant is not common in commercial cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession Endangered plant species from areas under Federal jurisdiction. Section 4(d) provides for such protection to be extended to Threatened species through regulations. This new protection will accrue to *Senecio franciscanus* once revised regulations are promulgated. Permits for exceptions to this prohibition are available through sections 10(a) and 4(d) of the Act, following the general approach of 50 CFR 17.72 until revised regulations are promulgated to incorporate the 1982 amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and these will be finalized following public comment. All known populations are on the Coconino National Forest, which is administered by the U.S. Forest Service.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903). It is anticipated that few

taking permits for the species will ever be requested.

The service will now review this species to determine whether it should be considered for placement upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, and whether it should be considered for other appropriate international agreements.

#### National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this proposed rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals which held that the preparation of NEPA documentation was not required as a matter of law for listings under the Endangered Species Act. *PLF v. Andrus* 657 F2d 829 (6th Cir. 1981).

#### Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of Critical Habitat for this species will not constitute a major rule under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These findings are based upon an economic impact analysis which is

available at the Region 2 Office of Endangered Species, U.S. Fish and Wildlife Service, 421 Gold Avenue, SW., Albuquerque, New Mexico. The Critical Habitat is located entirely upon federally-owned lands; reasonable protective measures will enable ongoing uses to be continued. The analysis concluded that Federal program costs would not exceed an initial \$15,000, nor an annual \$6,000 level, and that there would be no private or State and local expense, and no national or regional economic impact. These findings are also discussed under the section of this pre-amble dealing with Critical Habitat.

#### References

- Fletcher, R. 1978. *Senecio franciscanus*: Status report. U.S. Forest Service, Albuquerque, NM. 4 pp.  
 Fletcher, R. 1981. Personal communication. Telephone conversation with FWS personnel, August 14, 1981.  
 Goodwin, G. 1981. Personal communication. Telephone conversation with FWS personnel, August 21, 1981.  
 Greene, E. L. 1889. New or Noteworthy Species VI. Pittonia 2:13-24.  
 Phillips, A. M. III, and E. Peterson. 1980. Status report: *Senecio franciscanus*. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, NM. 13 pp.

#### Authors

The primary author of this proposed rule is Ms. Sandra Limerick, Endangered Species staff, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico

87103 (505/766-3972). Status information and a preliminary listing package were provided by Dr. Arthur M. Phillips, III and Elaine M. Peterson, Museum of Northern Arizona, Route 4, Box 720, Flagstaff, Arizona 86001 (602/774-5211, Ext. 68). Ms. E. LaVerne Smith of the Service's Washington Office of Endangered Species served as editor.

#### List of Subjects in 50 CFR Part 17

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

#### Regulations Promulgation

#### PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1513 *et seq.*).

2. Amend § 17.12(h) by adding the following in alphabetical order to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

(h) \*

Species	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Asteraceae—Aster family <i>Senecio franciscanus</i>	San Francisco Peaks groundsel	U.S.A. (AZ)	T	137	17.96(a)	NA

3. Amend § 17.96(a) by adding the Critical Habitat of *Senecio franciscanus* in the same sequence as it appears in § 17.12(h) (in alphabetical order by family and species).

#### § 17.96 Critical habitat—plants.

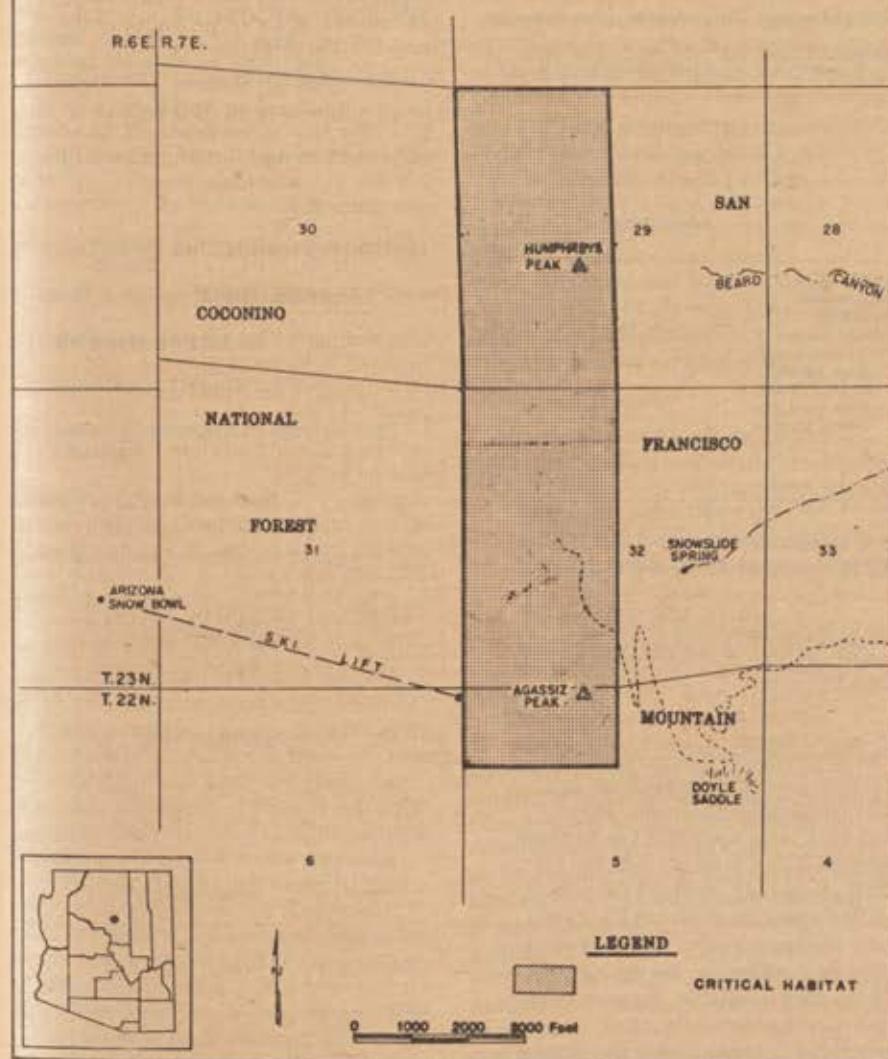
(a) \*

Family Asteraceae: *Senecio franciscanus* San Francisco Peaks groundsel.

Arizona: Coconino County; Coconino National Forest, Agassiz Peak and Humphreys Peak, T22N, R7E, N½ of

NW¼ Sec. 5, T23N, R7E, W½ Section 32 and W½ Section 29. Primary constituent elements are the loose cinder talus slopes of the alpine tundra system of the San Francisco Peaks and absence of disturbance and damage from hikers.

**SAN FRANCISCO PEAKS GROUNDS**  
**SAN FRANCISCO PEAKS**  
**COCONINO COUNTY, ARIZONA**



Dated: November 15, 1983.

J. Craig Poller,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FIR Doc. 83-2224 Filed 11-21-83; 8:45 am]

BILLING CODE 4110-55-M

**50 CFR Part 20**

**Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States; Correction**

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

and White geese in Klamath and Lake Counties are corrected; also the season closing date for geese in Washington. Dates in footnote (1) of Section 20.105(e) of 50 CFR are also corrected.

**DATE:** Effective on November 22, 1983.

**FOR FURTHER INFORMATION CONTACT:**

John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Phone: 202-254-3207

**SUPPLEMENTARY INFORMATION:** On September 23, 1983, the Service published in the Federal Register (48 FR 43646) seasons, limits, and shooting hours for migratory game birds. In the table under § 20.104 (48 FR 43649), where seasons, limits, and shooting hours are listed for rails, woodcock, and common snipe, the closing date for the second half of the split season in Delaware for common snipe was incorrectly shown as January 11 rather than January 31. The opening and closing dates for clapper and king rails in Mississippi were incorrectly shown as October 23–December 31 rather than October 22–December 30. The closing date for sora and Virginia rails in Kansas was incorrectly shown as November 16 rather than November 18. At 48 FR 43652 the bag and possession limits for brant in Delaware were omitted. The limits are 2 and 4, respectively. At 48 FR 43655, the boundary in footnote (19) incorrectly describes the experimental hunting area for canvasback ducks in North Carolina. At 48 FR 43661, the bag and possession limits in Klamath and Lake Counties for Dark and White geese were incorrectly shown as 1 and 2, and 2 and 4, respectively. The correct numbers should read 3 and 6 for bag and possession limits for both Dark and White geese. The opening and closing date for geese in the State of Washington is listed as Oct. 15–Jan. 1. This should read Oct. 15–Jan. 22. At 48 FR 43662, footnote (1) for the point system in the Atlantic Flyway incorrectly showed dates of October 7 through October 10, for the period in Virginia when wood ducks count 25 points. The correct dates are October 5 through October 8.

**PART 20—[AMENDED]**

1. Accordingly, the Service corrects § 20.104 of 50 CFR Part 20 at 48 FR 43649, as follows:

**§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.**

	Rails (Sora and Virginia)	Rails (Clapper and King)	Woodcock	Common snipe
Delaware	Sept. 1-Nov. 9	Sept. 1-Nov. 9	Oct. 17-Oct. 29 and Nov. 21-Jan. 11	Oct. 17-Oct. 29 and Nov. 21-Jan. 31
Mississippi	Oct. 22-Dec. 30	Oct. 22-Dec. 30	Dec. 24-Feb. 26	Nov. 12-Feb. 26
Kansas	Sept. 10-Nov. 18	Closed	Oct. 1-Dec. 4	Sept. 10-Dec. 25

**§ 20.105 [Corrected]**

2. The Service corrects § 20.105(d) at 48 FR 43652, of 50 CFR 20 as follows:

Atlantic Flyway

	Season dates	Limits	
		Bag	Pos-session
Delaware	Dec. 1-Dec. 24	2	4
Brant	and Dec. 26-Jan. 20		

3. In footnote (19), § 20.105(d), at 48 FR 43655, the Service revises the entry for North Carolina to read as follows:

North Carolina—That portion of Pamlico Sound designated as coastal fishing waters within two miles of the mainland, extending from Long Shoal Point on north side of Long Shoal River to that point of land near Whortonville on the north side of Broad Creek known as Piney Point, and upstream in Pamlico River to the Aurora-Belhaven Ferry crossing.

4. At 48 FR 43661, under the Pacific Flyway, the correct data should read:

Pacific Flyway

	Season Dates	Limits	
		Bag	Pos-session
Oregon			
Klamath and Lake Counties			
Geese: no more than 1 dark goose in the daily bag or 2 dark geese in possession	Oct. 15-Oct. 28	3	6
Geese	Oct. 29-Jan. 15	6	6
Including no more than:			
Dark		3	6
White		3	6

—Continued

	Season Dates	Limits	
		Bag	Pos-session
Washington			
Geese (except brant)(15): Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, and Yakima Counties (16).	Oct. 15-Jan. 28	3	6

5. The Service corrects § 20.105(e) of 50 CFR Part 20 at 48 FR 43662 follows:

(1) In Virginia during October 5 through October 8, the wood duck counts 25 points.

Public comment was received on proposed rules for the seasons and limits contemplated herein. These comments were addressed in Federal Registers dated June 17, 1983 (48 FR 27799), August 15, 1983 (38 FR 38853); and September 9, 1983, (48 FR 40851). These changes correct typographical errors by the Service. By their nature and the time available, these season dates must become effective immediately. Accordingly, the Notice and public comment required by the Administrative Procedure Act is unnecessary, and the Service finds that good cause exists for making this rule effective immediately upon publication in the **Federal Register**.

Dated: November 4, 1983.

J. Craig Potter,  
Assistant Secretary for Fish and Wildlife and Parks.

[FRC Doc. 83-31241 Filed 11-21-83; 8:45 am]

BILLING CODE 4310-55-M

# Proposed Rules

Federal Register

Vol. 48, No. 226

Tuesday, November 22, 1983

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 71 and 73

(Airspace Docket No. 83-AWP-3)

#### Proposed Expansion of Restricted Area R-4806

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** These proposals will enlarge joint use Restricted Area R-4806 and subdivide it as R-4806 West and R-4806 East by incorporating part of the Desert MOA and associated air traffic control assigned airspace, and including it in the Continental Control Area. By establishing the boundaries along the mountain ridge the restricted area will be easily discernible by nonparticipating aircraft that transit the area and will help insure participating aircraft do not accidentally spill out of the restricted area. In addition, special and unique test flights are conducted in the area which require full attention by the pilot to aircraft performance and systems. This distracts pilots from paying full attention to the see-and-avoid procedures.

**DATES:** Comments must be received on or before January 5, 1984.

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWP-3, Federal Aviation Administration, P.O. Box 92007, World Way Postal Center, Los Angeles, CA. 90009.

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

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

#### FOR FURTHER INFORMATION CONTACT:

Boyd V. Archer, Airspace and Air Traffic Rules Branch (ATT-230), Airspace-Rules and Aeroneautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written, data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AWP-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

##### Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public

Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

#### The Proposal

The FAA is considering amendments to § 71.151 and § 73.48 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to enlarge Restricted Area R-4806 and subdivide it as R-4806 East and R-4806 West by incorporating part of the Desert MOA and associated air traffic control assigned airspace and including it in the Continental Control Area.

By establishing the boundaries along the mountain ridge the restricted area will be easily discernible by nonparticipating aircraft that transit the area and will help insure participating aircraft do not accidentally spill out of the restricted area. In addition, special and unique test flights are conducted in the area which require full attention by the pilot to aircraft performance and systems. This distracts pilots from paying full attention to the see-and-avoid procedures. Section 71.151 and 73.48 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

#### List of Subjects in 14 CFR Parts 71 and 73

Continental control area and restricted areas.

#### The Proposed Amendments

#### PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.151 and § 73.48 of Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as follows:

##### § 71.151

*R-4806 Las Vegas, NV [Revoked]*

R-4806W Las Vegas, NV [New]

R-4806E Las Vegas, NV [New]

## PART 73—[AMENDED]

§ 73.48

R-4806 Las Vegas, NV [Revoked]

R-4806W Las Vegas, NV [New]

Boundaries. Beginning at lat. 37°17'00"N., long. 115°18'00"W.; to lat. 36°26'00"N., long. 115°18'00"W.; to lat. 36°26'00"N., long. 115°23'00"W.; to lat. 36°35'00"N., long. 115°37'00"W.; to lat. 36°35'00"N., long. 115°53'00"W.; to lat. 36°36'00"N., long. 115°56'00"W.; to lat. 37°06'00"N., long. 115°56'00"W.; to lat. 37°08'00"N., long. 115°35'00"W.; to lat. 37°17'00"N., long. 115°35'00"W.; to the point of beginning.

Designated altitudes. Unlimited.

Times of designation. Continuous.

Controlling agency. FAA, Los Angeles.

ARTCC.

Using agency. Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.

R-4806E Las Vegas, NV [New]

Boundaries. Beginning at lat. 37°17'00"N., long. 115°18'00"W.; to lat. 36°26'00"N., long. 115°18'00"W.; to lat. 36°35'00"N., long. 115°15'30"W.; to lat. 36°48'00"N., long. 115°07'00"W.; to lat. 37°17'00"N., long. 115°07'00"W.; to the point of beginning.

Designated altitudes. 100 feet AGL to unlimited.

Time of designation. Continuous.

Controlling agency. FAA, Los Angeles.

ARTCC.

Using agency. Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1983]]; and 14 CFR 11.65)

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

Issued in Washington, D.C., on November 15, 1983.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-31301 Filed 11-21-83 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Parts 436 and 442

[Docket No. 83-0358]

### High-Pressure Liquid Chromatographic Assay for Cephradine

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations by revising the high-pressure liquid chromatographic (HPLC) assay method for cephradine. This action would improve the HPLC assay method for this antibiotic drug.

**DATES:** Comments by January 23, 1984; request for an informal conference by December 22, 1983.

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

**FOR FURTHER INFORMATION CONTACT:** Joan M. Eckert, National Center for Drugs and Biologics (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

**SUPPLEMENTARY INFORMATION:** At the request of a manufacturer, FDA is proposing to amend the antibiotic drug regulations by revising the HPLC assay used to determine the potency of cephradine and the cephalexin content of cephradine. Based on a collaborative study with the manufacturer, the agency has determined that the proposed HPLC method gives a better resolution and a smaller coefficient of variation than the HPLC method currently specified in the regulations.

The date generated by the collaborative study on which the agency relies in amending the antibiotic drug regulations are on public display in the Dockets Management Branch (address above).

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency has considered the economic impact of this proposed rulemaking and has determined that it

does not require a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). Specifically, the proposal would refine an existing technical provision without imposing a more stringent requirement. Accordingly, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

### List of Subjects

#### 21 CFR Part 436

Antibiotics.

#### 21 CFR Part 442

Antibiotics, Cepha.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701(f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (9))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 436 and 442 be amended as follows:

## PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Part 436 is amended by adding new § 436.337 to read as follows:

#### § 436.337 High-Pressure liquid chromatographic assay to cephradine.

(a) **Equipment.** A suitable high-pressure liquid chromatograph equipped with:

(1) A low dead volume cell 8 to 20 microliters;

(2) A light path length of 8 millimeters;

(3) A suitable ultraviolet detection system operating at a wavelength of 254 nanometers;

(4) A suitable recorder that is compatible with the detector output;

(5) A suitable integrator (optional); and

(6) A 25-centimeter column having an inside diameter of 4.6 millimeters and packed with octadecyl silane chemically bonded to porous silica or ceramic microparticles, 10 micrometers in diameter, USP XX.

(b) **Reagents.** (1) 4 percent glacial acetic acid.

(2) 3.86 percent sodium acetate.

(c) **Mobile phase.** 4 percent glacial acetic acid:3.86 percent sodium acetate:methanol:distilled water (3:15:200:782). Filter the mobile phase through a suitable glass fiber filter or equivalent that is capable of removing particulate contamination to 1 micron in diameter. Degas the mobile phase just prior to its introduction into the

chromatograph pumping system. The distilled water:methanol ratio may be varied to obtain acceptable operation of the system.

(d) *Operating conditions.* Perform the assay at ambient temperature with a typical flow rate of 1.2 milliliters per minute. Use a detector sensitivity setting that gives a peak height for the cephadrine in the cephadrine working standard that is about 75 percent of full scale.

(e) *Preparation of working standard and sample solutions—(1) Preparation of cephadrine working standard solution.* Dissolve an accurately weighed portion of the cephadrine working standard with distilled water to obtain a solution containing 0.8 milligram of cephadrine activity per milliliter.

(2) *Preparation of cephalexin working standard solution.* Dissolve an accurately weighed portion of the cephalexin working standard with distilled water to obtain a solution containing 0.02 milligram of cephalexin activity per milliliter.

(3) *Preparation of sample solutions—(i) Product not packaged for dispensing (micrograms of cephadrine per milligram).* Dissolve an accurately weighed portion of the sample with distilled water to obtain a solution containing 0.8 milligram per milliliter. Using this sample solution, proceed as directed in paragraph (f)(1) of this section.

(ii) *Product packaged for dispensing.* Determine both micrograms of cephadrine per milligram of the sample and milligrams of cephadrine per container. Use separate containers for preparation of each sample solution as described in paragraph (e)(3)(ii) (a) and (b) of this section.

(a) *Micrograms of cephadrine per milligram.* Dissolve an accurately weighed portion of the sample with distilled water to obtain a solution containing 0.8 milligram per milliliter. Using this sample solution, proceed as directed in paragraph (f)(1) of this section.

(b) *Milligrams of cephadrine per container.* Reconstitute the sample as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the solution thus obtained with distilled water to obtain a solution containing 0.8 milligram per milliliter. Using this

sample solution, proceed as directed in paragraph (f)(1) of this section.

(f) *Procedure—(1) Cephadrine content.* Using the equipment, reagents, mobile phase, and operating conditions as listed in paragraphs (a), (b), (c), and (d) of this section, inject 10 microliters of the cephadrine working standard solution into the chromatograph. Allow an elution time sufficient to obtain satisfactory separation of the expected components. After separation of the working standard solution has been completed, inject 10 microliters of the sample solution prepared as described in paragraph (e)(3)(i) of this section into the chromatograph and repeat the procedure described for the working standard solution. The elution order is

void volume, cephalexin, and cephadrine. If the sample is packaged for dispensing, repeat the procedure for each sample solution prepared as described in paragraph (e)(3)(ii) (a) and (b) of this section.

(2) *Cephalexin content.* Proceed as directed in paragraph (f)(1) of this section, except:

(i) Use a detector sensitivity setting that gives a peak height for the cephalexin in the cephalexin working standard that is about 75 percent of full scale; and

(ii) Use the cephalexin working standard in lieu of the cephadrine working standard.

(g) *Calculations.* (1) Calculate the micrograms of cephadrine per milligram of sample as follows:

$$\text{Micrograms of cephadrine per milligram} = \frac{A_s \times P_s \times 100}{A_w \times C_w \times (100 - m)}$$

where:

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

$A_w$  = Area of the cephadrine peak in the chromatogram of the cephadrine working standard;

$P_s$  = Cephadrine activity in the cephadrine working standard solution in micrograms per milliliter;

$C_w$  = Milligrams of sample per milliliter of sample solution; and

$m$  = Percent moisture content of the sample.

(2) Calculate the cephadrine content of the vial as follows:

$$\text{Milligrams of cephadrine per vial} = \frac{A_s \times P_s \times C_s \times d}{A_w \times 1,000}$$

where:

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

$A_w$  = Area of the cephadrine peak in the chromatogram of the cephadrine working standard;

$P_s$  = Cephadrine activity in the cephadrine working standard solution in micrograms per milliliter;

$C_s$  = Milligrams of the standard per milliliter; and

$d$  = Dilution factor of the sample.

$A_b$  = Area of the cephalexin peak in the chromatogram of the cephalexin working standard;

$W_b$  = Milligrams of cephalexin per milliliter of cephalexin working standard solution;

$W_s$  = Milligrams of cephadrine per milliliter of sample solution;

$P_b$  = Micrograms of cephalexin per milligram of cephalexin working standard; and

$m$  = Percent moisture content of the sample.

## PART 442—CEPHA ANTIBIOTIC DRUGS

### 2. Part 442 is amended:

a. In § 442.40 by revising paragraph (b)(1)(iii) and (5) to read as follows:

#### § 442.40 Cephadrine.

(b) \* \* \*

(1) \* \* \*

(iii) *High-pressure liquid chromatographic assay.* Proceed as directed in § 436.337 of this chapter.

where:

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

preparing the sample as described in paragraph (e)(3)(i) of that section.

(5) *Cephalexin content.* Proceed as directed in § 436.337 of this chapter.

b. In § 442.40a by revising paragraph (b)(1)(iii) to read as follows:

**§ 442.40a Sterile cephadrine.**

(b) • • •

(1) • • •

(iii) *High-pressure liquid chromatographic assay.* Proceed as directed in § 436.337 of this chapter.

c. In § 442.41 by revising paragraph (b)(1)(iii) and (5) to read as follows:

**§ 442.41 Cephadrine dihydrate.**

(b) • • •

(1) • • •

(iii) *High-pressure liquid chromatographic assay.* Proceed as directed in § 436.337 of this chapter, preparing the sample as described in paragraph (e)(3)(i) of that section.

(5) *Cephalexin content.* Proceed as directed in § 436.337 of this chapter.

Interested persons may, on or before January 23, 1984, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before December 22, 1983 submit to the Dockets Management Branch a request for an informal conference. The participants in an informal conference, if one is held, will have until January 23, 1984, or 30 days after the day of the conference, whichever is later, to submit their comments.

Dated: November 16, 1983.

Philip L. Paquin,  
Acting Assistant Director for Regulatory Affairs.

[FR Doc. 83-31325 Filed 11-21-83; 8:45 am]

BILLING CODE 4160-01-M

**DEPARTMENT OF JUSTICE**

**28 CFR Part 16**

[AAG/A Order No. 3-83]

**Exemption of Records Systems Under the Privacy Act**

**AGENCY:** Department of Justice.

**ACTION:** Proposed rule.

**SUMMARY:** In the Notices section of today's *Federal Register*, the Department of Justice proposes to exempt a new system, the INS Orphan Petitioner Index and Files, JUSTICE/INS-007, from the access provisions of the Privacy Act, 5 U.S.C. 552a(d). The (k)(1) exemption is claimed solely because of the possibility of receipt of classified information during the course of INS investigation of prospective adoptive parents. Although it would be rare, prospective parents may originally be from foreign countries (for example) and information received on them from their native countries may require classification under Executive Order 12356 which safeguards national security information. If such information is relevant to the INS determination with respect to the adoption, the information would be kept in the file and would be classified accordingly. Therefore, access could not be granted to the record subject under the Privacy Act without violating Executive Order 12356.

**DATE:** All comments must be received by December 22, 1983.

**ADDRESS:** All comments should be addressed to Vincent A. Lobisco, Assistant Director, Administrative Services Staff, Justice Management Division, Room 6314, Department of Justice, 10th and Constitution Avenue, NW, Washington, D.C. 20530.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. Vincent A. Lobisco (202) 633-4414

**List of Subjects in 28 CFR Part 16**

**Privacy.**

Accordingly, it is proposed that 28 CFR 16.99 be amended by adding paragraphs (e) and (f) as follows:

**§ 16.99 Exemption of Immigration and Naturalization Service System—Limited Access.**

(e) The Orphan Petitioner Index and Files (JUSTICE/IN-007) system of records is exempt from 5 U.S.C. 552a(d). This exemption applies only to the

extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(1).

(f) Exemption from subsection (d) is claimed solely because of the possibility of receipt of classified information during the course of INS investigation of prospective adoptive parents. Although it would be rare, prospective adoptive parents may originally be from foreign countries (for example) and information received on them from their native countries may require classification under Executive Order 12356 which safeguards national security information. If such information is relevant to the INS determination with respect to adoption, the information would be kept in the file and would be classified accordingly. Therefore, access could not be granted to the record subject under the Privacy Act without violating Executive Order 12356.

Dated: October 11, 1983.

Kevin D. Rooney,

Assistant Attorney General for Administration.

[FR Doc. 83-31325 Filed 11-21-83; 8:45 am]  
BILLING CODE 4410-10-M

**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Part 2623**

**Benefit Reductions in Terminated Single-Employer Pension Plans and Recoupment of Benefit Overpayments**

*Correction*

In FR Doc. 83-29477 beginning on page 50111 in the issue of Monday, October 31, 1983, make the following corrections

1. On page 50111, second column, under **DATES**, "1982" should read "1983".

2. On page 50114, third column, fifth line from the bottom, "requirement" should read "recoupment".

3. On page 50116, third column, last paragraph, fourth line, "§ 2623.12(a)" should read "§ 2623.5(b)".

4. On page 50120, second column, § 2623.7, paragraph (b), fourth line, "§ 2623.5(b)" should read "§ 2623.5(d)"; third column, paragraph (d)(1), sixth line, "§ 2623.6(b)" should read "§ 2623.6(d)".

5. On page 50121, second column, the section number now reading "§ 2623.7" should read "§ 2623.8".

BILLING CODE 1505-01-M

**POSTAL SERVICE****39 CFR Part 111****Post Office Closing and Consolidation Procedures****AGENCY:** Postal Service.**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** This document announces that the Postal Service has determined not to adopt its proposal to revise its procedures for determining whether to close or consolidate a post office. The proposed revisions were designed to reduce internal paper flow, to place decisional responsibility at levels closer to the community involved, and to stress direct efforts by local managers to meet with affected customers to resolve any differences.

**DATE:** The withdrawal of the proposed rule is effective November 22, 1983.

**FOR FURTHER INFORMATION CONTACT:** William B. Thomas, (202) 245-5758.

**SUPPLEMENTARY INFORMATION:** The Postal Service has determined not to adopt the proposed changes in the post office closing and consolidation regulations, which were published in the Federal Register on September 1, 1983. 48 FR 39648. All except one of the comments received expressed opposition to the proposal.

Two aspects of the proposed changes were the object of the opposition of most commenters. One was the proposal to have a more general initial notice and invitation for comments to replace the current posting of a more detailed written proposal prepared before public comments are obtained. The other was the proposed transfer of the final decision responsibility from the Senior Assistant Postmaster General, Operations Group, to the five Regional Postmasters General.

Other commenters were concerned that the proposed changes would trigger the closing of their post offices. The Postal Service intended these changes as administrative refinements to make the process more effective and has no intention of adversely affecting the rights of customers or stepping up post office closings. Nevertheless, in light of the concerns raised about the proposal, the Postal Service has determined not to adopt it.

**List of Subjects in 39 CFR Part 111**

Postal Service.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-31322 Filed 11-21-83 845 am]

BILLING CODE 7710-12-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[Docket No. AWO49VA; AD-FRL 2475-3]

**Commonwealth of Virginia; Proposed Revision of the Virginia State Implementation Plan****AGENCY:** Environmental Protection Agency.**ACTION:** Proposed rule.

**SUMMARY:** The Commonwealth of Virginia has submitted an alternative emissions reduction plan (also referred to as a "bubble") for the Reynolds Aluminum Company's Bellwood reclamation facility located in Chesterfield County, Virginia. The "bubble" is designed to reduce overall total suspended particulate (TSP) emissions from the facility, although certain individual sources will be allowed to increase their TSP emissions. EPA has reviewed this "bubble," submitted in the form of a Consent Agreement and Order, and has concluded that it meets all of the requirements of the Clean Air Act, 40 CFR Part 51, and EPA's Emission Trading Policy of April 7, 1982. Therefore, EPA proposes to approve this "bubble" as a revision of the Virginia State Implementation Plan (SIP).

**DATE:** Comments must be submitted on or before December 22, 1983.

**ADDRESSES:** Copies of the proposed SIP revision are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Management Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: Mr. Harold A. Frankford;

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, Virginia 23219, Attn: Mr. John M. Daniel, Jr.

All comments on the proposed revision submitted within 30 days of publication of this Notice will be considered and should be directed to Mr. James E. Sydnor, Chief, MD/VA/DC/DE Section at the EPA Region III address. Please reference the EPA Docket Number found in the heading of this Notice.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Harold A. Frankford at the Region III address stated above or telephone 215 597-8392.

**SUPPLEMENTARY INFORMATION:****Background/Description of Revision**

On April 1, 1983, the Commonwealth of Virginia submitted to EPA an alternative emission reduction plan (also referred to as a "bubble") for the Reynolds Aluminum Company's Bellwood reclamation facility located in Chesterfield County. The terms of the "bubble" are contained in a Consent Agreement and Order agreed to by the Reynolds Metals Company and the Virginia State Air Pollution Control Board.

Under the terms of the "bubble," TSP emissions are to be limited to 8.25 pounds per hour (lb/hr) from casthouse melting furnaces #2, #4, and #5, as opposed to the SIP-allowable emission of 8.86 lb/hr. At the same time, the bubble would allow TSP emissions of 11.00 lb/hr from the Herreshoff process, which includes the Herreshoff furnace, charring kiln, "B" mill, carbon separator and screening operations. The allowable SIP emissions limit of 17.25 lb/hr would equal the SIP-allowable TSP emissions limitations from the Bellwood reclamation plant. The order specifies the emissions limits for the Herreshoff furnace, the casthouse melting furnaces, the charring kiln and the screening operation. Pre-"bubble" TSP emissions from the casthouse melting furnaces have actually been 3.30 lb/hr and from the Herreshoff process have actually been 24.45 lb/hr. Therefore, actual emissions under this bubble will decrease by at least 10.50 lb/hr (27.75-17.25).

The State Order also contains provisions for stack testing, emission testing, recordkeeping and monthly progress reports. The order further requires good operating procedures, operation of equipment by trained personnel, and maintenance of air pollution control equipment, including an inventory of bags and other spare parts. In addition, visible emissions from the casthouse melting furnaces/ charring kiln baghouse complex stacks and from the screening operations stacks may not exceed 10% opacity and are subject to the requirements of Section 4.02, Virginia Air Pollution Control Regulations.

In order to assure that this proposed "bubble" would not violate national ambient air quality standards (NAAQS) for TSP, the State performed a modeling analysis using the single source CRSTER model. The results show that the "bubble" will not cause any significant annual or 24 hour impacts on ambient TSP levels in the Chesterfield County area. This county is levels in the Chesterfield County area. This county is

currently designated as "better than national standards" for TSP. See 40 CFR 81.347, 46 FR 55258 (1981).

#### Certification of Public Hearing

The State certified that a public hearing, required by 40 CFR 51.4 was held on January 4, 1983 in the Chesterfield Courthouse, Virginia.

EPA considers this proposed TSP "bubble" to be a Level I emission trade under EPA's proposed Emissions Trading Policy Statement (47 FR 15076, April 7, 1982), as the following criteria are met: (1) All of the stacks are located within 250 meters of each other; (2) the stacks handling the increased emissions are higher (and are within GEP limits) than the stacks handling the sources with decreasing emissions; (3) there is no net allowable or actual emissions increase; and (4) no complex terrain is within the area of significant impact. As such, Level I "bubbles" do not require an air quality modeling analysis. EPA considers the CRSTER modeling performed by Virginia to be acceptable as a supplementary air quality analysis.

Under the proposed Emissions Trading Policy Statement, States may use SIP-allowable emissions as the trading baseline, if proper consideration of Prevention of Significant Deterioration (PSD) increment consumption is assured. This "bubble" relies on an allowable emissions trading baseline. As indicated above, however, the emission limitations under this "bubble" will bring all of the affected facilities into compliance by requiring a net reduction in actual emissions. Accordingly, total actual emissions will be lower than total actual emissions of the last several years. For this reason, the "bubble" will not consume PSD increment.

Based on the information submitted by Virginia, EPA proposes to approve the TSP "bubble" for the Reynolds-Bellwood facility. The "bubble" plan meets all of the requirements of the Clean Air Act, 40 CFR Part 51, and EPA's "bubble" policy.

#### Request for Public Comments

The public is invited to submit, to the address stated above, comments whether the proposed "bubble" submitted by the Commonwealth of Virginia should be approved as a revision to the Commonwealth's SIP. EPA will consider all comments received on or before December 22, 1983.

#### General

The Office of Management and Budget has exempted this rule from the

requirements of Section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 805(b), the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). The action, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27, 1981 certification.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

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

Dated: September 7, 1983.

Stanley L. Laskowski,  
*Regional Administrator.*

[FIR Doc. 83-31349 Filed 11-21-83; 8:45 am]

BILLING CODE 8560-50-M

#### 40 CFR Part 271

##### [SW-1-FRL 2474-2]

#### Hazardous Waste Management Program; Massachusetts; Application for Interim Authorization, Phase II, Components A, B, and C

**AGENCY:** Region I, Environmental Protection Agency.

**ACTION:** Notice of public hearing and public comment period.

**SUMMARY:** EPA is today announcing the availability for public review of the Commonwealth of Massachusetts application for Phase II, Components A, B & C, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that EPA will hold a public hearing on the application.

This is in accordance with agency regulations to protect human health and the environment from improper management of hazardous waste, including the provisions for authorization of State programs to operate in lieu of the Federal program and for a transitional stage in which States can be granted interim program authorization.

**DATES:** A public hearing is scheduled for December 22, 1983 at 10:00 a.m. All written comments on the Massachusetts Interim Authorization Application must be received by the close of business on December 29, 1983.

**ADDRESSES:** EPA will hold a public hearing on Massachusetts' Application for Interim Authorization on December

22, 1983 at 10:00 a.m. at the University of Massachusetts Medical Center, Amphitheater #1, 55 Lake Avenue North, Worcester, Massachusetts 01605.

Written comments on the application and requests to speak at the hearing should be sent to: Gary B. Gosbee, Massachusetts State Coordinator, State Waste Programs Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223-3468.

Copies of the Massachusetts Phase II Interim Authorization application are available during normal business hours at the following addresses for inspection and copying by the public:

Massachusetts Department of Environmental Quality Engineering, Division of Hazardous Waste, 1 Winter Street, Boston, Massachusetts 02108, Telephone (617) 292-5630.

Massachusetts Department of Environmental Quality Engineering, Division of Hazardous Waste, Central Regional Office, 75 Grove Street, Worcester, Massachusetts 01605, Telephone (617) 791-3672.

Environmental Protection Agency, Region I Office Library, Room 2100B, John F. Kennedy Federal Building, Boston, Massachusetts, 02203, Telephone (617) 223-5791.

EPA Headquarters Library, Room 2404, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Gary B. Gosbee, Massachusetts State Coordinator, State Waste Programs Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Telephone (617) 223-3468.

**SUPPLEMENTARY INFORMATION:** In the May 19, 1980 Federal Register (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified state programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

The Commonwealth of Massachusetts received interim authorization for Phase I on February 25, 1981.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, published in the **Federal Register** July 26, 1982 (47 FR 32274),

contains technical facility standards which apply to ground water protection, surface impoundments, waste piles, land treatment and landfills.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 271, Subpart F, as amended by 47 FR 32377. It should be noted that on April 1, 1983 at 48 FR 14146, EPA promulgated rules reorganizing the presentation of permit program requirements in the Consolidated Permit Regulations, 40 CFR Parts 122, 123, and 124, governing, among other things, the Hazardous Waste Management Program under RCRA. Part 122 is now, for RCRA, new Part 270. Part 123 is now, for RCRA, new Part 271. Part 124 remains the same.

As noted in the May 19, 1980 **Federal Register**, copies of complete state submittals for Phase II interim authorization are to be made available for public inspection and comment.

#### Lists of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Dated: November 11, 1983.

Michael R. Deland,  
*Regional Administrator, Region I.*  
[PR Doc. 83-31479 Filed 11-21-83 8:45 am]  
BILLING CODE 6560-50-M

# Notices

Federal Register

Vol. 48, No. 226

Tuesday, November 22, 1983

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.

## ADVISORY COUNCIL ON HISTORIC PRESERVATION

### Meeting

**AGENCY:** Advisory Council on Historic Preservation.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given in accordance with § 800.6(d)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that the Advisory Council on Historic Preservation will meet in the Main Conference Room of the Mills House Hotel, 115 Meeting Street, Charleston, South Carolina.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Section 470) to advise the President and Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol, the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, Transportation; the General Services Administrator; the Chairman of the National Trust of Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor, a Mayor, and eight non-Federal members appointed by the President.

The Agenda for the meeting includes the following:

- Call to Order
- Chairman's Welcome
- Order of Business
- Consideration of Minutes of October 31, 1983, Meeting
- I. Report of the Executive Director
- II. Section 106 Case: Annex to the U.S. Post Office and Courthouse, Charleston, South Carolina

- III. Report of the General Counsel: Regulations Review
- IV. Report of the Office of Cultural Resource Preservation
- V. New Initiatives: Policy and Planning
- VI. New Business

**DATE:** The meeting will begin at 9:30 a.m., Monday December 12, 1983, and continue through Tuesday, December 13.

**FOR FURTHER INFORMATION CONTACT:**

Additional information concerning either the meeting agenda or the submission of oral and written statements to the Council is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., Room 809, Washington, DC. 20004, 202-786-0503.

Dated: November 16, 1983.

**Robert R. Garvey, Jr.,**  
*Executive Director.*

[FPR Doc. 83-31348 Filed 11-21-83; 8:45 am]

**BILLING CODE 4310-10-M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Allegheny Front RARE II Further Planning Area Oil-Gas Operations by Non-Federal Owners of Prior Severed Mineral Rights, Allegheny National Forest, Warren County, PA; Environmental Impact Statement Cancellation.

A notice of intent to prepare an environmental impact statement to determine possible effects on wilderness and other values of various proposals for oil and gas development by non-Federal owners of mineral rights severed at the time or prior to acquisition by the Government of the 8,696 acres of National Forest System lands comprising the RARE II Allegheny Front Further Planning Area was published in the *Federal Register*, No. 43, 48 FR 9050, March 3, 1983.

I am terminating preparation of an environmental impact statement. An administrative appeal of my decision to prepare it resulted in an October 31, 1983, decision to have a permit issued for necessary and reasonable use of the surface for oil and gas operations on about 200 acres of National Forest System lands within the Allegheny Front. The request for this permit was the proposed action that initiated preparation of an environmental impact statement. This action, on appeal, was

found not to be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required.

A recommendation of the Allegheny Front Further Planning Area for wilderness study or for non-wilderness uses will be developed in the Land and Resource Management Plan for the Allegheny National Forest. This Forest Plan will be completed by December 31, 1985, in accordance with the schedule published in the *Federal Register*, Vol. 48, No. 109, p. 25241, June 6, 1983.

**Larry Henson,**  
*Regional Forester.*

[FPR Doc. 83-31333 Filed 11-21-83; 8:45 am]

**BILLING CODE 3410-11-M**

## Scientific Advisory Board, Mount St. Helens National Volcanic Monument; Meeting

The Mount St. Helens Scientific Advisory Board will meet at 9 a.m., December 13, 1983, at the Gifford Pinchot National Forest, Supervisor's Office, 500 West 12th Street, Vancouver, Washington 98660, to develop scientific recommendations for the National Volcanic Monument relative to:

1. The plan by the Corps of Engineers for the long-term containment of Spirit Lake and erosion of the debris-avalanche deposit in the upper North Toutle River.
2. Status of the Comprehensive Management Plan for the Mount St. Helens National Volcanic Monument.
3. Open discussion of topics of interest to the Advisory Board.

The meeting will be open to the public. Persons who wish to make a statement to the Board should notify Dr. Jack K. Winjum, Chairperson, c/o Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, WA 98660, 206-696-7570. Written statements may be filed with the Board before or after the meeting.

Dated: November 14, 1983.

**Charles F. Krebs,**  
*Acting Regional Forester.*

[FPR Doc. 83-31376 Filed 11-21-83; 8:45 am]

**BILLING CODE 3410-11-M**

**DEPARTMENT OF AGRICULTURE****Forest Service****DEPARTMENT OF THE INTERIOR****National Park Service**

**Blue Ridge Parkway and Pisgah National Forest, North Carolina; Joint Order Transferring Administrative Jurisdiction of Department of the Interior Lands and National Forest Lands; Correction**

**AGENCY:** Forest Service, USDA, and National Park Service, Interior.

**ACTION:** Notice; correction.

**SUMMARY:** This document corrects a notice of the transfer of administrative jurisdiction between Department of the Interior lands and National Forest lands that appeared at page 39302 in the *Federal Register* of Tuesday, August 30, 1983 (48 FR 39302). The original notice provided a legal description of the lands being transferred to the administration of the Secretary of Agriculture but inadvertently omitted the legal description of lands being transferred to the administration of the Secretary of the Interior.

**FOR FURTHER INFORMATION CONTACT:** Renee C. Minnick, Land Resources Division, National Park Service (202) 523-5122, or Ralph Bauman, Lands Staff, Forest Service, (703) 235-2493.

**SUPPLEMENTARY INFORMATION:** The following legal description is to be added to that which appeared on page 39302 in the issue of August 30, 1983:

**United States Department of Agriculture  
Forest Service Tract P-183**

All that certain tract or parcel of land lying or being in Burke County, North Carolina, situated approximately one (1) mile east of Linville Falls Community on the waters of Gulf Branch, and tributary of the Linville River, being a portion of the United States Packer and Harrison Tract #30-V and being more particularly described as follows:

All bearings turned from true meridian and distances are in horizontal feet.

*Beginning at Corner 1, a marked 32" hemlock scribed 9H53, under a high bluff, being corner 49 of Tract #30, corner 1 of Tract 30V, and corner to Blue Ridge Parkway Tr. 46-108. Bearing trees, a 6" holly, N.54°W., 0.17 chain, and a 6" laurel bush, S.61°W., 0.14 chain.*

*Thence, N.01°33'E., 1,629.54 feet to Corner 2, a sourwood post scribed 9H43 in old stone pile, corner to Blue Ridge Parkway Tract 46-108. Bearing trees, a 4" maple, S.79°E., 0.24 chain, and a 6" yellow pine, N.14°E., 0.21 chain.*

*Thence, N.88°05'W., 853.38 feet to Corner 3, a sassafras post scribed 9H48 in old stone*

pile, corner to Blue Ridge Parkway Tract 46-108. Bearing trees scribed, a 36" pine, N.23°W., 0.14 chain, and an 8" hemlock, S.27°E., 0.26 chain.

*Thence, N.01°59'E., 2,957.46 feet to Corner 4, a post scribed 9H35 in old stone pile, corner to Blue Ridge Parkway Tract 46-108 and Henry Franklin. Bearing trees scribed, a 16" chestnut, S.63°W., 0.30 chain, and a 36" hemlock, S.51°E., 0.34 chain. C.A. #229 bears S.40°36'W., 19.01 chains.*

*Thence, S.88°58'E., 737.88 feet to Corner 5, a C.A. #218 in old stone pile on west slope, corner to Henry Franklin and M. C. Biggerstaff. Bearing trees scribed BTCA218, a 5" field pine, S.15°E., 0.09 chain, and a 6" white pine, N.30°W., 0.19 chain.*

*Thence, S.02°37'W., 2,828.76 feet to Corner 6, a post scribed 9H23 in old stone pile on spur ridge, corner to M. C. Biggerstaff. Bearing trees scribed BT8H23, a 5" sourwood, S.08°W., 0.20 chain, and a 4" white pine, North, 0.25 chain.*

*Thence, S.88°05'E., approximately 1,740 feet to Corner 7A, the center of Gulf Branch.*

*Thence, with the centerline of Gulf Branch in an southwesterly direction approximately 2,000 feet to Corner 8, in line 48 to 49 of Tract #30.*

*Thence, with the line of Tract #30, N.87°39'W., approximately 594 feet to Corner 1, the Point of Beginning, containing 83.7 acres, be the same more or less.*

Dated: October 28, 1983.

**Gary E. Cargill,**

*Associate Deputy Chief.*

Dated: November 15, 1983.

**Russell K. Olsen,**

*Federal Register Liaison Officer, National Park Service.*

[FPR Doc. 83-31309 Filed 11-21-83; 8:45 am]

**BILLING CODE 4310-70-M**

**DEPARTMENT OF COMMERCE****Bureau of the Census****Survey of Retail Sales and Inventories; Notice of Consideration**

Notice is hereby given that the Bureau of the Census is considering a proposal to conduct in 1984 the Annual Retail Trade Survey, which has been conducted each year since 1951 (except 1954) under Title 13, United States Code, Sections 182, 224, and 225. This survey of retail firms is conducted to collect data covering year-end inventories, accounts receivable balances, merchandise purchases, and annual sales. This survey, which will provide data for 1983, is the only continuing source available on a comparable classification and timely basis for use as a benchmark for developing estimates of retail inventory, accounts receivable, merchandise purchases, and sales. Such a survey, if conducted, shall begin not earlier than December 31, 1983.

Information and recommendations received by the Bureau of the Census

show that the data will have significant application to the needs of the public, the distributive trades, and governmental agencies, and that the data are not publicly available from nongovernmental or other governmental sources.

Reports will be required only from a selected sample of firms operating retail establishments in the United States, with probability of selection based on their sales size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the data items covered in this proposed survey will receive consideration if submitted in writing to the Director of the Bureau of the Census on or before December 16, 1983.

Dated: November 16, 1983.

**C. L. Kincannon,**

*Deputy Director, Bureau of the Census.*

[FPR Doc. 83-11362 Filed 11-21-83; 8:45 am]

**BILLING CODE 3510-07-M**

**International Trade Administration**

**[A-423-011 and A-428-016]**

**Hot-Rolled Carbon Steel Sheet From Belgium and the Federal Republic of Germany; Rescission of Notice Announcing Initiation of Antidumping Investigations and Dismissal of Petition**

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

**ACTION:** Notice.

**SUMMARY:** We are rescinding our notice announcing antidumping investigations of hot-rolled carbon steel sheet from Belgium and the Federal Republic of Germany (FRG) which we published on October 25, 1983, and dismissing the petition with respect to this merchandise. We have determined that the petitioner for these cases, the Gilmore Steel Corporation (Gilmore), does not produce the merchandise under consideration and is not an interested party eligible to file an antidumping petition for this merchandise.

**EFFECTIVE DATE:** November 22, 1983.

**FOR FURTHER INFORMATION CONTACT:**

Richard Rimlinger, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue,

N.W., Washington, D.C. 20230; telephone (202) 377-3962.

**SUPPLEMENTARY INFORMATION:** On September 29, 1983, we received a petition from counsel for Gilmore on behalf of the domestic carbon steel sheet products industry alleging that imports of the subject merchandise from Belgium and the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring a United States industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping investigations. We announced initiation of the investigations on October 25, 1983 (48 FR 49326).

Subsequent to publication of our initiation notice, we have determined that Gilmore does not produce the merchandise covered by these investigations and is not an interested party within the meaning of subparagraphs (C), (D), or (E) of section 771(9) of the Act. Section 732(b) of the Act authorizes an antidumping proceeding to be initiated only upon petition filed by an interested party described in the above-cited subparagraphs.

In these cases, Gilmore filed its petition under the provisions of section 771(9)(C) which refers to a manufacturer, producer, or wholesaler in the United States of a like product. Since Gilmore is a producer of carbon steel plate cut-to-length, which we do not consider to be a like product to the hot-rolled carbon steel sheet covered by these investigations, we believe that Gilmore does not have legal standing to file a petition against this merchandise.

Accordingly, we are rescinding our notice announcing antidumping investigations of hot-rolled carbon steel sheet from Belgium and the FRG and dismissing Gilmore's petition with respect to this merchandise.

Judith Hippler Bello,

*Acting Deputy Assistant Secretary for Import Administration.*

November 16, 1983.

[FR Doc. 83-31378 Filed 11-21-83 8:45 am]

BILLING CODE 3510-05-M

[Case No. 82-21]

#### C. S. Greene & Company, Inc.; Order

The Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce ("Department"), having determined to initiate administrative

proceedings pursuant to Section 11(c) of the Export Administration Act of 1979, as amended [50 U.S.C. 2401, *et seq.* (Supp. V 1981) (the "Act")], and Part 388 of the Export Administration Regulations [currently codified at 15 CFR Part 368 *et seq.* (1982) (the "Regulations")], against C. S. Greene & Company, Inc. ("Greene"), a New York corporation, based on allegations set forth in the proposed Charging Letter, dated November 19, 1982, incorporated herein by this reference that during the period February 1981 through January 1982, Greene committed fifteen violations of Part 369 of the Regulations promulgated to implement the Act, in that Greene, a United States person, as defined in the Regulations, with respect to its activities in the interstate or foreign commerce of the United States, with intent to comply with, further, or support an unsanctioned foreign boycott, furnished information about other persons' business relationships with persons known or believed to be restricted from having any business relationship with or in a boycotting country, activities prohibited under Section 369.2(d) of the Regulations, and not excepted; and

The Department and Greene having entered into a Consent Agreement whereby Greene has agreed to settle this matter by paying a civil penalty in the amount of \$45,000 to the Department and by accepting a twelve month denial of its export privileges for those exports to Kuwait in which Greene is acting as agent for any Kuwaiti entity; and

The Deputy Assistant Secretary for Export Enforcement having approved the terms of the Consent Agreement:

It is therefore ordered that,

First, a civil penalty in the amount of \$45,000 is assessed against Greene;

Second, Greene shall pay the Department the sum of \$45,000 in accordance with the following schedule and as specified in the attached instructions: The initial payment of \$11,250 shall be made on or before 1 April 1984. Three subsequent payments, of \$11,250 each, shall be made quarterly after the date of the first payment. Failure to make a payment on or before the designated periods shall constitute a violation of this Order which may be subject to a separate administrative proceeding under the Act and the Regulations;

Third, for a period of twelve months from the date of this Order, Greene is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any export of U.S.-origin commodities or technical data from the United States or abroad to Kuwait where Greene is acting as agent for any

Kuwaiti entity. Participation prohibited in any such export, either in the United States or abroad, shall include, but not be limited to, participation, directly or indirectly, in any manner or capacity: (a) As a party or representative of a party to any export license application; (b) in preparation or filing of any export license application or reexportation authorization, or of any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data;

Fourth, such denial of export privileges shall extend only to commodities and technology subject to export licensing under the Act and the Regulations;

Fifth, such denial of export privileges shall extend not only to Greene, but also to its agents, employees and successors;

Sixth, no person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data subject to the Act and the Regulations, participate, directly or indirectly, in any manner or capacity in any export by Greene subject to this Order. Such participation should include, but not be limited to: (a) Applying for, obtaining, transferring, or using any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export subject to this Order; or (b) carrying on negotiations and with respect to such export, ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing or participating in any export subject to this Order;

Seventh, the denial of export privileges against Greene shall be effective on the date of entry of this Order and extend thereafter for a period of twelve months.

This order is effective immediately.

Entered this 31st day of October, 1983.  
**Theodore W. Wu,**  
*Deputy Assistant Secretary for Export Enforcement.*  
 [FR Doc. 83-31336 Filed 11-21-83; 8:45 am]  
 BILLING CODE 3510-25-M

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### Chief of Naval Operations, Executive Panel Advisory Committee, Anti-Submarine Warfare Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Anti-Submarine Warfare Task Force will meet on December 13-14, 1983, from 9 a.m. to 5:00 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of anti-submarine warfare and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense, and is, in fact, properly classified pursuant to such Executive order. 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 R. Robinson Harris, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Alexandria, Virginia 22311. Telephone: (202) 694-8422.

Dated: November 17, 1983.

**F. N. Ottie,**

*Lieutenant Commander, JAGC, U.S. Navy,  
 Alternate Federal Register Liaison Officer.*  
 [FR Doc. 83-31311 Filed 11-21-83; 8:45 am]  
 BILLING CODE 3810-AE-M

#### Chief of Naval Operations, Executive Panel Advisory Committee, Arctic Warfare Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Arctic Warfare Task Force

will meet on December 6-7, 1983, from 9 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to meeting the Soviet naval threat from the Arctic region and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. 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 R. Robinson Harris, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 568, Alexandria, Virginia 22311. Telephone: (202) 694-8422.

Dated: November 17, 1983.

**F. N. Ottie,**

*Lieutenant Commander, JAGC, U.S. Navy,  
 Alternate Federal Register Liaison Officer.*  
 [FR Doc. 83-31314 Filed 11-21-83; 8:45 am]  
 BILLING CODE 3810-AE-M

#### Chief of Naval Operations, Executive Panel Advisory Committee, Cost Technology Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Cost Technology Task Force will meet December 8-9, 1983, from 9:00 a.m. to 5 p.m. each day, at Pan Heuristics, 4640 Admiralty Way, Marina del Rey, California. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to the cost growth and cost technology of naval strategic and tactical systems and platforms and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. 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 Lieutenant Commander Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Telephone (703) 694-8422.

Dated: November 17, 1983.

**F. N. Ottie,**

*Lieutenant Commander, JAGC, U.S. Navy,  
 Alternate Federal Register Liaison Officer.*

[FR Doc. 83-31312 Filed 11-21-83; 8:45 am]

BILLING CODE 3810-AE-M

#### Naval Research Advisory Committee, Panel on Man-in-the-Loop Targeting; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Panel on Man-in-the-Loop Targeting will meet December 6, 1983, at the Applied Physics Laboratory, Johns Hopkins University, Laurel, Maryland, and on December 7, 1983, at the Naval Air Development Center, Warminster, Pennsylvania. The December 6 session of the meeting will commence at 9:00 a.m. and terminate at 4:00 p.m., and the December 7 session will commence at 8:30 a.m. and terminate at 4:00 p.m. Both sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions relating to ship combat system automation/AEGIS doctrine management; TOMAHAWK weapon systems targeting and control; Battle Group AAW Coordination program including F-14D in the Outer Air Battle; HARPOON air launched over-the-horizon system; JTIDS/TIES; artificial intelligence; high altitude reconnaissance platform sensor system; Air Force air-to-air R&D programs; and conformal wing arrays radar/IRST technology programs. These matters constitute 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 classified and nonclassified 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 M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, Virginia 22217. Telephone: (202) 696-4870.

Dated: November 17, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FPR Doc. 83-31310 Filed 11-21-83; 8:45 am]

BILLING CODE 3810-AE-M

**Naval Research Advisory Committee; Panel on Reduced Observables; closed Meeting**

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Panel on Reduced Observables will meet on December 14 and 15, 1983, at The Pentagon, Washington, D.C. The December 14 session of the meeting will commence at 9:00 a.m. and terminate at 5:00 p.m., and the December 15 session of the meeting will commence at 9:00 a.m. and terminate at 4:00 p.m. Both sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions relating to the Outer Air Battle Study, Low Observables Study progress, signature reduction, signature reduction modelling, countertargeting initiatives, fleet concealed operations capabilities, and reduced observables analysis. These matters constitute 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 classified and nonclassified 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 M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, Virginia 22217.

telephone: (202) 696-4870.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FPR Doc. 83-31310 Filed 11-21-83; 8:45 am]

BILLING CODE 3810-AE-M

**DELAWARE RIVER BASIN COMMISSION**

**Commission Meeting and Public Hearing**

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, November 30, 1983, beginning at 1:30 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. The hearing will be a part of the Commission's regular business meeting, which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

*Current Expense and Capital Budgets.* A proposed current expense budget for the fiscal year beginning July 1, 1984, in the aggregate amount of \$2,011,500, and a capital budget for the same period in the amount of \$27,000. Copies of the current expense and capital budget are available from the Commission on request.

*Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11, and/or Section 3.8 of the Compact:*

1. *New York State Department of Environmental Conservation (D-77-20 CP Revised).* A program to continue on a permanent basis, as conditioned, augmented conservation releases from the New York City Delaware River Basin Reservoirs. The purpose of the program, in effect since 1977 on an experimental basis, is to augment low streamflows below the Cannonsville, Pepacton, and Neversink Reservoirs to protect and enhance the recreational use of waters affected by such releases. The proposed release levels are identical to the schedules contained in Rules and Regulations of the New York State Department of Environmental Conservation (Amended Part 671, Reservoir Releases Regulations: Cannonsville, Pepacton, and Neversink Reservoirs adopted May 2, 1980). The release levels have been consented to by the City of New York in reliance upon mutual commitments made by the State and City of New York (Stipulation

of Discontinuance in *The City of New York vs. The State of New York Department of Environmental Conservation*, Index No. 5840-80). Hearings on this program were conducted by the Commission on May 25, June 2 and June 3, 1983. The November 30, 1983 hearing will consider additional testimony including the findings and recommendations of a summary report completed in September, 1983 by the New York State Department of Environmental Conservation on the Reservoir Releases Monitoring and Evaluation Program.

2. *City of New Castle (D-78-71 CP Revised).* An application to increase the permitted withdrawal of ground water from existing Well No. 4. The maximum withdrawal will be increased from 0.36 million gallons per day (mgd) to 0.72 mgd. The combined withdrawal from all wells in the applicant's system will not be increased. Well No. 4 is located at latitude 39°39'56"N and longitude 75°35'49"W in New Castle County, Delaware.

3. *Philadelphia Electric Company (D-82-28).* A project to construct high voltage transmission lines across areas of existing recreational projects in the Comprehensive Plan. New lines will connect the Limerick generating station to the Cromby generating station and the Cromby station to the North Wales and Plymouth Meeting substations. The project includes eight overhead crossings of the Schuylkill River between River Miles 48.3 and 32.3 in Montgomery and Chester Counties and one crossing of Valley Forge State Park in Montgomery County.

4. *Artesian Water Company D-82-43 CP.* A ground water withdrawal project to supply approximately 0.72 mgd of water to the applicant's distribution system. The total withdrawal from all wells in the applicant's system averages approximately 12 mgd. The two new wells, designated as Airport Industrial Park Well Nos. 1 and 2, are located at Hares Corner near Wilmington Airport in New Castle County, Delaware.

Documents relating to these projects may be examined at the Commission's offices and preliminary dockets are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,  
Secretary.

November 15, 1983.

[FPR Doc. 83-31374 Filed 11-21-83; 8:45 am]

BILLING CODE 6360-01-M

**DEPARTMENT OF EDUCATION****Indian Education—Indian Education Fellowships For Indian Students**

**AGENCY:** Department of Education.  
**ACTION:** Application Notice for New Indian Fellowships for Fiscal Year 1984.

Applications are invited for new fellowships under the Indian Education Act Indian Fellowship program. This program authorizes the award of fellowships to Indian students.

Authority for this program is contained in Section 423 of the Indian Education Act, as amended.

(20 U.S.C. 3385b)

The purpose of these awards is to enable Indian students to pursue courses of study leading to: (a) Postbaccalaureate degrees in education, medicine, law, and related fields and (b) Graduate or undergraduate degrees in engineering, business administration, natural resources, and related fields.

*Closing Date for Transmittal of Applications:* An application for a new award must be mailed or hand delivered by March 5, 1984.

*Applications Delivered by Mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84-087A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly-dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark; or, (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or first class mail. Each late applicant will be notified that its application will not be considered.

*Applications Delivered by Hand:* An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3.

7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington D.C. time) daily, except Saturday, Sunday, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

*Available Funds:* The appropriation for this program for fiscal year 1984 is \$1,000,000. The Secretary estimates that these funds will support 106 fellowships with most awards between \$2,500 and \$8,500. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

The deadline in this notice will not be extended, and applicants should prepare and submit applications pending further notification.

The fellowships will be awarded for a period of one year only. An applicant desiring assistance after the one year fellowship will have to apply as a new applicant in the following year.

The Secretary is not establishing any priorities among the allowable fields of study; therefore the available funds will be divided among the six allowable fields described in 34 CFR 263.4 of the final regulations.

The estimated maximum stipend allowed for a graduate fellow will be \$600 per month. The estimated maximum stipend allowed for an undergraduate fellow will be \$375 per month. An estimated maximum allowance of \$90 per month will be allowed for each dependent. Financial need and the applicant's resources will be taken into account in determining the amount of the fellowship award. The Secretary awards a fellowship in an amount up to but not more than the difference between the student's resources, including other sources of financial aid, and the student's expenses.

*Application Forms:* Application forms and program information packages are expected to be ready for distribution by December 23, 1983. They may be obtained by writing to David Jackson, Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance.

Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that applicants not submit information that is not requested.

*Applicable Regulations:* The regulations that apply to this program are the Indian Fellowship Program Regulations (34 CFR Part 263).

**FOR FURTHER INFORMATION CONTACT:** David M. Jackson, Indian Education Programs, Office of Elementary and Secondary Education, Room 2177, Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245-9159.

(20 U.S.C. 3385b)

(Catalog of Federal Domestic Assistance No. 84-087A: Indian Education Fellowships for Indian Students)

Dated: November 17, 1983.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 83-31377 Filed 11-21-83 8:45 am]

BILLING CODE 4000-01-M

**DEPARTMENT OF ENERGY****Energy Information Administration****Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas**

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621), signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective December 1, 1983. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Energy Information Administration, 1000 Independence

Avenue, SW., Room BE-034,  
Washington, D.C. 20585; telephone: (202)  
252-6077.

#### Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British thermal units (Btu's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million Btu's
Alabama	4.00
Arizona	4.11
Arkansas	3.97
California	4.11
Colorado	4.06
Connecticut	4.28
Delaware	4.31
Florida	4.15
Georgia	4.27
Idaho	4.06
Illinois	4.19
Indiana	4.02
Iowa	4.22
Kansas	4.22
Kentucky	4.19
Louisiana	3.97
Maine	4.28
Maryland	4.31
Massachusetts	4.24
Michigan	4.19
Minnesota	4.10
Mississippi	4.27
Missouri	4.22
Montana	4.06
Nebraska	4.22
Nevada	4.11
New Hampshire	4.28
New Jersey	4.29
New Mexico	3.55
New York	4.31
North Carolina	4.27
North Dakota	4.22
Ohio	4.14
Oklahoma	3.97
Oregon	4.11
Pennsylvania	4.23
Rhode Island	4.28
South Carolina	4.27
South Dakota	4.22
Tennessee	4.22
Texas	3.97
Utah	4.06
Vermont	4.28
Virginia	4.27
Washington	4.04
West Virginia	4.19
Wisconsin	4.19
Wyoming	4.06

#### Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during September 1983 was \$35.06 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective December 1, 1983, is \$7.86 per million BTU's.

#### Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

**A. Data Collected.** The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of July 1983, August 1983, and September 1983.<sup>1</sup> All reports of volume sold and price were identified by the State into which the oil was sold.

#### B. Method Used to Determine Alternative Price Ceilings. (1) Calculation of Volume-Weighted

**Average Price.**—The prices which will become effective December 1, 1983, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, July 1983, August 1983, and September 1983. Reported prices for sales in July 1983 were adjusted by the percent change in the nationwide volume-weighted average price from

July 1983 to September 1983. Prices for August 1983 were similarly adjusted by the percent change in the nationwide volume-weighted average price from August 1983 to September 1983. The volume-weighted 3-month average of the adjusted July 1983 and August 1983, and the reported September 1983 prices were then computed for each State.

**(2) Adjustment for Price Variation.**—States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B. (1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

**(3) Calculation of Ceiling Price.**—The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B.(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had not reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4.) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of July,

<sup>1</sup>Large Industrial User.—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

<sup>2</sup>Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM-79-21.

<sup>3</sup>Region based price computed as the weighted average price of Regions E, F, G, and H.

August, and September 1983. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

**4. Lag Adjustment.**—The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending November 14, 1983, and dividing that price by the corresponding weighted average price computed from prices published by *Platt's* for the month of September 1983. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions, D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B. (3).

#### Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

##### Region A

Connecticut  
Maine  
Massachusetts  
New Hampshire  
Rhode Island  
Vermont

##### Region B

Delaware  
Maryland  
New Jersey  
New York  
Pennsylvania

##### Region C

Alabama  
Florida  
Georgia  
Mississippi  
North Carolina  
South Carolina  
Tennessee

Virginia  
*Region D*  
Illinois  
Indiana  
Kentucky  
Michigan  
Ohio  
West Virginia  
Wisconsin

*Region E*  
Iowa  
Kansas  
Missouri  
Minnesota  
Nebraska  
North Dakota  
South Dakota

*Region F*  
Arkansas  
Louisiana  
New Mexico  
Oklahoma  
Texas

*Region G*  
Colorado  
Idaho  
Montana  
Utah  
Wyoming

*Region H*  
Arizona  
California  
Nevada  
Oregon  
Washington

Issued in Washington, D.C., November 17, 1983.

**Albert H. Linden, Jr.,**  
Deputy Administrator, Energy Information Administration.

[FIR Doc. 83-31444 Filed 11-21-83; 8:45 am]  
BILLING CODE 6450-01-M

#### Federal Energy Regulatory Commission

[Docket No. RP84-23-000]

#### Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

November 16, 1983.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on November 10, 1983, tendered for filing the following proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, to be effective November 10, 1983: Thirty-fifth Revised Sheet No. 16  
Original Sheets No. 44, 45, 46, 47, 48  
Original Sheet No. 49 reserved for future use

Fourth Revised Sheet No. 111  
First Revised sheet No. 112, 113, 114

These tariff sheets are being filed pursuant to Orders No. 319 and 234-B for the establishment of a generally

applicable transportation tariff and an additional incentive charge tariff.

Copies of the filing were served upon the Consolidated's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before November 30, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
Secretary.

[FIR Doc. 83-31304 Filed 11-21-83; 8:45 am]  
BILLING CODE 6717-01-M

#### [Docket No. RP77-98-017]

#### Natural Gas Pipeline Company of America; Proposed Change in FERC Gas Tariff

November 16, 1983.

Take notice that on October 28, 1983, Natural Gas Pipeline Company of America (Natural) submitted for filing Substitute First Revised Sheet No. 457 to be a part of its FERC Gas Tariff, Second Revised Volume No. 2.

Natural states that the purpose of this filing is to correct Rate Schedule X-50, a lease agreement dated March 25, 1974, between Natural and Stingray Pipeline Company, to reflect the 5% depreciation rate authorized by Commission's order issued May 15, 1979, at Docket No. RP77-98. Natural further states that the Commission authorized rate was used to develop the charges under Rate Schedule X-50 from the original effective date.

Natural requests waiver of the Commission's Regulations and the Commission's order issued May 15, 1979, at Docket No. RP77-98 to the extent necessary to permit the proposed tariff sheet to become effective on January 1, 1978.

A copy of this filing has been mailed to Natural's jurisdictional customers, interested state commissions and all parties listed on the official service list at Docket No. RP77-98.

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, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before November 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 83-31305 Filed 11-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-35-009, et al.]

**Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff**

November 16, 1983.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on November 10, 1983 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets:

Second Revised Sheet No. 64

On August 2, 1983 Texas Eastern filed revised tariff sheets pursuant to the Stipulation and Agreement in Docket Nos. RP83-35-000, et al., for the period February 14, 1982 through July 1, 1983. In its filing Texas Eastern inadvertently filed to revise the shrinkage factors on First Revised Sheet No. 64 Superseding Original Sheet No. 64. By Order of August 17, 1983, the Commission accepted the tariff sheets filed on August 2, 1983. The sole purpose of this Second Revised tariff sheet is to reflect the proper shrinkage factors as approved by the Commission.

The proposed effective date of the above tariff sheet is February 14, 1982, the effective date of the new shrinkage factors pursuant to the settlement in Docket Nos. RP83-35-000, et al., approved by the Commission Order dated July 14, 1983.

In light of the August 17, 1983 Order, it does not appear that a waiver of the rules and regulations in order for the Commission to accept the above tariff sheet to become effective on February 14, 1982 or a Notice of Proposed Changes is necessary; however, in the event they are required, Texas Eastern respectfully requests waiver of any rules and regulations that the Commission

may deem necessary to accept the above tariff sheet to be effective on February 14, 1982.

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, N.E., Washington, DC 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 30, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 83-31306 Filed 11-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-751-000]

**Utah Power & Light Co.; Revised Filing**

November 16, 1983.

The filing Company submits the following:

Take notice that on October 6, 1983 Utah Power & Light Company (Utah) tendered a revised filing covering sales under Volume 2 of Utah's FERC Electric Tariff, under which Utah sells and delivers non-firm energy to electric utilities.

Service Agreements with the City of Farmington, New Mexico, relating to Service Schedules Utah-1B and Utah-1C should have both been included in the original filing of September 18, 1983; but inadvertently the Service Agreement relating to Utah-1B was omitted. Sales and revenue figures as given in the filing letter for Utah-1B were correct. No sales have been made to date under Utah-1C.

Utah requests that both agreements be made effective retroactively to August 11, 1983, the date of first delivery for Schedule Utah-1B and the date of the agreement for Schedule Utah-1C, and that the notice requirements of Section 35.3 be waived.

Copies of this revised filing were served on the City of Farmington, and also on the regulatory Commissions of Utah and New Mexico.

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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-31307 Filed 11-21-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3281-000, et al.]

**ARCO Oil and Gas Company, Division of Atlantic Richfield Company, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates<sup>1</sup>**

November 16, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 6, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which

<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.

no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by

the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft <sup>3</sup>	Pressure base
G-3281-000, D, Oct. 27, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	El Paso Natural Gas Company, Jalmat Field, Lea County, New Mexico.	(1)	
G-5719-002, Aug. 31, 1983	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, California 94120.	Southern Natural Gas Company, S. Barataria Field, Jefferson County, Louisiana.	(1)	
G-12362-000, D, Nov. 4, 1983	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Southern Natural Gas Company Main Pass Block 46, Offshore Louisiana.	(1)	
G-12362-001, D, Nov. 7, 1983	do	Southern Natural Gas Company, Main Pass Block 46, Offshore Louisiana.	(1)	
C161-1024-006, D, Nov. 4, 1983	Mobil Oil Corporation	Natural Gas Pipeline Company of America, North Custer City Field, Custer County, Oklahoma.	(1)	
C161-1327-002, D, Nov. 4, 1983	do	Northwest Central Pipeline Corporation, Guymon-Hugoton Field, Texas County, Oklahoma.	(1)	
C164-386-000, D, Nov. 7, 1983	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	Northern Natural Gas Company, Bechtold (Tonkawa) Field, Lipscomb County, Texas.	(1)	
C168-156-003, D, Nov. 4, 1983	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Natural Gas Pipeline Company of America, North Custer City Field, Custer County, Oklahoma.	(1)	
C168-1022-003, D, Nov. 4, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Ship Shoal Block 182, Offshore Louisiana.	(1)	
C168-1448-000, D, Nov. 7, 1983	Tenneco West Inc.	Natural Gas Pipeline Company of America, West Cameron Blocks 225 and 229, Offshore Louisiana.	(1)	
C173-38-003, D, Oct. 31, 1983	Cities Service Oil and Gas Corporation, P.O. Box 2197, Houston, Texas 77252.	Michigan Wisconsin Pipe Line Company, OCS Lease No. G-1889 being the SW/4 of Block 248 and OCS Lease No. G-1978 being the N/2 of Block 270, Eugene Island Area, Offshore Louisiana.	(1)	
C178-851-003, Aug. 24, 1983	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, California 94120.	Southern Natural Gas Company, Main Pass 120 et al., Offshore Louisiana.	(1)	
C184-30-000, E, Oct. 21, 1983	Belco Development Corporation, Successor in Interest To Energy Reserves Group, Inc., 1000 Old Katy Road, Suite 100, Houston, Texas 77055.	Northwest Pipeline Corporation, East La Barge Field, Sublette County, Wyoming.	(1)	
C184-40-000, A, Oct. 28, 1983	Tenneco Oil Company, Manager for Houston Oil & Minerals Corporation, P.O. Box 2511, Houston, Texas 77001.	Cajun Natural Gas Company, Vermilion Block 50, Offshore Louisiana.	(1)	
C184-41-000, A, Oct. 28, 1983	do	Creole Gas Pipeline Company, Vermilion Block 50, Offshore Louisiana.	(1)	
C184-42-000, E, Oct. 21, 1983	Belco Development Corporation, Successor in Interest To Energy Reserves Group, Inc., 1000 Old Katy Road, Suite 100, Houston, Texas 77055.	Northwest Pipeline Corporation, Big Piney Field, Sublette County, Wyoming.	(1)	
C184-43-000, E, Oct. 21, 1983	do	Northwest Pipeline Corporation, Big Piney Field, Sublette County, Wyoming.	(1)	
C184-44-000, E, Oct. 21, 1983	do	Northwest Pipeline Corporation, Figure Four Canyon, Sublette County, Wyoming.	(1)	
C184-45-000, B, Oct. 31, 1983	Horizon Oil & Gas Co., P.O. Box 1020, Dallas, Texas 75221.	Northern Natural Gas Co., Horizon (Cleveland) Field, Ochiltree County, Texas (Washer #1).	(1)	
C184-46-000, A, Oct. 31, 1983	Benedum-Tree Oil Company, P.O. Box 25861, Oklahoma City, Oklahoma 73125.	Southern Natural Gas Company, S.L. 6469, No. 1 and 1-D Wells, Loisell Field, Iberia Parish, Louisiana.	(1)	
C184-47-000, A, Nov. 1, 1983	Conoco Inc., P.O. Box 2197, Houston, Texas 77252.	Tennessee Gas Pipeline Company, West Cameron Block 66 Field, Platforms A, B, C and D, Offshore Louisiana.	(1)	
C184-48-000, B, Nov. 2, 1983	Buck Point Inc. and Vernon E. Faulconer Inc., 1300 Main Street, Suite 2100, Houston, Texas 77002.	Michigan Wisconsin Pipeline Company, Buck Point Field, Vermilion Parish, Louisiana.	(1)	
C184-50-000 (C166-586), B, Nov. 3, 1983	Tenneco West Inc., P.O. Box 2511, Houston, Texas 77001.	Michigan Wisconsin Pipeline Company, Buck Point Field, Vermilion Parish, Louisiana.	(1)	
C184-52-000 (C166-416), B, Nov. 4, 1983	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221.	Michigan Wisconsin Pipe Line Company, Buck Point Field, Vermilion Parish, Louisiana.	(1)	
C184-53-000 (C166-416), B, Nov. 4, 1983	Exxon Corporation, P.O. Box 2160, Houston, Texas 77001.	Michigan Wisconsin Pipe Line Company, Buck Point Field, Vermilion Parish, Louisiana.	(1)	

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

<sup>1</sup> Deletion of acreage. Applicant no longer holds an interest in the lease involved in this application.

<sup>2</sup> Applicant is filing to change delivery point.

<sup>3</sup> By partial assignment of Oil, Gas and Mineral Lease, dated September 9, 1971, Magnolia Petroleum Company (now Mobil Oil Exploration & Producing Southeast Inc.) assigned to McMoran Exploration Company, Small Producer in Docket No. CS71-0331, all of its right, title and interest in and to that certain producing acreage.

<sup>4</sup> Due to failure to commence additional drilling or reworking operations on Main Pass Block 46, 8600' SU, MOEPSI's Lease L-12121, State Lease 2515, Main Pass Block 45, expired by its own terms on March 21, 1982.

<sup>5</sup> Certain leases in Section 25 have reverted to lessors pursuant to terms of contract dated May 15, 1967.

<sup>6</sup> By assignment of Oil and Gas Lease, effective August 5, 1983, Mobil assigned to K.P. Exploration, Inc. all of its right, title and interest in and to that certain producing acreage. Leases terminated by its own terms in August of 1965.

<sup>7</sup> Certain leases in Section 25 have reverted to lessors pursuant to terms of contract dated October 1, 1960.

<sup>8</sup> Release of acreage being the W/2 of Block 182, Ship Shoal Area.

<sup>9</sup> Release of Oil and Gas Leases OCS-G-0902, OCS-G-0904 and OCS-G-0905.

<sup>10</sup> OCS Lease No. G-1889, dated March 1, 1969 covering lands described as Block 248 SW/4, Eugene Island Area, Offshore Louisiana expired February 28, 1974, and OCS Lease No. G-1783, dated September 1, 1970, covering lands described as Block 270 (N/2) Eugene Island Area, Offshore Louisiana expired August 31, 1975.

<sup>11</sup> Applicant is filing as Successor in Interest to Energy Resources Group, Inc.

<sup>12</sup> Applicant is filing under Gas Purchase and Sales Agreement dated October 27, 1983.

<sup>13</sup> Applicant is filing under Gas Purchase and Sales Agreement dated October 26, 1983.

<sup>14</sup> Applicant is filing under Rollover Gas Purchase Contract dated June 1, 1983.

<sup>15</sup> Applicant is filing under Gas Purchase and Sales Contract dated September 6, 1983.

<sup>16</sup> Due to a decline in production, it became uneconomical to produce the wells and the unit and leases expired for lack of production.

<sup>17</sup> Uneconomical due to the low volume production resulting in the release of acreage.

<sup>18</sup> Sun no longer owns leasehold interest in the contract commitment by virtue of an Assignment dated April 20, 1962 to Vernon E. Faulconer.

<sup>19</sup> Exxon no longer owns an interest in the subject properties.

[Docket No. CP82-450-000]

**Colorado Interstate Gas Co.; Informal Conference**

November 17, 1983.

Take notice that on December 1, 1983, at 10:00 a.m., an informal conference will be convened at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. in the above-entitled proceeding. In this proceeding Colorado Interstate Gas Company is proposing to transport line-pack gas to Wyoming Interstate Gas Company, Ltd. (WIC). At the conference various issues relating to WIC's line pack costs will be discussed.

All parties to the proceeding, the Commission's Staff and interested members of the public are invited to attend; however, attendance will not confer party status. Any person wishing to become a party to this proceeding must file a motion to intervene in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

For further information contact Kenneth L. Glick, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-5597.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-31303 Filed 11-21-83; 8:45 am]

BILLING CODE 6717-01-M

**Office of Conservation and Renewable Energy**

[Docket No. CAS-RM-80-304]

**Industrial Energy Conservation Program Exempt Corporations and Adequate Reporting Programs**

**AGENCY:** Office of Conservation and Renewable Energy, DOE.

**ACTION:** Notice of Exempt Corporations and Adequate Reporting Programs.

**SUMMARY:** As an annual part of the Department of Energy's (DOE) Industrial Energy Conservation Program, DOE is exempting certain corporations from the requirement of filing corporate energy consumption reporting forms directly with DOE and is determining as adequate certain industrial reporting programs for third party sponsor reporting. This notice is required

pursuant to section 376(g)(1) of the Energy Policy and Conservation Act (EPCA) and DOE's regulation set forth at 10 CFR Part 445, Subpart D. These procedures which allow identified corporations to be exempted from filing energy consumption data directly with DOE, assist in maintaining the confidentiality of consumption information and reduce the reporting burden for corporations. The exempt corporations and the respective sponsors of adequate reporting programs are listed alphabetically by industry in the appendix to this notice.

This Notice of Exempt Corporations and Adequate Reporting Programs previously appeared in the September 8, 1983, *Federal Register* (48 FR, 40616) but part of the list was inadvertently omitted. The complete list appears below.

**FOR FURTHER INFORMATION CONTACT:**

Tyler E. Williams, Jr., Office of Industrial Programs, CE-122.1, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2371

Pamela Pelcovits, Office of General Counsel, GC-33, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9519

Issued in Washington, D.C. November 16, 1983.

**Pat Collins,**  
*Acting Assistant Secretary, Conservation and Renewable Energy.*

**Final Exempt Corporations and Sponsors of Adequate Reporting Programs****SIC 20—FOOD AND KINDRED PRODUCTS**

American Bakers Association

Campbell Soup Company (partial)

Campbell Taggart, Inc.

Consolidated Foods Corporation (partial)

Flowers Industries Inc.

G. Heileman Brewing Company, Inc.

(partial)

ITT Continental Baking Company Inc.

(partial)

Interstate Brands Corporation

American Feed Manufacturers Association

Archer Daniels Midland Company (partial)

Cargill Inc.

Central Soya Company Inc. (partial)

Gold Kist Inc.

Land O'Lakes, Inc. (partial)

Moorman Manufacturing Company

Ralston Purina Company (partial)

American Frozen Food Institute

Campbell Soup Company (partial)

J.R. Simplot Company

American Meat Institute

Beatrice Foods Company (partial)

Consolidated Foods Corporation (partial)

Farmland Industries Inc.

Geo. A. Hormel & Company

Greyhound Corporation

Oscar Mayer & Company

Rath Packing Company

Swift & Company

United Brands Company

Wilson Foods Corporation

Biscuit & Cracker Manufacturers Association

Keebler Company

Lance Inc.

Nabisco Inc. (partial)

Sunshine Biscuits Inc.

Chemical Manufacturers Association

National Distillers Products Company

Corn Refiners Association

A. E. Staley Manufacturing Company (partial)

American Maize-Products Company

CPC International Inc.

Grain Processing Association

National Starch & Chemical Corporation

Grocery Manufacturers of America, Inc.

A. E. Staley Manufacturing Company (partial)

American Home Products Corporation

Amstar Corporation

Anderson Clayton & Company

Archer Daniels Midland Company (partial)

Basic American Foods

Beatrice Foods Company (partial)

Borden Inc. (partial)

Carnation Company

Grocery Manufacturers of America, Inc.

Central Soya Company, Inc. (partial)

Chesebrough-Ponds Inc.

Coca-Cola Company

Consolidated Foods Corporation (partial)

General Foods Corporation

General Mills Inc.

H. J. Heinz Company (partial)

Hershey Foods Corporation

Kellogg Company

Kraft Inc.

Kroger Company

Lance Inc.

Lever Bros.

Mars Inc.

Nabisco Inc. (partial)

PepsiCo Inc.

Pet Incorporated

Pillsbury Company

Procter & Gamble Company

Quaker Oats Company

Ralston Purina Company (partial)

R. T. French Company

Thomas J. Lipton Inc.

Universal Foods Corporation

National Food Processors Association

California Canners and Growers Company

Campbell Soup Company (partial)

Castle & Cooke Inc.

Curtice-Burns Inc.

Del Monte Corporation

Cerber Products Company

H. J. Heinz Company (partial)

Norton Simon Inc.

Stokely-Van Camp Inc.

Sunkist Growers Inc.

Tri/Valley Growers Inc.	WWG Industries Inc.	Pope and Talbot Inc.
National Frozen Food Association		Port Huron Paper Company
ITT Continental Baking Company Inc. (partial)		Potlatch Corporation
Pharmaceutical Manufacturers Association		Procter & Gamble Company
Eli Lilly and Company		Rhinelander Paper Company
U.S. Beet Sugar Association		Scott Paper Company
Amalgamated Sugar Company		Simpson Paper Company
American Crystal Sugar Company		Sonoco Products Company
Holly Sugar Corporation		Southeast Paper Manufacturing Company
Michigan Sugar Company		Southwest Forest Industries Inc.
Minn-Dak Farmers Cooperative Monitor Sugar Company		St. Joe Paper Company
Southern Minnesota Sugar Cooperative		St. Regis Paper Company
Union Sugar Company		Sorg Paper Company
U.S. Brewers Association		Stone Container Corporation
Adolph Coors Company		Tenneco Inc.
Anheuser-Busch Inc. (partial)		Time Inc.
Archer Daniels Midland Company (partial)		Times Mirror Company
Froedert Malt Corporation		Union Camp Corporation
Jos. Schlitz Brewing Company		Virginia Fibre Corporation
Ladish Malting Company		Waussau Paper Mills Company
Miller Brewing Company		Weston Paper & Manufacturing Company
Olympia Brewing Company		Westvaco Corporation
Pabst Brewing Company		Weyerhaeuser Company
The Stroh Companies Inc.		Williamette Industries Inc.
U.S. Cane Sugar Refiners Association		Chemical Manufacturers Association
California & Hawaiian Sugar Company		Minnesota Mining & Manufacturing Company
Colonial Sugars Inc.		Mobil Chemical Company
Georgia Sugar Refinery		
Imperial Sugar Company		<i>SIC 28—Chemicals and Allied Products</i>
Refined Sugars Inc.		Aluminum Association
Revere Sugar Corporation		Aluminum Company of America
Savannah Foods & Industries Inc. (partial)		Reynolds Metals Company
Supreme Sugar Company, Inc.		American Feed Manufacturers Association
<i>SIC 22—Textile Mill Products</i>		Cargill Inc.
American Textile Manufacturers Institute		Chemical Manufacturers Association
Avondale Mills Inc.		Air Products & Chemicals Inc.
Bibb Company		Airco Inc.
Burlington Industries Inc.		Akzo Inc.
Clinton Mills Inc.		Allied Corporation
Coats & Clark Inc.		American Can Company
Colgate-Palmolive Company		American Chrome & Chemicals Inc.
Collins & Aikman Corporation		American Cyanamid Company
Cone Mills Corporation		American Hoechst Corporation
Cranston Print Works Company		American Petrofina Inc.
Crompton Company Inc.		Arizona Chemical Company
Dan River Inc.		Ashland Oil Inc.
Dixie Yarns Inc.		Atlantic Richfield Company
Fieldcrest Mills Inc.		Avtex Fibers Inc.
Goodyear Tire & Rubber Company		B F Goodrich Company
Graniteville Company		Badische Corporation
Greenwood Mills Inc.		BASF Wyandotte Corporation
J. P. Stevens & Company Inc.		Big Three Industries Inc.
Johnson & Johnson		Borden Inc.
Kimberly-Clark Corporation		Borg-Warner Corporation
M. Lowenstein & Sons Inc.		Buffalo Color Corporation
Milliken & Company		Cabot Corporation
Northwest Industries Inc.		Celanese Corporation
Reeves Brothers Inc.		CIBA-GEIGY Corporation
Riegel Textile Corporation		Cities Service Company
Sayles Biltmore Bleacheries Inc.		CONOCO Inc.
Spartan Mills Inc.		Corpus Christie Petrochemical Company
Sperry and Hutchinson Company (partial)		CPC North America
Springs Industries Inc.		Diamond Crystal Salt Company
Standard-Coosa-Thatcher Company		Diamond Shamrock Corporation
Thomaston Mills Inc.		Dow Chemical Company
Ti-Caro Inc.		Dow Corning Corporation
United Merchants & Manufacturers Inc.		E. I. du Pont de Nemours & Company
West Point-Pepperell Inc.		Eastman Kodak Company
Carpet & Rug Institute		Elf Aquitaine Inc.
Bigelow-Sanford Inc.		El Paso Products Company
Mohasco Corporation		Ethyl Corporation
Shaw Industries Inc.		Exxon Corporation
Standard Oil Company (Indiana)		Farmland Industries Inc. (partial)
		Firestone Tire & Rubber Company

FMC Corporation	Columbia Nitrogen Corporation	Powerline Oil Company
Freeport Minerals Company	Cominco America Inc.	Quaker State Oil Refining Corporation
GAF Corporation	Estech General Chemicals Corporation	Rock Island Refining Corporation
Georgia-Pacific Corporation	Farmland Industries Inc. (partial)	Shell Oil Company
Getty Oil Company	First Mississippi Corporation	Southern Union Company
Goodyear Tire & Rubber Company	Gardiner Big River Inc.	Southland Oil Company
Great Lakes Chemical Corporation	Green Valley Chemical Company	Standard Oil Company (Indiana)
Greyhound Corporation	Hawkeye Chemical Company	Standard Oil Company (Ohio)
Gulf Oil Corporation	International Minerals & Chemical Corporation (partial)	Standard Oil Company of California
Harshaw Chemical Company	J. R. Simplot Company	Sun Company Inc.
Henkel Corporation	Mississippi Chemical Corporation	Tenneco Inc.
Hercules Incorporated	Occidental Petroleum Corporation (partial)	Tesoro Petroleum Corporation
ICI Americas Inc.	Reichhold Chemicals Inc. (partial)	Texaco Inc.
International Minerals & Chemicals Corporation (partial)	Terra Chemicals International Inc.	Texas Eastern Transmission Corporation
Inter North Inc.	Tyler Corporation (Atlas Powder Company)	Time Oil Company
Kaiser Aluminum & Chemical Corporation	Union Oil Company of California	Tosco Corporation
Kerr-McGee Corporation	United States Steel Corporation (partial)	Total Petroleum Inc.
Koppers Company Inc.	Vertac Inc. (partial)	Union Oil Company of California
Lever Brothers Company	The Williams Companies	USA Petroleum Corporation
Linden Chemicals & Plastics Inc.	Pharmaceutical Manufacturers Association	Winston Refining Company
Lubrizol Corporation	Abbott Laboratories	Witco Chemical Corporation
Mallinckrodt Inc.	American Home Products Corporation (partial)	Chemical Manufacturers Association
Merichem Company	Baxter-Travenol Laboratories	GAF Corporation
Minnesota Mining & Manufacturing Company	Eli Lilly & Company	Great Lakes Carbon Corporation
Mobay Chemical Corporation	Hoffmann-La Roche Inc.	Koppers Company Inc.
Mobil Oil Corporation	Johnson & Johnson	USS Chemicals
Monsanto Company	Merck & Company Inc.	Glass—Pressed and Blown (Battelle Institute)
Morton Chemical	Miles Laboratories Inc.	Owens-Corning Fiberglas Corporation
Nalco Chemical Company	Richardson Vicks Inc.	<i>SIC 30—Rubber and Miscellaneous Plastic Products</i>
National Distillers & Chemical Corporation	Squibb Corporation	Chemical Manufacture's Association
NIPRO Inc.	Upjohn Company (partial)	American Cyanamid Company
Occidental Petroleum Corporation (partial)	Warner-Lambert Company	Dart Industries Inc.
Olin Corporation	<i>SIC 29—Petroleum and Coal Products</i>	Ethyl Corporation
Pennwalt Corporation	American Petroleum Institute	Exxon Corporation
Pfizer Inc.	Agway Inc.	Minnesota Mining & Manufacturing Company
Phillips Petroleum Company	American Petrofina Inc.	Union Carbide Corporation
Polysar Gulf Coast Inc.	Asameria Oil (US) Inc.	W. R. Grace & Company
PPG Industries Inc.	Ashland Oil Inc.	Pharmaceutical Manufacturers Association
PQ Corporation	Atlantic Richfield Company	Baxter-Travenol Laboratories
Procter & Gable Company	Beacon Oil Company	Rubber Manufacturers Association
Reichhold Chemicals Inc. (partial)	Champlin Petroleum Company	Armstrong Rubber Company
Reilly Tar & Chemical Corporation	Charter International Oil Company	B. F. Goodrich Company
Rohm and Haas Company	Cities Services Company	Carlisle Corporation
Shell Oil Company	Clark Oil & Refining Corporation	Cooper Tire & Rubber Company
Sherex Chemical Company Inc.	Coastal Corporation	Dayco Corporation
Soltex Polymer Corporation	Crown Central Petroleum Corporation	Dunlop Tire & Rubber Corporation
Standard Oil Company (Indiana)	Diamond Shamrock Corporation	Firestone Tire & Rubber Company
Standard Oil Company (Ohio)	Dorchester Gas Corporation	Gates Rubber Company
Standard Oil Company of California	Earth Resources Company	General Tire & Rubber Company
Stauffer Chemical Company	Energy Cooperative Inc.	Goodyear Tire & Rubber Company
SunOlin Chemical Company	Exxon Corporation	Owens-Illinois Inc.
Tenneco Inc.	Farmers Union Central Exchange Inc.	Uniroyal Inc.
Texaco Inc.	Farmland Industries Inc.	<i>SIC 32—Stone, Clay and Glass Products</i>
Thiokol Corporation	Fletcher Oil & Refining Company	Brick Institute of America
Union Carbide Corporation	Getty Oil Company	Belden Brick Company
Uniroyal Inc.	Gulf Oil Corporation	Bickertstaff Clay Products Company Inc.
United States Borax & Chemical Corporation	Hunt Oil Company	Boren Clay Products Company
United States Steel Company (partial)	Husky Oil Company	Delta Brick & Tile Company
Upjohn Company (partial)	Indiana Farm Bureau Cooperative Association	General Dynamics Corporation (partial)
Velsicol Chemical Corporation	Kerr-McGee Corporation	General Shale Products Corporation
Vertac Inc. (partial)	Koch Industries Inc.	Glen-Gery Corporation
Virginia Chemicals Inc.	Little America Refining Company	Justin Industries Inc.
Vulcan Materials Company	Marathon Oil Company	Chemical Manufacturers Association
W. R. Grace & Company	Mobil Oil Corporation	Engelhard Corporation
Westvaco Corporation	Murphy Oil Corporation	GAF Corporation
Weyerhaeuser Company	National Cooperative Refinery Association	Minnesota Mining & Manufacturing Company
Witco Chemical Corporation	OKC Corporation	Reichhold Chemicals Inc.
Fertilizer Institute	Pacific Resources Inc.	Vulcan Materials Company
Beker Industries Corporation	Pennzoil Company	Expanded Shale Clay and Slatte Institute
Borden Inc.	Phillips Petroleum Company	Lehigh Portland Cement Company (partial)
C F Industries Inc.	Placid Refining Company	Solite Corporation
Coastal Corporation (Wycon Chemical Company)		

- Glass—Flat (Eugene L. Stewart)  
 AFG Industries Inc.  
 Ford Motor Company  
 Guardian Industries Corporation  
 Hordis Brothers Inc.  
 Libbey-Owens-Ford Company  
 PPG Industries Inc.  
 Glass Packaging Institute  
 Anchor Hocking Corporation (partial)  
 Ball Corporation  
 Brockway Glass Company Inc. (partial)  
 Coors Container Company  
 Diamond Glass  
 Dorsey Corporation  
 Gallo Glass Company  
 Glenshaw Glass Company Inc.  
 Indian Head Inc.  
 Kerr Glass Manufacturing Corporation  
 Latchford Glass Company  
 Liberty Glass Company  
 Midland Glass Company Inc.  
 National Bottle Manufacturing Company  
 National Can Corporation  
 Norton Simon Inc.  
 Owens-Illinois Inc. (partial)  
 Phillip Morris Inc.  
 Thatcher Glass Corporation  
 Wheaton Industries  
 Glass—Pressed & Blown (Battelle Institute)  
 Anchor Hocking Corporation (partial)  
 Brockway Glass Company Inc. (partial)  
 Certainteed Corporation  
 Corning Glass Works (partial)  
 Owen-Corning Fiberglas Corporation  
 Owens-Illinois Inc. (partial)  
 Gypsum Association  
 Domtar Industries Inc. (partial)  
 Genstar Building Materials Company  
 Georgia-Pacific Corporation  
 Jim Walter Corporation (partial)  
 National Gypsum Company (partial)  
 Pacific Coast Building Products Company  
 (partial)  
 United States Gypsum Company (partial)  
 National Lime Association  
 Ash Grove Cement Company (partial)  
 Bethlehem Steel Corporation (partial)  
 Cam-Am Corporation  
 CLM Corporation  
 Domtar Industries Inc. (partial)  
 Dravo Corporation  
 Edw. C. Levy Company  
 Flintkote Company (partial)  
 General Dynamics Corporation (partial)  
 J. E. Baker Company (partial)  
 Martin Marietta Corporation (partial)  
 National Gypsum Company (partial)  
 Pfizer Inc. (partial)  
 Round Rock Lime Company  
 St. Clair Lime Company  
 United States Gypsum Company (partial)  
 Vulcan Materials Company (partial)  
 Warner Company  
 Portland Cement Association  
 Alamo Cement Company  
 Alpha Portland Cement Company  
 Arkansas Louisiana Gas Company  
 Ash Grove Cement Company (partial)  
 California Portland Cement Company  
 Capitol Aggregates Inc.  
 Centex Corporation  
 Citadel Cement Corporation  
 Coplay Cement Manufacturing Company  
 Crane Company  
 Cyprus Hawaiian Cement Company  
 Dundee Cement Company
- Filtrol Corporation  
 Flintkote Company (partial)  
 Florida Mining & Materials Corporation  
 General Portland Cement Company  
 Giant Portland & Masonry Cement  
 Company  
 Gifford-Hill & Company Inc.  
 Ideal Basic Industries Inc.  
 Independent Cement Corporation  
 Kaiser Cement & Gypsum Corporation  
 Keystone Portland Cement Company  
 Lehigh Portland Cement Company (partial)  
 Lone Star Industries Inc.  
 Louisville Cement Company  
 Martin Marietta Corporation (partial)  
 McDonough Company  
 Missouri Portland Cement Company  
 Monarch Cement Company  
 Monolith Portland Cement Company  
 National Cement Company  
 Newman Mining Corporation  
 Northwestern St. Portland Cement  
 Company  
 Oregon Portland Cement Company  
 Penn-Dixie Industries Inc.  
 Rinker Portland Cement Corporation  
 River Cement Company  
 South Dakota Cement Company  
 Southdown Inc.  
 Texas Industries Inc. (partial)  
 Whitehall Cement Manufacturing Company  
 Refractories Institute  
 Allied Chemical Corporation (partial)  
 Combustion Engineering Inc. (partial)  
 Corning Glass Works (partial)  
 Dresser Industries Inc. (partial)  
 Ferro Corporation (partial)  
 Grefco Inc.  
 Interpace Corporation (partial)  
 J. E. Baker Company (partial)  
 Kaiser Aluminum & Chemical Corporation  
 (partial)  
 Kennecott Corporation (partial)  
 Martin Marietta Corporation (partial)  
 McDermott Inc. (partial)  
 Norton Company (partial)  
 Pfizer Inc. (partial)  
 United States Gypsum Company (partial)  
 Tile Council of America  
 National Gypsum Company (partial)
- SIC 33—Primary Metal Industries*
- Aluminum Association  
 Alcan Aluminum Corporation  
 Alumax Inc.  
 Aluminum Company of America  
 American Can Company  
 Atlantic Richfield Company (partial)  
 Cabot Corporation  
 Consolidated Aluminum Corporation  
 Ethyl Corporation  
 Kaiser Aluminum & Chemical Corporation  
 Martin Marietta Corporation  
 National Steel Corporation (partial)  
 Noranda Aluminum Inc.  
 Pechiney Ugine Kuhlmann Corporation  
 (partial)  
 Revere Copper and Brass Inc. (partial)  
 Reynolds Metals Company  
 Southwire Company  
 American Die Casting Institute  
 Hayes-Albion Corporation (partial)  
 American Foundrymen's Society  
 American Cast Iron Pipe Company  
 Clow Corporation  
 Dayton Malleable Inc.
- Grede Foundries Inc.  
 Mead Corporation  
 Teledyne Inc. (partial)  
 American Iron & Steel Institute  
 A. Finkl & Sons Company  
 Allegheny International  
 Armco Inc.  
 Athlone Industries Inc.  
 Atlantic Steel Company  
 Bethlehem Steel Corporation  
 Cargill Inc.  
 Carpenter Technology Corporation  
 Cego Corporation  
 Colt Industries Inc.  
 Crane Company  
 Cyclops Corporation  
 Eastmet Corporation  
 Florida Steel Corporation  
 Ford Motor Company  
 Guteri Special Steel Corporation  
 Inland Steel Company  
 Interlake Inc. (partial)  
 Jones & Laughlin Steel Corporation  
 Kaiser Steel Corporation  
 Keystone Consolidated Industries Inc.  
 Korf Industries Inc.  
 Laclede Steel Company  
 LTV Corporation  
 Lukens Steel Corporation  
 McDermott Inc.  
 McLouth Steel Corporation  
 National Steel Corporation (partial)  
 Northwest Industries Inc. (partial)  
 Northwest Steel Rolling Mills Inc.  
 Northwestern Steel & Wire Company  
 Phoenix Steel Corporation  
 Republic Steel Corporation  
 Sharon Steel Corporation  
 Shenango Inc.  
 Teledyne Inc. (partial)  
 Timken Company  
 United States Steel Corporation  
 Washington Steel Corporation  
 Wheeling Pittsburgh Steel Corporation  
 American Mining Congress  
 Amax Inc.  
 Asarco Inc.  
 Inspiration Consol Copper Company  
 Kennecott Corporation (partial)  
 Louisiana Land & Exploration Company  
 (partial)  
 Marmon Group Inc.  
 Newmont Mining Corporation (partial)  
 Phelps Dodge Corporation (partial)  
 St. Joe Minerals Corporation  
 Construction Industry Manufacturers  
 Association  
 Caterpillar Tractor Company  
 Tenneco Inc.  
 Copper & Brass Fabricators Council  
 Atlantic Richfield Company (partial)  
 Century Brass Products Inc.  
 Kennecott Corporation (partial)  
 Louisiana Land & Exploration Company  
 (partial)  
 National Distillers & Chemical Corporation  
 Olin Corporation  
 Phelps Dodge Corporation (partial)  
 Revere Copper & Brass Inc. (partial)  
 Ferroalloys Association  
 Chromium Mining & Smelting Corporation  
 Dow Chemical Company  
 Elkmel Metals Company  
 Foote Mineral Company  
 Hanna Mining Company—Silicon Division

Hanna Nickel Smelting Company  
 Interlake Inc. (partial)  
 International Minerals & Chemical Corporation  
 MacAlloy Corporation  
 Newmont Mining Corporation (partial)  
 Ohio Ferroalloys  
 SKW Alloys  
 Union Carbide Corporation

**SIC 34—Fabricated Metal Products**

Aluminum Association  
 Aluminum Company of America  
 Kaiser Aluminum & Chemical Corporation  
 Martin Marietta Corporation  
 Reynolds Metals Company  
 American Boiler Manufacturers Association  
 Combustion Engineering Inc.  
 McDermott Inc.  
 Can Manufacturers Institute  
 American Can Company  
 Campbell Soup Company  
 Continental Group Inc.  
 Crown Cork & Seal Company Inc.  
 Jos. Schlitz Brewing Company  
 Miller Brewing Company  
 National Can Corporation  
 Chemical Manufacturers Association  
 E. I. du Pont de Nemours & Company  
 Remington Arms Company Inc.

**SIC 35—Machinery, Except Electrical**

Air Conditioning & Refrigeration Institute  
 Emerson Electric Company  
 IC Industries  
 Trane Company  
 Computer & Business Equipment Manufacturers Association  
 Control Data Corporation  
 Digital Equipment Corporation  
 International Business Machines Corporation  
 Sperry Rand Corporation  
 TRW Inc.  
 Xerox Corporation  
 Construction Industry Manufacturers Association  
 Bucyrus-Erie Company  
 Caterpillar Tractor Company  
 Clark Equipment Company  
 Cummins Engine Company  
 FMC Corporation  
 Ford Motor Company  
 Harnischfeger Corporation  
 Ingersoll-Rand Company  
 Tenneco Inc.

**SIC 36—Electric, Electronic Equipment**

Chemical Manufacturers Association  
 Great Lakes Carbon Corporation  
 Minnesota Mining & Manufacturing Company  
 National Electrical Manufacturers Association  
 Airco Inc.  
 Allied Chemical Corporation  
 Emerson Electric Company  
 Harvey Hubbell Inc.  
 Johnson Controls Inc.  
 McGraw-Edison Company  
 Reliance Electric Company  
 Square D Company  
 Union Carbide Corporation

**SIC 37—Transportation Equipment**

Aerospace Industries Association of America  
 Boeing Company

General Dynamics Corporation (partial)  
 Grumman Corporation  
 Hughes Aircraft Corporation  
 Lockheed Corporation  
 Martin Marietta Corporation  
 McDonnell Douglas Corporation  
 Northrop Corporation  
 Textron, Inc.  
 Thiokol Corporation  
 TRW Inc.  
 Vought Corporation  
 Chemical Manufacturers Association  
 Hercules Incorporated  
 Tenneco Inc.  
 Motor Vehicle Manufacturers Association  
 American Motors Corporation  
 Chrysler Corporation  
 Ford Motor Company (SIC Code 33, Recovered Materials)  
 General Motors Corporation (SIC Code 30, 33, Recovered Materials)

**SIC 38—Instruments and Related Products**

Chemical Manufacturers Association  
 Eastman Kodak Company  
 Minnesota Mining & Manufacturing Company  
 Pharmaceutical Manufacturers Association  
 Johnson & Johnson

[FR Doc. 83-31398 Filed 11-21-83; 8:45 am]

**BILLING CODE 6450-01-M**

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/10E; PH-FRL 2453-1]

### Intent To Cancel Pesticide Products Containing Lindane; Denial of Applications for Registration of Pesticide Products Containing Lindane; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Position Document

#### Correction

In FR Doc. 83-28154 beginning on page 48512 in the issue of Wednesday, October 19, 1983, make the following corrections:

1. On page 48516, second column, fourth line, "asydimetomethyl" should read "oxydimetomethyl".
2. Same page, same column, third complete paragraph, third line, "power post" should read "powder post".
3. On Page 48517, first column, fifth line, "1,2,3, and" should read "1/2/3 and".
4. Same page, same column, third complete paragraph, tenth line, " $4.2 \times 10^{-10}$ " should read " $4.2 \times 10^{-4}$ ".
5. On page 48518, second column, fourth line, "inmammalian cells" should read "in mammalian cells".

**BILLING CODE 1505-01-M**

[OPP-30000/7E; PH-FRL 2451-2]

### Intent To Cancel Registrations of Pesticide Products Containing Strychnine; Denial of Applications for Registration of Pesticide Products Containing Strychnine; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Position Document

#### Correction

In FR Doc. 83-28155 beginning on page 48522 in the issue of Wednesday, October 19, 1983, make the following corrections:

1. On page 48524, first column, middle of page, between "i. Jackrabbits" and "a. Prairie dogs", insert the following line:
- "2. Nonagricultural site uses."

2. Same page, same column, sixteen lines from the bottom, "Birds and cropland" should read "Birds on cropland".

**BILLING CODE 1505-01-M**

## FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 619R]

### Chumet Shipping Co., Inc.; Order of Revocation

On November 8, 1983, Chumet Shipping Co., Inc., 401 Broadway, New York, NY 10013 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 619.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 619R, be revoked effective November 8, 1983.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Chumet Shipping Co., Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 83-31359 Filed 11-21-83; 8:45 am]

**BILLING CODE 6730-01-M**

[Independent Ocean Freight Forwarder License No. 1577]

### Dolphin Freight Forwarders, Inc.; Order of Revocation

On November 8, 1983, Dolphin Freight Forwarders, Inc., P.O. Box 522-184, Miami, FL 33152 requested the Commission to revoke its Independent

Ocean Freight Forwarder License No. 1577.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 1577, be revoked effective November 8, 1983.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Dolphin Freight Forwarders, Inc.

**Robert G. Drew,**  
*Director, Bureau of Tariffs.*

[FR Doc. 83-31360 Filed 11-15-83; 8:45 am]  
**BILLING CODE 6730-01-M**

[Independent Ocean Freight Forwarder License No. 1956R]

**International Associated Cargo Carrier, Inc.; Order of Revocation**

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of International Associated Cargo Carrier, Inc., 10200 Hempstead Hwy., Bldg. B-2, Houston TX 77092 was cancelled effective October 29, 1983.

By letter dated October 12, 1983, International Associated Cargo Carrier, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1956R would be automatically revoked unless a valid surety bond was filed with the Commission.

International Associated Cargo Carrier, Inc., has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1956R be and is hereby revoked effective October 29, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 1956R issued to International Associated Cargo Carrier, Inc., be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal**

Register and served upon International Associated Cargo Carrier, Inc.

**Robert G. Drew,**  
*Director, Bureau of Tariffs.*  
[FR Doc. 83-31358 Filed 11-21-83; 8:45 am]  
**BILLING CODE 6730-01-M**

**Independent Ocean Freight Forwarder License; Applicants**

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573:

Pasco Associated (a Maryland Limited Partnership) d.b.a. Pasco Associates, 1050 17th Street NW., Suite 450, Washington, DC 20036. Partners: William Hundley, Esquire, Ahmed El Diwani, Adel Fahmy, Khaled Salem Muller Air Freight, Inc. d.b.a. Muller Sea Freight, 521 Fifth Avenue, New York, NY 10175. Officers: Richard Friedl, President; Timothy Hannon, Vice President-Ocean Operations; Michael Martell, Secretary; George W. Leppert, Controller

D.A.T.E. International, Inc., 320 North Point Road, Baltimore, MD 21224. Officers: Dianna L. Shade, President; Joseph J. Schwartz, Vice President; Leah J. Amato, Secretary/Treasurer Paralia, Inc. d.b.a. Paralia Corporation, 80 Broad Street, Boston, MA 02110. Officer: Athan Galanis, President/ Director

Alfredo Moreno, d.b.a. ACE Forwarding, 202 Bethany Road, Hazel, NJ 07730 ABB Intertrade, Inc., 850 N. State Street, Apt. 25K, Chicago, IL 60610. Officer: Robert Abbenzeller, Jr., President

JBM & Sons International Freight Forwarders, Inc., 2151 N.W. 72nd Avenue, Miami, FL 33122. Officer: Ernesto Millon, President/Director; Mario Sanchez, Vice President; Erika Millon, Treasurer

All Flags Forwarding, Inc., Bldg. 15, Hook Creek Industrial Park, Valley Stream, NY 11581. Officer: Joseph Catania, President.

Dated: November 16, 1983.  
By the Federal Maritime Commission.

**Francis C. Hurney,**  
*Secretary.*

[FR Doc. 83-31356 Filed 11-21-83; 8:45 am]  
**BILLING CODE 6730-01-M**

[Independent Ocean Freight Forwarder License No. 16]

**Major Forwarding Company, Inc.; Reissuance of License**

By Notice served and published in the **Federal Register**, Independent Ocean Freight Forwarder License No. 16 was revoked, effective December 17, 1982, for failure to maintain a valid surety bond on file with the Commission. The Notice of Revocation was served January 7, 1983.

An appropriate surety bond has been received in favor of Major Forwarding Company, Inc., and compliance pursuant to section 44, Shipping Act, 1916, and § 510.15 of the Commission's General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in § 9.09(a) of Commission Order No. 1, (Revised), dated September 27, 1983, Independent Ocean Freight Forwarder License No. 16 shall be reissued to Major Forwarding Company, Inc.

**Robert G. Drew,**  
*Director, Bureau of Tariffs.*  
[FR Doc. 83-31357 Filed 11-21-83; 8:45 am]  
**BILLING CODE 6730-01-M**

[Independent Ocean Freight Forwarder License No. 1251R]

**Travelers Overseas, Inc.; Order of Revocation**

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Travelers Overseas, Inc. was cancelled effective November 5, 1983.

By letter dated October 19, 1983, Travelers Overseas, Inc., 25 James Street, New Haven, CT 06513, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1251R would be automatically revoked unless a valid surety bond was filed with the Commission.

Travelers Overseas, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1251R be and is hereby revoked effective November 5, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 1251R issued to Travelers Overseas, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Travelers Overseas, Inc.

**Robert G. Drew,**

*Director, Bureau of Tariffs.*

[FR Doc. 83-31361 Filed 11-21-83; 8:45 am]

**BILLING CODE 6730-01-M**

Dated: November 17, 1983.

Francis C. Hurley,

*Secretary.*

[FR Doc. 83-31383 Filed 11-21-83; 8:45 am]

**BILLING CODE 6730-01-M**

## FEDERAL RESERVE SYSTEM

### NCB Financial Corp.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 83-30519), published at page 51861 of the issue for Monday, November 14, 1983.

**NCB Financial Corporation.**

Williamsport, Pennsylvania, has applied to acquire voting shares of Tri-County National Bank, Middleburg, Pennsylvania. This notice changes the date after which comments will no longer be accepted. The previously published date was December 7, 1983. The corrected date is November 30, 1983.

**Board of Governors of the Federal Reserve System,** November 17, 1983.

**James McAfee,**

*Associated Secretary of the Board.*

[FR Doc. 83-31339 Filed 11-21-83; 8:45 am]

**BILLING CODE 6210-01-M**

## Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of the agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10325. Interested parties may submit protests or comments on the agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No. 8770-13.

**Title: U.K./U.S.A. Gulf Westbound Rate Agreement.**

**Parties:** Hapag-Lloyd AG, Gulf Europe Express, Trans Freight Lines, Inc., Atlantic Cargo Services AB, Lykes Bros. Steamship Co., Inc., Sea-Land Service, Inc.

**Synopsis:** The proposed amendment would modify Agreement No. 8770 by extending the notice period for independent action from 48-hours to 30-days.

**Filing Party:** Howard A. Levy, Esquire, 17 Battery Place, Suite 727, New York, New York 10004.

By Order of the Federal Maritime Commission.

## Food and Drug Administration

[Docket No. 83N-0345]

### Allergenic Products; Notice of Public Workshop

**AGENCY:** Food and Drug Administration.  
**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a forthcoming public workshop to discuss laboratory procedures and the licensure and distribution of standardized Allergenic Products.

**DATE:** The workshop will be held on January 16 and 17, 1984, at 9 a.m.

**ADDRESS:** The workshop will be held at Wilson Hall, Bldg. 1, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. Written comments, suggestions, and requests for a copy of the agenda may be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Michael L. Hooton, National Center for Drugs and Biologics (HFN-813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

**SUPPLEMENTARY INFORMATION:** The manufacture of licensed biological products is governed by regulations published under the authority of the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act. These regulations include the additional standards for Allergenic Products under Part 680 (21 CFR Part 680).

For several years FDA's National Center for Drugs and Biologics, in collaboration with licensed manufacturers, has been holding workshops to develop methods to determine the relative allergen content (potency) of Allergenic Products. On January 13 and 14, 1981, FDA held its most recent workshop on standardization of Allergenic Products. These workshops assist FDA in developing sound programs, such as standardization programs, criteria for source materials, and requirements for licensure. FDA believes that manufacturers, FDA, and other interested persons would benefit from another workshop to discuss the use of current potency procedures, including statistical methods, that are available to standardize Allergenic Products. FDA may initiate rulemaking to propose requirements based on methods discussed at the workshop and found most satisfactory in standardizing Allergenic Products. The method for

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Center for Disease Control

#### Surveillance System for Continuous Subcutaneous Insulin Infusion Pump Users; Open Meeting

On December 1, 1983, the Centers for Disease Control will convene an open meeting of a work group to discuss the establishment of a surveillance system for patients using continuous subcutaneous insulin infusion pumps. The meeting is open to the public for observation and participation, limited only by the space available.

The meeting is scheduled to be held at the Holiday Inn, O'Hare, Chicago, Illinois, from 10:00 a.m. to 3:00 p.m.

Additional information may be obtained from: Allyn K. Nakashima, M.D., Medical Epidemiologist, Division of Diabetes Control, Center for Prevention Services, Centers for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333. Telephones: FTS: 236-1844, Commercial: 404/329-1844.

Dated: November 16, 1983.

**William C. Watson, Jr.**

*Acting Director, Centers for Disease Control.*

[FR Doc. 83-31372 Filed 11-21-83; 8:45 am]

**BILLING CODE 4100-18-M**

determining the antigen E content of short ragweed pollen extracts (21 CFR 680.4) was demonstrated at such a workshop. Other topics to be discussed in the workshop include allergenic source materials such as animals, molds, and pollens; the status of allergenic reference preparations; clinical data required for the approval of standardized products; licensure of products; and requirements for the release of a lot of product.

The workshop will be held at 9 a.m. on January 16 and 17, 1984, at the National Institutes of Health in Wilson Hall, Bldg. 1, 9000 Rockville Pike, Bethesda, MD 20205. Persons who wish to comment on and request a copy of the agenda or suggest new topics for the workshop may submit written comments, suggestions, or requests to the Dockets Management Branch (address above). After FDA reviews any written submissions, the agency may expand the agenda to cover other relevant subjects.

Dated: November 15, 1983.

William F. Randolph,

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 83-31319 Filed 11-21-83; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### Commission on Fair Market Value Policy for Federal Coal Leasing; Meeting

**AGENCY:** Commission on Fair Market Value Policy for Federal Coal Leasing; Interior.

**ACTION:** Notice of Business Meeting of the Commission.

**SUMMARY:** Notice is hereby given that the Commission on Fair Market Value Policy for Federal Coal Leasing will hold a Business Meeting on November 28 and 29, 1983. The meeting will be held in the Brick Room at 1925 K St., NW.

Washington, D.C. 20036. The meetings will convene at 9:00 a.m. each day.

**FOR FURTHER INFORMATION CONTACT:** F. Scott Bush, Executive Director, or Sorrell Caplan, Public Affairs Director, Commission on Fair Market Value Policy for Federal Coal Leasing, Suite 400, 1015 20th Street, NW., Washington, D.C. 22036 Phone: (202) 632-6501.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to the authority and requirements of Pub. L. 98-63, approved July 30, 1983, making supplemental appropriations for fiscal year 1983, and for other purposes, and in

accordance with the Federal Advisory Committee Act (Pub. L. 92-463).

The Commission on Fair Market Value Policy for Federal Coal Leasing will hold a Business Meeting on November 28 and 29, 1983, to discuss draft Commission recommendations.

The Commission was established by Pub. L. 98-63 approved by President Reagan on July 30, 1983 to review Federal coal leasing statutes, policies and procedures to ensure receipt of fair market value. To complete its mandate, the Commission will:

- A. Examine the current statutes, policies and procedures to ensure receipt of fair market value of Federal coal leases;
- B. Evaluate efforts to improve the Department's program; and
- C. Recommend improvements in those statutes, policies, and procedures.

Dated: November 15, 1983.

David F. Linowes,

*Chairman.*

[FR Doc. 83-31443 Filed 11-21-83; 8:45 am]

BILLING CODE 4310-10-M

## Bureau of Land Management

[IA-18453]

#### Arizona; Conveyance and Order Providing for Opening of Public Lands

November 14, 1983.

In an exchange of lands made under the provisions of Section 206 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following lands have been conveyed to the United States:

#### Gila and Salt River Meridian, Arizona

T. 25 N., R. 14 W.,

Sec. 23;

T. 25 N., R. 14 W.,

Sec. 19, NW $\frac{1}{4}$ ;

T. 26 N., R. 15 W.,

Sec. 1, lots 1 to 4, S $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ ,

Sec. 5, lots 1, 3, 4, S $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$

SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ,

Sec. 9, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , S $\frac{1}{2}$ ,

Secs. 11, 13 and 15,

Sec. 21, NW $\frac{1}{4}$ , S $\frac{1}{2}$ ,

Sec. 23, N $\frac{1}{4}$ ,

Sec. 25, NW $\frac{1}{4}$ ,

Sec. 27,

Sec. 35, NW $\frac{1}{4}$ .

The area described contains 6,762.48 acres in Mohave County.

All of the mineral rights are reserved by the Santa Fe Railroad and are not subject to location under the United States mining laws or to applications and offers under the mineral leasing laws.

Upon acceptance of title to the lands, they became part of the public lands

administered by the Bureau of Land Management. At 10:00 a.m. on December 19, 1983, the lands shall be open to surface entry under the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All applications received at or prior to 10:00 a.m. on December 19, 1983, shall be considered in the order of filing.

In exchange for the above described lands, the following described lands in Mohave County, were transferred to J. Leonard Neal and Grace Helen Neal:

#### Gila and Salt River Meridian, Arizona

T. 24 N., R. 15 W.,

Sec. 6, lots 1 thru 7, incl. S $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ ,

NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ,

Sec. 18, lots 1 thru 4, incl. E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$ ,

Sec. 20,

Sec. 30, lots 1 thru 4, incl. E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$ ,

T. 24 N., R. 15 W.,

Secs. 10, 12 and 22,

Secs. 24, W $\frac{1}{2}$ ,

Sec. 28, E $\frac{1}{2}$ ,

Sec. 34, S $\frac{1}{2}$ :

T. 25 N., R. 16 W.,

Sec. 24, S $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ .

The area described contains 5,686.18 acres in Mohave County.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document.

Mario L. Lopez,

*Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 83-31329 Filed 11-21-83; 8:45 am]

BILLING CODE 4310-84-M

[IA 12945]

#### Arizona; Ordering Providing for Opening of Public Lands

November 9, 1983.

By virtue of the authority contained in section 24 of the Act of June 10, 1920 (41 Stat. 1975, as amended 16 U.S.C. 818) (1976), and pursuant to the determination of the Federal Energy Regulatory Commission on October 13, 1982, it is ordered as follows:

1. In order of October 13, 1982, the Federal Energy Regulatory Commission determined that Power Project No. 767 is no longer needed for power purposes and is vacated as to the remaining lands. Pursuant to BLM Manual Section 1203, the segregative effect of the said withdrawal on the following described lands is hereby lifted, effective upon publication of the order:

#### Gila and Salt River Meridian, Arizona

T. 10 N., R. 12 W.,

Sec. 4, lots 2 thru 7, incl., lots 9 thru 12, incl.;  
 Sec. 5, lots 1, 2, 3, 6, 7, 8, 9;  
 Sec. 6, lots 4 and 5.  
 T.10 N., R. 13 W.  
 Sec. 1, lots 1, 2, 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 3;  
 Sec. 4, NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 9, NE $\frac{1}{4}$ E $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 10;  
 Sec. 11, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , S $\frac{1}{2}$ , SE $\frac{1}{4}$ ;  
 Sec. 12, W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ .  
 T.11 N., R. 11 W.,  
 Sec. 7, lot 4;  
 Sec. 15, S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 17, S $\frac{1}{2}$ ;  
 Sec. 18, lots 1, 2, 3, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{2}$ SE $\frac{1}{4}$ .  
 T.11 N., R. 12 W.,  
 Sec. 4, lots 2, 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 5, lots 1, 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 7, lots 2, 3, 4, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 8, E $\frac{1}{2}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ;  
 Sec. 9, NE $\frac{1}{4}$ ;  
 Sec. 10 SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 11, S $\frac{1}{2}$ ;  
 Sec. 12, SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 13, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 14, N $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 15;  
 Sec. 17, E $\frac{1}{2}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 18, lots 1, 2, 3, 4, NE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 19, SE $\frac{1}{4}$ ;  
 Sec. 20;  
 Sec. 21, N $\frac{1}{2}$  SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 22, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 23, NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 24, W $\frac{1}{2}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Secs. 28, 29, 30 31;  
 Sec. 33, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ .  
 T.11 N., R. 13 W.,  
 Sec. 11, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 12, SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 13;  
 Sec. 14, E $\frac{1}{2}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 22, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 23;  
 Sec. 24, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 25, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 26, N $\frac{1}{2}$  SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 27, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 28, E $\frac{1}{2}$ NE $\frac{1}{2}$ ;  
 Sec. 34, W $\frac{1}{2}$ E $\frac{1}{2}$ , SW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 35, NW $\frac{1}{4}$ .  
 T.12 N., R. 12 W.,  
 Sec. 17, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Secs. 18 and 19;  
 Sec. 20, W $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 28, W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 29, NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 30;  
 Sec. 31, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 32;  
 Sec. 33, W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$ .  
 T.12 N., R. 13 W.,  
 Sec. 2, lots 1, 2, 3, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;

Sec. 11, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 12, SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 13, NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ .  
 The areas described contain approximately 26,104 acres in La Paz and Mohave Counties.  
 2. Of the above described lands, the following lands remain withdrawn from all forms of appropriations under the public land laws including the mining and mineral leasing laws, and are reserved for the Alamo Dam and Reservoir on the Bill Williams River:  
 T. 11 N., R. 11 W.,  
 Sec. 7, lot 4;  
 Sec. 18, lot 1, NE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
 T. 11 N., R. 12 W.,  
 Sec. 4, lots 2, 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 5, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 7, lots 3, 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 8, E $\frac{1}{2}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ;  
 Sec. 9, NE $\frac{1}{4}$ ;  
 Sec. 10, S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 11, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 12, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 13, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 14, N $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 15, N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ ;  
 Sec. 17, E $\frac{1}{2}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 18, lots 1, 2, 3, 4, NE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 19, SE $\frac{1}{4}$ ;  
 Sec. 20, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 21, NW $\frac{1}{4}$ ;  
 Sec. 29, SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 30;  
 Sec. 31, lots 1, 2, 3, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ .  
 T. 12 N., R. 12 W.,  
 Sec. 19, E $\frac{1}{2}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 20, NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 29, W $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 30, E $\frac{1}{2}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 31, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 32, N $\frac{1}{2}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 33, W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$ .  
 T. 10 N., R. 13 W.,  
 Sec. 1, lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 3;  
 Sec. 4, NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 9, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 10, N $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 11, NE $\frac{1}{4}$ NE $\frac{1}{4}$ .  
 T. 11 N., R. 13 W.,  
 Sec. 12, S $\frac{1}{2}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 13;  
 Sec. 14, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 22, SE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 23, E $\frac{1}{2}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ;  
 Sec. 24, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 25, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 26, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 27, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 34, W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 35, NW $\frac{1}{4}$ .  
 The above described lands contain approximately 14,800 acres.  
 3. Effective December 14, 1983, this order restores the lands described in

paragraph 1, excepting the lands described in paragraph 2, to operation of the public land laws.

4. The lands described in paragraph 1, excepting those described in paragraph 2, have been open to location and entry under the United States mining laws pursuant to the Act of August 11, 1955 (69 Stat. 681), and to mineral leasing under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.  
 Mario L. Lopez,  
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 83-31375 Filed 11-21-83; 8:45 am]  
 BILLING CODE 4310-84-M

**[M 59727 (ND)]**

**North Dakota; Emergency Coal Lease Offering by Sealed Bid**

November 15, 1983.

U.S. Department of the Interior,  
 Bureau of Land Management, Montana State Office, Granite Tower Building,  
 222 North 32nd Street, P.O. Box 36800,  
 Billings, Montana 59107. Notice is hereby given that at 10 a.m., Thursday December 15, 1983, in the Conference Room on the Sixth Floor of the Granite Tower Building, the coal resources in the tract described below will be offered for competitive lease by sealed bid. This offering is being made as a result of an application filed by the North American Coal Corporation in accordance with the provisions of the Mineral Leasing Act of 1920 (41 Stat. 437), as amended.

The following described tract will be leased to the qualified bidder of the highest cash amount provided that the high bid equals fair market value of the tract. The minimum bid for the tract is \$100 per acre, or fraction thereof. No bid that is less than \$100 per acre, or fraction thereof, will be considered. The minimum bid is not intended to represent fair market value. The fair market value of each tract will be determined by the authorized officer after the sale.

Sealed bids must be submitted on or before 4 p.m., Wednesday, December 14, 1983, to the Cashier, Montana State Office, Second Floor, Granite Tower, at the above address. The bids should be sent by certified mail, return receipt; or be hand delivered. The Cashier will issue a receipt for each hand-delivered bid. Bids received after that time will not be considered.

Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received at the above address before 4 p.m., Wednesday, December 14, 1983. The successful bidder is obligated to pay for the newspaper publication of this Notice.

If identical high sealed bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed bids must be submitted within five (5) minutes following the sale official's announcement at the sale that identical high bids have been received.

The following described tract contains split estate lands. Regulation 43 CFR 3427 sets out the protection that shall be afforded qualified surface owners of split estate lands (43 CFR 3400.0-5).

#### Coal Offered

The coal resource to be offered consists of all recoverable reserves in the following described lands located approximately 2 miles northwest of the town of Beulah near the Indian Head Mine.

T. 144 N., R. 88 W., 5th P.M.

Sec. 14, N 1/4 SW 1/4, SW 1/4 SW 1/4;

Sec. 22, N 1/4 NE 1/4 NE 1/4, W 1/4 NE 1/4, NW 1/4;

Containing 380.00 acres, Mercer County, North Dakota.

Total recoverable reserves are estimated to be 1.83 million tons. The Beulah-Zap seam is lignite and averages (as received) 6,785 BTU/lb. with 37.8 percent moisture, 0.8 percent sulfur, 6.5 percent ash, 30.5 percent fixed carbon, and 27.2 percent volatile matter.

Surface Owner Consent Information: This tract has 6 qualified surface owners.

Consent granted by the qualified surface owners have been filed with and verified by the Bureau of Land Management. Copies of these consents are attached to the detailed statement of sale. The lands and the purchase price of the consents are shown below:

T. 144 N., R. 88 W., 5th P.M.

Sec. 14, N 1/4 SW 1/4, SW 1/4 SW 1/4, \$1,344.00.

T. 144 N., R. 88 W., 5th P.M.

Sec. 22, N 1/4 NE 1/4 NE 1/4, \$120.00.

T. 144 N., R. 88 W., 5th P.M.

Sec. 22, W 1/4 NE 1/4, NW 1/4, \$1,440.00.

Leases issued as a result of this offering will provide for payment of an annual rental of \$3.00 per acre, or fraction thereof, per year and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods and 8.0 percent of the value of the coal mined by underground methods. The value of the coal will be determined in accordance with 30 CFR 211.63.

The Bureau recognizes that it is currently enjoined from consummating a coal lease sale for lands in this tract by the District Court for the District of Columbia's Preliminary Injunction of September 28, 1983, in *National Wildlife Federation v. Watt*, Civ. No. 83-2648 (D.C.). The Department has petitioned the court for a modification of the injunction to allow emergency leasing. The basis for this petition is that such a modification would make the Preliminary Injunction consistent with the language of the August 3, 1983, resolution of the House Committee on Interior and Insular Affairs. That resolution directed the Secretary to withdraw lands in the Fort Union Region from sale, excepting lands offered under the emergency leasing provisions. The resolution was the sole basis for the D.C. District Court's injunction. If the court denies the Department's petition, then the Preliminary Injunction, as currently constituted, would preclude the Secretary from completing this emergency sale and executing a coal lease. In such an event, this sale would be cancelled.

George D. Mowat,

*Acting Deputy State Director, Division of Mineral Resources.*

[FR Doc. 83-31371 Filed 11-25-83 8:45 am]

BILLING CODE 4310-04-R

[W-34993]

#### Wyoming; Proposed Withdrawal and Opportunity for Public Meeting

On October 14, 1983, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the public land laws, including the mining laws, subject to valid existing rights:

Sixth Principal Meridian, Wyoming

T. 46 N., R. 89 W.

Sec. 15, S 1/4 NE 1/4 NW 1/4, NE 1/4 SE 1/4 NW 1/4 NW 1/4, S 1/4 SE 1/4 NW 1/4 NW 1/4, and

N 1/4 NE 1/4 SW 1/4.

The area described contains 47.50 acres in Washakie County, Wyoming.

This area will be an addition to those lands in a proposed withdrawal application W-34993, previously published in 37 FR 11735 on June 13, 1972, as amended in 48 FR 40446, September 7, 1983, and 48 FR 42874, September 20, 1983, described as follows:

Sixth Principal Meridian, Wyoming

T. 46 N., R. 89 W..

Sec. 15, SE 1/4 NW 1/4, NE 1/4 SW 1/4 NW 1/4, E 1/4 NW 1/4 SW 1/4 NW 1/4, N 1/4 SE 1/4 SW 1/4 NW 1/4, and SE 1/4 SE 1/4 SW 1/4 NW 1/4.

The total area of the proposed withdrawal aggregates 110.00 acres in Washakie County, Wyoming.

The purpose of the proposed withdrawal is to protect the recreational and aesthetic values of the Castle Gardens Recreational site and to protect the capital investment made at the site by the Bureau.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination of the authorized officer that a public meeting will be held, a notice of the time and place will be published in the *Federal Register* at least 30 days before the schedule date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the *Federal Register*, the lands will be segregated as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date.

No licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature will be allowed on the lands without the approval of an authorized officer of the Bureau of Land Management during the segregation period of this proposed withdrawal.

The *Federal Register* publication of the Proposed Withdrawal-Amendment, which was signed by an officer not in authority on that date, appearing in Vol. 48, No. 206, October 24, 1983, on page 49105, is hereby vacated.

All communications in connection with this proposed withdrawal should be addressed to the Chief, Branch of Land Resources, 2515 Warren Avenue,

P.O. Box 1828, Cheyenne, Wyoming 82003.  
 P. D. Leonard,  
*Associated State Director.*  
 [FR Doc. 83-31370 Filed 11-21-83; 8:45 am]  
 BILLING CODE 4310-84-M

#### Minerals Management Service

##### Outer Continental Shelf Offshore the North Atlantic States; Availability of Final Environmental Impact Statement Regarding Proposed North Atlantic Oil and Gas Lease Offering of April 1984

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a final environmental impact statement (EIS) relating to a proposed North Atlantic oil and gas lease offering consisting of 25 million acres of submerged lands on the Outer Continental Shelf (OCS) offshore the North Atlantic States, scheduled for April 1984.

Single copies of the final EIS can be obtained from the Regional Manager, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 602, Vienna, Virginia 22180.

Copies of the final EIS will also be available for review in the following public libraries:

Ellsworth City Library, 46 State Street, Ellsworth, ME 04805

Portland Public Library, 619 Congress Street, Portland, ME 04101

Portsmouth Public Library, 8 Islington Street, Portsmouth, NH 03801

Boston Public Library, Copley Square, Boston, MA 02117

Lithgow Library, 1 Winthrop Street, Augusta, ME 04330

Concord Public Library, 45 Green Street, Concord, NH 03301

Christian Science Monitor, 1 Norway Street, Boston, MA 02115

Russel Memorial Library, 11 North Street Plymouth, MA 02360

Provincetown Public Library, 33 Commercial Street, Provincetown, MA 02657

Falmouth Public Library, Main Street, Falmouth, MA 02540

Edgartown Free Public Library, North Water Street, P.O. Box 36, Edgartown, MA 02537

Providence Public Library, 150 Empire Street, Providence, RI 02903

Public Library of New London, 63 Huntington Street, New London, CT 06320

New Haven Free Public Library, 133 Elm Street, New Haven, CT 06510

New York Public Library, 5th Avenue & 42 Street, New York, NY 10018

Suffolk Cooperative Library System, 627 North Sunrise Service Road, P.O. Box 1872, Bellport, NY 11713  
 Albany Public Library, Harmans Bleecker Bldg., 19 Dove Street, Albany, NY 12210  
 Atlantic City Free Public Library, Illinois & Pacific Avenues, Atlantic City, NJ 08401  
 Hyannis Public Library, 401 Main Street, Hyannis, MA 02601  
 Fall River Public Library, 104 North Main Street, Fall River, MA 02720  
 Newport Public Library, Aquidneck Park, Newport, RI 02840  
 Hartford Public Library, 500 Main Street, Hartford, CT 06103  
 Cross' Mills Public Library, Old Post, Charleston, RI 02813  
 Bridgeport Public Library, 925 Broad, Bridgeport, CT 06603  
 Riverhead Free Library, 330 Court Street, Riverhead, NY 11901  
 Nassau Library System, Reference Division, 900 Jerusalem Avenue, Uniondale, NY 11553  
 New Jersey State Library, P.O. Box 1898, Trenton, NJ 08625  
 Long Branch Public Library, 328 Broadway, Long Branch, NJ 07740  
 Wilmington Institute Free Library and Newcastle County Free Library, 10th & Market Streets, Wilmington, DE 19801  
 Free Library of Philadelphia, Logan Circle, Philadelphia, PA 19141  
 Rehoboth Beach Public Library, Municipal Center, Rehoboth Avenue, Rehoboth Beach, DE 19971  
 David C. Russell,  
*Acting Director, Minerals Management Service.*  
 Approved:  
 Bruce Blanchard,  
*Director, Environmental Project Review.*  
 September 26, 1983.  
 [FR Doc. 83-31364 Filed 11-21-83; 8:45 am]  
 BILLING CODE 4310-MR-M

#### Oil and Gas and Sulphur Operations in the Outer Continental Shelf

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the receipt of a proposed development and production plan.

**SUMMARY:** Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1619, Block 93, South Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from

an onshore base located at Grand Isle, Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.

**SUPPLEMENTARY INFORMATION:** Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations. Accordingly, a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

A copy of the Consistency Certification and the Plan are also available for public review at the coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70804. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the Plan from the Minerals Management Service.

**FOR FURTHER INFORMATION CONTACT:**  
 Minerals Management Service, Public Records, Room 147, 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

Dated: November 14, 1983.

John L. Rankin,

*Regional Manager, Gulf of Mexico Region.*

[FR Doc. 83-31334 Filed 11-21-83; 8:45 am]

BILLING CODE 4310-MR-M

## Oil and Gas Operations on the Outer Continental Shelf; Revised Lease Form

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of revised lease form.

**SUMMARY:** This Notice informs the public of revisions to the lease form for oil and gas operations on the Outer Continental Shelf. The Minerals Management Service (MMS) is making these changes to clarify and otherwise improve the form.

**EFFECTIVE DATE:** The effective date of the revised form will be announced in the notices of lease offering for particular oil and gas lease offerings.

**FOR FURTHER INFORMATION CONTACT:** Mr. David A. Shuenke, telephone (703) 860-7916, (FTS) 928-7916.

**SUPPLEMENTARY INFORMATION:** The MMS has revised the lease form for oil and gas operations offshore. The revisions are intended to remove confusing and unnecessary information, clarify the language of the lease form, and otherwise improve the lease form. The following changes have been made to the lease form:

1. In Section 1, *Statutes and Regulations*, the phrase "which provides for the prevention of waste and the conservation of the natural resources of the Outer Continental Shelf, and the protection of correlative rights therein," has been deleted. The revisions are intended to clarify for the benefit of the lessee and the lessor the existing policy that leases are subject to all relevant regulations, including those to be issued in the future, and not only those in effect at the time the lease is executed. The deleted portion has been interpreted to include all regulations but has been known to cause confusion as to whether some future regulations are not covered in the three categories listed.

2. In Section 3, *Term*, the phrase "or as otherwise provided by regulation" is added to the end of the last sentence. The added phrase alerts the lessee that there may be methods for extending a lease term, other than production and drilling or well reworking, such as suspensions of production or other operations as may be appropriate under certain circumstances and as authorized by the regulations.

3. In part (a) of Section 6, *Royalty on Production*, "Gas of all kinds (except helium)" is replaced by "Gas (except helium) and oil of all kinds" and the sentence "Any Lessee is liable for royalty payments on oil or gas lost or wasted from a lease site when such loss or waste is due to negligence on the part of the operator of the lease, or due to the

failure to comply with any rule or regulation, order, or citation issued under the Federal Oil and Gas Royalty Management Act of 1982 or any mineral leasing law," is added between the second and third sentences. These additions are made to implement section 308 of the Federal Oil and Gas Royalty Management Act of 1982.

4. In the third sentence of part (c) of Section 6, *Royalty on Production*, the phrase "in which event the Lessee shall be entitled to" is replaced by "in which event the Lessee may be entitled to" and "as part of the royalty value determination" is added to the end of the sentence. The change is intended to clarify that the lessee is not automatically entitled to reimbursement for the reasonable cost of transporting the royalty substance but may be entitled under certain circumstances.

5. In Section 7, *Payments*, the new sentence "Determinations made by the Lessor as to the amount of payment due shall be presumed to be correct and paid as due." is added as the last sentence in the section. This addition is intended to clarify that the lessee is obligated to pay the amount due as determined by MMS and requires payment of the amount determined by MMS while any dispute is being settled.

6. In Section 10, *Performance*, the phrase "relating to exploration, development, and production" is deleted from the first sentence. This modification is intended to clarify the existing policy that the lessee must comply with all regulations and Orders.

7. In part (b) of Section 12, *Safety Requirements*, the phrase "compliance with regulations" is replaced with the phrase "compliance with regulations or orders." This addition is a clarification of existing policy and specifically alerts the lessee that operations must comply with the more detailed requirements of orders as well as the regulations.

8. In part (b) of Section 15, *Disposition of Production*, the sentence "Pursuant to section 27 (b) and (c) of the Act, the Lessor may offer and sell certain oil and gas obtained or purchased pursuant to a lease," is added as the first sentence. This addition is intended to clarify the provisions of part (b) of Section 15.

The following lease form will be used by MMS for all lease sales after the effective date given in the preamble.

Dated: November 9, 1983.

David C. Russell,

Acting Director, Minerals Management Service.

Form MMS-2005  
(October 1983)

United States Department of the Interior Minerals Management Service. Office \_\_\_\_\_ Serial number \_\_\_\_\_

Oil and Gas Lease of Submerged Lands Under the Outer Continental Shelf Lands Act. Cash bonus \_\_\_\_\_ Rental rate per acre, hectare or fraction thereof \_\_\_\_\_

This form does not constitute an information collection as defined by 44 U.S.C. 3502 and therefore does not require approval by the Office of Management and Budget. Minimum royalty rate per acre, hectare or fraction thereof \_\_\_\_\_

Profit share rate \_\_\_\_\_

This lease is effective as of \_\_\_\_\_ (hereinafter called the "Effective Date") and shall continue for an initial period of \_\_\_\_\_ years (hereinafter called the "Initial Period") by and between the United States of America (hereinafter called the "Lessor"), by the \_\_\_\_\_ Minerals Management Service, its authorized officer, and \_\_\_\_\_

(hereinafter called the "Lessee"). In consideration of any cash payment heretofore made by the Lessee to the Lessor and in consideration of the promises, terms, conditions, and covenants contained herein, including the Stipulation(s) numbered \_\_\_\_\_ attached hereto, the Lessee and Lessor agree as follows:

**Sec. 1. Statutes and Regulations.** This lease is issued pursuant to the Outer Continental Shelf Lands Act of August 7, 1953, 67 Stat. 462; 43 U.S.C. 1331 et seq., as amended (92 Stat. 629) (hereinafter called the "Act"). The lease is issued subject to the Act; all regulations issued pursuant to the Act and in existence upon the Effective Date of this lease; all regulations issued pursuant to the Act in the future; and all other applicable statutes and regulations.

**Sec. 2. Rights of Lessee.** The Lessor hereby grants and leases to the Lessee the exclusive right and privilege to drill for, develop, and produce oil and gas resources, except helium gas, in the submerged lands of the Outer Continental Shelf containing approximately \_\_\_\_\_ acres or \_\_\_\_\_ hectares (hereinafter referred to as the "leased area"), described as follows:

The rights include:

(a) the nonexclusive right to conduct within the leased area geological and

geophysical explorations in accordance with applicable regulations;

(b) the nonexclusive right to drill water wells within the leased area, unless the water is part of geopressured-geothermal and associated resources, and to use the water produced therefrom for operations pursuant to the Act free of cost, on the condition that the drilling is conducted in accordance with procedures approved by the Director of the Minerals Management Service or the Director's delegate (hereinafter called the "Director"); and

(c) the right to construct or erect and to maintain within the leased area artificial islands, installations, and other devices permanently or temporarily attached to the seabed and other works and structures necessary to the full enjoyment of the lease, subject to compliance with applicable laws and regulations.

**Sec. 3. Term.** This lease shall continue from the Effective Date of the lease for the Initial Period and so long thereafter as oil or gas is produced from the leased area in paying quantities, or drilling or well reworking operations, as approved by the Lessor, are conducted thereon or as otherwise provided by regulation.

**Sec. 4. Rentals.** The lessee shall pay the Lessor, on or before the first day of each lease year which commences prior to a discovery in paying quantities of oil or gas on the leased area, a rental as shown on the face hereof.

**Sec. 5. Minimum Royalty.** The Lessee shall pay the Lessor, at the expiration of each lease year which commences after a discovery of oil and gas in paying quantities, a minimum royalty as shown on the face hereof or, if there is production, the difference between the actual royalty required to be paid with respect to such lease year and the prescribed minimum royalty if the actual royalty paid is less than the minimum royalty.

**Sec. 6. Royalty of Production.** (a) The Lessee shall pay a fixed royalty as shown on the face hereof in amount or amount or value of production saved, removed, or sold from the leased area. Gas (except helium) and oil of all kinds are subject to royalty. Any Lessee is liable for royalty payments on oil or gas lost or wasted from a lease site when such loss or waste is due to negligence on the part of the operator of the lease, or due to the failure to comply with any rule or regulation, order, or citation issued under the Federal Oil and Gas Royalty Management Act of 1982 or any mineral leasing law. The Lessor shall determine whether production royalty shall be paid in amount or value.

(b) The value of production for purposes of computing royalty on

production from this lease shall never be less than the fair market value of the production. The value of production shall be the estimated reasonable value of the production as determined by the Lessor, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field or area, to the price received by the Lessee, to posted prices, to regulated prices, and to other relevant matters. Except when the Lessor, in its discretion, determines not to consider special pricing relief from otherwise applicable Federal regulatory requirements, the value of production for the purposes of computing royalty shall not be deemed to be less than the gross proceeds accruing to the Lessee from the sale thereof. In the absence of good reason to the contrary, value computed on the basis of the highest price paid or offered at the time of production in a fair and open market for the major portion of like-quality products produced and sold from the field or area where the leased area is situated will be considered to be a reasonable value.

(c) When paid in value, royalties on production shall be due and payable monthly on the last day of the month next following the month in which the production is obtained, unless the Lessor designates a later time. When paid in amount, such royalties shall be delivered at pipeline connections or in tanks provided by the Lessee. Such deliveries shall be made at reasonable times and intervals and, at the Lessor's option, shall be effected either (i) on or immediately adjacent to the leased area, without cost to the Lessor, or (ii) at a more convenient point closer to shore or on shore, in which event the Lessee may be entitled to reimbursement for the reasonable cost of transporting the royalty substance to such delivery point as part of the royalty value determination. The Lessee shall not be required to provide storage for royalty paid in amount in excess of tankage required when royalty is paid in value. When royalties are paid in amount, the Lessee shall not be held liable for the loss or destruction or royalty oil or other liquid products in storage from causes over which the Lessee has no control.

**Sec. 7. Payments.** The Lessee shall make all payments to the Lessor by check, bank draft, or money order unless otherwise provided by regulations or by direction of the Lessor. Rentals, royalties, and any other payments required by this lease shall be made payable to the Minerals Management Service and tendered to the Director. Determinations made by the Lessor as

to the amount of payment due shall be presumed to be correct and paid as due.

**Sec. 8. Bonds.** The Lessee shall maintain at all times the bond(s) required by regulation prior to the issuance of the lease and shall furnish such additional security as may be required by the Lessor if, after operations have begun, the Lessor deems such additional security to be necessary.

**Sec. 9. Plans.** The Lessee shall conduct all operations on the leased area in accordance with approved exploration plans and approved development and production plans as are required by regulations. The Lessee may depart from an approved plan only as provided by applicable regulations.

**Sec. 10. Performance.** The Lessee shall comply with all Regulations and Orders. After due notice in writing, the Lessee shall drill such wells and produce at such rates as the Lessor may require in order that the leased area or any part thereof may be properly and timely developed and produced in accordance with sound operating principles.

**Sec. 11. Directional Drilling.** A directional well drilled under the leased area from a surface location on nearby land not covered by this lease shall be deemed to have the same effect for all purposes of the lease as a well drilled from a surface location on the leased area. In those circumstances, drilling shall be considered to have been commenced on the leased area when drilling is commenced on the nearby land for the purpose of directionally drilling under the leased area, and production of oil or gas from the leased area through any directional well surfaced on nearby land or drilling or reworking of any such directional well shall be considered production or drilling or reworking operations on the leased area for all purposes of the lease. Nothing contained in this Section shall be construed as granting to the Lessee any interest, license, easement, or other right in any nearby land.

**Sec. 12. Safety Requirements.** The Lessee shall: (a) maintain all places of employment within the leased area in compliance with occupational safety and health standards and, in addition, free from recognized hazards to employees of the Lessee or of any contractor or subcontractor operating within the leased area;

(b) maintain all operations within the leased area in compliance with regulations or orders intended to protect persons, property, and the environment on the Outer Continental Shelf; and

(c) allow prompt access, at the site of any operation subject to safety

regulation, to any authorized Federal inspector and shall provide any documents and records which are pertinent to occupational or public health, safety, or environmental protection as may be requested.

**Sec. 13. Suspension and Cancellation.**

(a) The Lessor may suspend or cancel this lease pursuant to section 5 of the Act, and compensation shall be paid when provided by the Act.

(b) The Lessor may, upon recommendation of the Secretary of Defense, during a state of war or national emergency declared by Congress or the President of the United States, suspend operations under the lease, as provided in section 12(c) of the Act, and just compensation shall be paid to the Lessee for such suspension.

**Sec. 14. Indemnification.** The Lessee shall indemnify the Lessor for, and hold it harmless from, any claim, including claims for loss or damage to property or injury to persons caused by or resulting from any operation on the leased area conducted by or on behalf of the Lessee. However, the Lessee shall not be held responsible to the Lessor under this section for any loss, damage, or injury caused by or resulting from:

(a) negligence of the Lessor other than the commission or omission of a discretionary function or duty on the part of a Federal Agency whether or not the discretion involved is abused; or

(b) the Lessee's compliance with an order or directive of the Lessor against which an administrative appeal by the Lessee is filed before the cause of action for the claim arises and is pursued diligently thereafter.

**Sec. 15. Disposition of Production.** (a) As provided in section 27(a)(2) of the Act, the Lessor shall have the right to purchase not more than 16% percent by volume of the oil and gas produced pursuant to the lease at the regulated price, or if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the Lessor as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

(b) Pursuant to section 27(b) and (c) of the Act, the Lessor may offer and sell certain oil and gas obtained or purchased pursuant to a lease. As provided in section 27(d) of the Act, the Lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Lessor, and which is not transferred to a Federal Agency pursuant to section 27(a)(3) of the Act, and shall pay to the Lessor a cash amount equal to the regulated price, or if no regulated price

applies, the fair market value of the oil or gas so obtained.

(c) As provided in section 8(b)(7) of the Act, the Lessee shall offer 20 percent of the crude oil, condensate, and natural gas liquids produced on the lease, at the market value and point of delivery as provided by regulations applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.

(d) In time of war, or when the President of the United States shall so prescribe, the Lessor shall have the right of first refusal to purchase at the market price all or any portion of the oil or gas produced from the leased area, as provided in section 12(b) of the Act.

**Sec. 16. Unitization, Pooling, and Drilling Agreements.** Within such time as the Lessor may prescribe, the Lessee shall subscribe to and operate under a unit, pooling, or drilling agreement embracing all or part of the lands subject to this lease as the Lessor may determine to be appropriate or necessary. Where any provision of a unit, pooling, or drilling agreement, approved by the Lessor, is inconsistent with a provision of this lease, the provision of the agreement shall govern.

**Sec. 17. Equal Opportunity Clause.** During the performance of this lease, the Lessee shall fully comply with paragraphs (1) through (7) of section 202 of Executive Order 11246, as amended (reprinted in 41 CFR 60-1.4(a)), and the implementing regulations which are for the purpose preventing employment discrimination against persons on the basis of race, color, religion, sex, or national origin. Paragraphs (1) through (7) of section 202 of Executive Order 11246, as amended, are incorporated in this lease by reference.

**Sec. 18. Certification of Non-segregated Facilities.** By entering into this lease, the Lessee certifies, as specified in 41 CFR 60-1.8, that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. As used in this certification, the term "segregated facilities" means, but is not limited to, any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact

segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Lessee further agrees that it will obtain identical certifications from proposed contractors and subcontractors prior to award of contracts or subcontracts unless they are exempt under 41 CFR 60-1.5.

**Sec. 19. Reservations to Lessor.** All rights in the leased area not expressly granted to the Lessee by the Act, the regulations, or this lease are hereby reserved to the Lessor. Without limiting the generality of the foregoing, reserved rights include:

(a) the right to authorize geological and geophysical exploration in the leased area which does not unreasonably interfere with or endanger actual operations under the lease, and the right to grant such easements or rights-of-way upon, through, or in the leased area as may be necessary or appropriate to the working of other lands or to the treatment and shipment of products thereof by or under authority of the Lessor;

(b) the right to grant leases for any minerals other than oil and gas within the leased area, except that operations under such leases shall not unreasonably interfere with or endanger operations under this lease;

(c) the right, as provided in section 12(d) of the Act, to restrict operations in the leased area or any part thereof which may be designated by the Secretary of Defense, with approval of the President, as being within an area needed for national defense, and so long as such designation remains in effect, no operations may be conducted on the surface of the leased area or the part thereof included within the designation except with the concurrence of the Secretary of Defense. If operations or production under this lease within any designated area are suspended pursuant to this paragraph, any payments of rentals and royalty prescribed by this lease likewise shall be suspended during such period of suspension of operations and production, the term of this lease shall be extended by adding thereto any such suspension period, and the Lessor shall be liable to the Lessee for such compensation as is required to be paid under the Constitution of the United States.

**Sec. 20. Transfer of Lease.** The Lessee shall file for approval with the appropriate field office of the Minerals Management Service any instrument of assignment or other transfer of this lease, or any interest therein, in accordance with applicable regulations.

**Sec. 21. Surrender of Lease.** The Lessee may surrender this entire lease or any officially designated subdivision of the leased area by filing with the appropriate field office of the Minerals Management Service a written relinquishment, in triplicate, which shall be effective as of the date of filing. No surrender of this lease or of any portion of the leased area shall relieve the Lessee or its surety of the obligation to pay all accrued rentals, royalties, and other financial obligations or to abandon all wells on the area to be surrendered in a manner satisfactory to the Director.

**Sec. 22. Removal of Property on Termination of Lease.** Within a period of 1 year after termination of this lease in whole or in part, the Lessee shall remove all devices, works, and structures from the premises no longer subject to the lease in accordance with applicable regulations and Orders of the Director. However, the Lessee may, with the approval of the Director, continue to maintain devices, works, and structures on the leased area for drilling or producing on other leases.

**Sec. 23. Remedies in Case of Default.** (a) Whenever the Lessee fails to comply with any of the provisions of the Act, the regulations issued pursuant to the Act, or the terms of this lease, the lease shall be subject to cancellation in accordance with the provisions of section 5 (c) and (d) of the Act and the Lessor may exercise any other remedies which the Lessor may have, including the penalty provisions of section 24 of the Act. Furthermore, pursuant to section 8(o) of the Act, the Lessor may cancel the lease if it is obtained by fraud or misrepresentation.

(b) Nonenforcement by the Lessor of a remedy for any particular violation of the provisions of the Act, the regulations issued pursuant to the Act, or the terms of this lease shall not prevent the cancellation of this lease or the exercise of any other remedies under paragraph (a) of this section for any other violation or for the same violation occurring at any other time.

**Sec. 24. Unlawful Interest.** No member of, or Delegate to, Congress or Resident Commissioner, after election or appointment, or either before or after they have qualified, and during their continuance in office, and no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR Part 20, shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom. The provisions of Section 3741 of the Revised Statutes, as amended, 41 U.S.C. 22, and the Act of June 25, 1948, 62 Stat. 702, as amended, 18 U.S.C. 431-433,

relating to contracts made or entered into, or accepted by or on behalf of the United States, form a part of this lease insofar as they may applicable.

(Lessee) \_\_\_\_\_  
(Signature of Authorized Officer) \_\_\_\_\_

(Name of Signatory) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Date) \_\_\_\_\_

(Address of Lessee) \_\_\_\_\_  
The United States of America, Lessor  
(Signature of Authorized Officer) \_\_\_\_\_

(Name of Signatory) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Date) \_\_\_\_\_  
(Lessee) \_\_\_\_\_  
(Signature of Authorized Officer) \_\_\_\_\_

(Name of Signatory) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Date) \_\_\_\_\_  
(Address of Lessee) \_\_\_\_\_  
(Lessee) \_\_\_\_\_  
(Signature of Authorized Officer) \_\_\_\_\_

(Name of Signatory) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Date) \_\_\_\_\_  
(Address of Lessee) \_\_\_\_\_  
(Lessee) \_\_\_\_\_  
(Signature of Authorized Officer) \_\_\_\_\_

(Name of Signatory) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Date) \_\_\_\_\_  
(Address of Lessee) \_\_\_\_\_  
(Lessee) \_\_\_\_\_  
(Signature of Authorized Officer) \_\_\_\_\_

(Name of Signatory) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Date) \_\_\_\_\_  
(Address of Lessee) \_\_\_\_\_  
(Lessee) \_\_\_\_\_  
(Signature of Authorized Officer) \_\_\_\_\_

(Name of Signatory) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Date) \_\_\_\_\_  
(Address of Lessee) \_\_\_\_\_  
(Lessee) \_\_\_\_\_  
(Signature of Authorized Officer) \_\_\_\_\_

(Name of Signatory) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Date) \_\_\_\_\_  
(Address of Lessee) \_\_\_\_\_  
(Lessee) \_\_\_\_\_  
(Signature of Authorized Officer) \_\_\_\_\_

(Name of Signatory) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Date) \_\_\_\_\_  
(Address of Lessee) \_\_\_\_\_  
(Lessee) \_\_\_\_\_  
(Signature of Authorized Officer) \_\_\_\_\_

(Name of Signatory) \_\_\_\_\_  
(Title) \_\_\_\_\_  
(Date) \_\_\_\_\_  
(Address of Lessee) \_\_\_\_\_

If this lease is executed by a corporation, it must bear the corporate seal.

[FR Doc. 83-31270 Filed 11-21-83 8:45 am]

BILLING CODE 4310-MR-M

**Oil and Gas and Sulphur Operations in the Outer Continental Shelf; ODECO Oil and Gas Co.**

**AGENCY:** Minerals Service, Interior.

**ACTION:** Notice of the receipt of a proposed development and production plan.

**SUMMARY:** Notice is hereby given that ODECO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 3164, Block 135, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

**FOR FURTHER INFORMATION CONTACT:** Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838-0519.

**SUPPLEMENTARY INFORMATION:** Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: November 14, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 83-31269 Filed 11-21-83 8:45 am]

BILLING CODE 4310-MR-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 November 12, 1983. 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, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by December 7, 1983.

Carol D. Shull,

Chief of Registration, National Register.

#### ARIZONA

Maricopa County

Phoenix, San Carlos Hotel, 202 N. Central Ave.

Yavapai County

Prescott, Mormon Church, 126 N. Marina St.

#### CONNECTICUT

Fairfield County

Ridgefield, Titicus Historic District, 2 Maple Shade Rd., 71-180 N. Salem Rd., 7-31 Sawmill Hill Rd.

Hartford County

Hartford, Sigourney Square Historic District (Boundary Increase), 216-232 Garden St.

#### FLORIDA

Gadsden County

Quincy, Gregory, Willoughby, House, Hwy. 274 and Krausland Rd.

#### ILLINOIS

Cook County

Chicago, Maldeh Towers, 4521 N. Malden St. Chicago, New Michigan Hotel, 2135 S. Michigan Ave.

Chicago, Oliver Building, 159 N. Dearborn St. Chicago, S/S CLIPPER, Navy Pier 800 E. Grand Ave.

Chicago, Soldier Field, 425 E. 14th St.

Oak Park, Ridgeland-Oak Park Historic District, Roughly bounded by Austin Blvd., Harlem, Ridgeland and Chicago Aves., Lake and Madison Sts.

Jefferson County

Belle vicinity, Judd, C. H., House, Ina-Belle Rive Rd.

Lake County

Libertyville, Public Service Building, 344-354 N. Milwaukee Ave.

McLean County

Bloomington, Holy Trinity Church Rectory and Convent, 704 N. Main and 106 W. Chestnut Sts.

Holder vicinity, Benjaminville Friends Meeting house and Burial Ground, N. of Holder.

Ogle County

Stillman Valley, Stillman's Run Battle Site, Roosevelt and Spruce Sts.

#### KENTUCKY

Jefferson County

Louisville, Ballard, Rogers Clark, Memorial School, 4200 Lime Kiln Ln.

Louisville, Gaffney House (Jefferson County MRA), River Rd.

Louisville, Haldeman House (Jefferson County MRA), 3609 Glenview Ave.

Louisville, Limerick Historic District (Amended), Between Breckinridge and Oak, 5th and 8th Sts. Louisville, Thornburgh House (West Louisville MRA), 376 N. 26th St.

#### LOUISIANA

Terrebonne Parish

Houma, Houma Historic District, Roughly bounded by East Park Ave., Main, Roussel, Goode, School, Belanger, Church, Verret, Grinage, Lafayette, and Canal Sts.

#### MARYLAND

Baltimore County

Dundalk, Dundalk Historic District, Roughly bounded by Liberty Pkwy., Dunman, Dundalk, Willow Spring and Sunship Rds., Colgate, Chesapeake and Patapsco Aves. Parkton, Parkton Hotel, York Rd.

Somerset County

Rehobeth vicinity, Caldicott, SW of US 13

#### MISSISSIPPI

Copiah County

Hazlehurst, Cook House, 222 Extension St.

Hinds County

Jackson, Virden-Patton House, 512 N. State St.

Monroe County

Aberdeen, Mobile and Ohio Railroad Depot, 612 W. Commerce St.

#### NEW HAMPSHIRE

Carroll County

Sandwich, Center Sandwich Historic District, Roughly bounded by Skinner, Gover, Church, Maple and Main Sts., and Creamery Brook and Quimby Field Rds.

Cheshire County

Chesterfield, Asbury United Methodist Church, NH 63

Coos County

Stark, Stark Union Church, NH 110

Hillsborough County

Greenfield, Greenfield Meeting House, Forest Rd.

Merrimack County

Concord, Concord Civic District, 107 N. Main St., 25 Capitol St., 39-45 Green St., 20-30 Park St., and 33 N. State St.

Concord, Crippen, Henry J., House, 189-191 N. Main St.

Sullivan County

Acworth, Acworth Silsby Library, Intersection of Cold Pond and Lynn Hill Rds.

#### OKLAHOMA

Dewey County

Seiling, Seiling Milling Company, 4th and Orange St.

Oklahoma County

Oklahoma City, First Christian Church, 1104 N. Robinson Ave.

#### PUERTO RICO

Humacao County

San Lorenzo, Las Mercedes, Colon St.

#### TENNESSEE

Hickman County

Centerville, Fairview School, 113 E. Hackberry St.

Maury County

Columbia vicinity, Pillow Place, Campbellsville Pike

Montgomery County

Clarksville, Clarksville High School, Greenwood Ave.

#### WISCONSIN

Racine County

Racine, United Laymen Bible Student Tabernacle, 924 Center St.

Washington County

Germantown vicinity, Schunk, Jacob, Farmhouse, Donges Bay Rd.

Winnebago County

Neenah, Vining, Gorham P., House, 1590 Oakridge Rd.

[FR Doc. 83-31309 Filed 11-21-83; 8:45 am]

BILLING CODE 4310-70-M

#### INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Delegation of Authority No. 145]

Assistant Administrator for Food for Peace and Voluntary Assistance

By virtue of the authority under section 416 of the Agricultural Act of 1949, as amended, and the Memorandum of Understanding between the Commodity Credit Corporation and the Agency for International Development Regarding Foreign Donations of Dairy Products under Section 416 of the Agricultural Act of 1949, as Amended, dated August 9, 1983, I hereby delegate to the Assistant Administrator for Food for Peace and Voluntary Assistance all functions and authorities, including the signing of all agreements and other appropriate documents, necessary to effect and implement the above-described Memorandum of Understanding and to carry out the program of donations of dairy products authorized under Section 416 of the Agricultural Act of 1949, as amended.

Any reference in this delegation of authority to any Act of Congress, order, determination or delegation of authority shall be deemed to be a reference to such Act of Congress, order,

determination or delegation of authority as amended from time to time.

Any officer of A.I.D. to whom functions are delegated under this delegation of authority may, to the extent consistent with law, redelegate or reassign, any of the functions delegated or assigned to him/her by this delegation of authority to his/her principal deputy and to one other subordinate.

This delegation of authority shall be effective immediately.

Dated: November 8, 1983.

M. Peter McPherson,  
Administrator.

[FR Doc. 83-31330 Filed 11-21-83; 8:45 am]

BILLING CODE 6116-01-M

**[Redelegation of Authority No. 145.1]**

**Director, Office of Food for Peace,  
Bureau for Food for Peace and  
Voluntary Assistance**

Pursuant to the authority delegated to me by Delegation of Authority No. 145, dated November 8, 1983, I hereby redelegate to the Director, Office of Food for Peace, or the person designated to act in his/her capacity, all of the authorities and functions, regarding implementation of the Memorandum of Understanding Between the Commodity Credit Corporation and the Agency for International Development Regarding Foreign Donations of Dairy Products under Section 416 of the Agricultural Act of 1949, as Amended, dated August 9, 1983, delegated to me by the above-mentioned Delegation of Authority No. 145.

This Redelegation shall become effective immediately.

Dated: November 8, 1983.

Julia Chang Bloch,  
Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance.

[FR Doc. 83-31330 Filed 11-21-83; 8:45 am]

BILLING CODE 6116-01-M

**Housing Guaranty Program;  
Investment Opportunity**

The Agency for International Development (A.I.D.) has authorized guaranties of loans to the Government of Tunisia (Borrower) as part of A.I.D.'s development assistance program. The proceeds of these loans, amounting to Four Million Dollars (\$4,000,000), will be used to finance shelter projects for low income families residing in Tunisia. The following is the address of the Borrower and loan amount for which the Borrower is requesting bids from U.S. lenders or investment bankers:

**Tunisia**

**Project: 664-HG-004-A1—\$4,000,000**  
Gouverneur De La Banque Centrale De Tunisie  
**Attention: Mr. Monces Belkhouja, Place De La Monnaie, Tunis, Tunisia.**  
**Telex: 13308, 13309, 13310, 13311, 13312, or 12375**  
**Telephone: 340-588 or 254-000**

The Borrower is soliciting bids as follows:

- (a) Deadline for receipt of bids in Tunisia—December 7, 1983, 12 noon New York time.
- (b) Bids should remain open for 48 hours.
- (c) Terms should be for fixed rate of interest with maturity up to 30 years and grace period on repayment of principal of up to 10 years.
- (d) Prepayment options for the Borrower may be submitted but are not required.
- (e) Information copies of bids should be sent simultaneously to A.I.D. Washington, D.C. 20523, telex number: 892703.

Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty, covering the loans. Disbursements under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in implementation agreements between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full not later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. Housing Guaranty Program can be

obtained from: Director, Office of Housing and Urban Programs, Agency for International Development, Room 625, SA-12, Washington, D.C. 20523. Telephone: (202) 632-9637.

Dated: November 17, 1983.

John T. Howley,

Deputy Director, Office of Housing and Urban Programs.

[FR Doc. 83-31407 Filed 11-21-83; 8:45 am]

BILLING CODE 4710-02-M

**INTERNATIONAL TRADE COMMISSION**

**[Investigations Nos. 701-TA-204 through 207 (Preliminary) and 731-TA-153 and 154 (Preliminary)]**

**Certain Carbon Steel Products From Brazil**

**AGENCY:** International Trade Commission.

**ACTION:** Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

**EFFECTIVE DATE:** November 10, 1983.

**SUMMARY:** The United States International Trade Commission hereby gives notice of the institution of investigations Nos. 701-TA-204 through 207 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of the following flat-rolled carbon steel products upon which bounties or grants are alleged to be paid:

Carbon steel plate, provided for in items 607.6615, 607.6320, 607.9400, 608.0710, or 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA) (investigation No. 701-TA-204 (Preliminary));

Carbon steel products in coils, provided for in TSUSA item 607.6610 (investigation No. 701-TA-205 (Preliminary));

Hot-rolled carbon steel sheet, provided for in TSUSA items 607.6710, 607.6720, 607.6730, 607.6740, or 607.8342 (investigation No. 701-TA-206 (Preliminary)); and

Cold-rolled carbon steel sheet, provided for in TSUSA items 607.8350, 607.8355, or 607.8360 (investigation No. 701-TA-207 (Preliminary)).

The Commission also gives notice of the institution of investigations Nos. 731-TA-153 and 154 (Preliminary) under section 733(a) of the Tariff Act (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of the following flat-rolled carbon steel products, which are alleged to be sold in the United States at less than fair value:

Hot-rolled carbon steel sheet, provided for in TSUSA items 607.6710, 607.6720, 607.6730, 607.6740, and 607.8342 (investigation No. 731-TA-153 (Preliminary)); and

Cold-rolled carbon steel sheet, provided for in TSUSA items 607.8350, 607.8355, and 607.8360 (investigation No. 731-TA-154 (Preliminary)).

**FOR FURTHER INFORMATION CONTACT:**  
Mr. Lawrence Rausch (telephone 202-523-0286) or Ms. Judith Zeck (telephone 202-523-0339), Office of Investigations, U.S. International Trade Commission, 701 E St. NW., Washington, D.C. 20436.

**SUPPLEMENTARY INFORMATION:**

**Background.**—These investigations are being instituted in response to petitions filed on November 10, 1983, by the United States Steel Corp., Pittsburgh, Pa. The Commission must make its determinations in these investigations within 45 days after the date of the filing of the petitions, or by December 27, 1983 (19 CFR 207.17).

**Participation.**—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

**Service of documents.**—The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)), as amended by 47 FR 33682, Aug. 4, 1982.

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

**Written submissions.**—Any person may submit to the Commission on or before December 14, 1983, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

**Conference.**—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on December 7, 1983, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact Mr. Rausch (202-523-0286), not later than December 5, 1983, to arrange for their appearance. Parties in support of the imposition of countervailing duty and/or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

**Public inspection.**—A copy of the petitions and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982). Further information concerning

the conduct of the conference will be provided by Mr. Rausch.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: November 16, 1983.

Kenneth R. Mason,  
Secretary.

[FPR Doc. 83-31328 Filed 11-21-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-137]

**Certain Heavy-Duty Staple Gun Tackers; Initial Determination Terminating Respondent on the Basis of Settlement Agreement**

**AGENCY:** International Trade Commission.

**ACTION:** Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Quinn Products, Inc. d/b/a J & C Products, Inc. (Quinn).

**SUPPLEMENTARY INFORMATION:** This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on November 17, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

**Written Comments:** Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the *Federal Register*. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such request should be directed to the Secretary to the

Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

**FOR FURTHER INFORMATION CONTACT:** Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.  
Issued: November 17, 1983.

Kenneth R. Mason,  
Secretary.

[FR Doc. #83-31327 Filed 11-21-83; 8:45 am]

BILLING CODE 7020-02-M

## INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-27)]

**State Intrastate Rail Rate Authority—Pub. L. 96-448—Oregon**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of extension of time for filing.

**SUMMARY:** The Public Utility Commissioner of Oregon's request for an extension of time to December 15, 1983, for filing revised standards and procedures is granted.

**DATES:** The revision of Oregon's submission is due on December 15, 1983. Comments are due on January 14, 1984, and replies are due on February 3, 1984.

**ADDRESS:** Send an original and 15 copies of all comments referring to Ex Parte No. 388 (Sub-No. 27) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

**FOR FURTHER INFORMATION CONTACT:** Louis E. Gitomer, (202) 275-7245.

### SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: November 15, 1983.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 83-31347 Filed 11-21-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket Nos. 30284 and 30290]

**West Shore Railroad Corp.; Exemption From 49 U.S.C. 10901 and 11301; and Richard D. Robey and Thomas J. Shepstone—Exemption From 49 U.S.C. 11322**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Interstate Commerce Commission exempts: (a) from 49 U.S.C. 10901 the acquisition and operation by The West Shore Railroad Corporation of a 11.8-mile line railroad known as the Montandon Industrial Track, between Montandon and Mifflinburg, PA; (b) from 49 U.S.C. 11301 the issuance of \$35,000 of common stock and two promissory notes, one for \$50,000 and the other for \$30,000 (c) from 49 U.S.C. 11322 the requirement that Mr. Richard D. Robey and Mr. Thomas J. Shepstone (who presently hold corporate positions in other railroad companies) receive Commission approval to serve as officers in West Shore Railroad Corporation.

**DATES:** This exemption will be effective on November 22, 1983. Petitions to reopen must be filed by December 12, 1983.

**ADDRESSES:** Send pleadings referring to Finance Docket No. 30284 and Finance Docket No. 30290 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
- (2) Petitioner's representative: John D. Heffner, 1778 K Street, NW., Washington, D.C. 20423

**FOR FURTHER INFORMATION CONTACT:** Louis E. Gitomer, (202) 275-7245.

### SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: November 15, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradyson.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 83-31348 Filed 11-21-83; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

**Office of the Secretary**

[AAG/A Order No. 2-83]

### Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the Immigration and Naturalization Service (INS).

The Orphan Petitioner Index and Files system (JUSTICE/INS-007) is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the *Federal Register*. The new system will be used by INS offices to manage and control the processing of petitions to classify alien orphans as immediate relatives under the Immigration and Nationality Act. The system will contain a card index and requests to process orphan petitions before a specific orphan is identified.

The index and advance processing records will be filed under the name of the prospective adoptive parent(s) and will contain information developed during the processing for use by INS in deciding whether to approve or disapprove the petition. The system will enable INS offices to locate the files and to promptly determine the status of pending petitions.

Further, in the Proposed Rules section of today's *Federal Register*, the Immigration and Naturalization Service proposes to exempt the system from the access provisions of 5 U.S.C. 552a(d).

The Privacy Act of 1974 provides that the Congress and the Office of Management and Budget (OMB) be notified of proposed systems of records and that the public be given a 30-day period in which to comment on the routine uses of the system. In addition, OMB requires a 60-day period in which to review the system before it is implemented. Therefore, the Congress, the public, and OMB are invited to submit written comments on this system.

Comments should be addressed to Vincent A. Lobisco, Assistant Director, Administrative Services Staff, Justice Management Division, Department of Justice, Room 6314, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

If no comments are received from either the public, OMB, or the Congress within 60 days from the date of publication of this notice (January 23,

1984), the system will be implemented without further notice in the **Federal Register**, except that the final rule exempting the system will be published after 60 days. No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: October 11, 1983.

**Kevin D. Rooney,**  
Assistant Attorney General for  
Administration.

#### JUSTICE/INS-007

##### SYSTEM NAME:

Orphan Petitioner Index and Files.

##### SYSTEM LOCATION:

District offices and suboffices of the Immigration and Naturalization Service (INS) in the United States and foreign countries, as detailed in JUSTICE/INS-999.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are prospective petitioners or who have filed a petition to classify an alien orphan as an immediate relative under the Immigration and Nationality Act, as amended.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

A. Index. The system contains Forms G-801, Adjudications Control Cards, to aid in the administrative control of the processing of cases within each office where a part of this system is located. B. Files. The system also contains Forms I-600, Petition to Classify Orphan As An Immediate Relative, filed for advance processing of orphan petitions by prospective adoptive parents; documentation of prospective adoptive parents' United States citizenship and marital status; agency responses indicating whether prospective adoptive parents have any arrest records; and home studies which include statements of financial ability and other elements that relate to the ability of the prospective parents to provide proper care to beneficiary orphans.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 101, 103, and 204 of the Immigration and Nationality Act, as amended (8 U.S.C. 1101, 1103, and 1154).

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information in the system will be used by employees of the Immigration and

Naturalization Service to determine the status of pending requests or petitions, to locate related files and other records promptly, and to determine the suitability of prospective petitioners as adoptive parents. Information regarding the status and progress of cases and the suitability of prospective petitioners as adoptive parents may be disseminated to other components of the Department of Justice, Members of Congress, and the President.

Relevant information from this system may be referred to the Department of State in the processing of petitions or issuance of visas for benefits under the Immigration and Nationality Act, as amended.

Information from this system may be referred to officials of other Federal, state, and local government agencies and adoption agencies and social workers to elicit information required for making a final determination of the petitioner's ability to care for a beneficiary orphan.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the records.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

##### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

##### STORAGE:

Records are maintained on Forms G-801, Adjudications Control Cards, and as paper records in file folders.

##### RETRIEVABILITY:

Records are retrieved by the name of the petitioner.

##### SAFEGUARDS:

This system of records is safeguarded and protected in accordance with Department of Justice and INS rules and procedures. The records are maintained in file cabinets in areas restricted to access by INS employees, and access to the premises is by official identification.

##### RETENTION AND DISPOSAL:

When an orphan petition is filed, records from the advance processing file folders are merged into the case file relating to the beneficiary orphan. See JUSTICE/INS-001, the Immigration and Naturalization Service Index System, Subsystem E, centralized index and records (Master Index).

If no petition is filed within one year of completion of all advance processing, the records are returned to the petitioner or the responsible state or licensed agency. Materials not returned to the petitioner or responsible state or licensed agency will be destroyed.

The Forms G-801, Adjudications Control Cards, may be retained for three years following the year in which they were created.

##### SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner, Examinations, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536; and District Director or Officer in Charge of each INS office where a part of this system is located.

##### NOTIFICATION PROCEDURE:

Inquiries should be addressed to the District Director or Officer in Charge of the INS office where the file is located. If the file location is not known, inquiries may be addressed to the Associate Commissioner, Examinations, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. To enable INS to identify whether the system contains a record relating to an individual, the requestor must provide the individual's full name, date of birth, place of birth, and a description of the subject matter.

##### ACCESS PROCEDURE:

A person desiring access to a record shall submit a request in writing to the agency official designated under "Notification procedure" above. The requestor must also identify the record by furnishing the information listed under that caption. If a request to access a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request," and a return address must be provided for transmitting any information.

**CONTESTING RECORD PROCEDURE:**

A person desiring to contest a record shall submit a request in writing to the agency official designated under "Notification procedure" above. The requestor must also identify the record by furnishing the information listed under that caption and clearly state which record(s) is being contested, the reason(s) for contesting, and the proposed amendment(s) to the record(s). If a request to contest a record is made by mail, the envelope and letter shall be clearly marked "Privacy Act Request," and a return address must be provided for transmitting any information.

**RECORD SOURCE CATEGORIES:**

Information in the system is obtained from requests and petitions filed by the petitioners; public and private adoption agencies and social workers; and Federal, State, local and foreign government agencies.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

This system is exempt from subsection (d) of the Privacy Act. This exemption applies to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(1). Regulations have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the *Federal Register*.

[FR Doc. 83-31326 Filed 11-21-83; 8:45 am]

BILLING CODE 4410-10-M

**Office of Juvenile Justice and Delinquency Prevention****Coordinating Council; Meeting**

The quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will be held in Washington, D.C. on December 14, 1983. The meeting will take place at the Indiana Building, Room 1386, 633 Indiana Avenue, NW., from 9:30 a.m. to 12:00 p.m. The public is welcome to attend.

The agenda will include matters related to the coordination of the federal effort in the area of juvenile justice and delinquency prevention.

For further information, please contact Roberta Dorn, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW. Washington, D.C. 20531, (202) 724-7655.

Dated: November 17, 1983.

Thomas A. Dailey,

*Assistant to the Administrator, Office of Juvenile Justice and Delinquency Prevention.*

[FR Doc. 83-31326 Filed 11-21-83; 8:45 am]

BILLING CODE 4410-18-M

**DEPARTMENT OF LABOR****Office of the Secretary****Agency Forms Under Review by the Office of Management and Budget (OMB)****Background**

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

**List of Forms Under Review**

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are effected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

**Comments and Questions**

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution

Avenue, NW., Room S-5526.

Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

**New****Labor Management Services****Administration**

Final Regulation Relating to Airline

Employee Protection Program

Semi-annually and on occasion

Individuals or households

Small businesses or organization

350,000 notifications and reports: 5,755 hours

This program provides for hiring preferences for protected (pre-1978) airline employees and airline job vacancy listing. Additional reporting permits verification of a carriers' duty to hire.

**Women's Bureau**

Conference/Workshop Evaluation Form

WB-2

**On occasion**

Individual or households; state or local governments; businesses or other for profit; non-profit institutions

25,000 responses; 2,500 hours; 1 form

The public's assessment of Women's Bureau information services is used by management to affect improvements in the Conferences' information content, and quality, and to determine whether a conference format is an effective information dissemination technique.

**Extension**

Employment Standards Administration

Notice of Employee's Injury or Death

1215-0063; LS-201

Other—at time of initial injury or death

Individuals or Households

205,000 responses; 51,250 hours

Form is used by claimants to report an injury or death that occurs under the Longshoremen's and Harbor Workers' Compensation Act of one of its extensions.

**Labor Management Services****Administration**

DOL/IRS/PBCC Forms 5500, 5500-C, 5500-K and 5500-R

1210-0016; LMSA 5500 Series

Annually

Employee benefit plans; small and large businesses, organizations and other institutions

800,000 responses; 2.5 to 10 hours; 4 forms

The Form 5500 Series provides a standard format for fulfilling the requirements of section 104(a)(1)(A) of ERISA [29 U.S.C. 1024] which requires plan administrators to file an annual report containing that information described in section 103 of ERISA [29 U.S.C. 1023].

**Mine Safety and Health Administration Annual Functional Test and Weekly**

**Inspection of Fire Sensor and Warning Devices**

1219-0027; MSHA-231R

Weekly; annually

2,000 respondents; 113,220 hours

**Businesses and other for profit; small businesses or organizations**

Requires underground coal mine operators to visually examine automatic fire sensor and warning device systems weekly and to conduct functional tests of the complete system annually and to keep records of such tests and examinations. Regular maintenance is required to ensure that the systems will function properly in the event of an emergency.

**Veterans' Employment and Training Service**

**Eligibility Data Form for Requesting Assistance in Obtaining Reemployment Rights**

VETS 1010

On occasion

Individuals or households

3,000 responses; 750 hours; 1 form

The VES/VRR Form 1010, the Eligibility Data form, is the form upon which potential complainants under Title 38, U.S.C., Section 2021 et seq can state alleged violations of the reemployment statutes and can request formal assistance from the Office of Veterans' Reemployment Rights in exercising their reemployment rights and obtaining the appropriate benefits thereby. The form also requires sufficient information from the complaint to determine whether the complainant has met the statutory eligibility criteria for such rights.

Signed at Washington, D.C. this 17th day of November, 1983.

Paul E. Larson,

*Departmental Clearance Officer.*

[FR Doc. 83-31381 Filed 11-21-83; 8:45 am]

BILLING CODE 4510-29-M

#### **Labor Advisory Committee for Trade Negotiations and Trade Policy; Steering Subcommittee; Meeting**

Pursuant to the provisions of the Federal Advisory Committee Act (Pub.

L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: December 13, 1983, 9:30 a.m., Rm. N3437 A & B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW, Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Levallee, Acting Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565. November 17, 1983.

Signed at Washington, D.C. this 17th day of November 1983.

Robert W. Searby,

*Deputy Under Secretary, International Affairs.*

[FR Doc. 83-31379 Filed 11-21-83; 8:45 am]

BILLING CODE 4510-29-M

#### **Employment and Training Administration**

#### **Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Firestone Tire and Rubber Co. et. al.**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance to be issued during the period November 7, 1983—November 11, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

#### **Negative Determinations**

In each of the following cases the investigation revealed that criterion (3)

has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-14,448; *Firestone Tire & Rubber Co., Memphis, TN*

TA-W-14,650; *Harbor Manufacturing Co., Genoa, OK*

TA-W-14,651; *McNeil Akron, Inc., Akron, OH*

TA-W-14,729; *Jones & Laughlin Steel, Inc., Brier Hill Works, Youngstown, OH*

TA-W-14,695; *Central Screw-Keene, Keene, NH*

TA-W-14,701; *Roseann Manufacturing Co., Elizabeth, NJ*

TA-W-14,583; *Sandvik, Inc., Columbus, OH*

TA-W-14,523; *Asarco, Inc., New Market Mine, New Market, TN*

TA-W-14,524; *Asarco, Inc., Young Mine, New Market, TN*

TA-W-14,524A; *Asarco, Inc., Coy Mine, Jefferson City, TN*

TA-W-14,524B; *Asarco, Inc., Immel Mine, Mascot, TN*

TA-W-14,524C; *Asarco, Inc., Immel Mill, Mascot, TN*

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-14,406; *Busby, Inc., Moses Lake, WA*

TA-W-14,697; *Macalloy Corp., Charleston, SC*

TA-W-14,607; *Jim Walter Resources, Inc., Coke, Iron & Chemicals Div., Birmingham, AL*

TA-W-14,659; *General Motors Corp., GM Facilities, Detroit, MI*

TA-W-14,660; *General Motors Corp., GM Building Div., Detroit, MI*

TA-W-14,681; *General Motors Corp., GM Central Office, Detroit, MI*

TA-W-14,662; *General Motors Corp., GM Facilities, Irving, TX*

TA-W-14,663; *General Motors Corp., GM Central Office, Warren, MI*

TA-W-14,664; *General Motors Corp., GM Proving Ground, Milford, MI*

TA-W-14,665; *General Motors Corp., GM Proving Ground, Mesa, AZ*

TA-W-14,666; *General Motors Corp., GM Central Office, New York, NY*

TA-W-14,667; *General Motors Corp., GM Central Office, Woodland Hills, CA*

TA-W-14,668; *General Motors Corp., GM Central Office, Paramus, NJ*

TA-W-14,669; *General Motors Corp., GM Central Office, Flint, MI*

TA-W-14,670; *General Motors Corp., GM Central Office, New Orleans, LA*

TA-W-14,671: General Motors Corp., GM Central Office, Chicago, IL  
 TA-W-14,672: General Motors Corp., GM Central Office, Denver, CO  
 TA-W-14,673: General Motors Corp., GM Central Office, Milwaukee, WI  
 TA-W-14,674: General Motors Corp., GM Central Office, Wayne, PA  
 TA-W-14,675: General Motors Corp., GM Central Office, Oak Brook, IL  
 TA-W-14,681: General Motors Corp., Truck Center, Cleveland, OH  
 TA-W-14,682: General Motors Corp., Truck Center, Chicago, IL  
 TA-W-14,683: General Motors Corp., Truck Center, Dearborn, MI  
 TA-W-14,684: General Motors Corp., Truck Center, Los Angeles, CA  
 TA-W-14,586: General Motors Corp., Truck Center, Minneapolis, MN  
 TA-W-14,686: General Motors Corp., Truck Center, New York, NY  
 TA-W-14,687: General Motors Corp., Truck Center, Oakland, CA  
 TA-W-14,688: General Motors Corp., Truck Center, Pontiac, MI  
 TA-W-14,690: General Motors Corp., Central Office, Warren, MI  
 TA-W-14,691: General Motors Corp., Distribution Center, Westland, MI

#### Affirmative Determinations

TA-W-14,815: Wheeling-Pittsburgh Steel Corp., Executive Offices, Pittsburgh, PA

A certification was issued covering all workers separated on or after June 29, 1982.

TA-W-14,840: Melville Footwear Manufacturing, Aufander, NC

A certification was issued covering all workers separated on or after May 6, 1982.

TA-W-14,409: Dynamit Nobel-Harte, Inc., Bound Brook, NJ

A certification was issued covering all workers separated on or after May 1, 1982.

TA-W-14,561: Zenith Electronic Corp of Texas, McAllen, TX

A certification was issued covering all workers engaged in the inspection of component parts for color televisions separated on or after January 1, 1983 and before June 1, 1983.

I hereby certify that the aforementioned determinations were issued during the period November 7, 1983—November 11, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 15, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-31382 Filed 11-21-83; 8:45 am]

BILLING CODE 4510-30-M

#### Mine Safety and Health Administration

[Docket No. M-83-12-M]

#### Fisher Sand and Gravel Co.; Petition for Modification of Application of Mandatory Safety Standard

Fisher Sand and Gravel Company, P.O. Box 1034, Dickinson, North Dakota 58601 has filed a petition to modify the application of 30 CFR 55.4-27 (fire extinguishers on mobile equipment) to its Randy Jablonsky Plant (I.D. No. 32-00642) and its Paul Dillinger Plant (I.D. No. 32-00677), both located in Dunn County, North Dakota; its Doug Schmidt Plant (I.D. No. 32-00547) located in Slope County, North Dakota; its Paul Meyer Plant (I.D. No. 32-00596) located in Mercer County, North Dakota; its John Miller Plant (I.D. No. 32-00580).

Dickenson Pit (I.D. No. 32-00156), Alvin Frenzel Plant (I.D. No. 32-00157), and its Charlie Bladow Plant (I.D. No. 32-00640), all located in Stark County, North Dakota; its Ernie Heidecker Plant (I.D. No. 32-00550) located in McKenzie County, North Dakota; its Arden Nygaard Plant (I.D. No. 32-00507) located in McClean County, North Dakota; its Nowell Hofer Plant (I.D. No. 39-01303) located in Charles Mix County, South Dakota; its Bruce Nygaard Plant (I.D. No. 39-01268) and its Lan Grindheim Plant (I.D. No. 39-01249), both located in Lawrence County, South Dakota; its Ernie Stern Plant (I.D. No. 24-00499) located in Dawson County, Montana; its Ike Crusher (I.D. No. 48-01400) located in Platte County, Wyoming; and its Bruce Nygaard Plant (I.D. No. 48-01304) located in Crook County, Wyoming. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that whenever self-propelled mobile equipment is used, such equipment shall be provided with a suitable fire extinguisher readily accessible to the equipment operator.

2. Petitioner states that constant equipment vibration could cause the powder in the fire extinguishers to settle and cake up, rendering them inoperable in the event of a fire. In addition, the extinguishers are continually stolen from the equipment.

3. As an alternate method to providing the equipment with suitable fire extinguishers, petitioner proposes to use the central fire protection center at each mining site.

4. For these reasons, petitioner requests a modification of the standard.

#### Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 22, 1983. Copies of the petition are available for inspection at that address.

Dated: November 15, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 83-31380 Filed 11-21-83; 8:45 am]

BILLING CODE 4510-43-M

#### NATIONAL SCIENCE FOUNDATION

#### DOE/NSF Nuclear Science Advisory Committee, Instrumentation Subcommittee; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee Instrumentation Subcommittee.

Date and time: December 16, 1983, 9:00 am—6:00 pm, December 17, 1983, 9:00 am—5:00 pm.

Place: Room 543, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Open.

Contact person: Dr. Harvey B. Willard, Head, Nuclear Science Section, National Science Foundation, Washington, D.C. 20550 202/357-7993.

Summary minutes: May be obtained from Ms. Dawn Frohlich, Physics Division, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Purpose of subcommittee: To provide advice on a continuing basis to both DOE and NSF on instrumentation for basic nuclear science in the United States.

Agenda:

December 16, 1983, 9:00 am—6:00 pm

Discussion of general findings, recommendations of working groups, and selection of recommendations for the body of the report.

December 17, 1983, 9:00 am-5:00 pm

Discussion of drafts of recommendations and continuation of previous day's discussions.

Dated: November 17, 1983.

**M. Rebecca Winkler,**

*Committee Management Coordinator.*

[FR Doc. 83-31391 Filed 11-21-83; 8:45 am]

**BILLING CODE 7555-01-M**

**Subcommittee for Computer Science of the Advisory Committee for Mathematical and Computer Sciences; Meeting**

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for Computer Science of the Advisory Committee for Mathematical and Computer Sciences.

Date and time: December 8, 1983, 9:00 a.m. to 5:00 p.m.; December 9, 1983, 9:00 a.m. to 3:00 p.m.

Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: All Sessions Open—12/08 Open 9:00 a.m. to 5:00 p.m.; 12/09 Open 9:00 a.m. to 3:00 p.m.

Contact person: Mr. Kent K. Curtis, Head, Computer Science Section, Room 339, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357-9747. Anyone planning to attend this meeting should notify Mr. Curtis no later than 12/02/83.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Computer Science.

Summary minutes: May be obtained from the contact person at the above address.

*Thursday, December 8, 1983—9:00 a.m. to 5:00 p.m.—Open*

9:00-9:30—Introduction and Orientation, K. K. Curtis

9:30-10:00—Dr. Edward A. Knapp, Director, NSF

10:00-11:00—Dr. E. F. Infante, Director, Division of Mathematical and Computer Sciences

11:00-11:30—CSNET Progress Report, W. R. Adrion

11:30-12:00—NSF Supercomputer Initiative, K. K. Curtis

12:00-1:00—Lunch

1:00-3:00—CER Program Oversight Report, J. D. Ullman

3:00-5:00—Support Policies for Computer Research, K. K. Curtis

*Friday, December 9, 1983—9:00 a.m. to 3:00 p.m.—Open*

9:00-9:30—CER Oversight Report, J. D. Ullman

9:30-10:00—Dr. Marcel Bardon, Acting Assistant Director, Mathematical and Physical Sciences

10:00-11:00—Long Term Health of Computer Science, R. E. Miller

11:00-12:00—Role of Computer Science Advisory Subcommittee, R. E. Miller  
12:00-1:00—Lunch  
1:00-2:00—Committee Business, R. E. Miller  
2:00-3:00—Discussion  
3:00—Adjourn

Dated: November 17, 1983.

**M. Rebecca Winkler,**

*Committee Management Coordinator.*

[FR Doc. 83-31390 Filed 11-21-83; 8:45 am]

**BILLING CODE 7555-01-M**

**Advisory Committee for Physics; Meeting**

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics.

Date and time: December 12-13, 1983; 9:00 a.m.-6:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550. Room 540 each day.

Type of meeting: Open.

Contact Person: Dr. Marcel Bardon, Director, Division of Physics, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357-7985.

Summary of minutes: May be obtained from Dr. Marcel Bardon, Director, Division of Physics, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Purpose of committee: to provide advice and recommendations concerning support for research in physics.

Agenda: December 12, 1983, 9:00 a.m.-6:00 p.m.

Oversight review of NSF support of experimental elementary particle physics, including presentations by NSF and DOE staff and the report of the Subcommittee for Review of the NSF Elementary Particle Physics Program.

*December 13, 1983, 9:00 a.m.-6:00 p.m.*

Discussion of planning of major projects in Physics Division; discussion of Physics Division Long Range Plans; allocations to Physics Division Programs; continuation of discussions of previous day.

Dated: November 17, 1983.

**M. Rebecca Winkler,**

*Committee Management Coordinator.*

[FR Doc. 83-31392 Filed 11-21-83; 8:45 am]

**BILLING CODE 7555-01-M**

**President's Committee on the National Medal of Science; Meeting**

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: President's Committee on the National Medal of Science.

Date: Monday, December 12, 1983.

Time: 9 a.m. to 5 p.m.

Place: Room 543, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact Person: Dr. Richard S. Nicholson, Executive Secretary of the President's Committee on the National Medal of Science, National Science Foundation, Washington, D.C. 20550. Telephone: 202/357-9443.

Purpose of meeting: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients.

Agenda: To review nominations, with supporting documentation, as part of the selection process for the Medals.

Reason for closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: The determination made on November 15, 1983 by the Director of the National Science Foundation pursuant to the provisions of Section 10(d) of Pub. L. 92-463.

Dated: November 17, 1983.

**M. Rebecca Winkler,**

*Committee Management Coordinator.*

[FR Doc. 83-31393 Filed 11-21-83; 8:45 am]

**BILLING CODE 7555-01-M**

**OFFICE OF PERSONNEL MANAGEMENT**

**Excepted Service**

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI. Exceptions from the Competitive Service.

**FOR FURTHER INFORMATION CONTACT:** William Bohling, 202-632-6000.

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on October 25, 1983 (48 FR 49397). Individual authorities established or revoked under Schedules A, B, or C between October 1, 1983 and October 31, 1983 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

**Schedules A and B**

No Schedule A or B exceptions were established or revoked during the month of October.

**Schedule C**

The following exceptions are established:

*Department of Agriculture*

One Staff Assistant to the Administrator, Food Safety and Inspection Service. Effective October 4, 1983.

One Private Secretary to the Assistant Secretary for Economics, Office of the Secretary. Effective October 25, 1983.

*Department of the Army*

One Staff Assistant to the Deputy Assistant to the President for Presidential Personnel, Office of the Secretary of the Army. Effective October 12, 1983.

*Department of Commerce*

One Confidential Assistant to the Deputy Secretary, Office of the Secretary. Effective October 14, 1983.

One International Tourism Relations Officer, Office of the Secretary. Effective October 17, 1983.

One Special Assistant to the Deputy Secretary, Office of the Secretary. Effective October 24, 1983.

One Congressional Liaison Officer to the Assistant Secretary for Congressional and International Affairs. Effective October 24, 1983.

One Confidential Assistant to the Special Assistant to the Secretary, Office of the Secretary. Effective October 25, 1983.

*Department of Defense*

One Special Assistant to the Assistant Secretary (International Security Policy), Office of the Under Secretary of Defense for Policy. Effective October 6, 1983.

One Assistant Director to the Chairman of the President's Foreign Intelligence Advisory Board. Effective October 14, 1983.

*Department of Energy*

One Secretary (Confidential Assistant) to the Under Secretary of Energy. Effective October 19, 1983.

One Staff Assistant to the Administrator, Economic Regulatory Administration. Effective October 24, 1983.

*Department of Health and Human Services*

One Confidential Assistant to the Executive Secretary, Office of the

Secretary. Effective October 11, 1983.

One Staff Assistant to the Secretary, Office of the Secretary. Effective October 11, 1983.

One Confidential Staff Assistant to the Chief of Staff, Office of the Secretary. Effective October 11, 1983.

One Special Assistant to the Senior Advisor to the Secretary, Office of the Secretary. Effective October 25, 1983.

*Department of Housing and Urban Development*

One Senior Legislation Specialist to the Deputy Assistant Secretary for Legislative and Congressional Relations. Effective October 3, 1983.

One Senior Legislation Specialist to the Deputy Assistant Secretary for Legislation and Congressional Relations. Effective October 11, 1983.

One Intergovernmental Relations Officer to the Deputy Under Secretary for Intergovernmental Relations. Effective October 26, 1983.

One Special Advisor for Elderly Programs to the Deputy Under Secretary for Intergovernmental Relations. Effective October 26, 1983.

*Department of Justice*

One Special Counsel for Regulatory Affairs to the Assistant Attorney General for Civil Rights, Civil Rights Division. Effective October 4, 1983.

One Staff Assistant to the Assistant Attorney General, Offices, Boards and Divisions. Effective October 24, 1983.

*Department of Labor*

One Staff Assistant to the Deputy Under Secretary for Intergovernmental Affairs. Effective October 18, 1983.

One Secretary (Typing) to the Regional Representative in Chicago, Illinois. Effective October 26, 1983.

*Department of State*

One Special Assistant to the Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs. Effective October 3, 1983.

One Secretary (Stenography) to the Under Secretary, Office of the Under Secretary for Economic Affairs. Effective October 13, 1983.

*Department of Transportation*

One Program Coordinator to the Special Assistant to the Administrator, Federal Railroad Administration. Effective October 3, 1983.

One Director, Executive Secretariat, National Highway Traffic Safety Administration. Effective October 13, 1983.

One Intergovernmental Affairs Coordinator to the Administrator, Federal Railroad Administration. Effective October 19, 1983.

One Special Assistant to the Deputy Secretary, Office of the Secretary. Effective October 27, 1983.

*Action*

One Staff Assistant to the Young Volunteer Program Officer. Effective October 6, 1983.

*Consumer Product Safety Commission*

One Secretary (Stenography) to the General Counsel. Effective October 13, 1983.

*Environmental Protection Agency*

One Staff Assistant to the Executive Assistant to the Administrator. Effective October 3, 1983.

One Staff Assistant to the Assistant Administrator for External Affairs. Effective October 6, 1983.

One Confidential Assistant to the General Counsel, Office of the General Counsel. Effective October 11, 1983.

*Equal Employment Opportunity Commission*

One Secretary (Stenography) to a Commissioner. Effective October 13, 1983.

One Director, Office of Congressional Affairs. Effective October 13, 1983.

*Executive Office of the President*

One Executive Assistant to the Deputy Director, Office of Science and Technology Policy. Effective October 13, 1983.

*Export-Import Bank of the United States*

One Secretary (Typing) to the President and Chairman, Office of the Board of Directors. Effective October 11, 1983.

One Deputy Vice President for Public Affairs. Effective October 13, 1983.

*International Trade Commission*

One Confidential Assistant to a Commissioner Effective October 14, 1983.

One Staff Assistant (Legal) to a Commissioner Effective October 14, 1983.

*National Transportation Safety Board*

One Special Assistant to a Member of the Board. Effective October 19, 1983.

*Small Business Administration*

One Confidential Assistant to the Associate Administrator for Minority Small Business and Capital Ownership Development. Effective October 3, 1983.

One Staff Assistant to the Director of Women's Business Ownership. Effective October 11, 1983.

One Director of Information Services, Office of Public Communications. Effective October 25, 1983.

*United States Information Agency*

One Staff Assistant to the Associate Director for Programs, Bureau of Programs. Effective October 19, 1983.

One Special Assistant to the Director of Research, Bureau of Programs. Effective October 24, 1983.

Office of Personnel Management.

Donald J. Devine,  
*Director.*

[FR Doc. 83-31363 Filed 11-21-83; 8:45 am]

BILLING CODE 6325-01-M

**SECURITIES AND EXCHANGE  
COMMISSION**

[Release No. 20377; (SR-Amex-83-29)]

**American Stock Exchange; Filing and  
Order Granting Accelerated Approval  
of Proposed Rule Change**

November 15, 1983.

The American Stock Exchange, Inc. ("Amex"), 96 Trinity Place, New York, NY 10006, submitted on October 31, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder. The Amex proposes to amend Article III, Section 5 of the Amex Constitution to delete the requirement that one of the four securities industry representatives on the Exchange's Nominating Committee shall have been a former industry governor who retired from the Board of Governors between one and four years prior to the commencement of his term of service on the Nominating Committee. The Exchange has stated in its filing that this requirement has posed a number of significant problems to the effective administration of the Nominating Committee. Since 1980, the five individuals elected to this category have been able to complete their terms. In addition, the Exchange believes the elimination of this requirement would ensure that an adequate pool of candidates is available for committee service.<sup>1</sup>

Interested persons are invited to submit written data, views and arguments concerning the proposed rule

change within 21 days from the date of publication of the submission in the **Federal Register**. Persons desiring to make written comments should file copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Reference should be made to File No. SR-Amex-83-29.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which 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 Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the Amex Nominating Committee will continue to include two representatives of the public, one of whom is an incumbent public governor. In addition, the Amex has indicated that the 1983/1984 Nominating Committee is scheduled to begin work in November and the additional flexibility provided the Exchange under amended Article III, Section 5 will provide the Exchange with additional available candidates for committee service.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,  
*Secretary.*

[FR Doc. 83-31337 Filed 11-21-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13627; (812-5626)]

**Dean Witter Reynolds Inc., Dean Witter  
World Wide Investment Trust, Dean  
Witter Developing Growth Securities  
Trust; Filing of Application**

November 15, 1983.

Notice is hereby given that Dean Witter Reynolds World Wide Investment Trust ("World Wide"), Dean Witter Developing Growth Securities Trust ("Developing Growth," together with World Wide, the "Fund Applicants"), One World Trade Center, New York, NY 10048, both registered under the Investment Company Act of 1940 ("Act") as open-end, management investment companies, and Dean Witter Reynolds Inc. ("DWR," together with the Fund Applicants, "Applicants"), the Fund Applicants' Investment Manager, filed an application in August 8, 1983, requesting an order of the Commission pursuant to Section 6(c) of the Act (1) exempting World Wide and any other funds for which DWR may now or in the future serve as investment adviser or principal underwriter ("Future Funds") from the provisions of Section 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22d-1 thereunder to the extent necessary to permit them to assess a contingent deferred sales charge on certain redemptions of their shares, and to permit them to waive that charge with respect to redemptions following the death or disability of a shareholder and redemptions in connection with certain distributions from an Individual Retirement Account or other qualified retirement plan, and (2) to permit shareholders to exchange shares between funds without imposition of the charge. As part of the relief requested regarding exchanges, Applicants request that a previous order, dated March 30, 1983 (Investment Company Act Release No. 13126), which granted Developing Growth the exemptive relief set forth under (1) above, be amended to extend to Developing Growth the exemption requested for the other Funds from the provisions of Section 22(d) of the Act to the extent necessary to allow shareholders the exchange privilege described under (2) above. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

According to the application, both Fund Applicants are series companies organized as business trusts under the laws of Massachusetts that have issued one initial series of shares. Both Fund

<sup>1</sup> The Exchange is satisfied that the Nominating Committee's need for first hand experience with the work of the Board is satisfied by retaining the requirement that one of the four public representatives must be an incumbent public governor.

Applicants state that they have no current intention to create and issue any additional series, but World Wide requests that any future series that it may hereafter offer on substantially the same basis as its initial series be similarly exempted from the provisions of the Act enumerated above. Developing Growth likewise requests that any future series offered on substantially the same basis as its initial series be similarly exempted from the provisions of Section 22(d) of the Act. DWR is investment manager of Developing Growth and also serves as distributor of its shares. DWR will be the investment manager of World Wide with responsibility for investments in North and South American securities. Daiwa International Management Corporation ("DICAM") will be the Investment Adviser of World Wide with responsibility for investments in Pacific Basin securities. CB International Investments Limited ("CBII") will be World Wide's Investment Adviser with responsibility for investments in European and other countries' securities. DICAM is a subsidiary of Daiwa International Capital Management Co., Ltd. ("DICAM Ltd."), a corporation organized under the laws of Japan, that will serve as a subadviser to DICAM. CBII is a wholly-owned subsidiary of County Bank Limited, the merchant banking subsidiary of National Westminster Bank PLC, a corporation organized under the laws of Great Britain. All the Investment Advisers and the sub-adviser are registered investment advisers under the Investment Advisers Act of 1940. DWR and Daiwa Securities America Inc. (an affiliate of DICAM) will serve as Underwriters and Distributors of World Wide, and will receive the proceeds of the contingent deferred sales charges.

The Funds propose to offer their shares without initial sales charge so that investors will have the entire amount of their purchase payments fully invested when made. However, the Funds also propose to pay to the distributor a contingent deferred sales charge from the proceeds of certain redemptions of their shares. Applicants state that in no event could the amount of such charges, in the aggregate, exceed 5% of the aggregate purchase payments made by the investor.

Applicants represent that the contingent deferred sales charge would be imposed if an investor redeemed an amount which caused the value of the investor's account with a Fund to fall below the total dollar amount of purchase payments made by the investor during the preceding six years.

No contingent sales charge will be imposed to the extent that the net asset value of the shares redeemed does not exceed (i) the current net asset value of shares of a Fund purchased more than six years prior to the redemption, plus (ii) the current net asset value of shares of the Fund purchased through reinvestment of dividends or capital gains distributions, plus (iii) increases in the net asset value of the investor's shares above the total amount of payments for the purchase of shares made during the preceding six years. Applicants propose that the imposition of the contingent deferred sales charge be waived on the following redemptions: (i) redemptions following the death or disability of a shareholder, and (ii) redemptions in connection with certain distributions from Individual Retirement Accounts ("IRAs") or other qualified retirement plans. Applicants also propose that the contingent deferred sales charge not be imposed on exchanges of shares between the Funds.

With regard to any Fund, Applicants state that in determining the applicability of a contingent deferred sales charge to each redemption, the amount which represents an increase in the net asset value of the investor's shares above the amount of the total payments for the purchase of shares within the last six years will be redeemed first. Next to be redeemed will be the amount which represents the net asset value of the investor's shares purchased more than six years prior to the redemption and/or shares purchased through reinvestment of dividends or distributions. Any further amount redeemed will be subject to a contingent deferred sales charge. Where a contingent deferred sales charge is imposed, the amount of the charge will depend on the number of years since the investor made the purchase payment from which an amount is being redeemed. During the first year after purchase, the charge would be 5% of the amount redeemed; during the second 4%; during the third 3%; during the fourth and fifth 2%; and during the sixth 1%.

The amount of the contingent deferred sales charge (if any) is calculated by determining the date on which the purchase payment which is the source of the redemption was made, and applying the appropriate percentage to the amount of the redemption subject to the charge. Applicants state that solely for purposes of determining the number of years from the time of any payment for the purchase of shares, all payments during a month will be aggregated and deemed to have been made on the last day of the month. Applicants state that

in determining the rate of any applicable contingent deferred sales charge, it will be assumed that a redemption is made of shares held by the investor for the longest period of time within the applicable six year period. This will result in any such charge being imposed at the lowest possible rate.

Applicants submit that the proposed transaction permits shareholders to have the advantages of more investment dollars working for them from the time of their purchase of shares of a Fund. Moreover, Applicants state that because the contingent deferred sales charge applies only to redemptions of amounts representing purchase payments (during the first six years after the payments), it does not apply to increases in the value of an investor's Account through increases in net asset value per share, or to amounts representing reinvestment of distributions.

The Funds propose to finance their own distribution expenses pursuant to Plans adopted under Rule 12b-1 under the Act (the "Plans"). Under the proposed Plans, World Wide and the Future Funds will each pay an annual fee to the Distributors, as reimbursement for distribution expenses incurred by the Distributors. As is the case with Developing Growth, it is proposed that the distribution fee of World Wide and each Future Fund will be calculated on the basis of 1.0% per annum of aggregated purchase payments (subject to a cap at 1.0% of net assets). The Distributors also will receive the proceeds of the contingent deferred sales charge imposed upon any redemption. Under the proposed plan for World Wide, the amount of compensation that each of the Distributors (DWR and Daiwa Securities America Inc.) will receive is in direct proportion to the amount of the shares of World Wide it has sold and that currently remains invested in World Wide.

Where amounts attributable to purchase payments are redeemed (and thus no longer contribute to the annual distribution charge) Applicants believe that it is fair (1) to impose on the withdrawing shareholder a lump sum payment reflecting approximately the amount of distribution expense which has been recovered through distribution and (2) to remove the assets on which the contingent deferred sales charge was imposed from the base amount on which the distribution fee is calculated. Applicants state that, in their review of the Plans pursuant to Rule 12b-1, the directors or trustees will also consider the use by the Distributor of revenues

raised by the contingent deferred sales charges.

Applicants propose to waive the contingent deferred sales charge with respect to the following redemptions of shares of the Funds: (i) redemptions following the death or disability of a shareholder, or (ii) redemptions in connection with certain distributions from IRAs or other qualified retirement plans. The waiver of the contingent deferred sales charge upon death or disability would apply to a total or partial redemption but only to redemptions of shares held at the time of the death or initial determination of disability. It is proposed that the charge be waived for any redemption in connection with a lump-sum or other distribution following retirement or, in the case of an IRA or Keogh Plan or a custodial account pursuant to Section 403(b)(7) of the Internal Revenue Code ('Code'), after attaining age 59½. The charge also would be waived on any redemption which results from the tax-free return of an excess contribution pursuant to Section 408(d)(4) or (5) of the Code, or from the death or disability of the employee.

When shares of one Fund have been exchanged for shares of another without the imposition of sales charge, the date of purchase of the shares of the Fund exchanged into, for purposes of the contingent deferred sales charge, will be assumed to be the last day of the month in which the shares being exchanged were purchased (or deemed to have been purchased as a result of prior exchanges). In allocating the investor's purchase payments between Funds for purposes of the contingent deferred sales charge, the amount which represents the current asset value of the investor's share which were (i) purchased (or deemed to have been purchased, as above) more than six years prior to the exchange and (ii) originally acquired, despite intervening exchanges, through reinvestment of dividends or distributions (all such shares being hereinafter referred to as "Free Shares"), will be exchanged first. If the exchanged amount exceeds the value of the investor's Free Shares, it will be assumed that an exchange is made of shares held (or deemed to be held, as a result of prior exchanges) by the investor for the longest period of time within the applicable six year period. Utilizing this assumption, any appreciation in the value of these non-Free Shares will thereafter be treated as Free Shares, and the amount of the investor's purchase payments for the non-Free Shares of the Fund exchanged into will thereafter be deemed to be

equal to the lesser of (a) the actual or, if there have been prior exchanges, the deemed purchase payments for, or (b) the current net asset value of, the exchange non-Free Shares. If an exchange between Funds would result in exchange of only part of a particular block of shares, then the purchase payment (actual or deemed, as above) for that block of shares will first be allocated on pro rata basis between the shares of that block to be retained and those to be exchanged. The prorated amount of such purchase payment attributable to the retained shares of that block will remain as the purchase payment for such retained shares, and the amount of the investor's purchase payment for the exchanged shares of that block will thereafter be deemed to be equal to the lesser of (a) the prorated amount of the purchase payment for, or (b) the current net asset value of, those exchanged shares. Any applicable contingent deferred sales charge, will be imposed upon the ultimate redemption of shares of any Fund, regardless of the number of exchanges since those shares were originally purchased.

Upon any exchange, any necessary reduction of the base of aggregate purchase payments of the Fund exchanged from (for purposes of calculating the 1.0% annual distribution fee under its 12b-1 Plan of Distribution) will similarly be made on the basis that the investor's Free Shares will be exchanged first and, if the exchanged amount exceeds their value, with the assumption that an exchange is made of shares held (or deemed to be held, as a result of prior exchanges) by the investor for the longest period of time within the applicable six-year period. Utilizing this assumption, the base of aggregate purchase payments of the Fund exchanged from will be reduced by the lesser of (a) the actual or, if there have been prior exchanges, the deemed purchase payments for, or (b) the current net asset value of, the exchanged non-Free Shares. However, if an exchange would result in the exchange of only part of a particular block of shares, the base of aggregate purchase payments will be reduced by only the pro rata amount of the lesser of (a) the actual or, if there have been prior exchanges, the deemed purchase payment for, or (b) the current net asset value of, the entire particular block. The amount of such reduction will then be added to the base of aggregate purchase payments of the Fund exchanged into.

Applicants believe that imposition of the contingent deferred sales charge in no way restricts a shareholder from receiving his proportionate share of the

current net assets of a Fund, but merely defers the deduction of a sales charge and makes it contingent upon an event which may never occur. However, Applicants request an exemption from the operation of Section 2(a)(32) of the Act to the extent necessary to permit implementation of the proposed contingent deferred sales charge.

Applicants assert that the proposed contingent deferred sales charge is consistent with the intent of the Act's definition of "sales load" in Section 2(a)(35). The contingent deferred sales charge is paid to the distributor to reimburse it solely for expenses related to offering Applicant's shares for sale to the public, and, therefore, Applicant submits that this arrangement is within the Section 2(a)(35) definition of sales load, but for the timing of the imposition of the charge. Applicants contend that the deferral of the sales charge, and its contingency upon the occurrence of an event which might not occur, does not change the basic nature of this charge, which is in every other respect a sales charge. However, Applicant requests an exemption from the provisions of Section 2(a)(35), to the extent necessary to implement the proposed charge. Applicants also request an exemption from the operation of the provisions of Rule 22c-1 to the extent necessary to permit Applicant to implement the proposed contingent deferred sales charge.

In each situation in which the deferred sales charge would be waived, the redeeming shareholder would be a member of a class of shareholders which is favored under the tax laws or the securities laws. It is further asserted that the proposed waiver is consistent with the purposes of the Fund.

Applicants. As stated in their prospectuses, the Fund Applicants are designed for longterm investors, including those who wish to use them as funding vehicles for IRAs or other tax-deferred retirement plans, and they are not designed for investors who intend to liquidate their investments after a short period. Applicants assert that the requested order is fair to remaining shareholders because a Fund will not be charged with any revenue lost as a result of waiver of the contingent deferred sales charge in the above circumstances.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 12, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that

are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 83-31355 Filed 11-21-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20367]

### National Association of Securities Dealers, Inc.; Order Granting Exemption

November 14, 1983.

#### I. Introduction

On February 17, 1981, the Commission adopted Rule 11Aa2-1 ("Rule")<sup>1</sup> under the Securities Exchange Act of 1934 ("Act"), providing criteria and procedures by which certain securities traded exclusively in the over-the-counter ("OTC") market are designated as national market system securities ("NMS Securities"). Securities designated as NMS Securities include those OTC securities having the most active trading markets and widespread investor interest ("Tier 1 Securities"), and other slightly less active securities whose issuers have applied for designation ("Tier 2 securities"). The primary effect of designation as an NMS Security at the present time is the requirement that transactions in these securities be reported in a real-time system and that quotations for these securities be firm as to quoted price and size.

Among the conditions in the Rule for designation as an NMS Security is the requirement that a security be registered with the Commission under Section 12 of the Act.<sup>2</sup> In letters dated July 5, 1983

<sup>1</sup> Securities Exchange Act Release No. 17540 [February 17, 1981], 46 FR 13992.

<sup>2</sup> Section 12(b) of the Act requires a security to be registered with the Commission when it is listed on an exchange. Section 12(g) of the act requires a security to be registered when it has 500 shareholders and the issuer has over \$1,000,000 in total assets (raised to \$3,000,000 in total assets by Rule 12g-1 under the Act). The Rule permits registration under a comparable provision in lieu of Section 12 registration for certain types of

and October 7, 1983,<sup>3</sup> the National Association of Securities Dealers, Inc. ("NASD") requested a partial exemption from this requirement for domestic securities that have had an underwriting within their current fiscal year, and hence are subject to periodic reporting requirements under Section 15(d) of the Act.<sup>4</sup>

The NASD noted that Section 12(g) of the Act permits issuers subject to its requirements 120 days after the close of their fiscal year in which to register. The NASD requested an exemption for this period to allow securities meeting the standards of the Rule to be designated as NMS Securities without immediate registration. The NASD noted that this exemption would ease its administration of the Rule in that issuers of securities identified as potential NMS Securities would not need to complete all the registration procedures before actual designation of the NMS Securities, permitting a shorter notification period. More importantly, the NASD argued that, in its view, last sale reporting for Section 15(d) securities meeting all the standards for mandatory designation as NMS Securities should not be delayed merely because registration had not yet occurred, where the issuer is already subject to periodic reporting requirements under Section 15(d), and registration is required within a limited period of time.

#### II. Discussion

The Commission considers it of special importance that current information be available for securities designated as NMS Securities, in view of the enhanced visibility resulting from this designation and the activity of the trading markets for these securities. At the same time, the Commission believes that designation as an NMS Security, with its attendant last-sale reporting and firm quotation requirements, is of benefit both to the markets for the security and to investors using last-sale data for trading decisions and monitoring purposes. Accordingly, the Commission is of the view that NMS designation should occur where the

securities, such as insurance and investment company securities.

<sup>3</sup> Letter from Frank Wilson, Executive Vice President and General Counsel, NASD, to Douglas Scarff, Director, Division of Market Regulation, SEC, dated July 5, 1983; Letter from John T. Wall, Executive Vice President, NASD, to Richard Ketchum, Associate Director, Division of Market Regulation, SEC, dated October 7, 1983.

<sup>4</sup> Section 15(d) of the Act requires the issuer of a security registered under the Securities Act of 1933 to file with the Commission periodic information comparable to that required by Section 13 of the Act, which applies to securities registered under Section 12.

Rule's basic requirements are met and the fundamental elements of disclosure are present.

After careful consideration of the NASD's request, the Commission has determined, on balance, that a partial exemption from the Rule's registration requirement should be granted for Tier 1 securities of issuers meeting the reporting requirements of Section 15(d) of the Act. This exemption is not extended to Tier 2 securities, however, because, unlike Tier 1 securities which are designated on a mandatory basis, Tier 2 securities become NMS Securities solely at the election of the issuer. Because the issuer has control of the timing and the decision whether to become an NMS Security, the issuer has an opportunity to register before filing for NMS designation. Moreover, the Commission believes that it is appropriate to expect an issuer to register if it is actively seeking the benefits of last-sale reporting.<sup>5</sup>

The Commission also notes that Section 15(d) subjects issuers to reporting requirements comparable to those required of Section 12 registrants, including annual, quarterly, and interim reports. Although Section 15(d) securities would not be subject to the Act's tender offer provisions,<sup>6</sup> proxy requirements,<sup>7</sup> or short swing profits provisions<sup>8</sup> until registered, the absence to these requirements for a limited period before registration<sup>9</sup> would not

<sup>5</sup> The Commission does not believe, however, that Tier 2 securities already designated as NMS Securities should be required to register in advance of the registration period provided by Section 12(g) and NASDAQ, because these securities were designated with the expectation that registration would not be required immediately.

<sup>6</sup> Sections 13(d), 13(e), 14(d), 14(e), and 14(f) of the Act, added by the Williams Act, regulate issuer repurchases, tender offers, and reporting by 5% beneficial owners. They apply to securities registered under Section 12 of the Act.

<sup>7</sup> The proxy requirements are contained in Sections 14(a) and (c) of the Act and the rules thereunder.

<sup>8</sup> The short-swing profits provisions are contained in Section 18 of the Act and the rules thereunder.

<sup>9</sup> Many securities eligible for NMS designation also exceed Section 12(g) registration criteria; registration of these securities is required by Section 12(g) within 120 days of the close of the fiscal year in which criteria are met. To be designated as an NMS Security, an OTC security must have, at a minimum, net tangible assets of at least \$2,000,000, and capital and surplus of at least \$1,000,000. As mentioned previously, registration is required under Section 12(g) and Rule 12g-1 if an issuer has total assets exceeding \$3,000,000 and securities held by at least 500 shareholders. Because the Rule uses a net tangible assets standard rather than a total assets standard, in many cases the total assets NMS Securities would exceed the current registration standards of Rule 12g-1. Moreover, although there is no explicit shareholder requirement in the Rule, the minimum standards of 250,000 public shares and 100,000 share monthly

Continued

appear to materially affect the efficiency of the trading markets for NMS Securities.<sup>10</sup> To make clear that issuers of NMS Securities ultimately must register, however, the Commission is explicitly limiting the exemption from registration to 120 days from the end of the fiscal year in which designation takes place. Moreover, because of the importance the Commission attaches to the substantive safeguards attendant to Section 12(g) registration, the Commission specifically reserves the right to revoke or modify this exemption if necessary in furtherance of the purposes of the Act.

For the reasons discussed previously, the Commission believes that this temporary exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets, and the removal of impediments to, and perfection of the mechanisms of, a national market system. Accordingly, the Commission has determined to grant a limited exemption for Tier 1 and other currently designated securities reporting under Section 15(d) from the requirement of Section 12 registration prior to designation as an NMS Security.

It is hereby ordered that an exemption be granted from the requirement contained in paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of Rule 11Aa2-1, that a security be registered under Section 12 of the Act prior to designation as an NMS Security, for securities which either are currently designated or which are designated in the future pursuant to the requirements set forth in paragraph (b)(4)(i) of the Rule, and whose issuers are reporting under Section 15(d) of the Act and the rules thereunder. This exemption is limited to a period not exceeding 120 days after the close of the fiscal year in which the security in

average trading volume suggest that these securities almost always will have 500 or more shareholders. Finally, the requirements for inclusion in NASDAQ state that a new issue included in NASDAQ must register within 120 days after the close of the fiscal year in which it went public. See Schedule D, Section II(B)(2)(a) of the NASD By-Laws.

<sup>10</sup> The Commission also has considered whether this exemption imposes an inappropriate burden on competition because Section 12b requires securities listed on an exchange to be registered with the Commission prior to listing. Because Section 12 and Section 15(d) impose generally comparable reporting requirements, the Commission believes that the absence of Section 12(g) registration for NMS Securities will not act as a significant disincentive to exchange listing. Accordingly, the Commission believes that any burden on competition resulting from this exemption is outweighed by the benefits to investors and market professionals of more complete and timely market information regarding securities designated as NMS Securities prior to ultimate registration.

question was designated as an NMS Security. This exemption is subject to modification or revocation at any time if the Commission judges such action to be necessary or appropriate in light of progress made toward a national market system or otherwise in furtherance of the purposes of the Act.

By the Commission.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 83-31354 Filed 11-21-83; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8357]

**Syncor International Corporation  
Common Stock, \$0.01 Par Value;  
Application To Withdraw From Listing  
and Registration**

November 15, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Syncor International Corporation ("Company") is listed and registered on the PSE and is currently included in the NASDAQ system. Section 11A2-1(a)(3) of the Act prohibits a stock to be listed and registered on a national securities exchange as well as included on NASDAQ. Therefore, the Company has determined that the over-the-counter listing of its stock would be more beneficial to the company and wishes to delist its stock from the PSE.

Any interested person may, on or before December 7, 1983, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 83-31358 Filed 11-21-83; 8:45 am]

BILLING CODE 8010-01-M

**SMALL BUSINESS ADMINISTRATION**

[Application No. 09/09-0340]

**Bancorp Small Business Investment Company, Inc.; Application for a License To Operate as a Small Business Investment Company**

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act). (15 U.S.C. 661, *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: Bancorp Small Business Investment Company, Inc.

Address: Suite 1020, 111 South King Street, Honolulu, Hawaii 96816

The proposed officers, directors and stockholder of the Applicant are as follows:

H. Howard Stephenson, 5239 Poola Street, Honolulu, Hawaii 96821; Chairman of the Board of Directors and President

James D. Evans, Jr., 150 Kailuana Place, Kailua, Hawaii 96734; President and Director

Stanley W. Widasky, Apt. 3D, 250 Kawaihae Street, Honolulu, Hawaii 96825; Vice President and Director

Thomas W. Mahoney, 72 Makawell Street, Honolulu, Hawaii 96825; Vice President and Director

John W. Anderson, Jr., 1607 Kalaniuka Way, Honolulu, Hawaii 96821; Vice President and Director

Richard J. Dahl, 535 E. Keolu Drive, Kailua, Hawaii 96734; Treasurer

Ruth E. Miyashiro, 3852 Claudine Street, Honolulu, Hawaii 96816; Secretary, Bancorp Hawaii, 111 South King Street, Honolulu, Hawaii 96813; 100%

The Applicant, a Hawaii corporation, with its principal place of business at Suite 1020, 111 South King Street, Honolulu, Hawaii 96813, will begin operations with \$1,000,000 paid-in capital and paid-in surplus.

The Applicant will conduct its activities principally in the State of Hawaii.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Honolulu, Hawaii area.

(Catalog of Federal Domestic Assistance Program No. 59.011. Small Business Investment Companies)

Dated: November 15, 1983.

Robert G. Lineberry,  
Deputy Associate Administrator for Investment.

[FR Doc. 83-31386 Filed 11-21-83; 8:45 am]  
BILLING CODE 8025-01-M

[License Number 01/01-0325]

**Bever Capital Corp.; Issuance of Small Business Investment Company License**

On July 11, 1983, a Notice was published in the **Federal Register** (48 FR 32248) stating that an application had been filed by Bever Capital Corporation, One Post Office Square, Suite 1780, Boston, Massachusetts 02109 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies [13 CFR 107.102 (1983)] for a license as a small business investment company (SBIC).

Interested parties were given until the close of business July 26, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued license No. 01/01-0325 to Bever Capital Corporation to operate as a SBIC.

Dated: November 9, 1983.

Robert G. Lineberry,  
Deputy Associate Administrator for Investment.

[FR Doc. 83-31387 Filed 11-21-83; 8:45 am]  
BILLING CODE 8025-01-M

[Application No. 06/06-0274]

**Equity Capital Corp.; Application for a License To Operate as a Small Business Investment Company**

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: Equity Capital Corporation  
Address: 231 Washington Avenue, Suite W, Santa Fe, New Mexico 87501

The proposed officers, directors and stockholders of the Applicant are as follows:

Jerry A. Henson, 100 Calle Paula, Santa Fe, New Mexico 87501; President  
John C. Tubbs, 136 Ridge Crest, Santa Fe, New Mexico 87501; Treasurer and Director

Ralph H. Scheuer, 1031 Governor Dempsey Drive, Santa Fe, New Mexico 87501; Secretary and Director

The Applicant, a New Mexico corporation, with its principal place of business at 231 Washington Avenue, Suite 2, Santa Fe, New Mexico 87501, will begin operations with \$700,000 paid-in capital and paid-in surplus. No person or entity will own 10% of the applicant's stock.

The applicant will conduct its activities principally in the State of New Mexico.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Santa Fe, New Mexico area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 14, 1983.

Robert G. Lineberry,  
Deputy Associate Administrator for Investment.

[FR Doc. 83-31388 Filed 11-21-83; 8:45 am]  
BILLING CODE 8025-01-M

[License Application No. 04/04-0227]

**Fincorp Venture Capital Co.; Application for a License To Operate as a Small Business Investment Company**

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), under the name of Fincorp Venture Capital Company (Applicant), 999 Ponce de Leon Blvd., Mezzanine Suite, Coral Gables, Florida 33134, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the Applicant are as follows:

Jose A. Pina, Jr., 1401 Coral Way, Coral Gables, FL 33134; Chairman of the Board, Director

Carlos Pina, 518 Bargello Avenue, Coral Gables, FL 33146; Vice Chairman, Director

Antonio A. Bechily-Carreno, 15910 S.W. 90 Avenue, Miami, FL 33157; President, Director

Carlos M. DeVarona, 515 S.W. 18th Terrace, Miami, FL 33129; Executive Vice President, Director

Carlos A. Lopez, Jr., 5551 San Vicente, Coral Gables, FL 33146; Secretary/Treasurer, Director

Gustavo I. Chomat, 13663 S.W. 102 Ct., Miami, FL 33176; Director

Universal Casualty Insurance Company, Universal Plaza, 999 Ponce de Leon Blvd., Coral Gables, FL 33134; 66% percent

Interstate Underwriting Agencies, Inc., Universal Plaza, 999 Ponce de Leon Blvd., Coral Gables, FL 33134; 33 1/3 percent

Universal Casualty Insurance Company is wholly-owned by Interstate

Underwriting Agencies, Inc. (IUA). IUA is wholly-owned by Universal Insurance Group, a wholly-owned subsidiary of the Universal Group. Universal Group is owned by Jose A. and Mayra Pina (50 percent) and Carlos and Maria Pina (50 percent).

Applicant has one million shares of voting common stock authorized and one million shares of non-voting preferred. Initially, 600,000 shares of common stock will be issued with a resultant paid-in capital of \$600,000.

The Applicant will conduct its operations principally in the State of Florida.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed officers, directors, and shareholders, and the probability of successful operation of the Applicant in accordance with the Act and Regulations.

Notice is further given that any person may, not later than December 7, 1983, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Coral Gables, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 9, 1983.

Robert G. Lineberry,  
Deputy Associate Administrator for Investment.

[FR Doc. 83-31385 Filed 11-21-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5369]

#### Ibero-American Investors Corporation; Filing of Application for Approval of Conflict of interest Transaction

Notice is hereby given that Ibero-American Investors Corporation (Ibero) 55 St. Paul Street, Rochester, New York 14604 a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application pursuant to § 107.903 of the Regulations governing small business investment companies as published, [48 FR 45014 Vol 48, (September 30, 1983)].

Subject to such approval Ibero proposes to provide financing to Mr. Julio Vazquez an associate of the Licensee as defined in Section 107.3 of the Regulations.

Mr. Vazquez is an employee of Ibero-American Action League the sole stockholder of the Licensee and also served on the Board of Directors of the applicant from September, 1979 to June, 1983.

Notice is hereby given that any interested person may, not later than (15) days from the date of publication of this Notice, submit written comments on the proposed investment to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Rochester, New York area. (Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 9, 1983.  
Robert G. Lineberry,  
Deputy Associate Administrator for Investment.

[FR Doc. 83-31384 Filed 11-21-83; 8:45 am]

BILLING CODE 8025-01-M

#### SYNTHETIC FUELS CORPORATION

#### Final Environmental Monitoring Plan Guidelines

##### Correction

In FR Doc. 83-27734 beginning on page 46676 in the issue of Thursday, October 13, 1983, make the following corrections:

1. On page 46676, under **FOR FURTHER INFORMATION CONTACT**, in the ninth line, the telephone number "822-6316" should have read "822-6480".
2. On page 46678, in the second column, in the ninth line from the top of the page, "will be require" should have read "will not require".

BILLING CODE 1505-01-M

#### DEPARTMENT OF THE TREASURY

##### Internal Revenue Service

#### Commissioner's Advisory Group; Open Meeting

There will be a meeting of the Commissioner's Advisory Group on December 5 & 6, 1983. The meeting will be held in Room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Ave., NW., Washington, D.C. The meeting will begin at 9:00 A.M. on Monday, December 5, and 9:00 A.M. on Tuesday, December 6. The agenda will include the following topics:

Monday, December 5, 1983

Tax Avoidance of the FTD System IRS  
Administration of TEFRA Penalties

#### Strategic Management System

Tuesday, December 6, 1983

Correspondence Generated by the IRS  
Improved Communications between IRS and  
Professional Associations  
Establishment of a Volunteer Corps for  
Taxpayer Service

The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people. If you would like to have the Committee consider a written statement, please call or write to John E. Burke, Assistant to the Deputy Commissioner, 1111 Constitution Ave., NW., Washington, D.C. 20224.

For further information contact: John E. Burke, Assistant to the Deputy Commissioner, (202) 566-4143 (not toll free).

M. Eddie Heironimus,  
Acting Commissioner.

[FR Doc. 83-31480 Filed 11-18-83; 12:28 pm]

BILLING CODE 4630-01-M

#### 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 the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "The Legacy of Correggio: Sixteenth Century Emilian Drawings", (included in the list <sup>1</sup> filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the National Gallery of Art and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit object at the National Gallery of Art, beginning on or about March 11, 1984, to on or about May 20, 1984, is in the national interest. Public notice of this determination is ordered to be published in the **Federal Register**.

<sup>1</sup> An itemized list of objects included in the exhibit is filed as part of the original document.

Dated: November 16, 1983.  
 Jonathan W. Sloat,  
*General Counsel and Congressional Liaison.*  
 [PR Doc. 83-31943 Filed 11-21-83 8:45 am]  
 BILLING CODE 8230-01-M

## VETERANS ADMINISTRATION

### Privacy Act of 1974; Revised and Deleted Systems of Records

Notice is hereby given that the Veterans Administration is considering revising two systems of records entitled "Armed Forces Separations (DD-214) One-Percent Sample—VA" (03VA042) and "Veterans and Other VA Beneficiaries Who Have Responded to VA Sample Surveys—VA" (43VA042) as set forth on pages 662 and 682 respectively, of the "Privacy Act Issuances, 1980 Comp., Volume V." Notice is also given for the deletion of two systems of records entitled "Veterans Admitted to VA Hospitals for Care of Cancer During Periods 1958 to 1963, Central Cancer Registry VA" (35VA042), and "Spinal Cord Injury Study File 1/1/46 to 9/30/55 and 10/1/55 to 9/30/65—VA" (51VA042) as set forth on pages 677 and 689, respectively, of the "Privacy Act Issuances, 1980 Comp., Volume V."

The first two systems are being completely revised as part of an overall Agency effort to administratively update its Privacy Act systems of records. The notice of these systems are being rewritten in a clearer, more concise manner, in order to identify to the public the types of individuals covered by the systems of records, and the types of records being maintained by the VA, and to update new organizational titles, addresses, and symbols for each system manager. In addition, it has been determined that use of the information and data in these systems is restricted solely to the Office of the System Manager and does not have any routine uses as defined by the Privacy Act of 1974 (5 U.S.C. 552a(a)(7)).

The latter two systems are being deleted because the information and data for these two systems was collected for specific studies that have been completed and it has been determined that these systems are a sub-system of "Patient Medical Records—VA" (24VA138).

These changes are administrative in nature and public comment is not required.

Approved: November 15, 1983.

By direction of the Administrator,  
 Everett Alvarez, Jr.

*Deputy Administrator.*

1. The system identified as 03VA042, "Armed Forces Separations (DD-214) One-Percent Sample—VA" appearing at 662 of the "Privacy Act Issuances, 1980 Comp., Volume V," is revised as follows:

#### 03VA71

##### SYSTEM NAME:

Armed Forces Separations (DD-214)  
 One-Percent Sample—VA.

##### SYSTEM LOCATION:

The basic file (on magnetic tape) is maintained at VA Central Office (71), 810 Vermont Avenue NW, Washington, D.C. 20420. A duplicate tape is maintained at the VA Data Processing Center (DPC), 1615 Woodward Street, Austin, Texas 78772.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former members of the U.S. Armed Forces with service numbers ending in digits 67 or Social Security numbers ending in digits 45 selected for the one-percent sample starting in 1956 and ending in 1975.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) in this system include: (1) Veterans' name, (2) date of birth, (3) social security number, (4) Armed Forces service number, and (5) reason for separation.

##### AUTHORITY FOR MAINTAINANCE OF THE SYSTEM:

Title 38, United States Code, Chapter 3, Sections 210 and 219.

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None.

##### POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM.

##### STORAGE:

Records are stored on magnetic tape.

##### RETRIEVABILITY:

Records are retrievable by Social Security number within period of service. (Records not having Social Security number are retrievable by Armed Forces Service number within period of service.)

##### SAFEGUARDS:

Access to the tape at Central Office is restricted to authorized VA employees on a "need-to-know" basis. The tape is maintained in a locked drawer and protected from outside access by the

Federal Protective Service and VA Security Personnel. Access to the duplicate tape at the VA DPC is restricted to authorized VA employees. Access to the computer room where the basic file is maintained within the DPC is further restricted to authorized VA employees on a "need-to-know" basis and is protected from unauthorized access by an alarm system, the Federal Protective Service, and VA Security Personnel.

##### RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with disposition authority approved by the Archivist of the United States.

##### SYSTEM MANAGER(S) AND ADDRESS:

Director, Statistical Policy and Research Service (71), 810 Vermont Avenue, NW, Washington, D.C. 20420.

##### NOTIFICATION PROCEDURES:

An individual who wishes to determine whether a record is being maintained by the Director, Statistical Policy and Research Service (71), under his or her name or other personal identifier or wants to determine the contents of such records should submit a written request or apply in person to the Director, Statistical Policy and Research Service (71). The individual seeking this information would have to prove his or her identity and must present the following information: Individual's full name, social security number (and/or Armed Forces service number if discharged from the Armed Forces before 1971) and birth date.

##### RECORDS ACCESS PROCEDURES:

Individuals (or authorized representatives) desiring access to, and contesting of, VA records may write to the Director, Statistical Policy and Research Service (71), VA Central Office, 810 Vermont Avenue NW, Washington D.C. 20420.

##### CONTESTING RECORD PROCEDURES:

(See Records Access Procedures above.)

##### RECORD SOURCE CATEGORIES:

Department of Defense form 214, certificate of Release or Discharge from Active Duty.

2. The system identified as 43VA042, "Veterans and Other VA Beneficiaries Who Have Responded to VA Sample Surveys—VA" appearing at 682 of the "Privacy Act Issuances, 1980 Comp., Volume V," is revised as follows:

43VA71

**SYSTEM NAME:**

Veterans and VA Beneficiaries Who Have Responded to VA Sample Surveys—VA.

**SYSTEM LOCATION:**

The basic file (on magnetic tape) is maintained at the VA Data Processing Center (DPC), 1615 Woodward Street, Austin, Texas 78772. A duplicate tape is maintained at VA Central Office (71), 810 Vermont Avenue NW, Washington, D.C. 20420. Paper documents (questionnaires) are stored at the Washington National Records Center (WNRC).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

(1) Recently separated veterans, (2) veterans not receiving VA benefits and (3) veterans, dependents and survivors of veterans on various VA benefit rolls such as Compensation and Pension or Education.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records (or information contained in records) in this system may include: (1) Name, (2) social security number, (3) date of birth, (4) basic demographic data, (5) data on satisfaction with specific VA benefits or services, and (6) employment and earnings data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Title 38, United States Code, Chapter 3, Sections 210 and 219.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

None.

**POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Records are stored on magnetic tape and/or paper documents.

**RETRIEVABILITY:**

Records are retrievable by social security number. Paper records are indexed and retrieved by a sequence number assigned to each record.

**SAFEGUARDS:**

Access to the tape at the VA DPC is restricted to authorized VA employees. Access to the computer room where the tape is maintained within the DPC is further restricted to authorized VA employees on a "need-to-know" basis and is protected from unauthorized access by an alarm system, the Federal Protective Service, and VA Security Personnel. Access to the duplicate tape

at Central Office is restricted to authorized VA employees on a "need-to-know" basis. The tape is maintained in a locked drawer and protected from outside access by the Federal Protective Service and VA Security Personnel.

The paper records are maintained in a locked room at the WNRC and are protected from outside access by the Federal Protective Service. Only authorized persons from the Office of Reports and Statistics can recall the paper records from the Records Center.

**RETENTION AND DISPOSAL:**

Upon publication of the survey report, the paper records (questionnaires) are sent to storage in the WNRC; here they are retained for ten years, subject to review at three year intervals, and then destroyed by burning. The magnetic tape retained by the Office of Reports and Statistics and the VA DPC are subject to review at three year intervals; final disposition is by erasure of the magnetic tape.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Statistical Policy and Research Service (71), VA Central Office, Washington, D.C. 20420.

**NOTIFICATION PROCEDURES:**

An individual who wishes to determine whether a record is being maintained by the Director, Statistical Policy and Research Service (71), under his or her name or other personal identifier or wants to determine the contents of such records should submit a written request or apply in person to the Director, Statistical Policy and Research Service (71). The individual seeking this information would have to prove his or her identity and must present the following information: The name of the survey in question and approximate date of the survey, social security and/or VA claim number, full name and birth date.

**RECORD ACCESS PROCEDURE:**

Individuals (or authorized representatives) desiring access to, and contesting of, VA records may write to the Director, Statistical Policy and Research Service (71), VA Central Office, 810 Vermont Avenue, NW, Washington, D.C. 20420.

**CONTESTING RECORD PROCEDURES:**

(See Records Access Procedures above.)

**RECORD SOURCE CATEGORIES:**

Information in the record is obtained from Department of Defense records, questionnaires completed by veterans, dependents, or VA beneficiaries in the survey sample and from veterans.

dependents, or VA beneficiaries on particular VA benefit rolls.

[FR Doc. 83-31216 Filed 11-21-83 8:45 am]

BILLING CODE 8320-01-M

**Privacy Act of 1974; Amendment of System Notice; Change Other Than Routine Use Statements**

Notice is hereby given that the Veterans Administration is revising the paragraph pertaining to categories of individuals in the system, in the system of records entitled: Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22/28) as set forth on page 15995 of the *Federal Register* of April 13, 1983. The above named paragraph of the system notice is being rewritten to add a new category of records to the existing list. As a result of Pub. L. 98-77, the Emergency Veterans' Job Training Act of 1983, claimants will begin jobs training programs and interested employers will be applying for approval of their programs under that Act. Category number 15 is being added to notify the public that records are maintained in this system on such individuals.

The Privacy Act of 1974, 5 U.S.C. 552a(e), requires agencies to inform the public of any changes to their system of records. However, since these changes do not alter the uses of the information in the system of records, public comment is not required. The changes are effective November 15, 1983.

Dated: November 15, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

**Notice of System of Records**

In the system identified as 58 VA 21/22/28, "Compensation, Pension, Education and Rehabilitation Records—VA, " appearing at page 15995 of the *Federal Register* of April 13, 1983, the system notice is revised as follows:

**58 VA 21/22/28**

**SYSTEM NAME:**

Compensation, Pension, Education and Rehabilitation Records—VA.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The following categories of individuals will be covered by this system.

1. Veterans who have applied for compensation for service-connected disability under 38 U.S.C. Chapter 11.

2. Veterans who have applied for nonservice-connected disability, under 38 U.S.C. Chapter 23.
3. Veterans entitled to burial benefits under 38 U.S.C. Chapter 15.
4. Surviving spouses and children who have claimed pension based on nonservice-connected death of a veteran under 38 U.S.C. Chapter 15.
5. Surviving spouses and children who have claimed pension based on service-connected death of a veteran under 38 U.S.C. Chapter 11.
6. Surviving spouses and children who have claimed dependency and indemnity compensation for service-connected death of a veteran under 38 U.S.C. Chapter 13.
7. Parents who have applied for death compensation based on service-connected death of a veteran under 38 U.S.C. Chapter 11.
8. Parents who have applied for dependency and indemnity compensation for service-connected death of a veteran under 38 U.S.C. Chapter 11.
9. Veterans who have applied for VA educational benefits under 38 U.S.C. Chapters 31, 32, and 34.
10. Spouses, surviving spouses and children of veterans who have applied for VA educational benefits under 38 U.S.C. Chapter 35.
11. Servicemembers who have applied for educational benefits under 38 U.S.C. Chapters 34 and 35.
12. Servicemembers who have contributed money from their military pay to the Post-Vietnam Era Veterans Education Account under 38 U.S.C. Chapter 32.
13. Individuals who have applied for title 38 benefits but who do not meet the requirements under title 38 to receive such benefits.
14. Veterans, servicemembers, spouses, surviving spouses and dependent children who have applied for benefits under the Educational Assistance Test program under sections 901 and 903 of Pub. L. 96-342.
15. Veterans who have applied for training and employers who have applied for approval of their programs under the provisions of the Emergency Veterans' Job Training Act of 1983, Pub. L. 98-77.

[FR Doc. 83-31317 Filed 11-21-83; 8:45 am]  
BILLING CODE 8320-01-M

# Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

### CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

**TIME AND DATE:** 9:45 a.m., Wednesday, November 23, 1983.

**LOCATION:** Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, MD.

**STATUS:** Closed to the public.

#### MATTER TO BE CONSIDERED:

##### 1. Section 15 FY 83 Reports

The staff will brief the Commission on Section 15 report for FY 83.

##### 2. Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information: call 301-492-5709.

#### CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207, 301-492-6800.

[S-1623-83 Filed 11-18-83; 12:46 pm]

BILLING CODE 6355-01-M

2

### COUNCIL ON ENVIRONMENTAL QUALITY

November 18, 1983.

**TIME AND DATE:** 3 p.m., Wednesday, November 30, 1983.

**PLACE:** Conference Room, 722 Jackson Place NW., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Council will consider a report of the comments on the August 11, 1983 proposal (48 FR 36466) regarding the worst case requirement (40 CFR 1502.22) and determine future action regarding this subject.

### CONTACT PERSON FOR MORE INFORMATION:

Dinah Bear, 395-5754.  
[S-1625-83 Filed 11-18-83; 3:50 pm]  
BILLING CODE 8125-01-M

3

### FEDERAL HOME LOAN BANK BOARD

**TIME AND DATE:** 10 a.m., Monday, November 28, 1983.

**PLACE:** Board Room, Sixth Floor, 1700 G Street NW., Washington, D.C.

**STATUS:** Open meeting.

### CONTACT PERSONS FOR MORE INFORMATION:

Ms. Gravlee (202-377-6970).

**MATTERS TO BE CONSIDERED:** Reserve Requirements and Policies Relating to Insurance of Accounts of De Novo Institutions.

[No. 64, November 18, 1983]

[S-1626-83 Filed 11-18-83; 3:59 pm]

BILLING CODE 8720-01-M

4

### NUCLEAR REGULATORY COMMISSION

**DATE:** Week of November 28, 1983.

**PLACE:** Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

**STATUS:** Open and closed.

**MATTERS TO BE DISCUSSED:** Monday, November 28:

10:00 a.m.  
Presentation and Discussion Regarding Treatment of Management Issues in TMI-1 Restart Proceeding (Public Meeting)

Tuesday, November 29

10:00 a.m.  
Status Report on Regionalization (Public Meeting)

2:00 p.m.  
Discussion of NRC Regulatory Policy for Advanced Reactors (Public Meeting)

Wednesday, November 30:

10:00 a.m.  
Discussion of Policy and Planning Guidance (Public Meeting)

2:00 p.m.  
Discussion of Management-Organization and Internal Personnel Matters (Closed-Exemption 2 and 6)

Thursday, December 1:

10:30 a.m.  
Briefing by Executive Branch (Closed-Exemption 1)

Federal Register

Vol. 48, No. 226

Tuesday, November 22, 1983

2:00 p.m.

Discussion by Industry on Insider Rule (Public Meeting)

3:30 p.m.

Affirmation/Discussion and vote (Public Meeting):

a. NRC Response to Court Decision Vacating Interim Rule on Environmental Qualification Deadline

Friday, December 2:

10:00 a.m.

Briefing/Possible Vote on TMI Stream Generators and Discussion of Corrosion in PORVs at TMI-1 (Public Meeting)

**ADDITIONAL INFORMATION:** Affirmation scheduled for November 23, 11:30 a.m., items revised to include Review of ALAB-714 (Comanche Peak) and Final Rulemaking Concerning Fitness for Duty for Personnel; and Review of ALAB-729 and Review of ALAB-744 *cancelled*. On November 17 "Discussion of Motion for Stay in Catawba" was held (Closed—Exemption 10).

### TO VERIFY THE STATUS OF MEETINGS

**CALL:** (Recording) (202) 634-1498.

### CONTACT PERSONS FOR MORE INFORMATION:

Walter Magee (202) 634-1410.

November 18, 1983.

Walter Magee,

*Office of the Secretary.*

[S-1624-83 Filed 11-18-83; 3:58 pm]

BILLING CODE 7590-01-M

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### OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

**TIME AND DATE:** 10 a.m. on December 8, 1983.

**PLACE:** Suite 316, 1825 K Street NW., Washington, D.C.

**STATUS:** Because of the subject matter, it is likely that this meeting will be closed.

**MATTERS TO BE CONSIDERED:** Discussion of specific cases in the Commission adjudicative process.

### CONTACT PERSON FOR MORE INFORMATION:

Mrs. Patricia Bausell, (202) 634-4015.

Dated: November 18, 1983.

[S-1622-83 Filed 11-18-83; 12:34 pm]

BILLING CODE 7600-01-M

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### SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the

provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of November 28, 1983, at 450 5th Street, N.W., Washington, D.C.

An open meeting will be held on Tuesday, November 29, 1983, at 9:30 a.m., in Room 1C30, followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Commissioners Evans, Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matters of the open meeting scheduled for Tuesday,

November 29, 1983, at 9:30 a.m., will be:

Consideration of whether to approve a Pacific Stock Exchange proposal to trade an option on a 100-stock index called the High Technology Index. For further information, please contact Alden Adkins, at (202) 272-2418.

The subject matter of the closed meeting scheduled for Tuesday, November 29, 1983, following the 9:30 a.m. open meeting, will be:

Formal order of investigation  
Settlement of administrative proceedings of an enforcement nature  
Institution of administrative proceedings of an enforcement nature  
Institution of injunctive actions

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Michael Lefever at (202) 272-2468.

November 18, 1983.

{S-1827-83 Filed 11-18-83: 4:01 pm}

BILLING CODE 8010-01-M

U.S. Nuclear Regulatory Commission

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Tuesday  
November 22, 1983

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**Part II**

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**Nuclear Regulatory  
Commission**

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**Applications and Amendments to  
Operating Licenses Involving No  
Significant Hazards Considerations;  
Monthly Notice**

## NUCLEAR REGULATORY COMMISSION

### Applications and Amendments To Operating Licenses Involving No Significant Hazards Considerations; Monthly Notice

#### I. Background

Pursuant to Public Law (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing its regular monthly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This monthly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last monthly notice which was published on October 26, 1983 (48 FR 49574) through November 14, 1983.

### NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By December 23, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be 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 basis 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, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so

inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

**Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama**

*Date of amendments request:* October 13, 1983.

*Description of amendments request:* Proposed Technical Specification changes would allow reactor operation with slightly positive moderator temperature coefficient (MTC) at low power levels and an increased enthalpy hot channel factor (F Delta H) limit below full power.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of standards for conclusions regarding "no significant hazards consideration" by providing certain examples (48 FR 14870). The proposed changes appear to fit example "(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the

system or component specified in the Standard Review Plan; for example, a change resulting from the application of a small refinement of a previously used calculational model or design method." Westinghouse Electric Corporation, the reactor plant designer, has performed analyses to show that existing safety criteria are met for the proposed changes. Our preliminary review supports the licensee's contention of a no significant hazard consideration in that prior reviews of analogous Westinghouse analyses for other plants have concluded that approval should satisfy all applicable Standard Review Plan criteria. Therefore, based on previous reviews, on the licensee's and Westinghouse's analyses, and our preliminary review, we propose that these proposed Technical Specification changes described in the licensee's October 13, 1983 letter to involve no significant hazards considerations.

*Local Public Document Room*  
*location:* George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

*Attorney for licensee:* George F. Trowbridge, Esquire, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* Steven A. Varga.  
**Arkansas Power and Light Company, Dockets Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2, Pope County, Arkansas**

*Date of amendment request:* August 23, 1983.

*Description of amendment request:* This submittal is a revision to the request for amendments dated October 31, 1980, which was noticed in the *Monthly Federal Register Notice* on August 23, 1983 (48 FR 38387). The amendments would revise the Technical Specifications to incorporate hydrogen/oxygen concentration limitations and hydrogen/oxygen monitoring requirements in the radioactive waste gas systems. The proposed Technical Specifications would establish limits of hydrogen/oxygen concentrations in the Waste Gas Surge Tank and Waste Gas Decay Tank such that a flammable or explosive mixture would not be possible. This is an added limitation to the current Technical Specifications. The application was submitted in response to an NRC request to incorporate the applicable current staff positions, presented in NUREG-0472, "Radiological Effluent Technical Specifications for PWRs," to ensure compliance with 10 CFR 50, Appendix I. The revision proposes the additional requirement of continuous monitoring of the waste gas to the waste gas decay tanks by redundant waste gas

analyzers. These analyzers will detect the formation of a potentially flammable mixture of hydrogen and oxygen in the Waste Gas System before it becomes flammable. The implementation of the proposed changes is expected to reduce significantly the likelihood of hydrogen explosions in the radioactive waste gas systems.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards include changes that constitute additional limitations not presently included in the Technical Specifications and that make the license conform to changes in the regulations. Since the proposed changes add requirements and ensure compliance with the regulations in accordance with staff positions, the staff proposes to determine that the application does not involve a significant hazards consideration.

*Local Public Document Room*  
*location:* Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

*Attorney for licensee:* Nicholas S. Reynolds, DeBevoise and Liberman, 1200 Seventeenth Street, NW., Washington, D.C. 20036.

*NRC Branch Chiefs:* James R. Miller, John F. Stoltz.

**Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Unit Nos. 1 and 2, Calvert County, Maryland**

*Date of amendment request:* September 20, 1983 as supplemented by letter dated October 12, 1983.

*Description of amendment request:* The proposed amendment would change the Unit 1 and Unit 2 Technical Specifications (TS) to reflect (1) clarification of the operability requirements for the containment purge isolation valves, (2) correction of a typographical error in the stated range for reactor coolant system leak detection instrumentation, (3) clarification of the basis for the combustible gas control system, (4) changes to the list of safety related seismic restraints, "snubbers," which are required to be operable, (5) a change to the requirements for surveillance of Containment Spray Actuation Signal (CSAS) Subchannels A-3 and B-3 (Unit 2 only), and (6) a change to the surveillance requirements for the control room emergency ventilation system.

*Basis for proposed no significant hazards consideration determination:*

The Commission has provided guidance concerning the application of standards for conclusions regarding "no significant hazards considerations" by providing examples (48 FR 14870). One example given in 48 FR 14870 for an amendment that is not likely to involve a significant hazards consideration is: "(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." Several of the proposed changes to the TS are covered by this example as presented below.

Technical Specification 3.6.1.7 provides Limiting Conditions for Operation (LCOs) for containment purge supply and exhaust isolation valves. Section "b" of the Action Statement specifies remedial action to be taken in the event that these isolation valves experience high leakage rates. The wording of the requirement, however, references only the purge supply valve while the remainder of TS 3.6.1.7 references purge supply and/or exhaust isolation valves. BG&E has proposed a change to this TS to replace the phrase "... one containment purge supply valve ..." with the phrase "... one containment purge supply and/or one exhaust isolation valve ..." to correct this apparent error. Since the proposed change to the TS is for the purpose of correcting an error, the change is deemed to be administrative in nature. Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards considerations.

BG&E has proposed a change to TS 3/4.3.3, "Monitoring Instrumentation," to correct a typographical error associated with containment atmosphere monitor (CAM). The CAM provides a reactor coolant leak detection capability by sampling the containment atmosphere for gaseous and particulate activity. The typographical error involves the measurement range for the gaseous and particulate CAM functions which are specified in TS Table 3.3-6 as 1 to  $10^6$  cpm. Recently, while reviewing the reactor coolant leak detection capability, BG&E found that the actual measurement range of the CAM, as indicated by the CAM technical literature, Table 11-13 of the FSAR, and the actual scale of the instrumentation was actually 10 to  $10^6$  cpm. Thus, BG&E concluded that the lower limit for CAM measurement, as stated in TS Table 3.3-6, should be 10 cpm rather than 1 cpm.

We concur with BG&E that the lower limit for gaseous and particulate CAM monitors should be 10 cpm. Since the

proposed TS change would correct a typographical error, the change is administrative in nature. Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards considerations.

BG&E has proposed a change to TS Bases 3/4.8.5, "Combustible Gas Control." The proposed change would add the following words to the Bases regarding the containment hydrogen detection capability: "The detection equipment has been upgraded to meet the requirements of NUREG-0737, which included a detection range of zero to 10 percent hydrogen." The proposed change is consistent with the NRC's letter to BG&E dated April 21, 1983 which provided approval of the Calvert Cliffs hydrogen detection capability (TMI Action Item II.F.1.6) as reviewed against the criteria of NUREG-0737. The proposed change is administrative in nature in that it does not affect any requirements in the TS and is provided only for clarification. Accordingly, the Commission proposed to determine that the proposed change to the TS involves no significant hazards considerations.

BG&E has proposed several changes to the list of snubbers, contained in the TS, which are required to be maintained operable and to undergo routine surveillance. These changes are as follows:

- Snubber 2-15-10 (Unit 2 only)

This snubber is installed on Class II safety-related piping in the Component Cooling System and meets the criteria for inclusion in the Technical Specifications. The snubber has been visually inspected and verified to be fully operational through functional testing, thus, it has been fully upgraded to safety-related standards. Due to an oversight, this snubber had been unintentionally omitted from the safety-related snubber program for Unit 2.

- Snubbers 1-83-13 and 1-83-18 (Unit 1 only)

An error was initiated by a BG&E Request for License Amendment dated June 17, 1982. Based upon this request, License Amendments 77 and 58 added several main steam line seismic hydraulic snubbers to the Table 3.7-4 in the Technical Specifications. Two snubbers therein were incorrectly designated as snubbers 1-83-17 and 1-83-24. These snubbers should actually have been designated as snubbers 1-83-13 and 1-83-18.

- Snubber 1-60-7 (Unit 1)

This snubber is located on the service water return line from #13 Containment Air Recirculation and Cooling Unit, in

Unit 1 Containment on the 84 foot elevation. Under an earlier modification, the Architectural Engineer performed revised stress calculations on safety-related systems to upgrade supports and hangers. As a result of these revised calculations, it was determined that this snubber was no longer required, due to low movement of the service water line under postulated loading conditions, including normal, transient, and analyzed accident conditions. The snubber was subsequently removed.

The proposed changes to the snubber TS are administrative in nature in that they provide consistency between the TS and the present plant configuration. Accordingly, the Commission proposes to determine that the proposed changes to the TS involve no significant hazards considerations.

In the fifth proposed change to the TS addressed herein, the licensee has proposed a conforming change in the Surveillance Requirements for subchannels A-3 and B-3 of the containment Spray Actuation System (CSAS) for Unit 2 to reflect a previous change in the circuitry. The previous function of CSAS subchannels A-3 and B-3 was to isolate the service water supply to the spent fuel pool coolers on indication of high containment pressure. The licensee has modified the plant by moving these functions to other CSAS actuation channels, since the service water isolation function would still be tested as part of the CSAS, no change in the operability or surveillance requirements associated with service water isolation has been proposed. CSAS subchannels A-3 and B-3 as reconstituted perform the following functions on indication of high containment pressure: trip the main feedwater, condensate booster, and heater drain pumps and close the main steam and feedwater isolation valves. These automatic actions would isolate the main feedwater system in the event of a steam line break thus preventing overpressurization of the containment. This modification was performed in response to NRC's concerns associated with continued feedwater addition during a postulated main steam line break as described in NRC's IE Bulletin No. 80-04 dated February 8, 1980.

The present surveillance requirement for subchannels A-3 and B-3 requiring monthly testing is no longer appropriate for the reconstituted subchannels A-3 and B-3. Such testing, during reactor operation, would result in a reactor trip due to closure of the main steam isolation valves since the MSIVs cannot be bypassed during testing. Because of the new function of subchannels A-3

and B-3, the licensee has proposed that a new requirement be added to the TS so that CSAS subchannels A-3 and B-3 would be tested every 18 months during plant shutdown. This is appropriate considering the design of the associated equipment and the need to prevent unnecessary reactor scrams. Since testing of the service water isolation function is not affected by the proposed change, and since the proposed change requires periodic testing of the new function of the subchannels which was not previously incorporated in the TS, the proposed change represents an additional restriction. Under the examples given in 48 FR 14870 for an amendment not likely to involve a significant hazards consideration, example (ii) addresses such additional limitations, restrictions, or controls not presently included in the TS. The proposed testing requirement for CSAS subchannels A-3 and B-3 would add a restriction and control to the TS. Therefore, the NRC staff proposes to conclude that the proposed associated change to the TS involves no significant hazards considerations.

The final proposed change to the TS, addressed herein, would modify the surveillance requirements for the control room emergency ventilation system. The Control Room/Cable Spreading Room ventilation system includes a redundant, year round, safety related, air conditioning system serving both Unit Nos. 1 and 2. Air conditioning is required in these rooms to regulate the temperature under which safety related equipment must function. In order to provide better operating conditions for operators during the summer, the safety related air conditioning system has been augmented with additional trains of non-safety related air conditioning equipment consisting of a chilled water coil system installed in existing ventilation ductwork, two chill water pumps, and a 220-ton chiller unit. All electrical and mechanical components of the safety related and non-safety systems are independent of each other with the exception of the existing ductwork and fans.

At the present time, TS 4.7.6.1 requires confirmation of the operability of the control room air conditioning system by verifying, at least once per twelve hours, that the control room air temperature is less than or equal to 120°F. Since the non-safety grade backup control room air conditioning system is normally in operation, with the safety grade system in standby, the existence of acceptable temperatures in the control room does not indicate that the safety grade system is operable. (The safety grade system

automatically starts when the control room temperature exceeds the thermostat setpoint.)

Accordingly, BG&E has proposed a change to TS 4.7.6.1a to provide for a surveillance which will assure that the safety grade air conditioning system will be properly tested. The proposed surveillance would require that, "At least once per 62 days, on a staggered test basis, by deenergizing the backup control room air conditioner, verifying that emergency control room air conditioners maintain air temperature less than or equal to 104°F for at least 12 hours." A 62 day, staggered test of a two component system would require each component to be tested on alternate 31 day periods.

One example in 48 FR 14870 for an amendment that is not likely to involve a significant hazards consideration is: "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." As indicated previously, the addition of the non-safety grade control room air conditioning system rendered TS 4.7.6.1a meaningless with regard to surveillance of the safety grade air conditioning system. The proposed TS provides a meaningful test of the safety grade system at a frequency that is consistent with similar safety grade components; therefore, the TS represents an additional restriction. Moreover, the proposed TS is more stringent than the existing TS in that the criteria for acceptable operation of the safety grade control room air conditioning system has been decreased from 120°F to 104°F. Accordingly, the commission proposes to determine that the proposed change involves no significant hazards considerations.

*Local Public Document Room*  
*location:* Calvert County Library, Prince Frederick, Maryland.

*Attorney for licensee:* George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* James R. Miller.

Commonwealth Edison Company, Docket Nos. 50-237/249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois; and Docket Nos. 50-254/265, Quad-Cities Station, Units 1 and 2, Rock Island County, Illinois

*Date of amendment request:* January 12, 1982.

*Description of amendment request:* A request for a change in the Technical Specifications (TS) to revise a Limiting Condition for Operation (LCO)

concerning safety and relief valve position indication.

*Basis for proposed no significant hazards consideration determination:* The Technical Specifications (TS) presently state that, if the reactor is in a shutdown condition, it may not be started up until all position indication is restored for safety and relief valves. This could cause extensions of short-term outages associated with scram recoveries or minor maintenance. The proposed TS change would require restoration of all position indication only if the reactor is in cold shutdown for more than seventy-two hours, and, therefore, is a relaxation in the present limiting conditions for operation. However, the results of this proposed change, while slightly reducing safety margins are clearly within acceptable criteria since the indicators provide no accident mitigation function, are not safety related and were installed without redundancy. Thus, this proposed change is similar to an example of "no significant hazards" in the guidance provided by the Commission (48 FR 14870, April 6, 1983), namely, a change which "may reduce in some way a safety margin but where the results of the changes are clearly within all acceptable criteria with respect to the system as specified in the Standard Review Plan," (example vi). Based on the above, the staff proposes to determine that the requested change would not involve a significant hazards consideration.

*Local Public Document Room*  
*location:* Morris Public Library, 604 Liberty Street, Morris, Illinois 60451 (Dresden 2/3); and Moline Public Library, 504 17th Street, Moline, Illinois 61285 (Quad Cities 1/2).

*Attorney for licensee:* Robert G. Fitzgibbons, Jr., Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

*NRC Branch Chiefs:* Dennis M. Crutchfield and Domenic B. Vassallo.

Commonwealth Edison Company, Docket No. 50-249, Dresden Nuclear Power Station, Unit 3, Grundy County, Illinois

*Date of amendment request:* July 18, 1983.

*Description of amendment request:* The proposed Technical Specification change would allow the use of eight demonstration ASEA-Atom reactor control blades, four of which contain hafnium in addition to boron carbide as the neutron absorber, in the Dresden 3 core during Cycle 9 operation.

*Basic for proposed no significant hazards consideration determination:*

The licensee proposes to insert eight test ASEA-Atom (A-A) reactor control blades (blades), four of which contain hafnium in addition to boron carbide as the neutron absorber, in the Dresden 3 Cycle 9 as part of a demonstration program sponsored by the Electric Power Research Institute aimed at qualifying a new blade design which would provide for a target exposure for these blades at least 50% higher than the current blade designs.

The A-A blades are mechanically compatible with all reactor components and due to the similar weight of the A-A and General Electric blades presently installed in Dresden 3, scram performance is expected to be very similar. The A-A blades have approximately 9% greater reactivity worth, indicating an overall improvement in scram reactivity characteristics. The greater worth may result in a slightly larger reactivity insertion for the Rod Drop Accident Event (RDA) or the Rod Withdrawal Error (RWE). However, the change will be insignificant since substantial margin is available to the RDA acceptance criteria and the RWE results, including the effect of the higher worth blades, will remain bounded by other, more severe operational transients which typically establish the operational margin to safety. Therefore, the results of this proposed change, while perhaps slightly reducing safety margins, are clearly within the acceptable criteria. Thus, this proposed change is similar to an example of "no significant hazards" in the guidance provided by the Commission April 6, 1983 (48 FR 14870), namely, a change which "may reduce in some way a safety margin but where the results of the change are clearly within all acceptable criteria with respect to the system as specified in the Standard Review Plan," (example vi). Based on the above, the staff proposes to determine that the requested change does not involve significant hazards consideration.

*Local Public Document Room location:* Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

*Attorney for licensee:* Robert G. Fitzgibbons, Jr., Isham, Lincoln & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Commonwealth Edison Company,** Docket No. 50-249, Dresden Nuclear Power Station, Unit 3, Grundy County, Illinois

*Date of amendment request:* August 25, 1983.

*Description of amendment request:* Request for approval of a Technical Specification revision which would allow changes to the safety/relief actuating the setpoint of a Target Rock valve and setpoint of two Electromatic Relief valves.

*Basis for proposed no significant hazards consideration determination:* In analyses associated with the Mark I containment program, it was discovered that the torus could be subjected to excessive loads if a relief valve actuation occurs shortly after closure. This loading is the result of a water leg entrapped in the relief valve discharge line from the vacuum caused by the condensed steam in this line. To prevent such loading, a modification to the electromagnetic relief (EMR) valve logic is currently being installed for Dresden 3 which will delay automatic opening of two EMR valves up to ten seconds from the last closure of the valve. In order to maintain very similar overall Target Rock and EMR valve performance with the logic change and prevent excessive loading, the two affected EMR valves' (203-3B and 203-3C) TS pressure setpoints must be lowered so that they are the first to actuate and the setpoint of one valve (Target Rock) will be raised. An identical request for Dresden 2 was reviewed by the staff as part of the analysis for Dresden 2 Amendment TS, dated April 7, 1983. The staff, after reviewing the changes for Dresden 2, found "... the changes to have a minimal effect on safety limits and therefore, to be acceptable".

Based on the above, the staff proposes to determine that the same amendment request for Dresden 3 would involve no significant hazards consideration since it 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.

*Local Public Document Room location:* Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

*Attorney for licensee:* Robert G. Fitzgibbons, Jr., Isham, Lincoln & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Commonwealth Edison Company,** Docket No. 50-249, Dresden Nuclear Power Station, Unit 3, Grundy County, Illinois

*Date of application request:* August 25, 1983.

*Description of amendment request:* the proposal would change the Technical Specifications relating to the Dresden 3 Cycle 9 Reload to incorporate new MAPLHGR and MCPR curves based on Exxon Nuclear Corporation's analysis of plant transient events and would make changes to the technical bases which were inadvertently omitted in the licensee's Dresden 3 Cycle 8 submittal.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of standards for determining whether a requested action involves a no significant hazards consideration by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples of actions involving no significant hazards consideration relates directly to reloads (example iii). The proposed amendment would not involve fuel assemblies significantly different from those previously acceptable to the NRC for a previous core since the Dresden 3 Cycle 9 reload fuel assumes no significant change in the mechanical design from that used in Cycle 8. In addition, the thermal hydraulic design evaluation remains bounded by the FSAR and previously acceptable reload analyses. Finally, the calculated thermal performance of the proposed Dresden 3 Cycle 9 core during accidents and transients remains within the bounds of previously accepted analyses. Thus, the staff proposes to determine that the requested action involves no significant hazards consideration because it would not involve a significant increase in the probability or consequence of an accident previously evaluated, would not create the possibility of a new or different kind of accident from any previously evaluated and would not involve a reduction in a margin of safety.

*Local Public Document Room location:* Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

*Attorney for licensee:* Robert G. Fitzgibbons, Jr., Isham, Lincoln & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Commonwealth Edison Company,** Docket No. 50-237/249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois; and Docket Nos. 50-254/265, Quad-Cities Station, Units 1 and 2, Rock Island County, Illinois

*Date of amendment request:* August 31, 1983.

*Description of amendment request:* Proposed technical specification

changes which would approve additional limiting conditions for operation for the Class 1E RPS power monitoring systems when the number of class 1E power monitoring systems are less than specified and surveillance requirements which include a functional test, channel calibration and verification of trip setpoints.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of standards for making a no significant hazards determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of actions involving no significant hazards consideration relates to changes that constitute an additional limitation, restriction or control not presently included in the technical specifications; for example, a more stringent surveillance requirement. The proposed action is directly related to this example since the proposed change would add Limiting Conditions for Operation (LCO) and surveillance requirements on the Reactor Protection System power monitoring system which previously has no such LCOs or surveillance requirements imposed. Since this is more stringent than the present requirement, it constitutes an additional limitation, restriction or control not presently included in the technical specifications and so the staff proposes to determine that there is not significant hazards consideration.

*Local Public Document Room*  
location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451. (Dresden 2/3); and Moline Public Library, 504 17th Street, Moline, Illinois 61265 (Quad Cities 1/2).

*Attorney for licensee:* Robert G. Fitzgibbons, Jr., Isham, Lincoln & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

*NRC Branch Chief:* Dennis M. Crutchfield and Domenic B. Vassallo.

Commonwealth Edison Company, Docket No. 50-265, Quad Cities Nuclear Power Station, Unit No. 2

*Date of amendment request:* July 15, 1983.

*Description of amendment request:* The request is to change the Technical Specifications concerning setpoints for safety-relief valves. It is proposed that the setpoint of the Target Rock valve be changed from 1115 to 1135 psig, and the setpoints of two electromagnetic relief (EMR) valves be changed from 1130 to 1115 psig. The purpose of the setpoint changes is to accommodate EMR valve logic changes to reduce hydrodynamic

loading in the suppression pool of the Mark I Containment.

In analyses associated with the Mark I Containment Program, it was discovered that excessive loads could be delivered to the torus if a relief valve actuation occurs shortly after it closes. This loading is the result of a water leg entrapped in the relief valve discharge line from the vacuum caused by the condensed steam in this line. To prevent such loading, a modification to the EMR valve logic is currently being installed which will delay automatic opening of two EMR valves up to ten seconds from the last closure of the valve. In order to maintain very similar overall Target Rock and EMR valve performance with this logic change and prevent excessive loading, the two affected (EMR) valves Technical Specification pressure setpoints must be lowered so that they are the first to actuate and the setpoint of one valve (Target Rock) will be raised.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of standards for conclusions regarding no significant hazards considerations by providing examples (48 FR 14870, April 6, 1983). One such example (iii) clearly applicable here provides for a no significant hazards consideration finding where no significant changes are made to the acceptance criteria for the technical specifications and regulations are not significantly changed, and where the NRC has previously found such methods acceptable. The required licensing analysis for the upcoming operating cycle was performed using the proposed changed setpoints. The results of the analysis were found to comply fully with and to be conservatively bounded by the current provision of the license and technical specifications with no significant effect on a safety margin. Therefore, when reviewed against the criteria of 10 CFR 50.92 and when compared with example (iii) provided by the Commission, a determination of no significant hazards consideration is proposed.

*Local Public Document Room*  
location: Moline Public Library, 504-17th Street, Illinois 61265.

*Attorney for licensee:* Mr. Robert G. Fitzgibbons, Jr., Isham, Lincoln & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

*NRC Branch Chief:* Domenic B. Vassallo.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Station, Unit Nos. 1 and 2, Zion, Illinois

*Date of amendment request:*  
September 19, 1983.

*Description of amendment request:* Commonwealth Edison requested a change to the Zion Technical Specifications regarding Reactor Coolant System Chemistry and Specific Activity. This change upgrades the Zion Technical Specifications to the level of the Standard Technical Specifications (NUREG-0452). The upgrading is accomplished by (1) changing the ACTION statement to require cold shutdown in 30 hours if chemistry limits are exceeded instead of the former 48 hours, (2) changing the bases by substituting the language used in the Standard Technical Specifications, (3) changing the specific activity limit, (4) adding a new limit for dose-equivalent I-131, (5) adding ACTION statement in the event I-131 limits are exceeded, (6) adding a new table of required sampling and analysis frequencies, (7) adding a new figure for I-131 limits as a function of power, and (8) adding new reporting requirements in the event I-131 limits are exceeded.

*Basis for proposed no significant hazards consideration determination:* The revised technical specifications have been modeled after the Standard Technical Specification Sections 3.4.4.8 and 3.4.4.9. Commonwealth Edison has determined that the proposed change involves no significant hazards consideration, based on the fact that the proposed change consists of "additional limitations, restrictions, or controls not presently included in the technical specifications". This determination is consistent with example (ii) provided in 48 FR 14871.

The NRC staff has reviewed this determination by the licensee and concludes that the standards of § 50.92 appear to be satisfied. Therefore, the staff proposes to determine that operation of the facility in accordance with the proposed amendment does not involve a significant hazards consideration.

*Local Public Document Room*  
location: Zion Benton Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

*Attorney for licensee:* P. Steptoe, Esq., Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st floor, Chicago, Illinois 60602.

**Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan**

*Date of amendment request:* March 1, 1977, as supplemented May 3 and October 7, 1977.

*Description of amendment request:* The requested amendment would approve Technical Specification additions required for Inservice Testing (IST).

*Basis for proposed no significant hazards consideration determination:* The proposed TS addition would require that the inservice testing of valves be performed in accordance with the Edition and Addenda of the ASME Boiler and Pressure Vessel Code, as specified in 10 CFR 50.55a of the Commission's regulations. The Commission has provided guidance concerning the application of standards for no significant hazards determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples of actions likely to involve no significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. Another example is changes to achieve compliance with the regulations. The proposed amendment, therefore, falls within both categories of the cited examples because it involves an additional control not previously included in the Technical Specifications and it will achieve compliance with the regulations. Therefore, the staff proposes to determine that this action involves no significant hazards consideration.

*Local Public Document Room*  
*location:* Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

*Attorney for licensee:* Judd L. Bacon, Esquire, Consumers Power Company, 2112 West Michigan Avenue, Jackson, Michigan 49201.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan**

*Date of amendment request:* August 21, 1980.

*Description of amendment request:* The amendment would make changes to the Technical Specification regarding the use of the term "operable" as it applies to safety systems in power reactors. The proposed changes include a definition of "operable" as well as a section on operability requirements in the Limiting Conditions for Operation and Surveillance sections of the Technical Specifications. In particular, the

proposed changes require the normal or emergency power source as well as all supporting auxiliary systems for a safety system to be operable or the safety system, itself, must be declared inoperable and the required corrective action taken. The proposed changes were in response to a generic letter issued to all licensees on April 10, 1980. The letter provided proposed revised Technical Specifications for each licensee, and requested that they be adopted.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870, April 6, 1983). The examples of actions involving no significant hazards consideration include: "... (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications; for example, a more stringent surveillance requirement." The changes proposed in the application for amendment are encompassed by this example in that the proposed changes are more restrictive because they state previously implicit requirements for support systems to be functional and provide required actions for Limiting Conditions of Operation which are not being met.

Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room*  
*location:* Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

*Attorney for licensee:* Judd L. Bacon, Esquire, Consumers Power Company, 2112 West Michigan Avenue, Jackson, Michigan 49201.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan**

*Date of amendment request:* July 6, 1981.

*Description of amendment request:* The proposed amendment would remove the requirement for calibration of the power range neutron monitoring channels by heat balance calculations when the power level is below 20% of rated power. The present Technical Specification indicates by a footnote

that the tests and calibrations for the reactor protection systems do not have to be performed during lengthy outages. This is the only exclusion.

*Basis for proposed no significant hazards consideration determination:* The power range monitoring channels provide protection from power operation at greater than 106.5% of rated power. At some low power level, the readings that are used to perform the heat balance calibration are not accurate enough to provide a proper calibration. This proposed change to the Technical Specification would define that limiting acceptable power level. The NRC staff agrees that at a low power level, calibration by heat balance is not possible and the Standard Technical Specifications reflect this by only requiring such calibration above 15% of rated power. Upon completion of staff review, this action will only approve a limitation on the calibration requirement where there would be no reduction in the margin of safety and no increase in the probability or consequences of any accident. On this basis, the staff proposes to determine that this amendment would not involve a significant hazards consideration.

*Local Public Document Room*  
*location:* Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

*Attorney for licensee:* Judd L. Bacon, Esquire, Consumers Power Company, 2112 West Michigan Avenue, Jackson, Michigan 49201.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan**

*Date of amendment request:* August 30, 1982 as supplemented November 5, 1982.

*Description of amendment request:* The proposed action would approve modifications to the Technical Specifications for ventilation filters for the Control Room and the Fuel Storage Building to meet upgraded model Technical Specifications issued by the NRC on December 12, 1974. The proposed Technical Specifications would also replace the requirement for Containment Purge Filters with a requirement for hydrogen recombiners.

*Basis for proposed no significant hazards consideration determination:* The proposed modifications to the Technical Specifications governing the operability and testing requirements for the Control Room ventilation filters and the Fuel Storage Building ventilation filters will upgrade these requirements

to current licensing criteria. The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870, April 6, 1983). The examples of actions involving no significant hazards consideration include: "... (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications; for example, a more stringent surveillance requirement." The above proposed changes are encompassed by this example. Therefore, the staff proposes to determine that these changes involve no significant hazards consideration.

The existing Technical Specifications include testing requirements for filters in the Containment Purge System but do not contain operability requirements for the hydrogen recombiners in Containment. The original purpose for the filters in the Containment Purge System was to remove fission products from the exhausting containment air following a loss-of-coolant-accident where the containment required purging to control the build-up of hydrogen. The Palisades Plant also has hydrogen recombiners in Containment. The Code of Federal Regulations, 10 CFR 50.44(c)(3)(ii), no longer allows containment purge as the primary means for hydrogen control. Therefore, the licensee has proposed operability and surveillance requirements for the hydrogen recombiner and is deleting the testing requirements for the containment purge filters. An example of an action involving no significant hazards consideration given in the Commission's guidance (48 FR 14870, April 6, 1983) is: "... (vii) A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." These latter proposed changes fit this example. Therefore, the staff proposes to determine that these changes involve no significant hazards considerations.

*Local Public Document Room*  
location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

*Attorney for licensee:* Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan**

*Date of amendment request:*  
November 5, 1982.

*Description of amendment request:*  
The application for amendment requests approval of Technical Specifications which would incorporate NUREG-0737 TMI requirements pertaining to high-range noble gas effluent monitors [II.F.1(1)]; sampling and analysis or measurement of high-range radioiodine and particulate effluents in gaseous effluent streams [II.F.1(2)]; containment high-range radiation monitor [II.F.2(3)]; and containment hydrogen monitor [II.F.2(6)].

*Basis for proposed no significant hazards consideration determination:*  
The Commission has provided guidance for making a no significant hazards consideration determination by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions involving no significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The requested action fits this example. On this basis, the NRC staff proposes to determine that the application for the above changes does not involve a significant hazards consideration.

*Local Public Document Room*  
location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

*Attorney for licensee:* Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan**

*Date of amendment request:*  
September 29, 1983.

*Description of amendment request:*  
The proposed amendment would modify the basis for the thermal margin/low pressure trip setting by including the acceptance criterion and the results of a reanalysis of the control rod withdrawal transient that takes into account the response time of the temperature detectors providing input to these safety system instruments. This change would also be reflected in the basis for the limit on linear heat rate.

*Basis for proposed no significant hazards consideration determination:*  
The Commission has issued guidance in the form of examples of the types of

action considered not likely to involve significant hazards consideration (48 FR 14870, April 6, 1983). One of the examples given is: "... (vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan; for example, a change resulting from the application of a small refinement of a previously used calculational model or design method." The proposed change fits this example in that the criteria for prevention of departure from nucleate boiling for this transient remains the same and the codes and methodology have been previously used as the basis for licensing actions on other plants. Therefore, the staff proposes to determine that this amendment involves no significant hazards consideration.

*Local Public Document Room*

location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

*Attorney for licensee:* Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Duke Power Company, Dockets Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units Nos. 1, 2 and 3, Oconee County, South Carolina**

*Date of amendment request:* March 17, 1983.

*Description of amendment request:*  
The proposed amendments would revise the Technical Specifications (TSs), as directed by the NRC staff, to prohibit the connection of more than one generating unit loads to a single startup transformer. The specific revision to the TSs will incorporate a revised Limiting Condition for Operation (LCO) of the plant in the event of the loss of a startup transformer and establish allowable degraded conditions and required action statements.

*Basis for proposed no significant hazards consideration determination:*  
The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the TSs.

Duke Power Company was requested by NRC letter dated August 8, 1979, to review the electric power system at Oconee Nuclear Station as part of the NRC's multiplant review of the adequacy of station electric distribution system voltages. The NRC staff subsequently issued its Safety Evaluation (SE) of the Oconee system design in a letter to Duke Power Company dated March 21, 1983. The SE found the design acceptable but required the implementation of a TS change to prohibit the use of one startup transformer for more than one unit at a time so as to preclude an unacceptable distribution of voltages at the safety buses from occurring. DPC responded to this requirement by the submittal of the proposed amendments described above. The Staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the TSs governing the operation of the startup transformers.

*Local Public Room Location:* Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

*Attorney for licensee:* J. Michael McGarry, III, DeBevoise and Liberman, 1200 17th Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John F. Stoltz.

**General Public Utilities Nuclear Corporation, Docket No. 50-320, Three Mile Island Unit No. 2, Londonderry Township, Dauphin County**

*Date of amendment request:* November 29, 1982 as amended by letter dated February 25, 1983.

*Description of amendment request:* This proposed amendment consists of administrative changes to the wording of section 5.5.4 of Appendix B of the Technical Specifications to be consistent with a modification to the Proposed Technical Specifications issued September 19, 1983. Section 5.5.4 presently references reviews that are performed by the Plant Operations Review Committee (PORC). Because the September 19, 1983 Modification of Order revised the GPU review structure thereby deleting PORC, this statement is no longer correct. The modification would reference Technical Specification Appendix A, Section 6.0 for criteria that should be used. Section 6.0, "Administrative Controls," instructs the licensee on management levels and the type of groups required to review procedures, station design changes and operation modifications at TMI-2.

*Basis for proposed no significant hazards consideration determination:*

The Commission has provided guidance concerning the application of standards for determining whether license amendments involve no significant hazards considerations by providing certain examples which were published in the *Federal Register* on April 6, 1983 (48, #FR 14870). One of the examples of actions involving a no significant hazards consideration is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specification, correction of an error, or change in nomenclature (i).

As directed, this example is applicable to the subject proposed change; therefore, no additional discussion is required.

*Local Public Document Room*

*Location:* State Library of Pennsylvania, Harrisburg, PA 17126.

*Attorney for Licensee:* Shaw, Pittman, Potts and Trowbridge, 1000 M Street, Washington, DC 20036.

*NRC Project Manager:* Thomas C. Poindexter.

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321, Edwin L. Hatch Nuclear Plant, Unit No. 1, Appling County, Georgia**

*Date of amendment request:* April 22, 1983.

*Description of amendment request:* The amendment would delete all the Hatch Unit 1 Technical Specification requirements concerning the drywell to torus differential pressure system.

The drywell to torus differential pressure system and the current related Technical Specifications were installed and implemented at the NRC's request for the purpose of reducing the water leg in the torus downcomers and thereby limiting the pool swell and the resultant pool swell loads in the torus. The licensees have informed the Commission's staff that it has now been shown by analysis that pool swell loads no longer represent worst case conditions and that it has now been determined that operation of the drywell-torus differential pressure system adversely affects safety/relief valve blowdown loads. The licensees also stated that analysis has shown that by deleting operation of the drywell-torus differential pressure system, safety/relief valve blowdown loads can be reduced at least 25%. The licensees have therefore proposed to delete the Technical Specification requirements for this system.

*Basis for proposed no significant hazards consideration determination:* The licensees stated that it has been

determined that the drywell-torus differential pressure system adversely affects safety/relief valve blowdown loads, and they have also stated that by deleting operation of this system, safety/relief valve blowdown loads can be reduced at least 25%. On the basis of the licensees' statements, the Commission's staff expects that deletion of the Technical Specification requirement for the system, and hence its operation, will (1) decrease the probability that the torus will fail due to safety/relief valve blowdown and (2) decrease the extent of possible damage to the torus and therefore will not increase the consequences of accidents previously evaluated. The licensees have stated and the Commission's staff agrees that since the changes introduce no new mode of operation, the possibility of an accident of a different type than analyzed in the Final Safety Analysis Report would not result from the change.

Since the loads on the torus from safety/relief valve blowdown are decreased by this change, the margins of safety would be increased.

Therefore, since the application for amendment involves a proposed change which meets the standards for concluding that no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room*

*Location:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

*Attorney for licensee:* G. F. Trowbridge, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John F. Stoltz.

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin L. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia**

*Date of amendment request:* September 27, 1982.

*Description of amendment request:* This amendment would delete Technical Specifications that require evaluation or shutdown of the plant whenever certain limit values of total settlement of Class I structures or of differential settlement between Class I structures are exceeded. It would also delete the Technical Specifications that require measurement and calculation of this total and differential settlement.

The current Technical Specifications require the licensees to conduct an engineering review and evaluate the

consequences of additional settlement whenever the total or differential settlement exceeds 75 percent of the limit values. It also requires that the results of the evaluation be reported to the Commission. It also requires that the plant be shut down whenever the total or differential settlement exceeds the limit values.

The licensees have stated in their request for this amendment that the settlement records for these Class I structures demonstrate conclusively that the long-term settlement of these structures is virtually complete. The licensees propose, as a compensatory measure, to incorporate the collection of building settlement data with yearly analysis of this data into plant operating procedures.

*Basis for proposed no significant hazards consideration determination:* If the long-term settlement is virtually complete as stated in the licensees' request, the Technical Specification limits on settlement would not be expected to be approached during the remaining lifetime of the license. The licensees have proposed to incorporate annual measurement and evaluation of settlement of structures in its operating procedures. Any further settlement that does occur will be noted and analyzed by the licensees to ensure no significant variation from predicted settlement. On the basis of the licensees' statement that long-term settlement is virtually complete and the licensees' proposal to provide operating procedures requiring measuring, recording and analyzing the settlement of the structures on an annual basis, the Commission's staff has determined that removal of the Technical Specification on settlement would have no effect on the consequences of a previously evaluated accident or involve a significant reduction in the margin of safety currently provided by the Technical Specifications.

Since the proposed amendment would not involve a change in the design of the plant or affect operating procedures other than to require annual evaluation of settlement, the staff has determined that the proposed amendment would not increase the probability of a previously evaluated accident or create the possibility of a new or different kind of an accident from any accident previously evaluated.

Therefore, since the application for amendment involves a proposed change which meets the standards for concluding that no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room*  
*location:* Appling County Public Library,  
301 City Hall Drive, Baxley, Georgia.

*Attorney for licensee:* G. F.  
Trowbridge, Shaw, Pittman, Potts and  
Trowbridge, 1800 M Street, N.W.,  
Washington, D.C. 20036.

*NRC Branch Chief:* John R. Stolz.

**GPU Nuclear Corporation, Docket No.**  
**50-219, Oyster Creek Nuclear**  
**Generating Station, Ocean County, New**  
**Jersey**

*Date of amendment request:* March 18, 1983.

*Description of amendment request:* The proposed amendment requests approval of a Technical Specification change which involves changes to Section 6, Administrative Controls. This section would be changed to provide for interdisciplinary reviews and independent safety reviews using qualified individuals/groups rather than committees.

*Basis for proposed no significant hazards consideration determination:* The content of Section 6.5.1 was deleted as it was not required to meet the guidance of Regulatory Guide 1.33. The revised Section 6.5.1, Technical Review and Control, describes the replacement for the function now performed by the Plant Operations Review Committee (PORC). The review function currently performed by the PORC has been restructured to provide for independent review using qualified individuals/groups to perform an independent review of all proposed changes to procedures, the facility, the Technical Specifications, and proposed license amendments. Additionally, they would conduct a continuing review of overall plant performance and identify trends. The review of trends includes consideration of violations of requirements, significant operating abnormalities or deviations from expected plant behavior, and events requiring notification of the NRC. These tasks have been restructured to provide timely input to the review process. The qualifications of responsible technical reviewers (those responsible for the technical content of each review) will meet or exceed the qualifications of Section 4.4 of ANSI N18.1-1978. This change does not reflect a significant change in the authority of the position(s) and better defines the qualifications required not presently in the Technical Specification. Since the proposed changes relating to the composition of the review group does not suggest any decrease in its effectiveness, the staff proposes to determine that the requested action would involve no significant hazards consideration.

The proposed changes to Section 6.5 of the Technical Specifications for review and audit meet our position described in Revision 2 to Regulatory Guide 1.33, "Quality Assurance Program Requirements (Operation)," pertaining to review and audits. The organization for GPU Nuclear Corporation, Figure 6.2.2, has been changed to add to the position of Maintenance and Construction Director Oyster Creek. This is an update of Figure 6.2.2 to show a previously approved change. Since the proposed changes relating to review and audit, and the position of Maintenance and Construction Director Oyster Creek do not suggest any decrease in their effectiveness, the staff proposes to determine that the requested actions would involve no significant hazards consideration.

Section 6.5.2, Independent Safety Review, has been revised to assign responsibility for independent reviews to the Vice Presidents of each division within GPU Nuclear Corporation. This change would provide the authority and define the responsibility for each of the Vice Presidents whose function is not presently detailed in the Technical Specifications. The Independent Onsite Safety Review Group (IOSRG), Section 6.5.4 is an entirely new review group that provides for a continuing on site safety review of operationally oriented activities by engineers who report outside the operational chain to fulfill the function of an Independent Safety Engineering Group (Task Action Plan Item I.B.1.2 of NUREG-0737). These changes constitute additional limitations, restrictions or controls not presently included in the Technical Specifications, and, thus fall within the Commission's example (ii) (48 FR 14870, April 6, 1983) on actions not likely to involve significant hazards considerations. On this basis, the staff proposes to find that this change does not involve significant hazards considerations.

The proposed change would also delete the General Office Review Board (GORB) from the Technical Specification requirements (currently covered in subsection 6.5.4). The GORB does not perform a function required by the NRC, although, GPU Nuclear Corporation will continue to maintain this Board as a functional entity. Since the GORB is not required by NRC, the staff proposes to find that this change does not involve significant hazards consideration.

The proposed changes to Section 6.5 of the Technical Specifications for review and audit meet our position described in Revision 2 to Regulatory Guide 1.33, "Quality Assurance Program Requirements (Operation)," pertaining to review and audits. The organization for GPU Nuclear Corporation, Figure 6.2.2, has been changed to add to the position of Maintenance and Construction Director Oyster Creek. This is an update of Figure 6.2.2 to show a previously approved change. Since the proposed changes relating to review and audit, and the position of Maintenance and Construction Director Oyster Creek do not suggest any decrease in their effectiveness, the staff proposes to determine that the requested actions would involve no significant hazards consideration.

The other proposed changes are purely administrative in nature and fit example (i) contained in the Commission's guidance (April 6, 1983, 48

FR 14870) concerning actions involving no significant hazards considerations: For example, removing the word "entire" from Paragraph 6.5.3.1(b) and the word "all" from Paragraphs 6.5.3.1.(a) and (c). Accordingly, the staff proposes to determine that this aspect of the amendment request also involves no significant hazards consideration.

The staff proposed to determine that the proposed action does not involve a significant increase in the probability or consequences of an accident previously evaluated, does not create the possibility of a new or different kind of an accident from any previously evaluated and does not involve a significant reduction in a margin of safety. Therefore, the staff proposes to determine that the requested action involves no significant hazards consideration.

*Local Public Document Room*  
location: 101 Washington Street, Toms River, New Jersey 08753.

*Attorney for licensee:* G.F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC branch Chief:* Dennis M. Crutchfield.

**GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey**

*Date of amendment request:* March 31, 1983.

*Description of amendment request:*  
Request approval of Appendix A Technical Specification (TS) changes pertaining to the operability of the isolation condenser isolation valves and are proposed to (1) clarify existing TS and, (2) permit an acceptable out-of-service time for applicable isolation condenser isolation valves to allow for the performance of routine valve maintenance while maintaining the affected isolation condenser operable to perform its intended function.

*Basis for proposed no significant hazards consideration determination:*  
The specifications which determine the operability of the isolation condenser (IC) and associated components are not specific in regard to the operability of IC isolation valves. GPU Nuclear proposes to clarify this situation by incorporating into the Appendix A Technical Specifications additional requirements that would provide limiting conditions for operation relative to the IC isolation valves.

The function of the IC is to depressurize the reactor and to remove reactor decay heat when the turbine and main condenser are unavailable as heat sinks. The two isolation valves on both

the inlet and outlet side of each IC isolate the IC on a high flow signal due to a line break or condenser tube rupture, from either the steam line or condensate return line break sensors. both steam line isolation valves in each steam line are located outside primary containment.

A note to Table 3.1.1, Item H of Section 3.1 "Protection Instrumentation" will be added to address IC isolation valve operability. This note references limiting conditions for operation added to Section 3.8 "Isolation Condenser." Specification 3.8.E is proposed to allow a maximum out-service time of four hours for an isolation condenser inlet (steam side) isolation valve providing the redundant valve is tested operable. Specification 3.8.F is proposed to allow a four hour out-of-service time for the AC motor-operated outlet isolation valve located within the drywell. Upon initiation of the IC the normally closed DC motor-operated condensate return line isolation valve opens, concurrent with the closing of the IC vent lines. This valve is operability tested once a month together with the other isolation valves, vent valves and condensate (to condenser shell side) make-up valve. Inoperability of the normally closed DC outlet valve renders the isolation condenser inoperable because this valve will open on an initiation signal. For this reason an allowable out-of-service time for the DC outlet valve is not appropriate.

The primary purpose for this proposed TS change is to permit routine maintenance, such as valve stem packing addition or replacement, of the steam side isolation valve to be performed during reactor operation while maintaining the affected isolation condenser operable to perform its intended function, if required.

During maintenance on a steam line valve (such as packing replacement) the valve would be backseated and its breaker racked out. The system configuration would otherwise be unchanged.

Presently, interpretation of Oyster Creek Technical Specifications does not allow isolation condenser isolation valve maintenance utilizing this approach. Although they do not specifically address isolation condenser isolation valve operability, they have been interpreted as requiring all isolation valves to be operable in order to consider the isolation condenser to be operable. The licensee has proposed to incorporate limiting conditions for operation which specifically address isolation condenser isolation valve operability. In the case of the steam side valves, Specification 3.8.E would require

the redundant valve to be tested for operability (i.e., stroked) prior to maintenance activity proceeding on the other valve. This ensures isolation capability. In the case of the condensate line valves (Specification 3.8.F) the outside containment DC powered valve is closed during normal operation so the need to ensure isolation capability by cycling is not necessary as the valve is already closed. The DC powered condensate line valve receives the initiation signal and opens to actuate the isolation condenser. If this valve were to become inoperable it would render its associated isolation condenser inoperable, therefore, specifications to allow inoperability of the DC powered condensate line valve are not proposed.

Although the isolation IC's and their associated piping are part of the reactor coolant pressure boundary and the piping penetrates primary containment the isolation valves do not receive containment isolation signals. The proposed four hour maximum out-of-service time, however, was chosen by the licensee to be consistent with that permitted for containment isolation valves.

This change would constitute an additional limitation, restriction, or control not presently included in the Technical Specifications that is, a more stringent surveillance requirement, and is, therefore, consistent with example (ii) of the Commission guidance (48 FR 14870, April 6, 1983) as a type of action which would not involve a significant hazards consideration. Therefore, the staff proposes to determine that the requested action would not involve a significant hazards consideration.

*Local Public Document Room*  
location: 101 Washington Street, Toms River, New Jersey 08753.

*Attorney for licensee:* G.F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* Dennis M. Crutchfield.

**GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey**

*Date of application for amendment:* September 2, 1983.

*Description of amendment request:*  
Request for approval of Technical Specifications (TS) changes, which involves changes to Sections 2, 3 and 4 to allow for the addition of a tenth range to the Intermediate Range Monitor (IRM) of the Neutron Monitoring System.

*Basis for proposed no significant hazards consideration determination:*

Oyster Creek has been experiencing difficulty in switching from the STARTUP mode to the RUN mode without getting a rod withdrawal block. The switch from the STARTUP mode to the RUN mode is made when the IRM's are reading about 100 (0 to 125 scale) on range 9, at approximately 10% of reactor power. In going to RUN mode neutron monitoring is switched from the IRM's to LPRM/APRM's. The problem occurs at this time due to LPRM's reading downscale which causes a rod block. A sufficient number of LPRM's are downscale, due to the physical location of the LPRMs in the core and the skewed axial flux distribution in the core during a reactor startup, that they cannot all be bypassed within operability limits of Oyster Creek's existing Technical Specifications.

The proposed change would add a tenth range to the IRMs, increasing the neutron monitoring with the IRMs from 10% to approximately 40% of rated power. This will significantly increase the IRM/APRM system overlap and allow for a smooth transition from STARTUP to RUN mode. The switch from STARTUP to RUN mode can be performed at a higher power level when the LPRM downscale rod blocks have cleared.

A technical evaluation of the proposed change was performed by the licensee to ensure that the affected systems would perform their required safety function.

A rod withdrawal error (RWE) analysis was performed to evaluate the adequacy of the IRM rod block. The RWE transient was initiated at 35% power. Reactor power is just at the IRM rod block, but the rod block is not initiated. Since the APRM system response was assumed to be degraded and the IRMs do not provide as much core coverage as LPRM/APRMs, the RWE analysis was performed under a conservative assumption that no nuclear instrumentation would terminate the event. The analysis was performed at peak cycle reactivity and with a xenon free core. A control rod pattern consistent with analyzed power and flow conditions was established. Each control rod was separately withdrawn to the full out position. A final power level was determined for each control rod. A minimum flow of 14.0 Mlb/hr (23% of rated flow) was found necessary to insure that a RWE at 36% power or less would not exceed technical specification transient MCPR limits for operation in range 10. The minimum flow is required to ensure the technical specification limit is not violated. Therefore, the minimum flow value itself

should be a technical specification limit. The analysis was Cycle 9 specific and does not necessarily bound future cycle operating conditions. The analysis did not include the uncertainties in the heat balance at low power or in the ability of the IRMs to track core average power. In order to ensure that the uncertainties above are accounted for and that the RWE in the IRM range will be bounded for future cycles, a minimum recirculation flow of 39.65 Mlb/hr has been established for operation in IRM range 10. Critical Power Ratio (CPR) calculations at this flow indicate that a bundle power of 3.36 MW would be required to give the same initial CPR used in the RWE analysis. This is close to twice the power for the limiting bundle in the RWE analysis at 35% of rated thermal power. With design peaking factors this corresponds to approximately a core thermal power at 60% of rated. Thus, a minimum recirculation flow of 39.65 Mlb/hr for operation in IRM 10 will be conservative. The core flow of 39.65 Mlb/hr is set as a Technical Specification limit by this change request.

The adequacy of the IRM scram was determined by comparing the scram level on the IRM range 10 to the scram level on the APRMs at 30% of rated flow. The IRM scram is at 38.4% of rated power while the APRM scram is at 52.7% of rated power. The minimum flow for Oyster Creek is at 30% of rated and this would be the lowest APRM scram point. The increased recirculation flow to 65% of flow will provide additional margin to CPR limits. The APRM scram at 65% of rated flow is 87.1% of rated power, while the IRM range 10 scram remains at 38.4% of rated power. Therefore, transients requiring scram based on flux excursion will be terminated sooner with a IRM range 10 scram than with an APRM scram. The transients requiring a scram by nuclear instrumentation are the loss of feedwater heating and the improper startup of an idle recirculation loop. The loss of feedwater heating transient is not affected by the range 10 IRM since the feedwater heaters will not be put into service until after the LPRM downscale have cleared, thus ensuring the operability of the APRM system. This will be administratively controlled. The improper startup of an idle recirculation loop becomes less severe at lower power level and the IRM scram would be adequate to terminate the flux excursion. This change would constitute an additional limitation, restriction, or control not presently included in the Technical Specifications that is, a more

stringent surveillance requirement, and is, therefore, consistent with example (ii) of the Commission guidance (48 FR 14870, April 6, 1983) as a type of action which would not involve a significant hazards consideration.

*Local Public Document Room location:* 101 Washington Street, Toms River, New Jersey 08753.

*Attorney for licensee:* G. F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, D.C. 20036.

*NRC Branch Chief:* Dennis M. Crutchfield, Chief.

**GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1 (TMI-1), Dauphin County, Pennsylvania**

*Date of amendment request:* April 24, 1981.

*Description of amendment request:* This amendment request would make the following four changes in the Technical Specifications, all of an administrative nature:

1. Specification 4.11, "Site Environmental Radioactivity Survey", refers the reader to Section 6.4 of Appendix B. There is no such section in Appendix B. Therefore, this section would be deleted.

2. Specification 4.8.2 states that a closure time of approximately 112 sec. shall be verified. The TMI-1 Final Safety Analysis Report (FSAR) Section 10.3.1.2 states < 120 sec. is the limit. The erroneous time of 112 sec. was obtained from a test procedure, which was later corrected to 120 sec. Therefore, the closure time in the Technical Specification would be revised to < 120 sec.

3. Table 4.1.3, item 6, requires a twice per week boron concentration check of the Boric Acid Mix Tank or the Reclaimed Boric Acid Tanks. A footnote would be added to this specification to allow relief from this sampling when the tanks are empty.

4. Specification 4.4.2.1.1, "Containment Tendons", states that only the tendon surveillance done at one and three years following initial structural integrity used Regulatory Guide 1.35, Rev. 1. However, the five-year surveillance also was performed per Regulatory Guide 1.35, Rev. 1. Therefore, the above referenced section would be rewritten to reflect what actually occurred.

*Basis for proposed no significant hazards consideration determination:* The basis for the finding is given in 48 FR 14870 under the category of administrative changes exemplified by changes to "achieve consistency"

throughout the Technical Specifications, correction of an error, or a change in nomenclature" (Example i). The justification provided by the licensee and verified by the staff is as follows:

1. Specification 4.11 refers to Appendix B which no longer exists, having been merged with Appendix A in an earlier revision.
2. The change in closure time would achieve consistency within Section 4.8 as well as between the Technical Specifications and Section 10.3.1.2 of the FSAR.

3. A footnote would be added to Table 4.1-3 relieving the licensee of the requirement to check boron concentration in the Boric Acid Mix Tank or Reclaimed Boric Acid Tank when the tank is empty.

4. Specification 4.4.2.1.1 would be changed to reflect the fact that actual inspections were done one, three and five years following initial structural integrity. Since the standards applied to these tests were at least as stringent as those associated with the five-year tests, the significance of the change in the Technical Specifications is only administrative.

Accordingly, the staff proposes to determine that the requested amendment involves no significant hazards consideration.

*Local Public Document Room*  
location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for licensee: Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW, Washington, D.C. 20036.

NRC Branch Chief: John F. Stoltz.

**GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1 (TMI-1), Dauphin County, Pennsylvania**

Date of amendment request: April 21, 1982.

*Description of amendment request:* The amendment would change Section 4.4.1.2 of the Technical Specifications so as to increase the number of valves and seals which would be included in the testing performed to achieve conformance with Appendix J of 10 CFR 50. In addition, changes of an editorial nature would update the wording, correct a valve identification and place the affected listing in alphabetical order.

*Basis for proposed no significant hazards consideration determination:* It has been determined that no significant hazards consideration exists in this amendment because the changes fall within Commission examples of changes not likely to involve significant hazards

considerations: (a) The change constitutes "an additional limitation, restriction, or control" and (b) the change results in "very minor changes in facility operations clearly in keeping with the regulations." (See 48 FR 14870.) Eleven valves are to be added to the list under Type C testing and two valves are to be deleted. The deleted valves no longer function as containment isolation barriers. The addition of the valves will increase the control over potential leak paths from containment. In addition, some of the valves added to the list are a result of changes in regulations requiring hydrogen control subsequent to an accident (46 FR 58484). The wording changes (1) remove reference to fluid block systems since the licensee no longer takes credit for such systems in lieu of valve testing and (2) make minor modifications in the valve listings. The alphabetical rearrangement of the valve tag number listing is appropriate and desirable. The valve listed as "RB-V2" would be correctly noted as "RB-V2A."

*Local Public Document Room*  
location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for licensee: Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW, Washington, D.C. 20036.

NRC Branch Chief: John F. Stoltz.

**Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa**

Date of amendment request: July 20, 1983.

*Description of amendment request:* The proposed amendment, in response to NUREG-0737, Item II.K.3.3, Reporting Safety/Relief Valve Failures and Challenges, incorporates annual reporting requirements into the Technical Specifications for safety/relief valve challenges and prompt notification of safety/relief valve malfunctions and failures.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of standards for determining whether license amendments involve significant hazards considerations by providing certain examples which were published in the *Federal Register* on April 6, 1983 (48 FR 14870). One of the examples (ii) of an action involving no significant hazards considerations is a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications.

The proposed amendment which adds reporting and prompt notification

requirements related to safety/relief valve challenges, failures, and malfunctions constitutes an additional limitation, restriction, and control not presently included in the Technical Specifications. Therefore, based on this consideration we have made a proposed determination that this amendment request involves no significant hazards consideration.

*Local Public Document Room*

location: Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue NW, Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

**Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa**

Date of amendment request: July 20, 1983.

*Description of amendment request:* The proposed amendment would modify the Technical Specifications (TS) by adding limiting conditions for operation and surveillance requirements for the Reactor Core Isolation Cooling System (RCIC). The changes were proposed at the request of the Commission. The NRC, by Generic Letter No. 83-02 dated January 10, 1983, requested all boiling water reactor licensees to submit proposed TS revisions for the items listed in Enclosure 1 of the letter. Iowa Electric Light and Power Company, reviewed the guidance information for these requirements and identified those items for which a TS change is needed. These changes to the TS are necessary to fully implement certain recommendations set forth in NUREG-0737 "Clarification of TMI Action Plan Requirements." Items II.K.3.13 and II.K.3.22 of NUREG-0737 recommend modifications to the RCIC system such that (1) the system will restart on subsequent low water level after it has been terminated by a high water level and (2) RCIC system suction will automatically switch over from the condensate storage tank to the suppression pool when the condensate storage tank level is low. The proposed changes to the Technical Specifications will add limiting conditions for operation and surveillance requirements pertinent to the instrumentation associated with these modifications.

*Basis for proposed no significant hazards consideration determination:* Iowa Electric Light and Power Company has determined that the proposed TS

revisions involve no significant hazards consideration because the proposed changes constitute additional limitations and restrictions not presently included in the TS. This is one of the examples of a request involving no significant hazards that is provided in the published Commission guidance (48 FR 14870) for the requirements in 10 CFR 50.92. The example states that a proposed amendment to an operating license will likely be found to involve no significant hazards considerations, if operation of the facility in accordance with the proposed amendment involves only a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specification; for example, a more stringent surveillance requirement. The proposed changes are encompassed by this example because limitations will be added to the Technical Specifications by specifying new Limiting Conditions for Operation and Surveillance Requirements. The changes were proposed at the request of the NRC and will specify limitations to assure safe operation of the plant with regard to the Reactor Core Isolation Cooling System. Therefore, since the application for amendment involves proposed changes that are similar to an example which is not likely to involve significant hazards considerations, the staff has made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room*  
location: Cedar Rapids Public Library, 428 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

*Attorney for licensee:* Jack Newman, Esquire, Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, NW, Washington, D.C. 20036.

*NRC Branch Chief:* Domenic B. Vassallo.

**Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Wiscasset, Maine**

*Date of amendment request:*  
September 26, 1983.

*Description of amendment request:*  
This application supplements Maine Yankee's application dated October 7, 1982 which was noticed on August 23, 1983. Additional changes are proposed by the licensee to provide surveillance of the purge valve automatic closure feature and the surveillance monitors that initiate closure. Additional criteria are proposed to provide for manual repositioning of containment integrity valves under administrative procedures.

*Basis for proposed no significant hazards consideration determination:*

These changes are similar to the examples provided by the Commission (48 FR 14870) of amendments which are not likely to involve significant hazards. In particular, changes which constitute an additional limitation, restriction or control not presently included in the Technical Specifications are considered not to involve a significant hazards consideration. Since the proposed changes in this supplement represent such additional restrictions and controls, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

*Local Public Document Room*  
location: Wiscasset Public Library, High Street, Wiscasset, Maine.

*Attorney for Licensee:* John A. Ritsher, Esq., Ropes & Gray, 225 Franklin Street, Boston, Massachusetts, 02110.

*NRC Branch Chief:* James R. Miller.

**Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska**

*Date of amendment request:*  
September 26, 1983.

*Description of amendment request:*  
Technical Specification changes to 10 CFR 50.55a(g) pertaining to inservice inspection to provide assurance that the structural integrity of systems and components important to safety are maintained. The proposed amendment incorporates provisions that would require the inservice inspection to be performed in accordance with the requirements for ASME Code Class 1, 2 and 3 components contained in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda as required by 10 CFR 50.55a(g), except where relief had been granted by the NRC.

*Basis for proposed no significant hazards consideration determination:*  
The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). One such amendment involves a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The change proposed by the licensee is intended to implement 10 CFR 50.55a(g), which includes inservice inspection of safety-related components. This amendment, therefore, reflects changes to make the Cooper Nuclear Station license conform to changes in the regulations. Since the licensee is

presently obligated by these regulations to perform inservice inspection of components, this license change will only result in very minor changes to facility operations which are clearly in keeping with the regulations. Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

*Local Public Document Room*  
location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

*Attorney for licensee:* Mr. G. D. Watson, Nebraska Public Power District Post Office Box 499, Columbus, Nebraska 68601.

*NRC Branch Chief:* Domenic B. Vassallo.

**Northeast Nuclear Energy Company, et al., Docket No. 50-36, Millstone Nuclear Power Station, Unit 2, New London County, Connecticut**

*Date of Amendment request:* October 17, 1983.

*Description of amendment request:*  
The proposed changes concern limiting conditions for operation of the pressurizer, a component of the reactor coolant system. These changes would revise the pressurizer level band to a wider range during periods of normal operation. The change would also require two groups of pressurizer heaters to be operable during the power operation, startup, and hot standby modes of operation. The pressurizer heater action statement would be revised to be more restrictive.

*Basis for proposed no significant hazards consideration determination:*  
The proposed change to the current pressurizer level band falls within the envelope of example (vi) of examples provided in 48 FR 14870 of license amendments likely to involve no significant hazards considerations. Specifically, the proposed allowable level band in Modes 1 through 3 does not adversely impact any consequences of the transients and accidents analyzed in the FSAR. Therefore, the change may reduce a safety margin, however, the results of the change are clearly within all acceptable criteria with respect to the system.

The proposed change to require two groups of pressurizer heaters and the changes to the corresponding action statements constitute an additional limitation or control from the current technical specification and falls within example (ii) of 48 FR 14870 of license

amendments not likely to involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

*Local Public Document Room*  
location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

*Attorney for licensee:* Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

*NRC Branch Chief:* James R. Miller

**Northern States Power Company,**  
Docket No. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

*Date of application for amendment:* July 1, 1983, revised August 26, 1983.

*Description of amendment request:* The proposed amendments would change the Technical Specifications (TS) in the following areas:

1. An additional restriction would be included in the TS to reflect the installed hydrogen recombiners to meet the Commission's interim hydrogen rule (TS 3.6 and TS 4.4-1).

2. A change would correct an inaccuracy in the explanation of the K(z) curve for approximately the upper two thirds of the core. The K(z) is a function normalizing the limits of the height dependent heat flux hot channel factor of the fuel rods during accident conditions. (TS 3.10-9)

3. An additional restriction would be included in the TS to add a snubber (i.e., CVCH-168) to the existing table of safety related snubbers. This snubber, together with others, must be operable when the reactor is above cold shutdown (TS table TS 3.12-1). This snubber has already been in place and tested since the plant has been operating.

4. An additional restriction would be included in the TS to reflect the addition of a chlorine detection system that was added to the control room air treatment system. The addition of the chlorine detection system is in response to the NRC requirement imposed by NUREG-0737 Item III.D.3.4 (TS 3.13 and table TS 4.1-1).

5. An administrative change would delete the operability of the diesel-generator in conjunction with the operability of the control room air treatment system (TS 3.13A). The operable status of the diesel generator is already covered by TS 3.7.B(2). This change thus eliminates a redundancy.

6. An administrative change would delete from TS table TS 4.1-1 the

reference to the FSAR table 7.7-2. This reference has (1) led to confusion now that the USAR (Updated Safety Analysis Report) has been issued; and (2) is unnecessary (TS table TS 4.1-1).

7. An administrative change would eliminate redundant unnecessary information in TS table TS 4.1-1. This change would delete the reference to the FSAR in the remark column for items 18a, 18b, 33, 34 and 36 (TS, table TS 4.1-1).

8. An administrative change would eliminate the potential confusion as to frequency for examining the damper mating surfaces in the steam exclusion system. The change would consist of replacing the words "at each reactor refueling shutdown" with the words "once each year." The TS requirement could be construed as requiring the dampers to be examined twice annually since the dampers are part of the steam exclusion system that is common to both units and each unit is normally refueled once per year. The Commission never intended to have this TS requirement be interpreted in the manner which would require that the dampers be examined twice annually.

9. Additional restrictions would be included in the TSs to reflect the additions of containment water level, hydrogen monitoring and pressure monitoring instrumentation that were added to monitor these parameters in containment during an accident. The addition of these instruments is in response to our requirement imposed by NUREG-0737 item II.F.1.

*Bases for proposed no significant hazards consideration determination:* The Commission has given examples (48 FR 14870) of types of amendments not likely to involve a significant hazards consideration. One example of this type (ii) is a change that constitutes an additional limitation, restriction or control not presently included in the technical specifications. The proposed changes (items 1, 3, 4, and 9 above) fall into this category in that they expand the scope of limited conditions for plant operation and expand the maintenance surveillance of plant equipment that was added due to NRC imposing additional requirements. Another example of this type (i) is a change that is purely an administrative change to technical specifications. The proposed changes (items 2, 5, 6, 7 and 8 above) fall into this category in that all of these changes either eliminate areas of confusion or inaccuracies or clarify information appearing in other documents (i.e., FSAR, USAR) that appear by reference in the TS. Therefore, the Commission proposes to determine that the proposed

amendments do not involve a significant hazards consideration.

*Local Public Document Room*

*location:* Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 22036.

*NRC Branch Chief:* James R. Miller.

**Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Washington County, Nebraska**

*Date of amendment request:* March 30, 1977, May 15, 1980, September 13, 1982, November 5, 1982, January 26, 1983, and September 2, 1983.

*Description of amendment request:* The amendments would revise the surveillance technical specifications (TS) to (1) ensure that the reactor containment building leak rate testing (Types A, B, and C) is performed in accordance with and as specified by 10 CFR Part 50, Appendix J, Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors; (2) transfer the recirculation heat removal systems surveillance requirements from the containment test part of the TS to a new section of the TS entitled "Recirculation Heat Removal System Integrity Testing"; (3) delete the (i) end anchorage concrete surveillance requirements, (ii) liner plate surveillance requirements, and (iii) penetrations surveillance requirements; (4) change the maximum allowable containment leakage rate from 0.1% to 0.2% on a 24 hour basis; and (5) upgrade the engineered safety features filter surveillance requirements to compensate for an increase in the maximum allowable leakage rate.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing examples that are considered not likely to involve significant hazards considerations (48 FR 14870).

One of the examples of actions involving no significant hazards consideration is a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The licensee is proposing to make the TSs consistent with Appendix J to 10 CFR 50 entitled "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors." The present TSs are not consistent with

Appendix J. This was pointed out to the licensee in a letter dated July 23, 1982 which contained the NRC's safety evaluation entitled "Appendix J Containment Leak Testing Review."

The proposed TSs would ensure that the reactor containment building leakrate testing (Types A, B, and C) is performed in accordance with and as specified by 10 CFR Part 50, Appendix J. On this basis, this part of the proposed amendment is an example of an amendment that is considered not likely to involve significant hazards considerations.

One of the examples of actions involving no significant hazards consideration is a purely administrative change to the technical specifications. Two parts of the amendment request fit this example. The first proposed administrative change concerns transferring the recirculation heat removal systems' surveillance requirements from the containment test part of the TSs to a new section of the TSs entitled "Recirculation Heat Removal System Integrity Testing." On this basis, this part of the proposed amendment is an example of an amendment that is considered not likely to involve significant hazards considerations.

The second proposed administrative change concerns the deletion of the surveillance requirements for (i) end anchorage concrete, (ii) liner plate, and (iii) penetrations, as described below. The unit was licensed for full power operation in August 1973. The test frequency (as contained in the present TSs) for the end anchorage concrete surveillance is "the inspection intervals will be approximately one-half year and one year after the initial structural test and shall be chosen that the inspection occurs during the warmest and coldest part of the year following the initial structural test." The test frequency (as contained in the present TSs) for the liner plate surveillance is "the surveillance program will only be continued beyond the one year after initial start-up inspection if some corrective action is needed." The test frequency (as contained in the present TSs) for the penetrations surveillance is "the surveillance program will only be continued beyond the one year after initial start-up inspection if some corrective action is needed. The frequency of inspection for a continued surveillance program will be determined shortly after the one year after initial start-up inspection." These surveillance requirements should have been deleted from the TSs some years ago as an administrative matter but they were not.

On this basis, this part of the proposed amendment is an example of an amendment that is considered not likely to involve significant hazards considerations.

An example of a proposed amendment that would likely be found to involve significant hazards considerations is a significant relaxation in limiting conditions for operation not accompanied by compensatory changes, conditions, or actions that maintain a commensurate level of safety (see 48 FR 14870). One part of the amendment request involves a change in the maximum allowable containment leakage rate from 0.1% to 0.2% on a 24 hour basis. The significance of this change is that it may affect the licensee's ability to meet the dose guidelines of 10 CFR Part 100.11 considering a loss of coolant accident. This change, by itself, may likely be found to involve significant hazards considerations. However, the proposed amendment would also upgrade the engineered safety features filter surveillance requirements. The NRC staff has performed an expedited safety evaluation on this part of the amendment request and has concluded that a containment leak rate of 0.2%/day would not result in potential radiological consequences exceeding the guideline values of 10 CFR Part 100.11. Therefore, the staff does not believe that this part of the proposed amendment is a significant relaxation in limiting conditions for operation not accompanied by compensatory changes, conditions, or actions that maintain a commensurate level of safety. On this basis, the staff considers this part of the proposed amendment not likely to involve significant hazards considerations.

Based on the foregoing, the staff proposes to determine that none of the changes involve a significant hazards consideration.

*Local Public Document Room*  
location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska.

*Attorney for licensee:* LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036.

*NCR Branch Chief:* James R. Miller.

*Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station Unit No. 1, Washington County, Nebraska*

*Date of amendment request:* October 3, 1983.

*Description of amendment request:* The amendment would change the technical specifications to (1) provide an up-to-date identification of the accessibility of safety-related system

hydraulic snubbers (Table 2-6(a)) and (2) update the surveillance capsule removal schedule (Table 3-7).

*Basis for proposed no significant hazards consideration determination:* The licensee's TS permit snubbers to be added, changed, or deleted from Table 2-6(a) entitled "Accessibility of Safety-Related System Hydraulic Snubbers" without Commission approval provided an accepted engineering analysis justifies each change. Revisions made under this stipulation are to be included in subsequent licensing amendment requests. The licensee has presented its discussion of significant hazards considerations pursuant to 10 CFR 50.92 as follows:

Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

*No.* The proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated. The standards used in the design and installation of the shock suppressors were at least as conservative as those used during initial construction. The analysis of the shock suppressors was performed using accepted computer codes. As required by Technical Specifications, an independent review of the engineering justification was performed and the justification was found to be valid. The changes to the shock suppressor list were reviewed and approved by the Safety Audit and Review Committee, as is also required by the Technical Specifications.

Will the change create the possibility of a new or different type of accident from any accident previously evaluated?

*No.* The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated. Some of the changes were administrative in nature. These do not change the design, operability, or surveillance requirements of the snubber systems and, therefore, could not create the possibility of an unevaluated accident. The remaining changes are due to modifications of the snubber systems which were performed to reduce the possibility and consequences of a previously evaluated accident; therefore, the changes could not create the possibility of an unevaluated accident.

Will the change involve a significant reduction in the margin of safety?

*No.* The proposed change will not involve a significant reduction in a margin of safety. The changes are either administrative in nature or stem from an attempt to decrease the possibility and consequences of an accident or increase the margin of safety using NRC sanctioned codes and standards.

The licensee's TS requires a surveillance program to monitor radiation-induced changes in the mechanical and impact properties of the reactor vessel materials. The specimen removal schedule is delineated in Table 3-7 entitled "Capsule Removal

Schedule." Capsule W-265 was planned to be removed at ten effective full power years but was removed at 5.9 effective full power years instead. In addition, two new capsules were added: one at the 225° location and one at the 265° location. The licensee has made a significant hazards consideration pursuant to 10 CFR 50.92 as follows:

Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. Early removal of the W-265 capsule assembly and the installation of the two replacement capsule assemblies will not cause a significant increase in the probability or consequences of a previously evaluated accident, but instead will provide better information on the fluence to the inside surface of the reactor vessel. The surveillance capsule holders mounted in the reactor vessel were originally designed to allow the insertion of replacement capsule assemblies as required by 10 CFR 50, Appendix G. The two replacement capsule assemblies are of the same design, installation, and manufacture as the original capsule assemblies.

Will the change create the possibility of a new or a different type of accident from any accident previously evaluated?

No. The replacement capsule assemblies will not create the possibility of a new or different kind of accident from any previously evaluated accident because they are of the same design, installation, and manufacture as the original capsule assemblies.

Will the change involve a significant reduction in a margin of safety?

No. There is no significant reduction in the margin of safety involved because the replacement capsule assemblies occupy the holders of the original capsule assemblies and are, therefore, in the same configuration as the original capsule assemblies and do not affect the operation of the plant.

The staff has reviewed the licensee's significant hazards considerations determinations and based upon this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

*Local Public Document Room*

location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

*Attorney for licensee:* LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, NW., Washington, D.C. 20036.

*NRC Branch Chief:* James R. Miller.

**Omaha Public Power District, Docket No. 50-265, Fort Calhoun Station Unit No. 1, Washington County, Nebraska**

*Date of amendment request:* October 3, 1983.

*Description of amendment request:* The amendment would incorporate administrative changes which would (1) correct terminology in the basis section

concerning pressurizer operability, (2) clarify the basis section for the diesel generator fuel oil inventory, (3) clarify the basis section of shock suppressors (snubbers) specifications, (4) clarify the scope of the inservice inspection program, (5) correct references to DNB parameters and environmental sampling data, (6) remove reference to an offsite organization figure which was deleted in a prior amendment, and (7) change the title of a Safety Audit and Review Committee member. The amendment would also increase the audit frequency of the Emergency Plan, Site Security Plan, and Safeguards Contingency Plan from at least once per two years to at least once every twelve months.

*Basis for proposed no significant hazards consideration determination:* The licensee has stated that the changes listed in (1) through (7) above are administrative in nature. The licensee has made a significant hazards considerations determination pursuant to 10 CFR 50.92 as follows:

Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The above 7 proposed changes to the Technical Specifications are administrative in nature. The operability or surveillance requirements of safety systems have not been affected nor has the design of any safety system been changed. The only effect the above changes will have will be to clarify the Technical Specifications to allow for better understanding.

Will the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed changes to the Technical Specifications are administrative in nature. They do not create a possibility of a new or different kind of accident from any accident previously evaluated.

Will the change involve a significant reduction in a margin of safety?

No. The proposed changes are administrative in nature and do not change the operability requirements, surveillance requirements or designs of safety systems; therefore, the margin of safety could not be reduced.

The licensee has stated that the changes in audit frequency will bring the TS in conformance with the rules and that the changes are more restrictive. The licensee has made a significant hazards consideration determination pursuant to 10 CFR 50.92 as follows:

Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The above proposed changes to the Technical Specifications will not involve a significant increase in the probability or consequences of an accident previously evaluated. The change only increases the audit frequency of the above plans. The intent of these plans is to decrease the

probability (Safeguards Plan) and the consequences (Emergency Plan) of an evaluated accident; therefore, the increased attention provided these plans by this change will better ensure their effectiveness.

Will the change create the possibility of a new or different type of accident from any previously evaluated?

No. The proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated. The change does not alter operability requirements, surveillance requirements, or designs of safety systems nor does it require new designs or operability and surveillance requirements which need to be analyzed with regard to this consideration.

Will the change involve a significant reduction in a margin of safety?

No. The change will not involve a significant reduction in a margin of safety. As discussed in item (1) of these considerations, an increase in audit frequencies could only increase safety margins.

The staff has reviewed the licensee's significant hazards consideration determinations presented above, which appear to demonstrate that the standards specified in 10 CFR 50.92 are met. Therefore, on this basis, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

*Local Public Document Room*

location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

*Attorney for licensee:* LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, NW., Washington, D.C. 20036.

*NRC Branch Chief:* James R. Miller.

**Public Service Co. of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado**

*Date of amendment request:* September 28, 1983.

*Description of amendment request:* The proposed change to Technical Specification SR 5.2.6 would revise the schedule for removal of the plateout probe assemblies from the Fort St. Vrain reactor vessel. The plateout probes are currently scheduled to be removed during the third and fifth refueling outages; the proposal requests that the schedule be changed to the fourth and sixth refueling outages.

The plateout probe assemblies are located in penetrations which extend into the primary helium coolant gas stream at the steam generator inlet. A small bypass stream of the helium flows through the diffusion tubes and sorption beds internal to the plateout probe assembly allowing the plateout of radioactive contaminants circulating in the primary coolant. The plateout probes are removed after a period of operation

to determine the iodine and strontium inventory which has adhered to the probe. The removal intervals are selected to provide the most usable information.

*Basis for proposed no significant hazards consideration determination:* As stated in 10 CFR Part 50.92(c), the Commission may make a final determination, pursuant to the procedures in § 50.91, that a proposed amendment to an operating license for a facility licensed under § 50.21(b) or § 50.22 or for a testing 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.

Based on our initial review of the proposed change to the plateout probe removal schedule, we feel there would be little impact on the operation of the facility and we propose to determine that the action 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.

Therefore, the staff proposes to determine that the amendment request does not involve a significant hazards consideration.

*Local Public Document Room location:* Greeley Public Library, City Complex Building, Greeley, Colorado.

*Attorney for licensee:* Bryant O'Donnell, Public Service Co. of Colorado, P.O. Box 840, Denver, Colorado 80201.

*NRC Branch Chief:* E. H. Johnson.

**Public Service Co. of Colorado, Docket No. 50-287, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado**

*Date of amendment request:* September 28, 1983.

*Description of amendment request:* The proposed change would revise the Fort St. Vrain license condition related to the allowable activity of radioactive, instrumentation calibration sources. Specifically, the change would allow the licensee to receive, possess, and use Cesium-137, not to exceed 300 curies, and Krypton-85, not to exceed 200 millicuries, for instrument calibration. The present limitation for these isotopes

is 11 curies or Cesium-137 and 110 millicuries for Krypton-85.

*Basis for proposed no significant hazards consideration determination:* The Commission may make a final determination, pursuant to the procedures in § 50.91, that a proposed amendment to an operating license for a facility licensed under § 50.21(b) or § 50.22 or for a testing 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 requested change to allow the possession and use of higher activity calibration sources would have no effect on the nuclear plant operations; however, an accident involving only the larger-size calibration source may be considered applicable under (2) above. However, the requested change is proposed for a section of the Fort St. Vrain Operating License (License No. DPR-34) which relates to requirements established in 10 CFR Part 30 related to Byproduct Material, and not 10 CFR Part 50 related to Production and Utilization Facilities.

Based on our initial review of the proposed change, an initial comparison of the calibration sources in use at other nuclear-powered generating facilities, and an initial evaluation of the possible consequences resulting from accidental handling of the larger-size sources, the staff proposes to determine that the application does not involve a significant hazards consideration.

*Local Public Document Room location:* Greeley Public Library, City Complex Building, Greeley, Colorado.

*Attorney for licensee:* Bryant O'Donnell, Public Service Co. of Colorado, P.O. Box 840, Denver, Colorado 80201.

*NRC Branch Chief:* E. H. Johnson.

**Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey**

*Date of amendments request:* June 17, 1983.

*Description of amendments request:* Approvals of three unrelated changes are requested.

1. This change request would permit operation after approval of changes to the Radiological Effluent Technical

Specifications that would assure compliance with Appendix I of 10 CFR Part 50. It provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual. The proposed amendments would remove the current Radiological Effluent Technical Specification from the Appendix "B" Technical Specifications.

2. This change would form a new, centralized Nuclear Department. This new organization was the result of a re-evaluation of the structure and capability of the Public Service Electric and Gas Company (PSEG) nuclear operations and support groups. The new Department would be located at the Salem site. This action enhances PSEG's state of emergency preparedness and enables the utility to more effectively satisfy the requirements of NUREG-0654 (criteria for preparation and Evaluation of Radiological Emergency Response Plans). The Department is depicted in the Organization Charts Figures 6.2.1 and 6.2.2 in the Technical Specification. This change would also add requirements in the Administrative Controls section of the Technical Specifications concerning overtime limitations, power operated relief valve (PORV) and safety valve challenge reporting and audits. These additional requirements reflect organizational and/or respond to specific and current NRC requirements. Specifically, a statement has been added (6.2.2.f) concerning limitation of overtime in accordance with Generic Letter 82-12; the Station Operation Review Committee (SORC) composition has been modified to add the Safety Review Engineer (C.5.1.2); audit frequencies for the Facility Security Plan and Facility Emergency Plan have been changed from 24 months to 12 months to bring them into conformance with 10 CFR 50 and 10 CFR 73 requirements (C.5.2.8); and finally, a report of all challenges to PORV's and safety valves will be added to the routine monthly operating statistics (6.9.1.6).

3. This change would add new testing and reporting requirements which were reviewed and accepted by the NCR in a previous SER (NUREG-0995).

Specifically, this change incorporates NRC notification requirements into the Technical Specification for Reactor Trip Breakers' and Reactor Trip Bypass Breakers' maintenance testing results that fail to meet acceptance criteria, and also for measured trip forces that exceed the acceptable upper limit. The proposed change further incorporates additional Technical Specification surveillance requirements committed to the NRC as part of PSEG's corrective action program associated with the Reactor Trip and Bypass Breakers.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (40 FR 14870) of actions that are considered not likely to involve significant hazards considerations. These examples are applicable to the proposed changes in the following manner:

1. The changes to the Radiological Effluent Technical Specifications are encompassed by example (ii) which relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

2. The changes that would form a new Nuclear Department and that modify the SORC composition are purely administrative and, as such, are encompassed by example (i). The changes that would add overtime limitation, that would shorten the audit frequency for the Facility Security Plan and the Facility Emergency Plan, and would add reporting requirements for

PORV/safety valve challenges are encompassed by example (ii) which relates to changes that constitute additional restrictions or controls not presently in the Technical Specifications. Accordingly, the Commission proposes to determine that these changes involve no significant hazards consideration.

3. The changes that add testing and reporting requirements are also encompassed by example (ii) which relates to changes that constitute additional restrictions or controls not presently included in the Technical Specification. The changes will add additional testing of existing plant equipment thereby assuring a more thorough surveillance test program, and require that any testing results that exceed acceptable limits are immediately reported to the NRC. This additional testing will identify any degradation of the trip breakers and, in conjunction with the long-term operability verification program, will further enhance safety. Accordingly, the Commission proposes to determine that these changes involve no significant hazards consideration.

*Local Public Document Room*  
*location:* Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

*Attorney for licensee:* Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue NW., Washington, D.C. 20006.

*NRC Branch Chief:* Steven A. Varga.

**Public Service Electric and Gas Company, Docket No. 50-311, Salem Nuclear Generating Station, Unit No. 2, Salem County, New Jersey**

*Date of amendments request:* June 30, 1983.

*Description of amendments request:* In a May 31, 1983 letter to Public Service Electric and Gas Company (PSEG), the NRC directed that PSEG provide a request to amend the Unit 2 licensee to provide completion dates for fire protection modifications on Unit 2. These were the same modifications as were required on Unit 1 plus one additional modification in fire area P2G-1. This amendment then, would modify License Condition 2.C.10 by adding the following two fire protection commitments regarding 10 CFR 50.

Appendix R, Section III.G requirements

**2.C.10.(i) Prior to startup following the second refueling outage, PSEG shall install smoke detectors in fire areas designated P2C-1, P2C-3, P2C-4, P2C-5, P2F-1, and P2G-1.**

**2.C.10.(j) Prior to startup following the second refueling outage, PSEG shall wrap, with FS195, 1 hour fire barrier**

material, B Diesel control cable tray 2A217 between trays 2A258 and 2A218 in area P2H-1.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (40 FR 14870). One of the examples (i) of actions which involve no significant hazards consideration include actions that are purely administrative changes to Technical Specifications. The amendment request involved here is a purely administrative change to the Technical Specifications that would add required fire protection modifications with their completion dates. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

*Local Public Document Room*  
*location:* Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

*Attorney for licensee:* Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, S.C. 20006.

*NRC Branch Chief:* Steven A. Varga.

**Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon**

*Date of amendment request:* October 14, 1983.

*Description of amendment request:* The amendment would provide a different method for testing the spray additive tank to ensure that adequate flow of sodium hydroxide from this tank is available to the containment spray system. Presently, this test is conducted by verifying a water flow rate of  $37 \pm 3$  gpm from the spray additive tank to each train of the containment spray system while the pump is operating in the recirculation mode through the test line. Testing in this manner requires that the sodium hydroxide (4000 gallons) be drained from the tank and the tank refilled with water. Under the proposed change, the flow test would be conducted with the sodium hydroxide remaining in the tank by measuring the flow from the tank out through each of two drain valves under controlled test conditions. Assurance that the flow path is not blocked downstream of these drain valves (to the spray pumps) would be provided by the periodic test of the containment spray system itself.

*Basis for proposed no significant hazards consideration determination:* The revised test method appears to be fully equivalent to the present method.

The proposed method will provide the same high degree of assurance that adequate flow is available from the spray additive tank to the containment spray system when required. Therefore if appears that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident, or (3) involve a significant reduction in a margin of safety. Based on the foregoing, the NRC staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

*Local Public Document Room location:* Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

*Attorney for licensee:* J. W. Durham, Senior Vice President, Portland General Electric Company, 121 SW. Salmon Street, Portland, Oregon 97204.

*NRC Branch Chief:* James R. Miller.

**Power Authority of the State of New York, Docket No. 50-285, Indian Point Nuclear Generating Plant Unit No. 3 Westchester County, New York**

*Date of Applications for Amendment:* June 4, 1982, March 8, 1983 and May 3, 1983.

*Description of Amendment Request:* By letters dated June 4, 1982, March 8, 1983 and May 3, 1983, the licensee proposed changes to the plant's Technical Specifications to reflect management reorganization and audit and reporting requirements. In summary, the proposed changes result from (1) Creation of new positions, (2) revision of titles of existing positions, (3) Quality Assurance Department organizational changes, and (4) changes to audit and reporting requirements regarding emergency preparedness, contingency plans and monthly operating reports. These changes are discussed below.

Two new positions are added: (1) First Executive Vice President and Chief Development Officer, and (2) First Executive Vice President, and Chief Operations Officer. The Security and Safety Superintendent position has been divided into two positions: (1) Security Supervisor, and (2) Safety and Fire Protection Superintendent. The Procedures and Performance Department is changed to be the Quality Assurance Department which assumes the prior responsibilities of the Procedures Department as well as audits and appraisals of the Security Program.

The Senior Vice President—Nuclear Generation is retitled and elevated to Executive Vice President—Nuclear

Generation. The Audit frequency for emergency preparedness and safeguards contingency plan are revised to agree with 10 CFR 50.54(t) and 10 CFR 70.40(d). Finally, in addition to the above, minor reporting requirements are changed.

The containment isolation valve changes delineated in the May 3, 1983 licensee submittal will be handled as a separate action with a separate Federal Register Notice.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards for a no significant hazards consideration determination by providing certain examples (48 FR 14870). Two examples of actions not likely to involve a significant hazards consideration relate to: (1) A purely administrative change to Technical Specifications, and (2) a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The organizational changes are consistent with both of these examples. The audit and reporting reflect the licensee's conformance with the current regulations. These proposed changes clearly match the guidance quoted. The staff, therefore, proposes to determine that the amendment does 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:* Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

*NRC Branch Chief:* Steven A. Varga.

**Rochester Gas and Electric Corporation, Docket No. 50-244, R.E. Ginna Nuclear Power Plant, Wayne County, New York**

*Date of amendment request:* August 1, 1983.

*Description of amendment request:* The proposed change to the Technical Specifications (TS) would delete two of the hydraulic snubbers from the list currently included in the Technical Specifications. Snubbers are attached to piping and equipment to provide restraint during a seismic or other event which initiates dynamic loads, yet allows slow motion such as that produced by thermal expansion. Two of the hydraulic snubbers are being removed as part of the piping seismic upgrade program to meet current criteria. The removal of the hydraulic snubbers is accompanied by other changes including the addition of

mechanical shock-suppressors and the compliance of the affected piping systems to more stringent criteria.

*Basis for proposed no significant hazards consideration determination:* Ginna is one of the older plants that has undergone an in-depth review under the Systematic Evaluation Program (SEP) to determine how closely it meets current criteria. As a result of the SEP review, certain areas were identified where modification were required to upgrade systems to comply with criteria. One of those areas pertains to seismic design considerations; consequently, the licensee has a piping seismic upgrade program underway. As a result of this review, and changes which will result in the overall safety of the plant being increased, a number of mechanical shock suppressors have been identified as needing to be added to piping systems, and two hydraulic shock suppressors currently included in the plant Technical Specifications (TS) would need to be removed. The requested TS change would reflect the removal of the two hydraulic snubbers.

Based on the above discussion, the staff proposes to determine that the requested action 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; and (3) involve a significant reduction in a margin of safety. Therefore, the staff proposes to determine that the proposed action would not involve a significant hazards consideration.

*Local Public Document Room*  
*location:* Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

*Attorney for licensee:* Harry H. Voight, Esquire, LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, NW, Suite 1100, Washington, D.C. 20036.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Rochester Gas and Electric Corporation, Docket No. 50-244, R.E. Ginna Nuclear Power Plant, Wayne County, New York**

*Date of amendment request:* August 1, 1983.

*Description of amendment request:* The proposed change is a clarification of the permissible bypass conditions for the safety injection system. The proposed change would permit bypassing of the safety injection signal resulting from steam generator low steam pressure or pressurizer low pressure if the primary pressure is less than 2,000 psig. No bypassing of those

signals is identified in the current technical specifications. The proposed change would also delete the bypassing of the manual safety injection signal which currently exists.

*Basis for proposed no significant hazards consideration determination:* Technical Specifications set forth the operability requirements for engineered safety feature actuation (ESF) channels which specify actions which are to be taken when ESF channels are inoperable. The operability requirements are stated in terms of permissible bypass conditions.

Generally, the action is identified as either hot shutdown or cold shutdown.

When an operating bypass is provided which prevents the actuation of ESF systems, the Technical Specifications indicate the conditions under which the interlock or blocking action may take place. This precludes a conflict with the operability requirements under conditions where the ESF channel is rendered inoperable due to an operating bypass. The failure to identify conditions under which safety actions are blocked by an operating bypass results in a conflict with the operability requirements for that channel. Thus, in order to preclude such conflicts, Technical Specification should be explicit with regard to identifying the conditions under which operating bypasses will block ESF channels.

While current Standard Technical Specifications identify operating bypasses, it has been found that some Westinghouse plants do not currently identify all operating bypasses under the operability requirements of ESF channels. Therefore, a review was conducted of the operability requirements for ESF channels for all licensed Westinghouse plants. The channels which initiate safety injection on low pressurizer pressure always include an operating bypass to permit plant shutdown.

As a result of the review, the licensee has proposed the modifications to the TS to clarify the conditions under which it is permissible to bypass specific ESF channels. The proposed permissible bypass conditions are consistent with the design of the systems and generally consistent with the intent of the Standard Technical Specifications.

The Commission has provided guidance concerning the application of standards for conclusions regarding no significant hazards considerations by providing examples (48 FR 14870 April 6, 1983). Example (ii) is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent

surveillance requirement. The deletion of a permissible bypass condition for manual safety injection comes within example (ii).

The conditions under which SI signals from steam generator low steam pressure/loop or pressurizer low pressure may be bypassed were proposed following a generic review of Westinghouse plants. SI signal bypass is needed for normal plant shutdowns. On this basis, the staff proposes to determine that the requested action 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; and (3) involve a significant reduction in a margin of safety. Therefore, the staff proposes to determine that the proposed action would not involve a significant hazards consideration.

*Local Document Room location:* Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

*Attorney for licensee:* Harry H. Voigt, Esquire, LeBoeuf, Lamb, Lieby & MacRae, 1333 New Hampshire Avenue, NW, Suite 1100, Washington, D.C. 20036.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York**

*Date of amendment request:* August 1, 1983.

*Description of amendment request:* The proposed amendment consists of five parts: (1) Revise the Overpressure Protection System (OPS) operability requirements such that the OPS will be made operable whenever the Residual Heat Removal (RHR) system is placed in operation. The present procedures specify that the RHR system can be placed in operation at 360 psig and 350°F, while the OPS need only be made operable when the reactor cooling system (RCS) cold leg temperature is less than or equal to 330°F; (2) Revise the minimum refueling water storage tank (RWST) volume requirements from 230,000 gallons to 300,000 gallons; (3) Delete the process-to-actuator response time testing requirement for auxiliary feedwater and containment isolation; (4) Revise the service water pump class 1E power alignments to include the requirement that at least one of the pumps be aligned to each of the two redundant class 1E power supplies. No such requirement exists in the current Technical Specifications (TS); (5) Revise the battery testing requirements to include the requirement for a battery

discharge test. No such requirement exists in the current TS.

*Basis for proposed no significant hazards consideration determination:* With the exception of item 3, all of the proposed changes resulted from the Systematic Evaluation Program (SEP) of the R. E. Ginna Nuclear Power Plant. Each of the four changes introduces an additional restriction or control which does not currently exist.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions not likely to involve a significant hazards consideration is a change that constitutes an additional restriction or control not presently included in the Technical Specifications. The staff proposes to conclude that proposed changes 1, 2, 4, and 5 would be within example (ii) and, therefore, are considered not likely to involve a significant hazards consideration.

With respect to item 3, the licensee conducted the process-to-actuator response time testing during the 1981 and 1982 refueling outages as required. However this particular portion of the overall system response time is small (milliseconds vs. 1 to 10 minutes). The licensee proposes that functional testing of the actuated equipment be retained, and response time testing of critical items, such as containment isolation valve stroke times, diesel generator start and sequencing times, pump start times, and rod drop time be performed. This proposal is comparable to the finding made for other plants during the Intergrated Assessment conducted as a part of the SEP. For example, in NUREG-0820, Palisades Plant Integrated Assessment Review, Docket No. 50-255, it was concluded that, from a risk perspective, the effect of including this additional testing is negligible.

Backfitting was not recommended.

One of the examples (vi) provided by the Commission (48 FR 14870) with respect to finding a change not likely to involve a significant hazards consideration is a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan; for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. The staff proposes that the proposed change regarding process-

to-actuator response time testing falls within example (vi) as a result of findings made during the Integrated Assessment for other plants. Therefore, the staff proposes to determine that the request involves no significant hazards consideration.

*Local Public Document Room*  
*location:* Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

*Attorney for licensee:* Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, NW, Suite 1100, Washington, D.C. 20036.

*NRC Branch Chief:* Dennis M. Crutchfield.

**Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California**

*Date of amendment request:* July 13, 1979, revised March 11, 1982 and December 7, 1982.

*Description of amendment request:* The amendment would permit operation after approval of changes to the Radiological Effluent Technical Specifications that would bring them into compliance with Appendix I of 10 CFR Part 50. It would provide new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual. The proposed amendment would remove the current Radiological Effluent Technical Specifications from the Appendix "B" Technical Specifications.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50, required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The Commission's staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable".

*Local Public Document Room*  
*location:* Sacramento City-County Library, 828 I Street, Sacramento, California.

*Attorney for licensee:* David S. Kaplan, Sacramento Municipal Utility District, 8201 S Street, P.O. Box 15830, Sacramento, California 95813.

*NRC Branch Chief:* John F. Stoltz.

**Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California**

*Date of amendment request:* September 9, 1982.

*Description of amendment request:* The amendment would add surveillance of certain special interest steam generator tubes and visual inspections of the internal auxiliary feedwater distributor, attachment welds, and thermal sleeves. As a result of routine inspection of steam generator tubes during the 1982 refueling outage, the licensee discovered that the internal auxiliary feedwater distributors in both steam generators had become dislodged and were severely deformed. The licensee determined that the original design of the distributors was faulty and installed external headers with six injection nozzles each to provide auxiliary feedwater distribution and retired the internal distributors from service. The damaged distributors were stabilized and secured in place because the construction features of the steam generator made removal extremely difficult. These same construction features prevented full inspection of the internal distributors to determine if any weld cracking in critical areas was caused by the deformation, although enough of the distributor was

inspectable to allow a determination that as long as no deterioration of the welds in the inspected areas occurred, the steam generators could be safely operated with the stabilized distributor in place.

*Basis for proposed no significant hazards consideration determination:* On August 19, 1982, the Commission issued a Safety Evaluation Report which presented the results of the staff's review and evaluation of information submitted relative to the repair and modification by the licensee. In that Safety Evaluation Report, the staff stated its conclusions that the modified auxiliary feedwater system and the stabilization of the internal auxiliary feedwater distributor were acceptable. The staff further concluded that the modifications did not involve a significant hazards consideration.

An important consideration in arriving at these conclusions was that the stabilized internal auxiliary feedwater distributor, the attachment welds, and external header thermal sleeves would be inspected at certain specified intervals to confirm that no deterioration of the distributor structural welds or attachment welds had occurred and that the thermal sleeves have not developed cracks.

The licensee had committed to performing these inspections but had not yet submitted the proposed license amendment at the time the Safety Evaluation discussed above was issued. Therefore, the proposed amendment completes an action which was contemplated and considered previously by the Commission in concluding that no significant hazards consideration was involved. This proposed amendment constitutes an additional surveillance requirement not presently included in the Technical Specifications. It completes a commitment made by the licensee at the request of the Commission staff. This proposed amendment is similar to an example which the Commission has noted (48 FR 14870) is not likely to involve a significant hazards consideration and, therefore, the staff proposes to determine that the proposed surveillance requirement does not involve a significant hazards consideration.

*Local Public Document Room*  
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*NRC Branch Chief:* John F. Stoltz.

Sacramento Municipal Utility District (the licensee), Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

*Date of amendment request:* January 26, 1983.

*Description of amendment request:* A reactor coolant system's (RCS) pressure-temperature limits must be revised periodically to take into account irradiation of the reactor pressure vessel. Various curves are used to analyze the RCS's pressure-temperature limits. The amendment would make more restrictive the curves that are used to make decisions about heating up and cooling down the RCS and would change the operating time span for which the curves are applicable from 5 equivalent full powers years (EFPY) to 8 EFPY. These curves, specified in the licensee's Technical Specifications, must be changed periodically because of irradiation to the reactor pressure vessel, which is an integral part of the RCS. The pressure-temperature limits contained in the curves are needed to ensure that the reactor pressure vessel maintains adequate ductility while pressurized.

*Basis for proposed no significant hazards consideration determination:* The proposed changes to the pressure-temperature limits constitute an additional limitation, not presently included in the Technical Specifications, which ensures that current margins of safety are maintained with respect to the periodic revision of the RCS's pressure-temperature limits. This proposed amendment is an example of an amendment that is considered not likely to involve significant hazards considerations such that the change constitutes an additional limitation, restriction, or control not presently in the technical Specifications (see Example ii in the not likely category in 48 FR 14870, April 6, 1983).

*Local Public Document Room location:* Sacramento City-County Library, 828 I Street, Sacramento, California.

*Attorney for licensee:* David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

*NRC Branch Chief:* John F. Stoltz.

Southern California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

*Date of amendment request:* July 20, 1983, as supplemented September 7, 1983.

*Description of amendment request:* This amendment would change the

Technical Specifications to (1) permit boron dilution when containment integrity is not intact if a shutdown margin greater than 5%  $\Delta K/K$  is maintained, and (2) change the requirement for shutdown margin during reactor vessel head removal and while loading and unloading fuel from a boron concentration of 2900 ppm (sufficient to maintain the reactor subcritical by approximately 10%  $\Delta K/K$  with all rods inserted) to a shutdown margin greater than 5%  $\Delta K/K$ .

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance in the form of examples of amendments that are not considered likely to involve significant hazards considerations (48 FR 14870). One of the actions likely to involve no significant hazards consideration 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 safety margin, but where the results of the change are within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (vii). The licensee's September 7, 1983 submittal included a discussion of the proposed action with respect to the no significant hazards consideration. The licensee cited the above example and provided a discussion regarding the three standards of 10 CFR 50.92(c). The discussion has been reviewed and the Commission finds it acceptable. Each of the three standards is discussed below.

#### First Standard

The licensee reanalyzed the boron dilution events for both the cold shutdown and refueling modes. The reanalysis for the refueling mode took into account the proposed change in shutdown margin from 10%  $\Delta K/K$  to 5%  $\Delta K/K$ . The licensee concluded, "Under the most extreme conditions during refueling, the operator would have approximately 53 minutes to evaluate and take corrective action to maintain the reactor subcritical. Also, during cold shutdown the operator would have more than 220 minutes to take corrective action. These periods of time are well within the acceptable criteria stated in the Standard Review Plan (i.e. 30 minutes during refueling and 15 minutes during cold shutdown). Therefore, it is concluded that this proposed change will not cause a significant increase in the probability or consequences of an accident previously evaluated."

#### Second Standard

With regard to the second standard, the licensee stated, "The effect of this

proposed change will be to reduce the initial boron concentration in the refueling mode analysis from 10% to 5%. The implications of this reduction are limited to the probability or consequences of an accident previously evaluated, and will in no way create the possibility of a new or different kind of accident from any accident previously evaluated. As discussed in the response to the First Standard, these implications have been evaluated and found to be clearly within the criteria stated in the Standard Review Plan."

#### Third Standard

The licensee stated the following with regard to the third standard, "For the boron dilution transient, the margin of safety is defined by the time before operator action would be required in order to maintain the reactor subcritical. As explained in the response to the First Standard, this proposed change will result in a decrease in the time before which the reactor would reach criticality without operator action. However, this decrease will result in durations which are still clearly within the acceptable criteria stated in the Standard Review Plan. Therefore, it is concluded that this proposed change will not result in a significant reduction in a margin of safety."

Because the submittal by the licensee appears to demonstrate that the standards specified in 10 CFR 50.92 have been met, the Commission proposes to determine that the application does not involve a significant hazards consideration.

#### Local Public Document Room

*Location:* San Clemente Branch Library 242 Avenida Del Mar, San Clemente, California 92672.

*Attorney for licensee:* Charles R. Kocher, Assistant General Counsel, James Boletto, Esquire, South California Edison Company, Post Office Box 800 Rosemead, California 91770.

*NRC Branch Chief:* Dennis M. Crutchfield.

*South California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California*

*Date of amendment request:* September 9, 1983.

*Description of amendment request:* This amendment would revise Table 3.6.2-1 of the Technical Specifications to add the requirement to maintain the Sphere Purge Air Supply and Air Outlet Isolation Valves in a locked closed position during modes 1, 2, 3, and 4.

*Basis for proposed no significant hazards consideration determination:*

The Commission has provided guidance concerning the application of standards for making a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples of actions likely to involve no significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The licensee's submittal of September 9, 1983 included a discussion of the proposed action with respect to the no significant hazards consideration. This discussion has been reviewed and the Commission finds it acceptable.

South California Edison Company stated that the proposed change is deemed not to constitute a significant hazards consideration based on the fact that the proposed change involves an additional restriction not presently included in the Technical Specifications. Accordingly, the proposed change falls within the category of the example cited above. The licensee also addressed each of the three standards of 10 CFR § 50.92(c). *First Standard*—The licensee stated: "In the event of any type of transient which would require containment isolation, the containment purge valves would close to ensure isolation. Since this position provides the greatest degree of safety, then the requirement to maintain these valves in a locked closed position will ensure that the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated." *Second Standard*—The licensee stated: "This proposed change will act to enhance the degree of reliability in the containment isolation system. Based on this premise, it is concluded that this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated." *Third Standard*—The licensee stated: "The safety related position of these valves is in the closed position. Since this proposed change requires these valves to remain locked closed during applicable MODES of operation, it is concluded that there will not be a significant reduction in a margin of safety."

Because the submittal by the licensee appears to demonstrate that the standards specified in 10 CFR § 50.92(c) have been met, the Commission proposes to determine that the application does not involve a significant hazard consideration.

*Local Public Document Room*  
location: San Clemente Branch Library,

242 Avenida Del Mar, San Clemente, California 92672.

*Attorney for licensee:* Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770.  
*NRC Branch Chief:* Dennis M. Crutchfield.

**Southern California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating station, Unit No. 1, San Diego County, California**

*Date of amendment request:*  
September 9, 1983

*Description of amendment request:* The amendment would incorporate the containment leak testing requirements of 10 CFR Part 50, Appendix J into the Technical Specifications. The proposed changes would (1) restate the test frequency for periodic integrated leakage rates tests (Type A tests) to be  $40 \pm 10$  months, and the third test of each set be performed during the 10 year inservice inspection, (2) add provisions to the test schedule for containment penetration leakage rate tests for air lock testing (Type B tests), (3) add acceptance criteria and test schedule requirements for containment isolation valve leakage rate test (Type C tests), (4) add a reference to technical specification 3.3.1.A(4) in the acceptance criteria for leak tests of the recirculation system, and (5) add a requirement to submit test result reports.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of standards for determining whether a requested action involves a significant hazards consideration by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (vii) of actions likely to involve no significant hazards consideration relates to a change to make a license conform to changes in the regulations, where the license change results from very minor changes to facility operations clearly in keeping with the regulations.

The licensee's submittal of September 9, 1983 included a discussion of the proposed action with respect to the no significant hazards consideration. This discussion has been reviewed and the Commission finds it acceptable. The licensee stated, "the proposed change discussed above is deemed not to constitute a significant hazards consideration based on the fact that the proposed change constitutes additional restrictions and controls not presently included in the technical specifications". Further, the proposed changes are to make the Technical Specifications

conform to the requirements of Appendix J to 10 CFR Part 50. Therefore, the proposed amendment falls within the category of the example cited above.

Because the submittal by the licensee appears to demonstrate that the standards specified in 10 CFR 50.92 have been met, the Commission proposes to determine that the application does not involve a significant hazards consideration.

*Local Public Document Room*  
location: San Clemente Branch Library, 242 Avenida Del Mar, San Clemente, California 92672.

*Attorney for licensee:* Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770.

*NRC Branch Chief:* Dennis M. Crutchfield.

**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 request:* July 29, 1977 and November 17, 1981

*Description of amendment request:* The proposed amendments would change the Technical Specifications to implement the requirements of 10 CFR 50.55a(g) pertaining to inservice inspection to provide assurance that the structural integrity of systems and components important to safety are maintained. The proposed amendments would add surveillance requirements to provide for inservice inspection of safety-related components, in accordance with Section XI of the ASME Boiler and Pressure Vessel code and applicable addenda as required by 10 CFR 50.55a (g), except where specific written relief has been granted by the NRC.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance for the application of the standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). These examples include: "(vii) A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

By letter dated September 15, 1976, we advised TVA that: "the inservice inspection and testing requirements for ASME Code Class 1, 2 and 3 components for nuclear power plants delineated in 10 CFR Part 50.55a were

changed by a revision to the regulations published on February 27, 1978 (41 FR 6256). The revised regulations require inservice inspection and testing to be performed in accordance with the examination and testing requirements set forth in Section XI of ASME, Boiler and Pressure Vessel Code, and Addenda." To avoid possible conflicts, TVA was requested to apply to the Commission for amendment of the Browns Ferry Technical Specifications. Sample language for such a change was provided. TVA's application was in response to the above request.

The change proposed by the licensee is intended to implement 10 CFR 50.55a(g), which pertains to inservice inspection of safety-related components. This amendment, therefore, reflects changes to make the Browns Ferry Nuclear Power Plant, Units 1, 2 and 3 licenses conform to changes in the regulations. Since the licensee is presently obligated by these regulations to perform inservice inspection of components, this license change will only result in very minor changes to facility operations which are clearly in keeping with the regulations.

Therefore, since the application for amendment involves proposed changes that are encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

*Local Public Document Room*  
location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

*Attorney for licensee:* H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

*NRC Branch Chief:* Domenic B. Vassallo

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

*Dates of amendment request:* August 12, 1980, as superseded November 3, 1982.

*Description of amendment request:* The proposed amendments would allow operation of a unit for up to 30 days with one temperature switch in the main steam line tunnel inoperable. The proposed amendment would accomplish this by revision of a note for Table 3.2.A, "Primary Containment and Reactor Building Isolation Instrumentation." The note presently requires all four sensors in a main steam line tunnel temperature channel to be operable for the channel to be considered operable. The new note

would allow one sensor in one channel only to be inoperable for no more than 30 days with a unit operating.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards for making a "no significant hazards consideration" determination by providing certain examples (48 FR 14870). One of the examples of an amendment not likely to involve significant hazards consideration is:

(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan; for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

The temperature sensors are a backup to the high steam flow instrumentation which is designed to detect a possible steam line break. Unit operation with an inoperable main steam tunnel temperature sensor could be considered a reduction in a margin of safety. However, all temperature switches are located within the steam tunnel with space communication between them. If one switch is inoperable there are three other switches that monitor the same steam line and 12 switches in close proximity. If a steam line leak or break were to occur, it would be detected by the 15 remaining switches long before the limits of 10 CFR Part 100 are exceeded. These 15 switches would still provide three fully functional channels and one operable channel with three switches. Restricting operation to no more than 30 days with one inoperable switch results in only an extremely small reduction in any safety margin.

Thus, although there could conceivably be a slight reduction in the margin of detecting possible steam line breaks, the results of the proposed change are clearly within all acceptable criteria with respect to the steam line break detection systems. Therefore, since the proposed amendment is encompassed by an example for which no significant hazards is likely to exist, the staff has made a preliminary determination that the application for amendment involves no significant hazards consideration.

*Local Public Document Room*  
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*Attorney for licensee:* H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief Domenic B. Vassallo.

Tennessee Valley Authority, Docket Nos. 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

*Date of amendment request:* September 21, 1981, as supplemented June 3, 1982.

*Description of amendment request:* The amendments would modify the Technical specifications by transferring one of the equations relating to Average Power Range Monitor (APRM) trip setting adjustments from the Limiting Safety System Settings (LSSS) section of the Technical Specifications to the Limiting Conditions for Operation (LCO) section. The equation involved is one that relates the fraction of rated thermal power (FRP) and core maximum fraction of limiting power density (CMFLPD) to flow in the recirculation system loops. The amendment would also establish a time period of six hours for completing corrective actions if the ratio of

FRP  
CMFLPD

is outside acceptable limits.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards for making a significant hazards consideration determination by providing certain examples (48 FR 14870). One example of an action likely to involve no significant hazards consideration is example (vi) which reads:

(vi) changes which either may result in some increase in probability or consequences of a previously analyzed accident or may reduce in some way a safety margin but where the results of the changes are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan; for example, changes resulting from the application of a small refinement of a previously used calculational model or design method.

Under the old departure-from nucleate boiling (DNB) heat transfer correlation based on the Hench-Levy method, the figure of merit was the critical heat flux ratio (CHFR), i.e., the ratio of the critical heat flux for boiling transition to the existing local heat flux. Since the existing local heat flux is directly proportional to the product of reactor power and the total peaking factor at the point of CHFR, any increase in the peaking factor resulted in a

corresponding decrease in CHFR. Thus, under the old minimum critical heat flux ratio (MCHFR) correlations, the peaking factor (MFLPD/FRP) adjustment to the flow biased scram and rod block equations had relevance to maintaining core limits in certain flow excursion transient.

As a result of extensive experimental tests conducted by the General Electric Company (GE), it was demonstrated that the transition boiling point can be predicted with definable accuracy by plotting critical quality ( $X_c$ ) as a function of distance from the initiation of the bulk boiling (Boiling Length —  $L_b$ ) in a fuel bundle. This is referred to as the GEXL correlation. With the introduction of the GEXL correlation, the functional form of the safety limit and operational limit for preventing DNB became the minimum critical power ratio (MCPR). Determination of an operating limit MCPR is based on analysis initiated from rated core conditions assuming a fixed 120 percent flux scram. The operating limit is determined from results of transient analyses, both core-wide and localized events. The resultant change in CPR due to the transients is added to the safety limit MCPR to determine the necessary operating limit MCPR to ensure adequate thermal margin. Additionally, the required operating limit is increased at reduced core flow to ensure the safety limit is not violated in the event of a flow increase transient. Since power shape is essentially accounted for in the calculation which determines actual CPR margin, it is not necessary to reduce the scram setpoints as a function of peaking factor.

The MCPR safety analysis takes no credit for an APRM flow-biased scram, and consequently, this flow-biased scram does not ensure additional margin to the safety limit MCPR. Since the flow-biased scram does not ensure additional margin to the safety limit MCPR, the six-hours allowed for corrective action does not result in a decrease in the margin of safety. Similar revisions to Browns Ferry Unit 1 Facility Operating License No. DPR-33 were granted by Amendment No. 76, September 15, 1981. On this basis, there is sufficient justification for relaxing the corrective action and time allowances in comparison to the standard core limits (MCPR, LHGR, etc.).

Based on example (vi) involving no significant hazards consideration, and the fact that the proposed amendment would involve no reduction in a margin of safety the staff proposes to make a determination that the amendment

involves no significant hazards consideration.

*Local Public Document Room*  
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*Attorney for licensee:* H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

*NRC Branch Chief:* Domenic B. Vassallo.

**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 request:* July 16, 1982.

*Description of amendment request:* This amendment would change the Technical Specifications as follows:

1. Pages 37 and 39—Units 1 and 2  
Pages 36 and 38—Unit 3

The proposed changes remove the requirement to perturb the water level in the reactor vessel and monitor the water level indicator changes after performing the monthly functional test. The functional test will continue to be performed monthly as required by technical specification Table 4.1.A.

2. Page 175—Units 1 and 2

Page 186—Unit 3

This change updates technical specification 4.6.A.4 to reflect the present status of the neutron flux wires and incorporates Regulatory Guide 1.99 methods for estimating neutron irradiation damage.

3. Page 181—Units 1 and 2

Page 192—Unit 3

This proposed change revises the surveillance requirement concerning monitoring of relief valve bellows to clarify that the bellows will be monitored when valves incorporating the bellows design are installed. For unit 3 this surveillance requirement had been removed but is now proposed to be added back to have all three units consistent in technical specification requirements.

4. Page 195—Units 1 and 2

Page 208—Unit 3

Figure 3.6-2 "Change in Charpy V Transition Temperature versus Neutron Exposure" is to be deleted.

5. Pages 215 and 216—Units 1 and 2

Pages 220 and 221—Unit 3

These proposed changes revise the BASES to more accurately reflect current industry practices regarding determination of changes in reference temperature  $RT_{NDT}$ . The change updates the specification BASES to reflect what has been done with neutron dosimeter wires that were installed adjacent to the reactor vessel wall. It also describes

what will be done with mechanical test specimens. It describes TVA's future plans for determining changes in reference temperature  $RT_{NDT}$ .

6. Pages 236 and 244—Units 1 and 2  
Pages 247 and 256—Unit 3

The proposed changes remove the specific references to the diesel generators required for operation of the Standby Gas Treatment System (SGTS) and the Control Room Emergency Ventilation from these sections.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of amendments which are not likely to involve significant hazards consideration include: "(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature" and "(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method."

Changes 1 through 6 are encompassed by examples (i) and (vi) above as described as follows:

Change 1—This change could slightly reduce a safety margin since actual changes of reactor water level would not be directly measured as currently required but an indirect correlation of level would be made to other instrumentation. The licensee states that the water level instrumentation is taken out of service during performance of the monthly functional test. After completion of that test the level instrument is put back into service. That instrument then indicates the reactor vessel water level. This indication can be compared with the numerous other water level instruments for verification that the instrument has indeed been returned to service.

Further the licensee stated: "perturbing the reactor water level is an operational inconvenience to the plant staff. We are not aware of any regulatory requirement or recommendation to perturb the water level. The BWR Standard Technical

Specifications do not require it. The FSAR states that for any sensor that is valved-out or otherwise removed from service during testing, positive indication is obtained that the sensor has been returned to service and will see changes in the process variable. Indication of the reactor vessel water level after the instrument is valved back into service and general agreement with the other instrumentation as discussed above demonstrates compliance with the FSAR statement. Additionally, removal of this requirement will not adversely affect the operation, safety margins, accident analysis, or overall safety of the plant."

The staff is unaware of any particular regulatory requirement or recommendation regarding the need to perturb reactor water level to get a direct measure of the performance of this particular reactor water level instrument. The staff concurs with the licensee that the instrument could be indirectly correlated with other instrumentation when it is returned to service. However, the staff considers, as stated above, that a slight reduction of a safety margin could occur since the ability to sense actual changes of reactor water level would not be verified directly by the instrument but an indirect correlation would be made. Therefore, the staff considers this change similar to example (vi) since the FSAR would permit indirect correlation as a positive indication of sensor performance when returned to service.

**Changes 2, 4 and 5**—These changes are related to example (vi) in that the design methodology for calculating neutron irradiation damage to the reactor vessel has been changed from what is currently described in the Technical Specification to methods consistent with Regulatory Guide 1.99.

The Regulatory Guide methods provide current guidelines in the Standard Review Plan. Further, change 2 in part is encompassed by example (i) in that an editorial change is necessary to reflect the fact that the flux wires have been removed and tested.

**Change 3**—This change is related to example (vi) in that an accepted type valve has replaced the original bellows type valve. This proposed change only clarifies requirement for testing the integrity of bellows if spare valves with bellows are installed. The test requirement is not applicable unless a bellows type valve were to be reinstalled.

**Change 6**—This proposed change is editorial and for clarity only and, therefore, encompassed by example (i). Rather than addressing diesels in the section Limiting Condition for Operation, it has been placed in the

Definitions section per NRC request. (References letter from D. G. Eisenhut to All Power Reactor Licensees dated April 10, 1980.) The requirement for operability of the backup power supply to the SGTS and Control Room Emergency Ventilation is now addressed by technical specification definitions 1.C.2 and 1.E. Therefore, these requirements do not need to be addressed separately in the LCO.

Therefore, since the application for amendment involves proposed changes that are encompassed by an example which is not likely to involve significant hazards considerations, the staff has made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room*  
location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

*Attorney for licensee:* H.S. Snager, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

*NRC Branch Chief:* Domenic B. Vassallo.

**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 request:*

September 14, 1982.

*Description of amendment request:*

The amendment would modify the Technical Specification to:

1. Add a requirement that if an inoperable rod block monitor channel cannot be restored within 24 hours, the inoperable channel shall be placed in the tripped condition within one hour.

2. Add two isolation valves on the containment atmosphere dilution (CAD) system Torus/Drywell exhaust to Standby Gas Treatment to the table of valves that require closure time testing.

3. Add two isolation valves on the drywell differential pressure air compressor suction line to the table of valves that must be periodically tested for closure time.

4. Add five isolation valves on the drywell CAD suction and discharge lines to the table of valves that are required to be periodically tested for closure time.

5. Add two check valves on the core spray discharge to reactor lines to the table of isolation valves to specify the functional requirements.

6. Correct an erroneous reference in a note; the reader is now referred to section 4.7.C.1.c (which does not exist) rather than 4.7.C.1.a.

7. Change certain weld numbers listed for the core spray piping to reflect the

fact that the piping material has been changed.

8. In the table of isolation valves, correct a typographical error in the numbers for the two suppression chamber drain valves from FCV 74-57, 58 to FCV 75-57, 58.

9. In the table of isolation valves, delete an erroneous listing of a valve on the reactor water cleanup system return line, since the valve is not an isolation valve.

10. In the table of isolation valves, correct an erroneous number of the two valves on the high pressure coolant injection drain line.

11. In the table of isolation valves, correct an error in the "normal position" and "action on initiating signal" for the two valves on the reactor core isolation cooling condensate pump drain valves; these lines are normally open (rather than closed) to drain off condensation in the stream line.

12. Add a requirement to submit primary containment integrated leak rate test reports within 90 days of completion of each test as required in 10 CFR 50 Appendix J.

13. Modify the requirements on control of access to high radiation areas to permit use of direct surveillance in lieu of locked doors for areas so designated for 30 days or less (e.g., areas designated as high radiation areas due to maintenance or modification work being performed in the area, etc.).

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). These examples include:

"(i) A purely administrative change to the technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

"(II) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement."

"(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan . . . and

"(vii) A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations."

Changes 1 through 5, above, are adding new restrictions or additional surveillance requirements for valves that are not presently included in the Technical Specifications. As such, they are encompassed by example (ii) above. Changes 6 through 11, above, are correcting errors in the present Technical Specifications and thus are encompassed by example (i). Change 12 adds a new requirement to the Technical Specifications so that the list of reports to be submitted to the NRC reflects current regulations. In compliance with the regulation, TVA is required to submit (and has been submitting) a 90 day report on leak test results. The change is to conform the Technical Specifications with the regulations; thus, the change is encompassed by both examples (ii) and (vii). Change 13 will not in any way affect reactor safety but could conceivably reduce a margin of safety with respect to controlling occupational radiation exposure. Since it is not practical to enclose all temporary high radiation areas (as defined in the Technical Specifications) behind walls with locked doors, personal, direct surveillance is an acceptable control. Thus, change 13 is encompassed by example (vi).

Therefore, since the application for amendment involves proposed changes that are similar to the examples for which no significant hazards are likely to exist, the staff has made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room*  
location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

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*NRC Branch Chief:* Domenic B. Vassallo.

**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 request:*  
September 23, 1982, as superseded July 21, 1983, as superseded September 22, 1983.

*Description of amendment request:*  
The proposed amendment changes the Technical Specifications to revise the curves of reactor pressure versus

minimum temperature for ASME Section XI hydrostatic pressure testing, heatup and cooldown following shutdown of a unit, and core criticality. These curves are in Technical Specifications Figure 3.6-1. The curves were revised to reflect more realistic, yet conservative, values of vessel beltline  $RT_{NDT}$  based on material analyses and testing. The shift in  $RT_{NDT}$  and revision of the curves is done to account for loss of reactor vessel material toughness as a result of accumulated radiation exposure to the vessel. The proposed amendment also updates a statement to reflect that neutron flux wires, used as a specimen for verification of calculated values of accumulated exposure, were removed during the first refueling outage and tested. Figure 3.6-2, "Change in Charpy V Transition Temperature versus Neutron Exposure" is proposed for deletion. This figure is not consistent with USNRC Regulatory Guide 1.99 and should be removed from the license. The proposed amendment would also update the bases to reflect current status of neutron flux wire specimens and plans for revising Figure 3.6-1 based on tests of the specimens.

*Basis for proposed no significant hazards considerations determination:* The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). Example (vi) of those involving no significant hazards considerations discusses a change which may reduce a safety margin but where the results are clearly within all acceptable criteria with respect to the system or component. The proposed revision to the figure of pressure versus temperature is a revision in a less restrictive direction and would appear to reduce a safety margin. However, in their submittal the licensee has addressed the significant hazards consideration determination required by 10 CFR 50.92. In their determination the licensee concludes that the proposed amendment will not involve significant increase in probability or consequences of a previously analyzed accident, that it will not create the possibility of a new or different kind of accident, and that it will not involve a reduction in a margin of safety. The licensee states that the proposed revision reflects conservative values of  $RT_{NDT}$  for the reactor vessel beltline region, and that the revision provides a margin of safety which complies with the fracture toughness requirements of 10 CFR 50 Appendix G. Based on the Commission's initial preliminary review of the change being proposed it is concluded that the results of plant operation in accordance with the proposed change would be within all

acceptable criteria for reactor vessel fracture toughness. Based on the licensee's determination of 10 CFR 50.92, in which the staff concurs, and since the application for amendment involves proposed changes that are encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

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**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 request:*  
November 5, 1982.

*Description of amendment request:*  
The amendments would change the Technical Specification to (1) require an audit of the Physical Security Plan every twelve months (rather than 24 months as presently required) to be consistent with 10 CFR 50.45(p), (2) delete the requirement to have the Plant Operations Review Committee (PORC) review the Quality Assurance (AQ) program, and (3) correct typographical errors in the number and position of four valves.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of 10 CFR 50.92 by providing examples of amendments that are likely not to involve a significant hazards consideration. These were published in the Federal Register on April 6, 1983 (48 FR 14870). One of the examples involving no significant hazards considerations relates to changes to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The change in required frequency for auditing the Physical Security Plan from every 24 months to every 12 months is to conform the requirements in the Technical Specifications with the requirement in the regulations and thus is encompassed by example (vii) provided by the Commission.

A second example provided by the Commission of changes not likely to

involve a significant hazards consideration is one that corrects an error in the Technical Specification. The correction in valve numbers and normal position is encompassed by this example.

Another example provided by the Commission of changes not likely to involve a significant hazards consideration is example (vi): A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

The present Technical Specifications require the Plant Operations Review Committee (PORC) to "review the adequacy of the quality assurance (QA) program and recommend any appropriate changes." This is no longer necessary as the function is being performed by other groups within TVA. To provide an independent review of the QA programs, TVA established an Office of Quality Assurance, responsible for checking the status of QA inspections, reviewing the adequacy of the programs and auditing performance at all TVA plants. Additionally, the Office of Power established a Quality Engineering Branch responsible for performing an annual review of the status and adequacy of the QA programs at each plant. The Nuclear Safety Review Board conducts an annual review of compliance with NRC QA requirements. The reviews conducted by the other offices within TVA is much more encompassing than the limited present requirement for PORC. Deleting the QA review from PORC's functions will not diminish the effectiveness or assessments of the QA program and therefore is within all acceptable criteria with respect to NRC requirements. Thus, the proposed change is encompassed by example (vi) of those changes not likely to involve a significant hazards consideration.

Therefore, since the application for amendment involves changes that are similar to examples which are not likely to involve significant hazards considerations, the staff has made a proposed determination that the application does not involve a significant hazards consideration.

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**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 request:*  
December 17, 1982.

*Description of amendment request:* The proposed amendments would change the Technical Specifications (TS) to permit bypassing of the trip function (but not the basic monitoring and alarm function) of the temperature switches in the main steam line tunnels for up to four hours to conduct an NRC requested secondary containment integrity test. The change would also clarify that one of the four redundant channels of these temperature switches may be placed in an inoperable status for up to four hours for required surveillance and maintenance without placing the trip system in the tripped condition, provided at least one operable channel in the same trip system is monitoring that parameter.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870) of changes which are and are not likely to involve a significant hazards consideration. The examples of actions not likely to involve a significant hazards consideration include (vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

Detection of postulated breaks in a main steam line is provided primarily by two diverse and redundant sets of instruments—main steam line flow and area temperature in the steam line tunnel. Other sets of instruments, while not intended primarily for steam line break protection (e.g., high radiation in the steam tunnel, low steam line pressure, etc.), do in fact offer considerable backup protection for detecting possible steam line breaks. If the limits on any of these sets of

instruments are exceeded, the protective action is a trip of the reactor and closure of the isolation valves.

In the steam tunnel, there are 16 temperature sensors grouped into four channels with four sensors in each. To detect very small breaks, the trip setting for the temperature sensors is set at 200°F—just slightly above normal area temperature in the tunnel with the plant air ventilation system operating. A test of secondary containment automatically isolates the building, shutting off normal ventilation flows (to prevent a possible release of radioactivity to the environment). Shutting off the normal ventilation flow would quickly raise the ambient temperature in the steam tunnels, tripping the reactor. Thus, it is not now possible to test secondary containment with the plant in operation. The NRC has requested the licensee to develop a plan to test the entire secondary containment at one time when two or more of the units would be operating. The test takes close to four hours to complete. The proposed change to the Technical Specifications is to permit bypassing the trip function of the temperature sensors for up to four hours to conduct a secondary containment test. Only the trip function will be bypassed. The temperature sensors will still be measuring the temperature in the steam tunnel and reading out in the control room. The change specifically requires that:

"During periods when normal ventilation is not available, such as during the performance of secondary containment leak rate tests, the control room indicators of the affected space temperatures shall be monitored for indications of small steam leaks. In the event of rapid increases in temperature (indicative of steam line break), the operator shall promptly close the main steam line isolation valves."

Since the temperature sensors are installed to detect small steam leaks, rapid, automatic action is not essential: manual operator action is acceptable for a limited period of time. Thus, there is at most, only a possible slight reduction in the margin of safety. Considering the other backup systems that will also detect and respond to a possible steamline break and the compensatory actions, the results of the proposed change are clearly within all acceptable criteria with respect to what the system is intended to protect against.

The other change—clarifying that it is acceptable to bypass one of the 4 redundant temperature channels for up to four hours—poses even less of a possible reduction in a margin of safety than the change discussed above.

Periodic testing and maintenance of any instrument channel is important to ensure that it is functioning properly. With one channel out of service, there are still 12 sensors in the three other channels functioning. The results of the changes are clearly within all acceptable criteria with respect to the design intent for this monitoring system.

Therefore, since the application for amendment involves proposed changes that are encompassed by an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

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**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 request:* February 1, 1983.

*Description of amendments request:* The proposed change would add a requirement for the licensee to perform an audit of the Safeguards Contingency Plan every twelve months.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards for making a "no significant hazard considerations" determination by providing certain examples (48 FR 14870). One of the examples is: "(i) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications; for example, a more stringent surveillance requirement."

By Generi Letter No. 82-23 dated October 23, 1982, we advise all licensees that "Section 73.40(d) of Title 10 of the Code of Federal Regulations requires that each nuclear power reactor licensee provide for an independent review of its safeguards contingency plan at least every 12 months."

At present, there is no requirement in the Browns Ferry Technical Specifications with respect to an audit of the safeguards contingency plan. The proposed change would add a new requirement to require such an audit. Since the change is adding a new restriction, it is encompassed by example (i), above. Based on the above,

the staff proposes to determine that this change involves no significant hazards considerations.

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**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 request:* April 28, 1983.

*Description of amendment request:* The amendments would modify the Technical Specifications to list the condition that actually causes automatic actuation of Group 7 isolation valves rather than listing the initiating events as is now the case. The Group 7 isolation valves consist of the drain valves on the High Pressure Injection and Reactor Core Isolation Cooling System steam lines, the drain valves on the Reactor Core Isolation Cooling System condensate pump and the valves on the discharge of the High Pressure Coolant Injection System hotwell pump. Normally, the valves are open (through level-controlled drain pots) to drain any condensed water out of the steam lines, since a slug of water could damage the HPCI and RCIC turbines if the system started up with water in the lines. The High Pressure Coolant Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) systems automatically start on reactor low water level (470 inches).

When this occurs, the drain valves close to prevent release of steam. The Group 7 isolation valves actually receive their isolation logic from the limit switch of their respective steam supply valve. When the steam supply valve begins to open, it initiates closure of the respective isolation valves. This revision to the technical specifications is being made to actually state that logic. The technical specifications now state that the Group 7 valves go closed on a low water level signal at 470 inches. The low water level signal initiates opening of the steam supply valve which in turn closes the isolation valves as described above. While the isolation signal in the technical specification is not totally incorrect, it is not an accurate description of the actual plant configuration, and is not consistent with the description of the logic in the FSAR. The proposed revision is being made to make the technical specification reflect

the actual isolation logic. Figures 7.4-2C and 4.7-2C of the Final Safety Analysis Report show the described logic for the High Pressure Coolant Injection and Reactor Core Isolation Cooling systems respectively.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). These examples include: "(i) A purely administrative change to the technical specification; for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature". The proposed change is encompassed by this example in that it corrects an error in the actual initiation signal for the Group 7 isolation valves. Therefore, the state proposes to determine that the requested change does not involve a significant hazards consideration.

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**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 request:* April 7, 1983.

*Description of amendment request:* The amendments would modify the Technical Specifications to require a once per operating cycle calibration of the Turbine Control Valve Fast Closure on Turbine Trip channels. The change would add this requirement to Table 4.1.B which lists the minimum calibration frequencies for the Reactor Protection System instrument channels.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). These examples include: "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications; for example, a more stringent surveillance requirement."

The proposed change is encompassed by this example in that it is adding a surveillance requirement that is not presently included in the technical specifications. On this basis, the staff proposes to determine that the requested change does not involve a significant hazards considerations.

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*NRC Branch Chief:* Domenic B. Vassallo.

**Tennessee Valley Authority, Docket Nos. 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama**

*Date of amendment request:* June 2, 1983.

*Description of amendment request:* The proposed amendments would change the Technical Specifications to permit the licensee to increase the coolant flow through the reactor core during coastdown operations (reactor coast-down conditions occur at the end of a reactor cycle, prior to fuel reloading, at which time reactor power has to be reduced due to fuel burnout). Increasing the reactor coolant flow would reduce the amount of power reduction required of Browns Ferry Units 2 and 3 during the end-of-cycle coastdown operations. A similar amendment has been previously approved for Unit 1.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance for the applications of these criteria by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). These examples include: "(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. . . ."

The licensee has evaluated normal and anticipated operational transients and accidents (e.g., rod drop accident) using methods previously reviewed and approved by the staff. The licensee has concluded that the proposed change will not result in an increase in the probability or consequences of previously analyzed accidents. The licensee has also analyzed the most limiting events to determine which event

could potentially induce the largest reduction in the initial critical power ratio.

For BWRs such as Browns Ferry, the staff has established a safety limit minimum critical power ratio (MCPR) of 1.07. Operation above this limit precludes significant fuel failure. To insure that during operation the MCPR will not drop below the safety limit, licensees are required to analyze those transients and accidents which are most likely to significantly affect the critical power ratio—coincident with possible failure of certain equipment to function as designed. The licensee is required to add the maximum calculated change in critical power ratio to the safety limit MCPR to establish an operating limit MCPR. Operating at or above this limit insures that even during postulated transients, the MCPR will not drop below the safety limit established by the staff. The licensee has performed the required analyses and proposed new operating limit-MCPRs accordingly. Specifically, the licensee has proposed a slight increase in the operating limit minimum critical power ratio and clipping the rod block monitor upscale flow biased setpoint at 106 percent rated power to ensure adequate protection in the event of a rod withdrawal error. This increase in MCPR and clipping the rod block monitor upscale flow biased setpoint will increase the margin of safety. Thus the licensee concludes that there will be no reduction in the margin of safety established by the staff. The staff has reviewed and concurs in the licensee's evaluation.

Based on the evaluation performed by the licensee and the fact that the proposed change is encompassed by an example of a change which is not likely to pose a significant hazards consideration, the staff proposes to determine that the application for amendments involves no significant hazards consideration.

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**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 request:* June 3, 1983.

*Description of amendment request:* The amendment would modify the

Technical Specifications by reducing the minimum level of water that must be maintained over single irradiated fuel assemblies in the spent fuel pool from 6½ feet to 5½ feet of water.

*Basis for proposed no significant hazards consideration determination:* Two fuel preparation machines located in each spent fuel storage pool are used to strip the channels from spent fuel assemblies and to install the used channels on new fuel assemblies. The one fuel preparation machine holds an irradiated fuel assembly from which the channel is to be removed; the other machine holds a new fuel assembly to which the used channel is bolted in place.

The proposed change is to reduce the amount of water that must be maintained over a single irradiated fuel assembly during transfer and handling with the fuel preparation machines. The change does not modify the requirement in the Technical Specifications that a minimum of 8½ feet of water must be maintained over irradiated fuel in the spent fuel pool. The reason the change is being requested is to permit operators using the fuel preparation machines to work in an erect position rather than crouched over as is now necessary with the present Technical Specification requirement.

The basis for the present requirement of maintaining 6½ feet of water over a single irradiated fuel assembly is not addressed in the Final Safety Analysis Report, the basis of the current Technical Specifications, the BWR Standard Technical Specifications (NUREG-0123, Rev. 3) or the Standard Review Plan.

As the licensee discussed in its significant hazards consideration evaluation, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated nor create the probability of a new or different kind of accident from any accident previously evaluated. The water level above a single irradiated fuel assembly during transfer and handling will not affect the probability of any accident associated with refueling operations. The mechanism of handling the fuel assemblies and the procedures remain the same. With the operators working in a more comfortable position, the probability of an accident may even be reduced. The fuel inspection procedure will not change. Only the level of water over the fuel bundle will change.

Therefore, the revision will not create the possibility of a new or different kind of accident from any previously evaluated. We have reviewed the

licensee's evaluation regarding accidents and concur in the determination.

The final question is whether the proposed change may reduce in some way a safety margin. The licensee included with the application a safety analysis and calculations on what the increase in radiation dose rate might be by reducing the amount of water over a fuel assembly. Based on prior experience, the average dose rate to personnel working around a spent fuel pool is about 10 mr/hr. The licensee further estimates that the exposure rate attributable to fuel assembly inspection or channel removal is 0.1 to 1 mr/hr. The licensee further estimates that the reduction in water level from 6½ to 5½ feet over single irradiated fuel assemblies will result in an expected increase in exposure rate of 0.6 to 6 mr/hr. All of these exposure rates are very low compared to many other activities required, e.g., inservice inspection and testing and surveillance. The important consideration is not so much the dose rate as whether the change is likely to result in a higher total exposure. The licensee has concluded that with the operators being able to work in a standing rather than a crouched position, they will be able to complete a fuel inspection in less time and thus the total exposure in times of man-rem will be reduced. We agree.

The licensee is required to limit the radiation exposure to personnel to the values in 10 CFR Part 20. Because of the number of modifications which the Commission has required in the past five years, there has generally been up to 3000 contractor and plant staff personnel onsite most of the time. The licensee has demonstrated through its performance that its health physics procedures have been effective in preventing over-exposures. The relatively minor increases in exposure rates that might be associated with the proposed change, together with the licensee's demonstrated ability to maintain personnel exposures within the regulatory limits, lead us to conclude that the proposed change will not result in a reduction in a safety margin.

On the above basis, the staff proposes to determine that the change does not involve a significant hazards determination.

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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 request:* June 20, 1983.

*Description of amendment request:* The amendments would modify the existing Technical Specification Administrative Controls by adding a requirement to report actuations and failures of safety relief valves in the annual report. The proposed changes were submitted in response to a staff request to propose Technical Specifications pertaining to reporting safety valve and relief valve failures and challenges required by Item II.k.3.3. of NUREG-0737, Clarification of TMI Action Plan Requirements.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). An example of a change involving no significant hazards consideration is "a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications; for example, a more stringent surveillance requirement. Since the proposed changes add limitations not presently included in the Technical Specifications, the staff proposes to determine that the application does not involve a significant hazards consideration.

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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 request:* June 24, 1983.

*Description of amendment request:* This amendment would change the Technical Specifications to correct an error on the "normal position" and "action on initiation signal" for the suppression chamber drain valves. Specifically, the changes would be to correct the "normal position" from "closed" to "open" and to change the

"action of initiation signal" from "stays closed" to "goes closed".

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 24870). The examples of amendments which are not likely to involve significant hazards consideration include "(1) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature."

The proposed change is encompassed by this example. These changes are proposed for clarification of the normal position of the suppression chamber drain valves FCV 75-37 and 75-58. The changes also correct typographical errors in the designation of the suppression chamber drain valves to reflect proper valve numbers and proper action of valves on initiating signal.

These changes reflect the correct valve positions for operating the pressure suppression chamber head tank system. It will not be possible to operate the pressure suppression chamber head tank system with the valve alignment shown in the existing technical specifications.

Therefore, since the application for amendment involves proposed changes that are encompassed by an example which is not likely to involve significant hazards considerations, the staff has made a proposed determination that the application involves no significant hazards consideration.

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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 request:* July 18, 1983.

*Description of amendment request:* The amendment would change the Minimum Plant Staffing subsection of the Administrative Controls section of the Technical Specifications. Section 6.8 of the Technical Specifications now states:

2. A licensed operator shall be in the control room . . .
3. A licensed senior operator shall be in direct charge of a refueling operation . . .
4. Two licensed operators shall be in the control room. . . . One of the two proposed changes is to add the word "reactor" before the word operator in the above three requirements. The personnel are commonly referred to and actually licensed by NRC as "reactor operators" (RO) and "senior reactor operators" (SRO). The change is to make the designation in the technical specifications consistent with the common accepted terminology. The change does not in any way affect the required qualification of the personnel involved or the requirement as to the number of personnel necessary for reactor operations.

The second change would revise 6.8.3, above, to permit fuel handling operations to be supervised by either a SRO or a SRO trained and licensed by the NRC in the specialty of fuel handling. NRC has always examined and, if qualified, licensed RO and SROs. Such a person must be qualified in all aspects of plant operation. For the past several years, NRC has also licensed personnel in special areas of plant operation such as fuel handling and training. An SRO licensed as an SRO in fuel handling operations must meet the same requirements in this aspect of plant operations as a regular SRO.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards by providing examples of actions that are likely, and are not likely, to involve significant hazards considerations [48 FR 14870]. One example of an action not likely to involve significant hazards considerations (example (i)) is a purely administrative change such as a change to achieve consistency throughout the technical specifications, correction of an error or a change in nomenclature. The proposed change to the Administrative Controls technical specifications that would add the word "reactor" before the word "operator" to be consistent with the abbreviations SRO and RO is purely administrative in nature and falls within the cited example of a change not likely to involve significant hazards considerations. On this basis, the staff proposes to determine that this change does not involve significant hazards considerations.

The license amendment that would permit supervision of fuel handling operations by SROs licensed only for fuel handling operations would not

decrease the level of pertinent qualifications for fuel handling supervisors relative to requirements under the existing license. Since the fuel handling supervisor's expertise and qualifications in fuel handling operations will be the same under the proposed amendment as under the requirements of the existing license, this change will not significantly increase the probability or consequences of accidents previously considered. Also, since the proposed change involves only the designation and qualifications of personnel authorized to supervise fuel handling operations, it does not create the possibility of a new or different accident from any evaluated previously and will not significantly decrease any safety margins. For these reasons, the staff proposes to determine that the change involving supervision of fuel handling operations does not involve significant hazards considerations.

*Local Public Document Room*  
*location:* Athens Public Library, South and Forrest, Athens, Alabama 35611.

*Attorney for licensee:* H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

*NRC Branch Chief:* Domenic B. Vassallo.

**The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

*Date of amendment request:* March 16, 1979, revised by letters dated December 23, 1982, July 13, 1983 (Item 2) and August 18, 1983 (Item 6).

*Description of amendment request:* The proposed amendment would revise the Technical Specifications applicable to radiological plant effluents. The amendment was submitted by the licensee in response to an NRC request to propose new radiological effluent Technical Specifications which incorporate present NRC staff position to ensure compliance with 10 CFR 50.36a. The proposed amendment provides new Limiting Conditions for Operation and Surveillance Requirements for liquid and gaseous effluent monitoring instrumentation requirements, liquid and gaseous effluent release rates and projected dose limits, operating requirements for the radioactive effluent treatment systems, temporary outside liquid storage inventory activity limits, and waste gas stream oxygen concentration limits. The proposed Technical Specifications also provide for requirements to assure that all solid wastes meet applicable burial

site requirements and for radiological environmental monitoring that includes a monitoring program, a land use census, and an interlaboratory comparison program. This amendment also would include bases that support the Limiting Conditions for Operation and Surveillance Requirements. Some changes would be made in administrative controls dealing with the Process Control Program and the Offsite Dose Calculation Manual. The proposed amendment would remove the current Radiological Effluent Technical Specifications from the Appendix "B" Technical Specifications.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications. Licensees are required by 10 CFR 50.36a to install, maintain, and operate the radioactive waste treatment systems in a manner that would keep releases of radioactive material during normal operation to unrestricted areas as low as is reasonably achievable. To ensure compliance with this requirement, it is necessary to add additional restrictions and controls to the Technical Specifications as described above. The Commission's staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

*Local Public Document Room*  
*location:* University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John F. Stolz.

**The Toledo Edison Company and the Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

*Date of amendment request:* December 26, 1980 (Item 5 only), modified by letters dated July 10, 1981 (Item 5 only) and July 8, 1983.

**Description of amendment request:** The proposed changes would revise the organizational charts included in the Technical Specifications to show the present station and offsite organization structure. The changes to the station organization chart would show more organizational detail reflecting an enlarged staff. Included in these changes would be several new key positions. These new positions are Assistant Station Superintendent for Outage Management, Facility Modification Manager, Outage Management Supervisor, Environmental Monitoring Supervisor, Shift Technical Advisor Supervisor, and Shift Technical Advisors. The organization also would show an enlarged maintenance staff. In addition, the organization chart would no longer show the Training Supervisor reporting to the Station Superintendent; instead the Training Supervisor reports to the Nuclear Services Director as part of the offsite organization.

The proposed changes to the offsite organization chart also reflect an enlarged staff and would show more organizational detail than previously. One change would reflect a change of the position title of Power Engineering and Construction General Superintendent to Nuclear Facility Engineering Director. Most of the position responsibilities are retained except that the project engineering functions have been transferred to the new position of Nuclear Projects Director. Also a new position has been created—Nuclear Safety Director—with the responsibility to review and evaluate the company nuclear safety program and to direct safety reviews of various activities to minimize nuclear safety risk.

In addition to the changes to the organizational charts, the amendment would change some members of the Company Nuclear Review Board and Station Review Board and their titles. The function of these review boards would remain unchanged.

**Basis for proposed no significant hazards consideration determination:** The Commission has provided guidance concerning the application of the standards considered not likely to involve a significant hazards consideration (48 FR 14870). Example "(i) A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error or change in nomenclature.

The organizational changes are intended as improvements to the efficiency and effectiveness of the overall Davis-Besse Nuclear Power

Station organization. The membership changes to the review boards are intended to improve independence and expertise on the boards and to facilitate their function.

Although the changes do not strictly fit the cited example, the changes are of an administrative nature to correct the Technical Specifications based on corporate organizational changes. The changes appear to strengthen the organizational structure and would not appear to involve a significant hazards consideration.

Accordingly, based on our preliminary review, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

**Local Public Document Room**  
**location:** University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

**Attorney for licensee:** Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

**NRC Branch Chief:** John F. Stolz.

**The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

**Date of amendment request:** May 19, 1983.

**Description of amendment request:** The proposed changes would modify the frequency for the licensees' audits of the Davis-Besse Nuclear Power Station Emergency Plan and Implementing Procedures and the Davis-Besse Nuclear Power Station Security Plan and Implementing Procedures from every 24 months to every 12 months.

**Basis for proposed no significant hazards consideration determination:** The Commission has provided guidance concerning the application of the standards for making a "no significant hazard consideration" determination by providing certain examples (48 FR 14870). One of the examples is a change to make a license conform to regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The proposed changes were identified to the licensees in our Generic Letter No. 82-17 dated October 1, 1982, and Generic Letter No. 82-23 dated October 30, 1982, as a needed change to be consistent with the regulations, 10 CFR 50.54(t) and 10 CFR 73.40(d). The proposed changes match this example. Another example given by the Commission which also applies is a change that constitutes an additional limitation, restriction, or control not

presently included in the technical Specifications: for example, a more stringent surveillance requirement. The frequency of audits required by the licensees would be doubled from that previously required. On these bases, the Commission's staff proposes to determine that these changes involve no significant hazards considerations.

**Local Public Document Room**  
**location:** University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

**Attorney for licensee:** Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

**NRC Branch Chief:** John F. Stolz.

**The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

**Date of amendment request:** June 15, 1983.

**Description of amendment request:** The amendment would revise the Technical Specifications to incorporate the requirement for a periodic flow test for the Auxiliary Feedwater System in order to verify the normal flow path from the Auxiliary Feedwater System water source to the steam generators. A similar flow test would be required after any modification or repair to the Auxiliary Feedwater System. These tests would ensure the availability of Auxiliary feedwater by verification of the proper flow path. The proposed amendment was submitted in response to the NRC's request dated December 1, 1982.

**Basis for proposed no significant hazards consideration determination:** The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include actions which involve a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed change matches this example since the above periodic flow test requirement is not presently included in the Technical Specifications. Therefore, the staff proposes to determine that the application does not involve a significant hazards consideration.

**Local Public Document Room**  
**location:** University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John F. Stolz.

**The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station Station, Unit No. 1, Ottawa County, Ohio**

*Date of amendment request:* August 18, 1983 (Item 3 only).

*Description of amendment request:* The amendment would replace the existing non-radiological Environmental Technical Specifications with an Environmental Protection Plan (EPP). The proposed EPP was submitted in response to an NRC request. It follows the recommended EPP but has been modified to reflect the completion of non-radiological environmental monitoring previously required by the Technical Specifications. The plan (1) deletes all previously required but now completed non-radiological environmental monitoring, (2) upgrades administrative controls, (3) divides Appendix B into two parts—Part 1—Radiological Environmental Technical Specifications and Part 2—EPP.

*Basis for proposed no significant hazards consideration determination:* The amendment would revise the non-radiological environmental monitoring program but would not change any current limitations related to the operation of the facility. Since no operational limitations are being changed, the staff proposes to determine that the amendment does not involve a significant hazards consideration. The EPP is designed to promote NRC awareness of environmental effects of plant operation while recognizing that regulation of non-radiological aquatic matters is the responsibility of other agencies. Therefore, the change is administrative in nature and fits example (i) of Examples provided by the Commission of amendments that are not likely to involve a significant hazards consideration (48 FR 14870).

*Local Public Document Room*  
*Location:* University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John F. Stolz.

**The Toledo Edison Company and the Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

*Date of amendment request:*  
September 1, 1983.

*Description of amendment request:* The amendment would revise the testing requirements for hydraulic shock suppressors (snubbers) and add requirements for mechanical snubber operability and testing. The proposed changes were made in response to an NRC request to upgrade the testing requirements for all safety-related snubbers to ensure a higher degree of operability. The changes involve: clarifying the frequency for visual inspections, stating the requirements for functional testing of snubbers which visually appear inoperable, adding a formula for the selection of representative sample sizes, clarifying the testing acceptance criteria, and revising the method of snubber listing to incorporate more information.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards considerations include changes that constitute additional limitations or restrictions in the Technical Specifications. The proposed changes revise sections of the Technical Specifications related to hydraulic snubbers to clarify requirements and include additional testing, and incorporate both operability and testing requirements for mechanical snubbers. Since the requested changes upgrade the requirements for hydraulic snubbers and add requirements for mechanical snubbers, the staff proposes to determine that the application does not involve a significant hazards consideration.

*Local Public Document Room*  
*location:* University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John F. Stolz.

**Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia**

*Date of amendment request:* August 24, 1983.

*Description of amendment request:* The proposed amendments would clarify testing requirements presently specified in the Technical Specifications for Containment Isolation Valves.

Presently, a double asterisk to Table 3.6-1, Containment Isolation Valves, specifies that a valve so designated with a double asterisk is a weight loaded check valve. The proposed change to the double asterisk footnote would state that testing is required per Technical Specifications 4.6.3.1.1.a and 4.6.3.1.2.d which specify the limiting conditions for operation and surveillance requirements, respectively, for containment isolation valves. Specifying Technical Specifications 4.6.3.1.1.a and 4.6.3.1.2.d to the double asterisk footnote will clarify testing requirements for weight loaded check valves which are part of the Containment Isolation Valves and separate from other weight loaded check valves in plant systems which are not required for Containment Isolation.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of these standards by providing guidance in certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration is a purely administrative change to the technical specifications; for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The proposed amendments fall within the scope of this example. The changes, as described above, provide clarification of limiting conditions for operation and surveillance testing of weight loaded check valves which are specified as Containment Isolation Valves. The changes do not result in any revisions to the presently approved technical specifications for Containment Isolation Valves. On this basis, the Commission proposes to determine that the proposed amendments do not involve a significant hazards consideration.

*Local Public Document Room*  
*locations:* Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

*Attorney for licensee:* Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

*NRC Branch Chief:* James R. Miller.

**Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia**

*Date of amendment request:*  
September 16, 1983.

*Description of amendment request:*  
The proposed changes would revise the Technical Specifications (TS) by terminating requirements to measure turbidity and suspended solids in the drain outflow system located under the service water pump house. In addition, the TS would be revised to decrease the frequency of settlement monitoring for specified settlement points from at least once per 31 days to at least once per six months. In addition, monitoring of the ground water level of the service water reservoir by specified piezometers on a once per 31 days and once per 12 month period would be revised to a consistent uniform 6 month monitoring frequency for all ground water levels and flow measurements. Finally, the proposed changes would remove the action item as specified in the TS which requires a five-year summary report to the NRC on the Monitoring of Settlement and Ground Water Levels at the North Anna Power Station.

*Basis for proposed no significant hazards consideration determination:*  
The Commission has provided guidance concerning the application of the standards by providing certain examples (48 FR 14870). Example (iv) of actions involving no significant hazards considerations states: "A relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. This assumes that the operating restriction and the criteria to be applied to a request for relief have been established in a prior review and that it is justified in a satisfactory way that the criteria have been met." The proposed changes discussed above fall within the guidelines of example (iv).

The Service Water Reservoir (SWR) and Service Water Pumphouse (SWP) at the North Anna Power Station have been monitored on a frequent basis with regard to settlement, ground water levels and rates of ground water flow based on NRC requirements to verify acceptable performance of these structures and components. These NRC requirements were so stipulated in the North Anna, Unit 1 TS at the time the facility first received an operating license on November 28, 1977.

Additional NRC monitoring requirements for SWP settlement were specified in Amendment No. 12 (June 28, 1979) to the North Anna, Unit No. 1 TS.

Identical requirements were specified in the North Anna, Unit 2 TS issued as part of the full power operating license on August 21, 1980. These NRC requirements specified that a summary report would be prepared by the licensee at the end of a 5-year surveillance monitoring period to establish trends related to performance of the SWR, SWP and their components regarding settlement, ground water levels and rate of ground water flow.

By letter dated February 24, 1983, the licensee submitted the five year report on Monitoring of Settlement and Ground Water Level at the North Anna Power Station, Units 1 and 2. The licensee's report is being used as the basis for the proposed changes discussed above. The report includes extensive monitoring data obtained over a period in excess of 5 years and thus provides a large data base for establishing performance trends for SWR, SWP and their components. The evaluation of this data indicates that sufficient stability and lack of movement have occurred in the SWR, SWP and their components to allow for discontinuing some phases of monitoring and reducing the frequency of others. In addition, the licensee has proposed in the amendment request that a single frequency of monitoring (six months) be continued for settlement and ground water levels for the SWR, SWP and their components. In addition, the licensee's proposed change for terminating requirements to measure turbidity and suspended solids in the drain outflow system is substantiated by the 5 year summary report. The results of these turbidity measurements indicate no detectable turbidity or suspended solids have been detected with the exception of the first few days after drain installation. Finally, the action statement in the TS requiring submittal of a 5 year summary report has been completed with the licensee's submittal dated February 24, 1983. Thus, this action statement is complete and no longer required. Based on the above, the licensee's proposed amendment request is enveloped by the Commission's example (iv) as discussed above. Therefore, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

*Local Public Document Room locations:* Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

*Attorney for licensee:* Michael W. Maupin, Esq., Hunton, Williams, Gay

and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

*NRC Branch Chief:* James R. Miller.

**Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia**

*Date of amendment request:*  
September 29, 1983.

*Description of amendment request:*  
The proposed amendment would revise the Technical Specifications by changing the fractional thermal power multiplier from 0.2 to 0.3 with a reactor coolant system average temperature ( $T_{AV}$ ) of 587.8 degrees Fahrenheit (°F). The proposed change would allow optimization of the core loading pattern by minimizing restrictions on the fractional power limit,  $F_{\Delta H}^N$ , at low power. At full power, the  $F_{\Delta H}^N$  limit will remain unchanged. In the expression for  $F_{\Delta H}^N$ , as specified in the Technical Specifications,  $F_{\Delta H}^N = 1.55 [1 + 0.3(1 - P)]$ . The proposed change would increase the partial power multiplier from 0.2 to 0.3 in the expression above; however, at full power, P becomes 1.0 and the multiplicative effect of the 0.3 partial multiplier is zero (0). The increase in the fractional power  $F_{\Delta H}^N$  will be compensated for by more restrictive fractional power core thermal limits. These more restrictive core thermal limit lines will maintain the current design bases Departure from Nucleate Boiling (DNB) criteria. Analyses supporting the proposed change used analytical techniques consistent with North Anna design bases and previously NRC-approved Westinghouse fractional power multiplier analyses.

*Basis for proposed no significant hazards consideration determination:*  
One of the Commission's examples (48 FR 14870) involving no significant hazards relates to a requested change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. The proposed change as described above falls within the scope of the Commission's example as stated above. Changing the fractional power multiplier from 0.2 to 0.3 for a  $T_{AV}$  temperature of 587.8°F has been derived from previously approved techniques. In addition, the change in margin is

compensated for by more restrictive fractional power core thermal limits. Therefore, the Commission proposes to determine that the proposed change does not involve a significant hazards consideration.

*Local Public Document Room*

*locations:* Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

*Attorney for licensee:* Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

*NRC Branch Chief:* James R. Miller.

**Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia**

*Date of amendment request:* October 7, 1983.

*Description of amendment request:* The amendment request would revise the present Technical Specifications to reflect the addition of new fire protection surveillance requirements in certain safety related areas. The addition of fire protection surveillance requirements is based on the NRC safety evaluation report on the North Anna Units No. 1 and No. 2 Fire Protection Program dated February 1979 which required the installation of additional fire protection systems in certain safety related areas.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of these standards by providing certain examples (See 48 FR 14870). A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, example (ii), is explicitly considered not likely to involve significant hazards. The proposed change imposes additional limiting conditions of operation and is therefore more restrictive. Accordingly, the Commission proposes to determine this change involves no significant hazards considerations.

*Local Public Document Room*

*locations:* Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

*Attorney for licensee:* Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

*NRC Branch Chief:* James R. Miller.

**Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry, Virginia**

*Date of amendments request:* September 13, 1983.

*Description of amendments request:* The proposed Technical Specification changes submitted September 13, 1983, by the licensee, would reduce the boron concentration in the boron injection tank and the boric acid system. These changes would reduce maintenance problems and thus the associated personnel radiation exposure. The proposed reduction consists of a change in the minimum Boron Injection Tank (BIT) concentration from 11.5% to 0% and a change in the minimum Boric Acid System concentration from 11.5% to 7%. The original purpose of the BIT was to mitigate the reactivity addition resulting from a main stream line break. The reduction in BIT concentration can be achieved by taking credit for the Integral Flow Restrictors in the safety analysis of the main stream line break accident; this accident is discussed in Chapter 14 of the Surry Updated Final Safety Analysis Report (UFSAR). The Integral Flow Restrictors were installed during the steam generator repair outage. The reduction in boric acid system concentration will be accomplished by increasing the minimum allowable Boric Acid Tank inventory associated with each unit from 4,200 gallons to 6,000 gallons, thereby preserving the capability for cold safe shutdown at any time in life with the most reactive control rod assembly withdrawn from the core.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the no significant hazards consideration by providing certain examples (48 FR 14870). Example (vi) of a no significant hazards consideration involves a change which may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system as specified in the Standard Review Plan. Although the instant amendment would permit a reduction in the neutron-absorbing boron concentration, past experience with similar amendments authorizing such reductions has shown that the effects and results of such reductions are clearly within all acceptance criteria with respect to the systems as specified in the Standard Review Plan. Thus, this amendment falls within example (vi) of actions not likely to involve significant hazards considerations and on this basis, the staff proposes to determine

that the amendment here does not involve significant hazards considerations.

*Local Public Document Room*  
*location:* Swem Library, College of William and Mary, Williamsburg, Virginia 23213.

*Attorney for licensee:* Mr. Michael Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

*NRC Branch Chief:* Steven A. Varga.

**Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin**

*Date of amendment request:* June 4, 1976 as modified January 28, 1980 and October 7, 1983.

*Description of amendment:* The amendments would permit operation after approval of changes to the plant's Technical Specifications (TS) that bring them into compliance with Appendix I, 10 CFR 50, and 10 CFR 50.36a and 50.34a. These proposed TS are intended to ensure that releases of radioactive material to unrestricted areas during normal operation remain as low as is reasonably achievable. Specifically, the proposed TS define limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring. Additional environmental sampling locations have been added to the present sampling locations. Additional managerial review responsibilities and reporting requirements have been added relating to radioactive releases. A site plan figure depicting the site exclusion area boundary has been added and the definition of channel check has been changed to more closely follow the recommended definition contained in NUREG-0472, "Radiological Effluent Technical Specifications for PWRs."

The NRC staff has issued previously its proposed determination that the earlier versions of these amendment requests did not involve a significant hazards consideration (48 FR 38382 at 38430, August 23, 1983).

This newest version of the proposed amendments addresses NRC staff comments on previous submittals and incorporates additional guidance contained in Revision 1 to NUREG-0472 "Standard RETS for Pressurized Water Reactors." The staff's comments together with a copy of Revision 1 of NUREG-0472 were transmitted to the licensee by letter dated April 25, 1983. The newest version of these proposed amendments adds a definition for source checks of instruments, adds a definition for radioactive waste

handling, revises the section on radioactive effluent monitoring instrumentation to include newly installed instrumentation, deletes figure 15.4.10-1 showing environmental sampling locations and instead references the Environmental Monitoring Manual where sample locations are now described, provides an improved figure 15.5.1-1 mapping the Point Beach Plant and surrounding area, provides additional reporting requirements and makes various administrative changes to previous submittals.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to additional limitations, restrictions or control not presently included in the technical specifications (ii). In the case of the proposed technical specifications, they constitute an additional requirement for monitoring and control of radioactive effluents not presently in the technical specifications and are intended to meet the intent of the Commission's regulations (10 CFR 50 Appendix I, 10 CFR 50.34a, and 10 CFR 50.36a) and related staff guidance (NUREG-0472). Therefore, the staff proposes to determine that the amendments do not involve a significant hazards consideration.

*Local Public Document Room*  
*location:* Joseph P. Mann Public Library  
1516 16th Street, Two Rivers, Wisconsin.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW, Washington, D.C. 20036.

*NRC Branch Chief:* James R. Miller.

**PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING**

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this regular monthly notice. They are repeated here because the monthly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

**Carolina Power & Light Company, Docket No. 50-324, Brunswick Steam Electric Plant, Unit No. 2, Brunswick County, North Carolina.**

*Date of amendment request:*  
September 29, 1983.

*Brief description of amendment:* Revises the license to extend the completion date for modifications to the augmented off-gas system.

*Date of publication of individual notice in "Federal Register":* 10/31/83 48 FR 50179.

*Expiration date of individual notice:*  
November 30, 1983.

*Local Public Document Room*  
*location:* Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

**Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit 2, Westchester County, New York**

*Date of amendment request:* May 5, 1977.

*Brief description of amendment:* The amendment revises the Technical Specifications to reflect provisions consistent with the appropriate Edition and Addenda of Section XI of the ASME Boiler and Pressure Vessel Code. Specifically the amendment replaces the inservice inspection requirements in Section 4.2 of the Technical Specifications with a commitment to an inservice inspection program as specified in 10 CFR 10.55a.

*Date of publication of individual notice in "Federal Register":* October 27, 1983.

*Expiration date of individual notice:*  
November 28, 1983.

*Local Public Document Room*  
*location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

**Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina**

*Date of amendment request:* August 2, 1983.

*Brief description of amendment:* One amendment would change Technical Specification 4.8.5.3.1 to increase the surveillance interval for verifying that the ice condenser inlet doors can be opened and closed properly and to increase the size of the sample required to be tested during each surveillance. The change would increase the surveillance interval from 6 months to 9 months and at the same time increase the sample size from 25% to 50%.

A second amendment would change Technical Specification Table 3.3-5, response time for steam line isolation from  $\geq 9$  seconds to  $\geq 7$  seconds. The change would reflect the response time value used in the safety analysis report.

A third amendment would change Technical Specification Table 3.7-4b to reflect deletion of 1 mechanical snubber on the Unit 2 Diesel Generator Lube Oil System and 1 mechanical snubber on the Unit 2 Safety Injection System. Deletion of these snubbers is allowed by the terms of the technical specification.

A fourth amendment would change Technical Specification 4.6.1.1.a to exempt locked valves, blind flanges and deactivated automatic valves located inside the annulus from monthly surveillance requirements. A similar exemption applies to components inside containment. Surveillance on the annulus components would be performed during cold shutdown.

A fifth amendment would change Technical Specification 4.6.1.3.b to require an overall containment airlock leakage test whenever maintenance has been performed on the air locks that could affect the air locking sealing capability. This change would constitute an exemption to Appendix J to 10 CFR 50.

The sixth amendment would change Technical Specification Table 3.6-1, by adding several secondary containment penetrations that were inadvertently omitted from the table due to administrative errors.

The seventh amendment would correct several Technical Specification administrative and typographical errors.

The eighth amendment would change Technical Specification Table 3.3-1 concerning the action required in the event one of the four instrumentation channels per steam generator is inoperable which actuate reactor trip upon low-low-steam generator water level. The change would allow bypassing the inoperable channel for up to 2 hours for surveillance testing of the remaining operable channels.

The ninth amendment would change Technical Specification 4.7.10.2.a to exclude sprinkler system valves from surveillance requirements which are inaccessible during plant operation and would add Specification 4.6.10.2.C.4 to require verifying the positions of those valves at least once per 18 months.

The final amendment would change Technical Specification 3.6.4.3/4.6.4.3 by clarifying that the Primary Containment Distributed Ignition System consists of two redundant trains to assure compatibility with operability as defined on a per train basis.

*Date of publication of individual notice in Federal Register: October 27, 1983 (48 FR 49717).*

*Expiration date of individual notice: November 28, 1983.*

*Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.*

**Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station Units 1 and 2, Mecklenburg County, North Carolina**

*Date of amendment request: September 22, 1983.*

*Brief description of amendment: The amendments would change the Technical Specifications related to the containment lower compartment temperature. The McGuire primary containment building uses cooling water from adjacent Lake Norman to cool the containment atmosphere. This water is drawn from near the bottom of the lake and is much cooler than water near the surface of the lake during the summer. During the fall of the year a lake "turnover" occurs resulting in the cooler bottom water mixing with the warmer surface water causing a higher cooling water inlet temperature. Operating experience at the McGuire Station has shown that the current primary containment building lower compartment temperature limit of 120° F may be exceeded due to anticipated higher inlet cooling water temperatures. The proposed amendments would allow this limit to be increased from 120° F to 125° F from up to 90 cumulative days a year provided that the lower compartment temperature had averaged less than 120° F over the previous 365 days.*

*Date of publication of individual notice in Federal Register: October 25, 1983 (48 FR 49394).*

*Expiration date of individual notice: November 25, 1983.*

*Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.*

**Duke Power Company, Docket No. 50-270, Oconee Nuclear Station, Unit No. 2, Oconee County, South Carolina**

*Date of amendment request: September 1, 1983, as supplemented September 14, 1983.*

*Brief description of amendment: The amendment would authorize proposed changes to the Oconee Nuclear Station (ONS) common Technical Specifications which are required to support the operation of Oconee Unit 2 at full rated power during Cycle 7. The proposed changes involve the core protection*

safety limits, the protective system maximum allowable setpoints, and the rod position limits.

*Date of publication of individual notice in Federal Register: October 19, 1983, 48 FR 48556.*

*Expiration date of individual notice: November 19, 1983.*

*Local Public Document Room Location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.*

**Duke Power Company, Dockets Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units Nos. 1, 2 and 3, Oconee County, South Carolina**

*Date of amendment request: February 9, 1983, as supplemented February 28, 1983 and April 28, 1983.*

*Brief description of amendment: The amendments would authorize changes to the Common Technical Specifications for Units Nos. 1, 2 and 3 the Oconee Nuclear Station. The amendments would permit operation after approval of changes to the Radiological Effluent Technical Specifications that bring them into compliance with Appendix I of 10 CFR Part 50. The amendments would specifically deal with such changes as indicating shared instrumentation among the three operating units at the Station. They would provide new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. These changes also incorporate the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual.*

*Date of publication of individual notice in Federal Register: October 27, 1983, 48 FR 49714.*

*Expiration date of individual notice: November 28, 1983.*

*Local Public Document Room Location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.*

**Florida Power Corporation et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida**

*Date of amendment request: January 17, 1983.*

*Brief description of amendment: The proposed amendment would permit operation after approval of changes to the Radiological Effluent Technical Specifications that bring them into compliance with Appendix I of 10 CFR Part 50. The amendment would specifically provide new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use census, and interlaboratory comparison program. This change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual.*

*Date of publication of individual notice in "Federal Register": October 28, 1983, 48 FR 49946.*

*Expiration date of individual notice: November 28, 1983.*

*Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.*

**Florida Power Corporation et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida**

*Date of amendment request: February 7, 1983.*

*Brief description of amendments: The proposed amendment would revise the Crystal River Unit 3 Technical Specifications insofar as which section of the Technical Specifications contains requirements for the emergency feedwater system ultrasonic flow indicator. Following the Three Mile Island, Unit 2 accident, the Commission required installation of control-grade direct indication of auxiliary (or emergency) feedwater into all steam generators at each operating nuclear power plant. These indicators were not intended to be safety-related instrumentation but instead an interim measure pending upgrading auxiliary feedwater systems as a whole to safety-grade. When these interim feedwater flow indicators were installed at Crystal River 3, the corresponding Technical Specification requirements were placed in the section dealing with the emergency feedwater system (Section 4.7.1.2) rather than in the section dealing*

with post-accident monitoring instrumentation (4.3.3.6).

The result of this oversight has been an unnecessary restriction on operability of the Crystal River Unit 3 emergency feedwater system. Specifically, by having the operability requirement in the system section of the Technical Specifications, an entire train of the emergency feedwater system must be declared inoperable if the control-grade ultrasonic flow sensor is not functioning properly. This could result in placing the entire reactor plant in a shutdown condition if the instrument could not be repaired within 72 hours. The licensees consider that this would constitute an unnecessary and unintended cycle on the plant.

*Date of publication of individual notice in "Federal Register": October 28, 1983, 48 FR 49944.*

*Expiration date of individual notice: November 28, 1983.*

*Local Public Document Room*  
*location: Crystal River Public Library, 668 NW, First Avenue, Crystal River, Florida.*

**Northern States Power Company,**  
Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

*Date of amendment request: September 24, 1982.*

*Brief description of amendment:* The proposed revisions to the Technical Specifications would provide for an expanded Radiation Protection Program requirement and limit the extent of required Operations Committee review of radiation protection procedures. The Radiation Protection Program, consistent with the requirements of 10 CFR Part 20, would consist of a Plan and Procedures. The Radiation Protection Plan would be a complete and concise statement of radiation protection policy and program. The procedures would implement the requirements of the Radiation Protection Plan. Operations Committee review of the radiation protection procedures will be omitted only for those non-safety related procedures governing work activities exclusively applicable to or performed by the health physics personnel. Other changes proposed in the September 24, 1982 application are being noticed separately.

*Date of publication of individual notice in the "Federal Register": 10/31/83 48 FR 50180.*

*Expiration date of individual notice: November 30, 1983.*

*Local Public Document Room*  
*location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.*

**Northern States Power Company,**  
Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2, Goodhue County, Minnesota

*Date of amendment request: June 24, 1983.*

*Description of amendment request:* These proposed amendments would increase the peak fuel pellet exposure from 51 to 55 GWD/MTU. These proposed amendment requests also contained a request for a change to the limit of the core local heat flux ratio  $F_q$  from 2.21 to 2.32 allowing a localized linear heat generation rate increase from 14.31 to 15.02 kW/ft.

*Date of publication of individual notice in "Federal Register": November 3, 1983, 48 FR 50807.*

*Expiration date of individual notice: December 6, 1983.*

*Local Public Document Room*  
*location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.*

**Pacific Gas and Electric Company,**  
Diablo Canyon Nuclear Power Plant, Unit 1 San Luis Obispo, California

*Date of amendment request: July 1, 1983.*

*Brief description of amendment:* The amendment would add a new requirement into the Technical Specifications to provide limiting conditions for operation should the inlet ocean water temperature exceed 64°F and would also require surveillance requirements of the ultimate heat sink.

*Date of publication of individual notice in "Federal Register": October 17, 1983 (48 FR 47077).*

*Expiration date of individual notice: November 16, 1983.*

*Local Public Document Room*  
*location: California Polytechnic State University Library, Documents and Maps Departments, San Luis Obispo, California 93407.*

**Public Service Electric and Gas Company,** Salem Nuclear Generating Station Unit No. 1, Docket No. 50-272, Salem County, New Jersey

*Date of amendment request: July 22, 1983.*

*Brief description of amendment:* The amendment would, on a one-time basis, extend the  $40 \pm 10$  month interval of technical specification 4.6.1.2. a during the first 10 year service period to permit the second inservice integrated leak rate test to be performed during the fifth refueling outage.

*Date of publication of individual notice in "Federal Register": September 21, 1983 (48 FR 43113).*

*Expiration date of individual notice: October 21, 1983.*

*Local Public Document Room*  
*location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.*

**Tennessee Valley Authority, Docket Nos. 50-259, 50-260, and 50-296,** Browns Ferry Nuclear Plant, Unit Nos. 1, 2 and 3, Limestone County, Alabama

*Date of amendment request: March 25, 1983.*

*Brief description of amendment:* Add additional restrictions, limits and controls on the amount of unidentified leakage into primary containment.

*Date of publication of individual notice in "Federal Register": 10/31/83, 48 FR 50182.*

*Expiration date of individual notice: November 30, 1983.*

*Local Public Document Room*  
*location: Athens Public Library, South and Forrest, Athens, Alabama 35611.*

**Tennessee Valley Authority, Docket Nos. 50-259, Browns Ferry Nuclear Plant, Unit No. 1, Limestone County, Alabama**

*Date of amendment request: July 13, 1983.*

*Brief description of amendment:* Cycle 6 reload and plant modifications being performed during the refueling outage.

*Date of publication of individual notice in "Federal Register": 10/28/83, 48 FR 49947.*

*Expiration date of individual notice: November 28, 1983.*

*Local Public Document Room*  
*location: Athens Public Library, South and Forrest, Athens, Alabama 35611.*

#### NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the 30-day period since publication of the last monthly 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 were published in the *Federal Register* as

indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless indicated otherwise, the Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments. If the Commission has prepared an Environmental Impact appraisal related to these actions, it is so indicated. If indicated, this notice constitutes a negative declaration and indicates that the Commission has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility.

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 Impact Appraisals as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

**Alabama Power Company, docket No. 50-348, Joseph M. Farley Nuclear Plant Unit No. 1, Houston County, Alabama**

*Date of application for amendment:* June 17, 1983 supplemented July 8, 1983.

*Brief description of amendment:* The amendment modifies Technical specification 4.7a on a one-time basis to extend a visual inspection of all inaccessible hydraulic snubbers for about three months or until the next shutdown of sufficient duration.

*Date of issuance:* October 31, 1983.

*Effective date:* October 31, 1983.

*Amendment No. 35.*

*Facility Operating License No. NPF-2.* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* August 23, 1983 (48 FR 38386). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*  
*Location:* George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

**Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas**

*Date of application for amendment:* February 23, 1983, supplemented April 18, 1983.

*Brief description of amendment:* The amendment (1) made a reference correction, (2) corrected several miscellaneous typographical errors, (3) revised the technical Specification bases pertaining to reactor trip set points, and (4) deleted a surveillance requirement pertaining to the pressurizer spray water temperature differential. Other changes which were also proposed in the application for amendment to reflect the reorganization of the Energy Supply Department of Arkansas Power & Light Company are not covered by this amendment and will be the subject of future Commission action.

*Date of issuance:* November 10, 1983.

*Effective date:* November 10, 1983.

*Amendment No. 49.*

*Facility Operating License No. NPF-6.* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* June 22, 1983, 48 FR 28582. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 10, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*  
*location:* Tomlinson Library, Arkansas Tech University, Russellville, Arkansas.

**Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant Units 1 and 2, Lusby, Maryland**

*Date of application for amendments:* May 27, 1983.

*Brief description of amendments:* The change of TS 3.8.4.1. "Containment Isolation Valves" reflects a modification to valve 1(2)-SV-6529, changing it from an automatic isolation valve with a required response time (closure) of less than or equal to 7 seconds to a locked closed isolation valve with no required response time.

*Date of issuance:* September 22, 1983.

*Effective date:* September 22, 1983.

*Amendment Nos. 87 & 69.*

*Facility Operating License Nos. DPR-53 and DPR-69.* Amendments revised the Technical Specifications.

*Date of initial notice in "Federal Register":* July 20, 1983, 48 FR 33076. The Commission's related evaluation of the

amendment is contained in a Safety Evaluation dated September 22, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*Location:* Calvert County Library, Prince Frederick, Maryland.

**Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts**

*Date of application for amendment:* February 25, 1983.

*Brief description of amendment:* Revises the Technical Specifications to incorporate an action statement in the event a limiting condition for operation regarding jet pump flow mismatch is exceeded.

*Date of issuance:* November 9, 1983.

*Effective date:* November 9, 1983.

*Amendment No. 71.*

*Facility Operating License No. DPR-35.* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* July 20, 1983, 48 FR 33078. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 9, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*location:* Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

**Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Unit Nos. 1 and 2, Brunswick County, North Carolina**

*Date of application for amendment:* May 21, 1981, as supplemented October 21, 1982.

*Brief description of amendment:* Revises the Technical Specifications related to surveillance requirements for hydraulic snubbers.

*Date of issuance:* November 8, 1983.

*Effective date:* November 8, 1983.

*Amendment Nos. 56 and 82.*

*Facility Operating License Nos. DPR-71 and DPR-82.* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* September 21, 1983, 49FR43128. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 8, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*location:* Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Commonwealth Edison Company, Docket Nos. 50-237/249, Dresden Station, Units 2 and 3, Grundy County, Illinois

*Date of application for amendment:* June 13, 1983.

*Brief description of amendment:* The amendments authorize Technical Specification changes to allow extended time limits for the inoperability of the ECCS ring-header snubber.

*Date of issuance:* October 21, 1983.

*Effective date:* October 21, 1983.

*Amendment Nos.:* 76 and 67.

*Operating License Nos.:* DPR-19 and DPR-25.

Amendments revised the Technical Specifications.

*Date of initial notice in "Federal Register":* July 26, 1983 (48 FR 33948). The Commission's related evaluation of this action is contained in its Safety Evaluation dated October 21, 1983. No public or State comments were received with respect to the Commission's proposed determination that the requested action would involve no significant hazards consideration.

*Local Public Document Room*  
*location:* Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Generating Station, Units 2 and 3, Grundy County, Illinois

*Date of amendment request:* May 24, 1978.

*Description of amendment request:* The amendment approves a Technical Specification change relating to control rod drive motion.

*Date of issuance:* November 3, 1983.

*Effective date:* November 3, 1983.

*Amendment No.:* 77.

*Provisional Operating License No.:* DPR-19.

*Amendment No.:* 68.

*Facility Operating License No.:* DPR-25. Amendments revised the Appendix A Technical Specifications.

*Date of initial notice in "Federal Register":* September 21, 1983 (48 FR 43131). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 3, 1983. No public or State comments were received with respect to the Commission's proposed determination that the amendment would not involve a significant hazards consideration.

*Local Public Document Room*

*location:* Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

*Date of application for amendment:* June 20, 1983.

*Brief description of amendment:* The amendment approves changes to the Guard Training and Qualification Plan.

*Date of issuance:* November 7, 1983.

*Effective Date:* November 7, 1983.

*Amendment No.:* 78.

*Provisional Operating License No.:* DPR-20.

Amendment revised the license.

*Date of initial notice in "Federal Register":* September 21, 1983 (48 FR 43135). The Commission's related evaluation and other pertinent discussion related to this amendment are contained in a Safety Evaluation and letter dated November 7, 1983. No public or State comments were received with respect to the Commission's proposed determination that the requested action would not involve a significant hazards consideration.

*Local Public Document Room*

*location:* Kalamazoo Public Library, 315 South Rose Street, Kalamazoo Michigan 49006.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

*Date of application for amendment:* February 18, 1983.

*Brief description of amendment:* The amendments authorize transfer of spent fuel between Units 1 and 2.

*Date of issuance:* October 19, 1983.

*Effective date:* October 19, 1983.

*Amendment Nos.:* 25 and 6.

*Facility Operating License Nos. NPF-9 and NPF-17:* Amendments revised the license.

*Date of initial notice in "Federal Register":* July 20, 1983 (48 FR 33076). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*location:* Atkins Library, University of North Carolina, Charlotte (UNCC Station) North Carolina 28242.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

*Date of application for amendment:* August 1, 1983.

*Brief description of amendment:* The amendments change the Technical Specifications related to the surveillance interval for certain diesel generator tests

and surveillance testing of Turbine Overspeed Protection System valves. This action grants in part the licensee's amendment request.

*Date of issuance:* October 26, 1983.

*Effective date:* October 26, 1983.

*Amendment Nos.:* 26 and 7.

*Facility Operating License Nos. NPF-9 and NPF-17:* Amendments revised the Technical Specifications.

*Date of initial notice in "Federal Register":* September 15, 1983 (48 FR 41533). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 26, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*location:* Atkins Library, University of North Carolina, Charlotte (UNCC Station) North Carolina 28242.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No 1, Shippingport Pennsylvania

*Date of application for amendment:* December 16, 1982.

*Brief description of amendment:* The amendment restores several Technical Specifications pages to what they were before Amendment No. 61 was issued (January 19, 1983). Amendment No. 61 permitted continued operation of the plant during Cycle 3 with as few as 50% of the incore flux detector thimbles operable. Cycle 3 is now over and the 75% requirement is reimposed by the present amendment.

*Date of issuance:* October 17, 1983.

*Effective date:* October 17, 1983.

*Amendment No.:* 73.

*Facility Operating License No. DPR-66:* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* August 23, 1983 (48 FR 38401). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 17, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*location:* B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No 1, Shippingport Pennsylvania

*Date of application for amendment:* February 7, 1983.

*Brief description of amendment:* The amendment changes Technical Specifications to impose limits on use of overtime by the operating staff, and to require the reporting of safety and relief valve challenges and failures. All of

these proposed changes were requested by the Commission's Generic Letter 82-16.

*Date of issuance:* October 21, 1983.

*Effective date:* October 21, 1983.

*Amendment No.:* 74.

*Facility Operating License No. DPR-66.* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* August 23, 1983 (48 FR 38401). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 17, 1983.

*No significant hazards consideration comments received:* No.

*Local Public Document Room*

*location:* B. F. Jones Memorial Library, 863 Franklin Avenue, Aliquippa, Pennsylvania 15001.

**Florida Power and Light Company,** Docket Nos. 50-250 and 50-251, Turkey Point Plant, Unit Nos. 3 and 4, Dade County, Florida

*Date of application for amendments:* May 14, 1981, supplemented on July 7, 1981, February 19, 1981, June 10, 1981 and August 19, 1983.

*Brief description of amendment:*

These amendments add requirements to the Technical Specifications for visual inspections and periodic testing of mechanical snubbers to ensure operability and capability to perform their safety-related function.

*Date of issuance:* October 14, 1983.

*Effective date:* October 14, 1983.

*Amendment Nos.:* 96 and 90.

*Facility Operating License Nos. DPR-31 and DPR-41.* Amendments revised the Technical Specifications.

*Date of initial notice in "Federal Register":* August 23, 1983 (48 FR 38403). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 14, 1983.

No significant hazards consideration comments have been received.

*Local Public Document Room*

*location:* Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

**Florida Power and Light Company,** Docket Nos. 50-250 and 50-251, Turkey Point Plant, Unit Nos. 3, and 4, Dade County, Florida

*Date of application for amendments:* May 13, 1983.

*Brief description of amendments:*

These amendments involve Technical Specification changes which will incorporate an additional requirement for a monthly walkdown of all accessible safety-related flowpaths. The proposed change requires verifying that each accessible valve (manual, power operated or automatic) is in its correct

position and verify the availability of power to those components related to the operability of the designated flowpaths.

*Date of issuance:* October 26, 1983.

*Effective date:* October 26, 1983.

*Amendment Nos. 97 and 92.*

*Facility Operating License Nos. DPR-31 and DPR-41.* Amendments revised the Technical Specifications.

*Date of initial notice in "Federal Register":* August 23, 1983 (48 FR 38404 and 38405). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 26, 1983. No significant hazards consideration comments have been received.

*Local Public Document Room*

*location:* Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

**GPU Nuclear Corporation, et al.,** Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1 (TMI-1) Dauphin County, Pennsylvania

*Date of application for amendment:* June 24, 1983.

*Brief description of amendment:* The amendment revises the Technical Specifications to reference a new liquid effluent discharge monitor, RM-L12, in lieu of the previously referenced monitor, RM-L7. The new monitor is to be located upstream of the existing monitor in the same discharge line in a position to directly monitor and terminate undiluted effluent discharge from the Industrial Waste Treatment (IWTS) or Industrial Waste Filter (IWFS) systems in the event of high discharges to ensure that 10 CFR Part 20 discharge levels are not exceeded. The existing monitor is located such that flow past the monitor is diluted by discharge from the mechanical draft coolers. This results in reduced detection sensitivity. Additionally, the new monitor will incorporate an automatic discharge termination feature, whereas the existing monitor does not.

*Date of issuance:* October 14, 1983.

*Effective date:* The notice of issuance published October 26, 1983, (48 FR 49004) incorrectly stated October 14, 1983, as the effective date for this amendment. The correct effective date is as of installation of the monitor (RM-L12).

*Amendment No.:* 88.

*Facility Operating License No. DPR-50:* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* August 19, 1983, 48 FR 37752. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 14, 1983.

*No significant hazards consideration comments received:* No.

*Local Public Document Room*

*location:* Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

**GPU Nuclear Corporation, et al.** Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1 (TMI-1), Dauphin County, Pennsylvania

*Date of application for amendment:* January 21, 1983.

*Brief description of amendment:* The amendment increases by 50 psig, the Reactor Coolant System pressure at or below which the High Pressure Injection (from 1725 psig to 1775 psig), Low Pressure Injection (from 875 psig to 925 psig), and Reactor Building isolation (from 1725 psig to 1775 psig) actuation signals may be bypassed during plant cooldown and depressurization. The setpoints for actuation of these systems during operation and the Reactor Coolant System pressure above which the bypass is automatically removed (when system pressure is increasing) remain unchanged.

*Date of issuance:* October 19, 1983.

*Effective date:* October 19, 1983.

*Amendment:* No. 89.

*Facility Operating License No. DPR-50:* Amendment revised the Technical Specifications.

*Date of initial notice in the Federal Register:* July 21, 1983, 48 FR 33385. The Commission's related evaluation of the amendment is contained in a Safety Evaluation date October 19, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*

*Location:* Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

**GPU Nuclear Corporation, et al.,** Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1 (TMI-1), Dauphin County, Pennsylvania

*Date of application for amendment:* June 20, 1983.

*Brief description of amendment:* This amendment makes four revisions to the Technical Specifications. First, it revises the Technical Specifications to offset a potential non-conservatism in the prediction of peak cladding temperature during a loss of coolant accident (LOCA). The potential non-conservatism had been previously discovered and reported by the facility vendor. Second, it revises the centerline fuel melt limit in

the Technical Specifications for Cycle 5 operation from 19.6 kw/ft to 20.15 kw/ft. The 19.6 kw/ft limit was for Cycle 4 operation and was incorrectly retained for Cycle 5 operation. Third, the amendment reduces the reactor protection system flux to pump trip setpoint for two pump operations from 91 percent (%) to 55 percent (%) of rated power. This reduction is based upon a vendor recommendation and provides a common basis for future vendor analyses. Fourth, it revises the quadrant tilt instrumentation requirements with respect to the preferred order of use of the three detector systems. The allowable quadrant tilt limits remain unchanged.

*Date of issuance:* October 28, 1983.

*Effective date:* October 28, 1983.

*Amendment No. 90.*

*Facility Operating License No. DPR-50.* Amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* July 21, 1983, 48 CFR 33382. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 28, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

**Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln, County, Maine**

*Date of application for amendment:* July 14, 1983.

*Brief description of amendment:* The amendment clarified the conditions under which equipment is considered operable and modified slightly the operating status of the Auxiliary Feedwater pumps for decay heat removal.

*Date of issuance:* November 14, 1983.

*Effective date:* November 14, 1983.

*Amendment No. 70.*

*Facility Operating License No. DPR-36.* Amendment revised the Technical Specifications.

*Date of initial notice in Federal Register:* September 21, 1983, 48 FR 43139. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 14, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Wiscasset Public Library, High Street, Wiscasset, Maine.

**Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut**

*Date of application for amendment:* July 15, 1983.

*Brief description of amendment:* The amendment approves Appendix A Technical Specification changes relating to surveillance requirements for halon and carbon dioxide fire suppression systems.

*Date of issuance:* November 2, 1983.

*Effective date:* November 2, 1983.

*Amendment No. 93.*

*Provisional Operating License No. DPR-21.* Amendment revised the Appendix A Technical Specifications.

*Date of initial notice in "Federal Register":* September 21, 1983 (48 FR 43141). Documentation of the Commission's review of the requested action is contained in a Safety Evaluation dated November 2, 1983. No public or State comments were received with respect to the Commission's proposed determination that the amendment would not involve a significant hazards consideration.

*Local Public Document Room location:* Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

**Northeast Nuclear Energy Company, et al. Docket No. 50-336, Millstone Nuclear Power Station Unit No. 2, Town of Waterford, Connecticut**

*Date of application for amendment:* September 24, 1982.

*Brief description of amendment:* This amendment modified Technical Specification 3.1.2.2 to be consistent with TS 3.5.2 requirements that boric acid tanks and corresponding facility dependent flow paths are operable in the modes in which operability is required for ECCS considerations.

*Date of issuance:* October 11, 1983.

*Effective date:* October 11, 1983.

*Amendment No. 88.*

*Facility Operating License No. DPR-63.* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* July 20, 1983 (48 FR 33076 at 33083). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 7, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Waterford Public Library, Rope Ferry Road, Waterford, Connecticut.

**Pacific Gas and Electric Company, Docket No. 50-275, Diablo Canyon Nuclear Power Plant, Unit 1, San Luis Obispo, California**

*Date of application for amendment:* July 19, 1982 and October 12, 1982.

*Brief description of amendment:* The amendment modifies the Diablo Canyon Physical Security Plan to eliminate certain vital access controls that exceed current regulatory requirements. The staff's safety evaluation supporting this amendment is being withheld from disclosure pursuant to 10 CFR 73.21.

*Date of issuance:* October 11, 1983.

*Effective date:* October 11, 1983.

*Amendment No. 6.*

*Facility Operating License No. DPR-78.* Amendment revised the license.

*Date of initial notice in "Federal Register":* August 18, 1983, 48 FR 37553. The Commission's related evaluation of the amendment is contained in a Safety Evaluation.

No significant hazards consideration comments were received.

*Local Public Document Room location:* California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

**Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania**

*Date of application for amendment:* February 3, 1983 and March 11, 1983.

*Brief description of amendment:* This amendment changes Technical Specification 3.2.2 and Tables 2.2.1-1 and 3.3.6-2 to allow the expansion of the operating region of the power/flow map for the initial fuel cycle. This amendment also changes Technical Specification Table 3.3.7.9-1 to correct administrative errors, decrease the number of detectors in two fire zones, and add fire zones that warrant inclusion in the Technical Specifications, reflecting as-built conditions.

*Amendment No. 17.*

*Facility Operating License No. NPF-14.* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* July 29, 1983 (34546-34548) and August 11, 1983 (36709-36710) respectively. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 2, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Osterhout Free Library.

Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

**Portland General Electric Company, et al.** Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

*Date of Application for amendment:* May 24, 1983.

*Brief description of amendment:* The amendment allows the facility to heat up to the hot standby operational mode (normal temperature) for purposes of conducting final (hot) tests of the pressurizer safety valves for up to 18 hours provided that preliminary cold settings have been conducted before heatup. The amendment also allows the facility to enter the hot standby mode or the startup mode (less than 5% full power) to conduct final operability checks of main steam isolation valves for ability to close properly provided that preliminary operability has been demonstrated before entering the hot standby mode. Finally, the amendment deletes a reporting requirement regarding in-service inspection program reviews and corrects the title of the NRC Regional Office.

*Date of issuance:* November 1, 1983.

*Effective date:* November 1, 1983.

*Amendment No.:* 84.

**Facility Operating License No. NPF-1.** Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* July 20, 1983 (48 FR 33084). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 1, 1983.

*No significant hazards consideration comments received:* No.

*Local Public Document Room*  
*location:* Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

**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 22, 1983.

*Brief description of amendment:* Adds Limiting Conditions for Operation and surveillance requirements for the Reactor Protection System electrical power supplies.

*Date of issuance:* November 7, 1983.

*Effective date:* November 7, 1983.

*Amendment No.:* 76.

**Facility Operating License No. DPR-59.** Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* July 20, 1983, 48 FR 33087. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 7, 1983.

*No significant hazards consideration comments received:* No.

*Local Public Document Room*  
*location:* Penfield Library, State University College of Oswego, Oswego, New York.

**Rochester Gas and Electric Corporation.** Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

*Date of Application for amendment:* September 28, 1982, as supplemented January 11, 1983.

*Brief description of amendment:* The amendment approves Technical Specification changes which reflect a revised organization structure.

*Date of issuance:* November 2, 1983.

*Effective date:* November 2, 1983.

*Amendment No.:* 58.

**Provisional Operating License No. DPR-18.** Amendment revised the Technical Specifications

*Date of initial notice in "Federal Register":* August 23, 1983 (48 FR 38421). The Commission's related Safety Evaluation is dated November 2, 1983. No public or State comments were received with respect to the Commission's proposed determination that the amendment would involve no significant hazards consideration.

*Local Public Document Room*  
*location:* Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

**South Carolina Electric & Gas Company.** South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Fairfield County, South Carolina

*Date of Application for amendment:* July 22, 1983.

*Brief description of amendment:* The amendment changes the Technical Specifications to reflect changes in the licensee's nuclear organization structure.

*Date of issuance:* October 31, 1983.

*Effective date:* October 31, 1983.

*Amendment No.:* 18.

**Facility Operating License No. NPF-12.** Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* August 29, 1983 (48 FR 39192). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 1983.

*No significant hazards consideration comments received:* No.

*Local Public Document Room*  
*location:* Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29218.

**Tennessee Valley Authority.** Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

*Date of application for amendment:* March 15 and March 16, 1983.

*Brief description of amendment:* The amendments change the Technical Specifications to delete the cable spreading room from the list of areas which require that the low pressure carbon dioxide system be operable, change the frequency for auditing the Physical Security Plan and Site Radiological Emergency Plan, and change the responsibility for signing management directives.

*Date of issuance:* 11/10/83.

*Effective date:* 11/10/83.

*Amendment No.:* 32 and 24.

**Facility Operating License Nos. DPR-77 and DPR-79.** Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* August 23, 1983 (48 FR 38382). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated 11/10/83.

*No significant hazards consideration comments received:* No.

*Local Public Document Room*  
*location:* Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

**The Toledo Edison Company and The Cleveland Electric Illuminating Company.** Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

*Date of application for amendment:* July 10, 1981, as supplemented May 17, 1983.

*Brief description of amendment:* The amendment deletes from Specification 4.7.1.2.d the requirement for periodic channel functional tests and channel calibrations of the auxiliary feed pump turbine speed switches. With the deletion of this surveillance requirement, the speed switches and interlocks to valves HV 360 and HV 388 can be removed.

*Date of issuance:* October 26, 1983.

*Effective date:* This license amendment becomes effective upon removal of the auxiliary feedwater turbine speed switch interlocks to valves HV 360 and HV 388.

*Amendment No.:* 63.

**Facility Operating License No. NPF-3.** Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* August 19, 1983, 48 FR 37750.

The Commission's related evaluation of the amendment is contained in a letter dated October 26, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*  
location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

**The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

*Date of application for amendment:* July 10, 1981 (Item 4), as supplemented March 21, 1983.

*Brief description of amendment:* The amendment relaxes the action statement from the standpoint of departure from nucleate boiling (DNB) considerations, if the reactor coolant flow rate is below specified values. The previous specifications required restoration of coolant flow to the specified limit within 2 hours or a reduction of power to 5% of rated thermal power. The amendment relaxes the action statement to require a power reduction of 2% rated thermal power for each 1% the flow is below its specified four pump operating limit and a power reduction of 2% of 75% rated thermal power for each 1% the flow is below its specified three pump operating limit. The specified power reduction will still provide a margin of safety which is greater than that which would exist during normal operation with all DNB related parameters at the allowed limits.

*Date of issuance:* November 3, 1983.

*Effective date:* November 3, 1983.

*Amendment No.:* 64.

*Facility Operating License No. NPF-3.* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* August 19, 1983, 48 FR 37749.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 3, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*  
location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

**Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont**

*Date of application for amendment:* May 26, 1983.

*Brief description of amendment:* Delete requirement for an annual conduct of an exercise of the emergency plan from the Technical Specifications

because the requirement is redundant with requirements of 10 CFR 50. Appendix E.

*Date of issuance:* November 10, 1983.  
*Effective date:* November 10, 1983.

*Amendment No.:* 80.

*Facility Operating License No. DPR-28.* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* August 23, 1983, 48 FR 38426.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 10, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*  
location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

**Virginia Electric and Power Company, Docket No. 50-339, North Anna Power Station, Unit No. 2, Louisa County, Virginia**

*Date of application for amendment:* June 8, 1982 and May 3, 1983.

*Brief description of amendment:* The amendment revised the NA-2 Technical Specifications by increasing the average reactor coolant system temperature from 580.3°F to 582.8°F. The 2.5°F increase is enveloped within the already approved and docketed FSAR accident and transient analyses for the currently licensed thermal power level of 2775 Megawatts (thermal).

*Date of issuance:* October 19, 1983.

*Effective date:* Within 30 days after the date of issuance.

*Amendment No.:* 32.

*Facility Operating License No. NPF-7.* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* July 20, 1983, 48 FR 33076 at 33090.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*  
location: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

**Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin**

*Date of application for amendments:* April 27, 1982 modified March 23, 1983.

*Brief description of amendments:* The amendments revised the loss of voltage relay setpoints and associated time delay in Table 15.3.5-1 of the Technical Specifications.

*Date of issuance:* October 31, 1983.

*Effective date:* Following installation of the new relays but no later than March 1984 for Unit 1 and November 1984 for Unit 2.

*Amendment Nos.:* 78 and 82.

*Facility Operating License No. DPR-24 and DPR-27.* Amendment revised the Technical Specifications.

*Date of initial notice in "Federal Register":* July 20, 1983, 48 FR 33076 at 33093.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 1983.

No significant hazards consideration comments received: No.

*Local Public Document Room*

location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

**NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)**

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would

have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless indicated otherwise, the Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment. If the Commission has prepared an Environmental Impact Appraisal related to the action, it is so indicated. If indicated, this notice constitutes a negative declaration and indicates that the Commission had concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, (3) the Commission's related letter, Safety Evaluation and/or Environmental Impact Appraisal, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facilities involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By December 23, 1983, the licensee may file

a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission.

Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-0700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief)*: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

**Alabama Power Company, Docket No. 50-348, Joseph M. Farley Nuclear Power Plant Unit No. 1, Houston County, Alabama**

*Date of application for amendment: October 11, 1983.*

*Brief description of amendment:* The amendment makes a temporary change in the Technical Specifications to allow one narrow range sump level channel to be inoperative and to allow neither channel to be operable for up to seven days, until the next refueling outage.

*Date of issuance:* October 14, 1983.

*Effective date:* October 14, 1983.

*Amendment No.:* 34.

*Facility Operating License No. NPF-2.*

Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation is contained in a Safety Evaluation dated October 14, 1983.

*Attorney for licensee:* George F. Trowbridge, Esquire, 1800 M Street, NW., Washington, D.C. 20036.

*Local Public Document Room*

*location:* George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama, 36303.

**Alabama Power Company, Docket No. 50-348, Joseph M. Farley Nuclear Plant, Unit No. 1, Houston County, Alabama**

*Date of application for amendment:* October 21, 1983.

*Brief description of amendment:* The amendment supports our October 21, 1983 emergency authorization letter

granting approval of a one-time only change to Technical Specification 3.3.3.2a accepting a core flux map of October 13, 1983 pending completion of repairs to the moveable incore mapping system. The action precluded shutdown of the reactor on October 22, 1983 and waiting until a high radiation field decayed sufficiently to allow maintenance to resume on the detector drive unit.

*Date of issuance:* November 1, 1983.

*Effective date:* October 21, 1983.

*Amendment No.:* 36.

*Facility Operating License No. NPF-2.*

Amendment revised the Technical Specifications Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation is contained in a Safety Evaluation.

*Attorney for licensee:* George F. Trowbridge, Esquire, 1800 M Street, N.W., Washington, D.C. 20036.

*Local Public Document Room*

*location:* George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

**Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas**

*Date of application for amendment:* August 1 and October 27, 1983.

*Brief description of amendment:* The amendment deleted the reload fuel enrichment limit from the Technical Specifications.

*Date of issuance:* November 7, 1983.

*Effective date:* November 7, 1983.

*Amendment No.:* 48.

*Facility Operating License No. NPF-6.* Amendment revised the Technical Specifications.

State contacted—no comments.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment is contained in a letter dated November 7, 1983.

*Attorney for licensee:* Nicholas S. Reynolds, Esq., DeBevoise & Liberman, 1200 Seventeenth Street, NW., Washington, D.C. 20036.

*Local Public Document Room*

*location:* Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Dated at Bethesda, Maryland, this 15th day of November 1983.

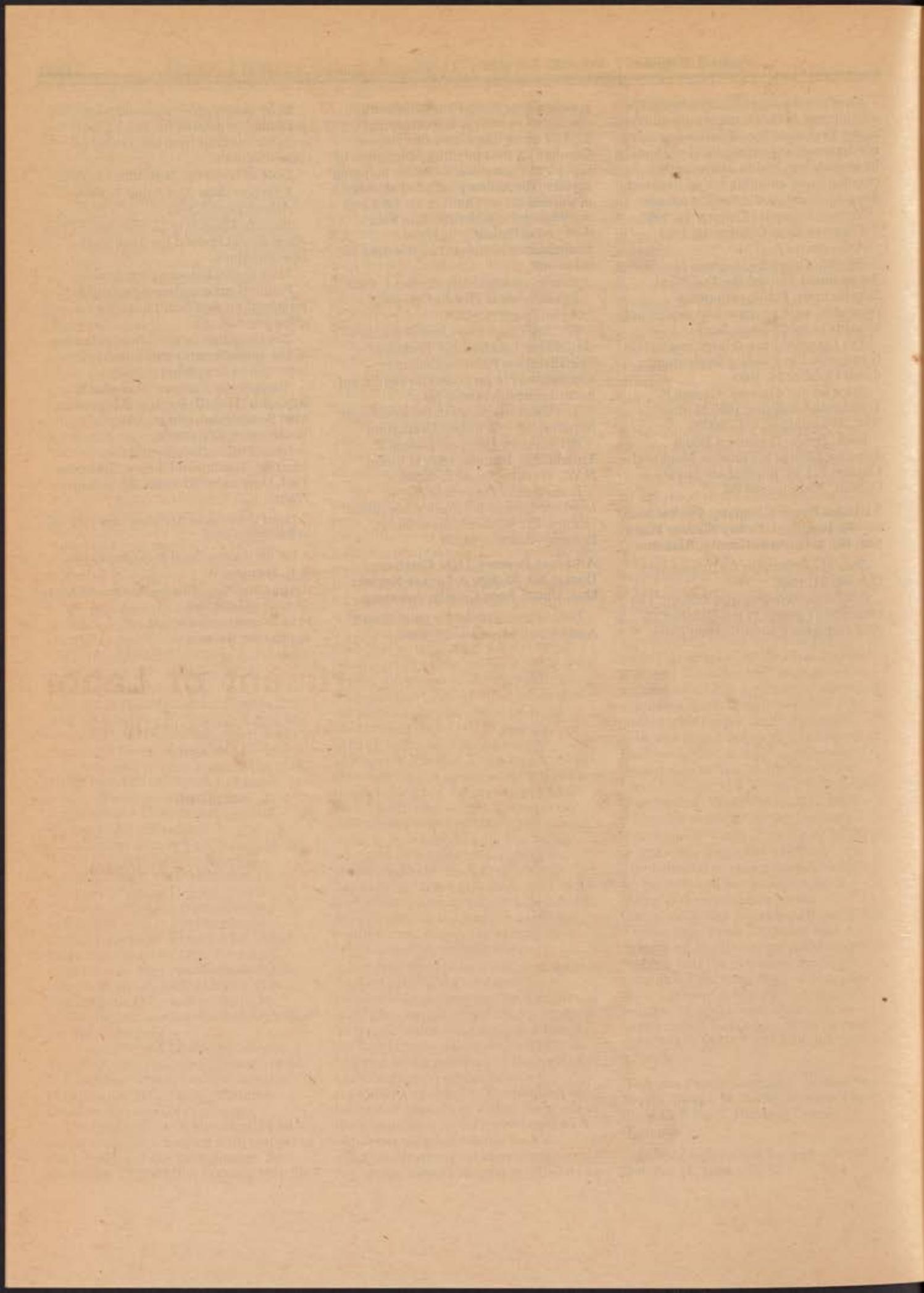
For the Nuclear Regulatory Commission.

**E. G. Tourigny,**

*Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.*

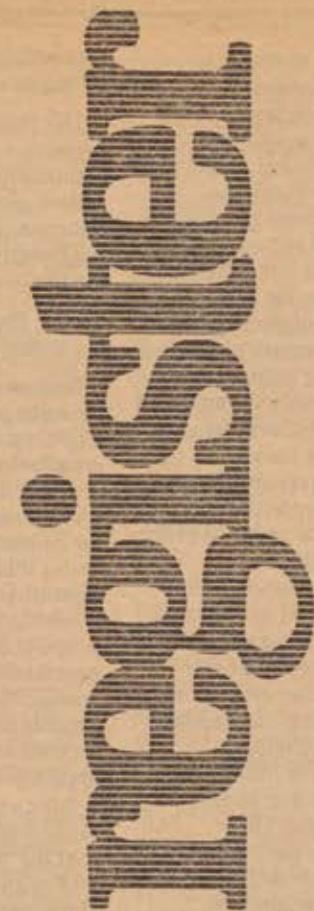
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Tuesday  
November 22, 1983



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**Part III**

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**Department of Labor**

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Office of the Assistant Secretary for  
Labor-Management Relations

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Labor-Management Services  
Administration

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Airline Employee Protection Program;  
Final Rule

**DEPARTMENT OF LABOR****Office of the Assistant Secretary for Labor-Management Relations****Labor-Management Service Administration****29 CFR Part 220****Airline Employee Protection Program**

**AGENCY:** Office of the Assistant Secretary for Labor-Management Relations and Labor-Management Services Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** The Department of Labor, through the Labor-Management Services Administration (LMSA), is issuing regulations to implement the Airline Employee Protection Program established by Section 43 of the Airline Deregulation Act of 1978 (Pub. L. 95-504). By Secretary's Order Number 1-79, the LMSA has been assigned responsibility for provisions concerning protected employees' priority hire rights, air carriers' duty to hire and the comprehensive job listing. These rules are designed to effectuate those provisions.

**EFFECTIVE DATE:** Pursuant to Section 43(f)(3) of the Act, this Part shall become effective 60 legislative days after submission to Congress.

Section 43(f)(4) of the Act defines a legislative day as a calendar day on which both Houses of Congress are in session.

A notice of "Confirmation of Effective Date of Final Regulations" shall be published in the **Federal Register**.

Information collection requirements contained in this regulation (Sections 220.23, 220.25a, 220.27a, and 220.28a) have been submitted to the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35. They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Salzman, Airline Employee Protection Program, Division of Employee Protections, Room N-5633, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210. Phone: (202) 357-0473.

**SUPPLEMENTARY INFORMATION:****Background**

On October 24, 1978, the Airline Deregulation Act of 1978, Pub. L. 95-504 (the Act), was signed into law to bring to a close economic regulation of the airline industry. Although airline

deregulation is expected to result in expanded overall employment opportunities over the long term, Congress recognized the possibility of reduction in the labor force of one or more air carriers as they make the adjustment from government regulation to an economic environment governed by market forces. Section 43 of the Act provides in general terms for certain employee protective provisions to be administered by the Secretary of Labor. Those provisions include both a legal hiring preference for certain unemployed airline workers and, under certain defined circumstances, a benefit program. These regulations apply only to the first-right-of-hire and job list provisions contained in Section 43 of the Act (the Rehire Program).

Under the Act, those persons (other than members of the board of directors or corporate officers) who as of October 24, 1978 (the Trigger Date) had been employed for at least four years by an air carrier which had been certificated under section 401 of the Federal Aviation Act of 1958 on or before that date (any such carrier being hereinafter called a covered air carrier) are protected employees for purposes of the Rehire Program. All protected employees who are furloughed or terminated (other than for cause) by their employer during the ten year period subsequent to the Trigger Date (hereinafter called "designated employees") are entitled to a first-right-of-hire in their occupational specialty by any covered air carrier which is hiring new employees, except that any such covered air carrier is specifically entitled to recall its own furloughed or terminated employees or promote or transfer existing employees before hiring a designated employee. Air carriers which are not covered carriers for purposes of the Act do not have any duty to hire designated employees. In addition, the Act requires the Secretary to compile and publish a comprehensive list of jobs available with certificated air carriers, whether or not such carriers are subject to the duty to hire designated employees.

In January of 1979, public meetings were held with interested parties from the airline industry to obtain their views concerning development of this program. Proposed regulations were published in March of 1979 in the **Federal Register** and public comments were received. However, a final rule was never published. The Department published a revised proposal on September 17, 1982, 47 FR 41304, with a 30-day review and comment period.

**Discussion of Major Comments and Changes**

The Department received written responses from 34 air carriers, labor organizations, civil rights organizations, and employees. The Department gave full consideration to all comments and suggested changes. Discussed below are the major comments and changes.

**Rehire Program and Qualifying Dislocation**

Section 43 of the Act distinguishes between protected employees and eligible protected employees. In the proposal accordingly we took the position that protected employees who are furloughed or terminated other than for cause ("designated employees" under this rule) are entitled to a first-right-of-hire. There is no requirement for determinations by the Civil Aeronautics Board (CAB) that there has been a major contraction in employment or that such contraction was due to deregulation. Eligible protected employees may receive monetary benefits if the CAB makes the above determinations.

Air carriers took issue with the foregoing interpretation. They argued that the distinction between protected and eligible protected employees is not supported by the Act nor by its legislative history. Moreover, the air carriers stated that such a distinction, providing the first-right-of-hire without the need for a major employment impact or a finding of cause by the CAB was not consistent with other protective statutes, which were specifically remedial.

The Department has reviewed the legislative history and has concluded that the interpretation set forth in the proposed regulations accurately reflects Congressional intent to provide the first-right-of-hire even though a bankruptcy or major contraction has not occurred. Key to the Department's interpretation is the deletion from the legislation as finally enacted of the precise language which formerly conditioned the first-right-of-hire on the triggering requirements outlined above for monetary benefits. These triggering requirements were clearly a condition for both forms of benefits (hiring and monetary) when the deregulation bill (S. 2493) was passed by the Senate. However, the final bill which emerged from the joint House-Senate Conference dropped the triggering conditions for the first-right-of-hire provisions. The conference bill was passed into law unchanged. In the face of this clear and deliberate action on the part of the Congress, the Department has no

latitude to reintroduce these requirements for the hiring priority benefit.

#### *Waiting Period*

The Department proposed that covered air carriers could hire non-designated employees if no qualified designated employees had applied in a timely manner. The waiting period before carriers could hire non-designated employees would end 30 days after the listing had been called in to the Center. Carriers stated that this period would be too long and would place an excessive burden on their operations. The Department, however, believes that the prevalent practice in the industry of accepting advance applications, which this regulation recognizes, will relieve carriers of delays in filling vacancies. A carrier will be free to fill a job with a designated employee from an advance application at the same time it lists the vacancy with the Center, and there will be no waiting period. Such a listing should indicate that the job has already been filled, and the carrier would not receive unwanted applications.

A number of smaller covered carriers stated that the 30-day waiting period worked a particular hardship on their operations. They generally do not hire in large classes, and their small work forces at many stations have greater difficulty performing additional duties while a job is being filled. We agree that any burden which might occur as a result may be greater on such smaller carriers. The Department seriously considered reducing the waiting period for carriers operating smaller aircraft. But the period of time that elapses between a listing and its availability to employees precludes any significant relief which would still afford designated employees an opportunity to apply for the job. We have concluded that a 30-day period is necessary to effectuate the statutory rights of protected employees. Smaller carriers, however, can mitigate any possible burdens by maintaining files of advance applications or by listing anticipated vacancies.

One commentator suggested that carriers should be required to retain applications for a 12-month period. The Department rejected this provision because a uniform requirement might unduly burden some carriers. However, we suggest that carriers develop prudent retention policies for unsolicited and advance applications in the event that a designated employee alleges that a carrier did not consider the employee's application prior to hiring a non-designated employee.

#### *Exemption From the Duty to Hire*

Several small regional and former charter carriers sought exemption from the duty to hire on a variety of grounds. Two carriers, for example, had obtained their certificates only weeks before the Act became effective. Others suggested that it was anomalous to cover such carriers, many of which had no protected employees. These carriers commented that they had not enjoyed the benefits of the regulated system and thus should not be encumbered with the protective requirements under deregulation. Congress, they stated, could not have intended to burden this group of carriers. Several noted that they essentially resembled the new entrants, which do not have a duty to hire.

The Department cannot agree with these claims. The explicit language of Section 43(d) imposing the duty on all covered carriers is clear and compelling. Congress anticipated that carriers would experience economic adjustments in a deregulated environment. Under the statute, protected employees, who lose jobs at a shrinking carrier, will be able to obtain employment with a growing one. Statutory language must be construed in the context of the overall statutory purposes—in this case, the re-employment of designated employees. The Department therefore has concluded it would be inappropriate to provide exemptions and reduce preferential hiring opportunities.

#### *Definition of Protected Employee*

The proposal provided protection based on accrued seniority as well as employment. The Department received comments supporting its proposed definition as well as comments seeking to broaden the definition or to restrict it. An industry association suggested that we amend proposed section 220.01(j) to require a protected employee to be in compensated service for 48 consecutive months and have an employment relationship with that carrier on the Trigger Date (October 24, 1978). We believe that the suggested requirement of consecutive compensated service would be excessively restrictive and would not provide an accurate measure of long term attachment to the industry, which is the general basis on which Congress conferred protection on airline employees.

Upon review of the statutory definition of a protected employee, however, we do agree with the association that protected employees should have an employment relationship with a covered air carrier on the effective date of the Act. Employees

who have been furloughed and recalled display that attachment to the industry. Similarly, employees who have the four years of service or accrued seniority with a particular carrier, but who shift employment to another covered carrier, also have had that same reliance on the regulated system as the employee whose entire career is spent at one carrier.

Pursuant to our requirement for an employment relationship, we have altered the notice of protected status in § 220.25(c)(1) so that such notice would go to the carriers' workers who had an employment relationship on October 24, 1978. This requirement would focus the notice on those employees who meet at least one of the two criteria for attaining protected status and will facilitate the process of determining who is protected.

Other commentators stated that the Department was too restrictive. One union suggested utilizing an employee's date of hire as the beginning of the service period for determining protected status because contracts differ on determining accrual of seniority. We note, however, that the contractual provisions which that union submitted generally provide for accrual of seniority during major breaks in compensated service such as furloughs, sick leave, maternity leave. While we recognize that the Department's definition may lead to differential results among similarly situated employees, we do not believe that the differentiation will be substantial.

Several commentators disagreed with the Department's position that four years of service or seniority had to be with a single carrier in order to achieve protected status. Thus an employee who had spent only two years with one carrier and only two years with another carrier prior to 1978 would not be protected. The Department bases its position on the explicit language of Section 43(h)(1): "... \* \* \* employed for at least four years by an [emphasis added] air carrier \* \* \*." The Senate Commerce Committee in reporting out the legislation, used the term service with "a particular [emphasis added] airline." We believe that the statutory language and the committee report reflect a Congressional intent that service or seniority must be with only one carrier in order to qualify as a protected employee.

#### *Equal Employment Opportunity*

Section 29 of the proposed rule stated that the first-right-of-hire shall take precedence over any equal employment opportunity (EEO) obligations which a carrier may have. After consultations between the Department of Labor and

the Equal Employment Opportunity Commission, it was agreed that latitude existed to accommodate the requirements of both the ADA and EEO statutes. Since covered air carriers remain free to select any applicant from among the pool of designated employees, the Department believes that air carriers will be able to accommodate both their duty to hire designated employees and their equal employment obligations in most cases. Where this is not possible, a carrier having a specific equal employment requirement as defined in Section 220.01(j) of the regulation may hire a non-designated employee. Every carrier remains responsible for following the hiring procedures set forth in the regulation.

#### *New Entrants' Requirement to List Vacancies*

The Department had proposed that new entrant carriers as well as the pre-deregulation carriers list their job vacancies in the comprehensive listing. Several new entrants objected to this obligation. They argued that the comprehensive list required by Section 43(d)(2) was intended only to complement the duty to hire and that the Department's application of this requirement to new entrants was unreasonable and unnecessary. Such listings, they believe, would be futile since carriers which do not have an obligation to hire would be required to list jobs they already may have filled by the time designated employees applied.

In proposing this section, the Department was guided by the explicit language of Section 43(d)(2) which establishes the requirement for a comprehensive list of jobs available with *all* carriers certificated under Section 401 of the Federal Aviation Act. By contrast, the duty to hire is imposed on carriers certificated prior to deregulation. Furthermore, publication of a truly comprehensive list is consistent with the overall statutory purpose of Section 43. The Congress anticipated that while the industry as a whole would grow, there might be some job losses at some carriers. A protection program was written to cushion adverse effects on workers. Publication of a comprehensive list will announce job vacancies to these workers and facilitate their reemployment. To the extent that some of these workers may be eligible for monetary benefits, assistance to them in obtaining any reasonably comparable employment will lessen the cost of the monetary benefits program.

#### *Recall Rights*

The proposed rule preserved, in accordance with express statutory language, seniority and recall rights at the designated employee's former carrier. In implementing this provision, the Department proposed to permit carriers to require disclosure of any such rights. Several unions objected to the disclosure of recall rights on the grounds that it would either preclude hiring of designated employees possessing these rights or coerce employees into relinquishing these rights.

While the Department recognizes that the commentators' contentions may have some validity, it believes that carriers hiring designated employees have a compelling interest in retaining these designated employees. Considerable time and expense is usually invested in new hires, and the regulations must reflect these practical considerations. Disclosure does not, in any event, diminish the carrier's duty to hire. It only permits a carrier to distinguish among designated employees according to the extent of seniority or recall rights in addition to other criteria.

Several commentators sought to have carriers hire on the basis of the seniority of the designated employees. It is clear, however, that the statute does not require this approach. Moreover, any program based on it would be virtually impossible to administer. The Department has sought to implement this program without imposing any new obligations on the carriers that are not required by the statute as it pertains to the selection of employees.

#### *Temporary and Seasonal Employees*

Recognizing the prevailing practice in the industry of hiring temporary and seasonal employees, such as college students and military personnel during the Christmas holidays and periods of peak summer travel, the Department proposed to permit carriers to fill seasonal and temporary positions outside of the Rehire Program. Under the proposed rule, carriers could not promote or reassign such employees into permanent positions unless the employees held seniority or recall rights.

Several carriers opposed this restriction on promotion because their typical employee selection procedure is to hire initially on a temporary or seasonal basis and promote into permanent positions. The regulations would force them to change their hiring practices. The Department cannot accept these comments without defeating the overall purpose of the

Rehire Program. Where carriers utilize temporary or seasonal employment as a means of selecting permanent employees, they should list the vacancies and hire designated employees. They would then be free to promote them into permanent jobs; we have modified § 220.20(b) accordingly. In other instances where carriers accord seniority or recall rights to temporary or seasonal workers, those workers would not be defined as temporary or seasonal under these regulations, and the restriction on promotion would not apply.

One union requested that the Department specify the duration of temporary or seasonal employment. However, because seasonal or temporary periods may vary greatly from carrier to carrier and a uniform time period may be unworkable for some carriers, the Department does not believe that it would be appropriate to make a fixed rule concerning the duration of seasonal or temporary periods.

#### *Responsibilities of Non-Operating Carriers*

Several commentators noted that carriers which were no longer operating might not be able to provide the lists of protected employees or the notices of rights required by §§ 220.25 and 220.27. The statute requires all certificated carriers, whether operating or not, to meet the requirements of §§ 220.25 and 220.27. However, we recognize that compliance may be more difficult for some carriers. We have written letters to officials or owners of those carriers which we believe are not presently operating seeking information on any problems they might expect in complying. The Department is attempting to provide an opportunity for full participation of all designated employees in the Rehire Program.

#### *Participation of Labor Organizations*

Several unions sought an enhanced role in the implementation of the program. One union suggested that the list of protected employees should be made available to collective bargaining representatives to minimize subsequent appeals. The Department naturally hopes to minimize appeals, but since consultations appear to be in the interests of both carriers and unions, we think it is unnecessary to regulate this activity. In § 220.26 the commentator sought authorization for unions to file appeals on behalf of their members. We agree, to the extent that representation is authorized, and have made the appropriate change.

In addition, this union also wanted collective bargaining representatives to receive copies of the comprehensive job list. The Department has made provision for some 500 additional copies of the list beyond those to be sent to the local offices of the employment service. Prior to the effective date of these regulations, the Department will determine those unions, media, or other organizations which will receive the job listings.

#### *Eligibility for Designated Status*

Under the proposed § 220.10 the Department set forth criteria to determine whether or not a protected employee has been furloughed or terminated within the meaning of the Act. In addition to retirees and voluntary quits, we stated that strikers, employees who respect picket lines, or employees who had been terminated for being on strike would not be eligible for the Rehire Program. Several unions opposed these positions arguing that our prohibitions would have a chilling effect on the exercise of rights to concerted activity under the Railway Labor Act.

We think it is evident that strikes and sympathy strikes are neither furloughs nor terminations, which the Act requires to initiate a preference in hiring. A contrary interpretation would be inconsistent with the Act and would provide striking employees with a significant weapon in labor disputes. We do not believe that Congress intended such a result. On the other hand, we agree that terminations for being on strike are similar to other forms of involuntary termination, and we have deleted that exclusion.

One union noted that the phrase "has withheld services" in § 220.10(b)(4) could be interpreted to exclude employees who had ever done so. The Department did not intend this, and we have changed the paragraph to make it parallel to the exclusion for being on strike.

#### *Notices of Rights*

In proposed § 220.27 carriers would have as much as 180 days to provide furloughed employees with notices of their designated status. We have reduced that period to 60 days. Carriers should not have any difficulty in meeting this requirement, regardless of whether they use automated personnel systems. Employees should not have to wait six months to obtain the document which confirms designated status and eligibility for the Rehire Program. In addition, we specifically require carriers to replace lost notices of rights.

#### *Effective Period*

The Department indicated in its notice of proposed rulemaking that the regulations would apply on their effective date. Certain carriers construed the proposed rule to indicate that the duty to hire and the first-right-of-hire would not apply until the regulations become effective. This is a misunderstanding of the Department's position. While any requirements imposed by the regulations will of course not be in force before the rule's effective date, the rights and duties under Section 43(d) which flow directly from the Act have existed since October 24, 1978. These regulations merely facilitate the exercise of statutory rights and duties. We have modified §§ 220.01(g) and 220.50 to prevent any further misunderstanding with respect to the effective date of these regulations and the statutory rights and obligations.

#### *Additional Modifications*

In addition to the modifications discussed above, the Department has also made the following changes: (1) In § 220.25(c)(3) we have imposed a 15-day period for carriers to answer appeals and a corresponding change in section 220.26(a). (2) In § 220.28 we require two copies of the semi-annual report.

#### *Summary of the Final Rule*

There follows a summary of the final rule, as modified in the fashion discussed above. The regulations are divided into six subparts:

Subpart A contains the purpose, scope, responsibilities and definitions applicable to this Part 220. It should be noted that a number of these provisions contain significant administrative interpretations of the Act. Of particular importance is the definition of a protected employee contained in § 220.01(1). This definition limits the scope of the Rehire Program to an employee who had an employment relationship with a covered air carrier on the Trigger Date and who occupies a position which entitles the individual to accrue seniority rights or to possess recall rights under the applicable collective bargaining agreement or company policy. Specifically, this definition exempts a seasonal or temporary employee who does not occupy such a position.

Similarly, positions which are seasonal or temporary and do not confer seniority or recall rights have been exempted from the vacancy filing requirements contained in Section 220.22. This interpretation recognizes the industry practice of hiring temporary or seasonal workers, such as college

students and military personnel, over Christmas holidays and periods of peak summer travel. These workers do not accrue any seniority rights, and their employment is terminable at will without recall rights. Because the Rehire Program is intended to facilitate the permanent reemployment of employees with a long-term commitment to the industry, the Department believes that coverage of seasonal and temporary employees and positions, so long as they do not confer seniority or recall rights, was not intended by the Act.

While air carriers are free to hire non-designated employees to fill seasonal or temporary positions, Section 220.20(b) prohibits an air carrier from filling a vacancy which would otherwise be available to a designated employee by promoting a seasonal or temporary employee until the carrier has made the vacancy available to designated employees in accordance with the regulations. Conversely, carriers which fill permanent jobs by selection from among their temporary or seasonal employees can maintain this practice by listing their temporary and seasonal positions with the Center established under these regulations and hiring designated employees to fill those positions.

It should also be noted that under the regulations the Rehire Program is applicable only to certain protected employees. A "designated employee" is defined in § 220.01(f) as a protected employee who meets certain statutory eligibility tests as set forth in § 220.10. Only designated employees are entitled to exercise the first-right-of-hire.

Subpart B prescribes the eligibility requirements for, as well as the rights of, designated employees under the Rehire Program.

Section 220.10 implements the statutory limitation that only designated employees are eligible for the first-right-of-hire. Specifically excluded from eligibility as designated employees are protected employees who retire, voluntarily quit, strike, or withhold services in support of other employees on strike.

Section 220.11 provides that designated employees shall have a first-right-of-hire, regardless of age, in their occupational specialty and also protects existing seniority and recall rights with their former air carriers. This section additionally permits covered carriers to establish job qualifications or other hiring criteria which applicants must satisfy, subject to the limitations on such criteria set forth in Section 220.21.

Subpart C enumerates the duties of covered air carriers under the Rehire Program.

Section 220.20 implements the statutory duty of covered air carriers to hire qualified designated employees before hiring any other applicant from outside the furloughed or existing work force of the hiring carrier. This section also explicitly recognizes a covered carrier's right to select the applicant of its choice from among the designated employees who apply for a given position.

Section 220.21 provides that, solely with respect to the Rehire Program, employment opportunities for designated employees may not be limited by a covered air carrier on the basis of initial hiring age, seniority or recall rights, or previous experience with another air carrier. This provision implements the express language of the Act that protected employees have a first-right-of-hire "regardless of age," thereby invalidating existing initial hiring age criteria of covered air carriers as they apply to designated employees in the Rehire Program.

Further, the Department believes that air carriers may not require the absence of seniority, recall rights or previous experience as a condition of employment for protected employees in the Rehire Program. However, these regulations are not intended to affect in any manner the hiring practices of covered air carriers regarding persons who are not designated employees or retirement policies of such carriers which do not discriminate against designated employees.

Section 220.22 provides that all certificated air carriers, including those certificated after the passage of the Act, must list their job vacancies with a Center established by the Secretary which will maintain and publish a comprehensive listing of available airline jobs (See § 220.40). This requirement was established in order to ensure that the comprehensive listing contains a listing of all available jobs, even if some listed jobs are not subject to the express duty to hire imposed under the Rehire Program. In addition, the availability of such a comprehensive list should provide the maximum opportunity for unemployed airline workers to obtain reasonably comparable employment at the earliest possible time.

Section 220.23 prescribes the content of vacancy listings which must be filed by air carriers.

Section 220.24 prohibits covered air carriers from filling a vacancy (other than on a temporary basis) with anyone other than a designated employee until

the vacancy has been listed with the Center, pursuant to § 220.22, for at least 30 days.

Section 220.25 establishes a list of protected employees to be published by the Department. Covered air carriers are required to report specific identifying information for all persons who qualify as protected employees. Additionally, air carriers are required to notify each employee who had an employment relationship with the carrier on the Trigger Date as to whether or not that employee is deemed a protected employee. It should be emphasized that the employer is not required to use any particular form in notifying employees as to whether or not they are protected. Thus, for example, the carrier is free to notify current employees of their status by placing a statement to that effect on their pay stub.

An employee whom the air carrier determines is not a protected employee may submit evidence in support of his or her claim to protected employee status to the air carrier, and, under procedures outlined in § 220.26, the employee or his or her representative may appeal any adverse final determination by the air carrier to the Secretary. Any air carrier contemplating hiring a designated employee will be able to verify the employee's initial status as a protected employee by reviewing the list published by the Department.

Section 220.27 requires an air carrier to furnish each protected employee who is furloughed or terminated, other than for cause, during the ten years following the Trigger Date with appropriate written evidence that such employee is a designated employee at the time of such action. This requirement applies unless the furlough is for a specific period of less than 90 days. This requirement applies to all such furloughs or terminations between the effective date of the regulations and October 24, 1988. In addition, covered air carriers are required to make reasonable efforts to provide comparable evidence to protected employees who were furloughed or terminated by such carrier between October 24, 1978 and the effective date of the regulations.

Section 220.28 requires covered air carriers to make a semi-annual report of vacancies filled to the Department. For each vacancy filled by a non-designated employee, this report must contain a certification that no qualified designated employee filed a timely application.

Section 220.29 provides that a carrier under a specific EEO requirement emanating from a federal court or administrative order, consent decree, or conciliation agreement shall, to the extent possible, satisfy this obligation

by hiring qualified designated employees. Where no such designated employees are available, the carrier may meet its EEO requirement by hiring non-designated employees. The EEO obligation does not change a carrier's responsibility for following the hiring procedures established by this regulation.

Subpart D prescribes the obligations of designated employees in seeking to exercise the first-right-of-hire, including seeking suitable employment, making application for specific positions with covered air carriers and providing proof of eligibility for the first-right-of-hire.

Subpart E prescribes the responsibilities of the Department of Labor under the Rehire Program.

Section 220.40 provides that the comprehensive list of jobs available with air carriers will be established and maintained at the Center established by the Secretary. Air carriers may list jobs with this facility by telephone or in writing. The comprehensive list of vacancies will be published on a periodic basis, probably weekly, or as determined necessary by the Secretary.

Section 220.41 provides for the list of protected employees to be published by the Department and circulated to covered carriers.

Subpart F prescribes the beginning and ending dates of the effective period of these regulations and provides for the disclosure of information, collected by the Department, consistent with the Privacy Act (5 U.S.C. 552a).

#### Enforcement

The Act and its legislative history are silent on the existence of a means to enforce the Rehire Program, whether by seeking damages for failure to carry out requirements of the Act or any accompanying regulations or otherwise. After careful study, the Department has concluded that it is without specific enforcement authority under the Act. However, it appears that a private right of action may be available to a qualified designated employee who actually applied for job vacancies. (See *Cort. v. Ash*, 442 U.S. 66, 78 (1975).

#### Drafting Information

This document was prepared under the direction and control of Hugh Reilly, at the time, Executive Assistant to the Assistant Secretary for Labor-Management Relations.

#### Privacy Act

These regulations will create a system of records, which will include a list of protected airline employees, appeals and decisions on protected status, and

reports of designated employees hired. The Department will publish in the **Federal Register** a notice of that system in accordance with Section 552a(e)(4) of the Privacy Act.

#### Executive Order 12291

These regulations contain several provisions which entail economic costs for certificated air carriers and the Federal Government. In particular, these regulations establish: (1) Eligibility requirements and procedures for implementing the first-right-of-hire obligation established under the Act; (2) a comprehensive listing of airline job openings for all air carriers, including those certificated after the Trigger Date; (3) a list of protected employees to be published by the Department; (4) a one-time notice to all employees of covered carriers employed on the Trigger Date stating whether or not they qualify for protected status under the Act; (5) notices to furloughed and terminated employees; and (6) semi-annual reporting of any new hires to the Department, which includes certification for all jobs filled by someone other than a designated employee.

For several reasons the Department expects the actual economic impact of the regulations to be minimal. First, the essential element of the regulations—the duty to hire designated employees—is a statutory obligation, not one created by these regulations. Second, the program does not interfere with covered air carriers' internal promotion and recall practices for existing employees. Many job vacancies are filled internally through promotions of existing employees, while the Act and this rule are limited to outside hiring to fill job vacancies. This reduces substantially the number of actual job openings where first-right-of-hire provisions will apply. In addition, covered carriers are entitled to recall their own furloughed or terminated employees prior to offering positions to designated employees. Finally, the regulations contain an exemption allowing carriers to hire temporary and seasonal employees without preference to covered workers so long as such workers are not subsequently granted seniority or recall rights, or given permanent employment. Thus the regulations will affect neither existing seniority, promotion, or layoff policies nor short-term hiring practices.

Additionally, the exemption of seasonal and temporary positions recognizes a prevalent practice in the industry and allows employers maximum flexibility in meeting work force requirements during peak demand periods. Several carriers indicated it is common practice to use temporary and

seasonal jobs to test employees, who may then be offered permanent employment. Under this rule these airlines may continue this practice, provided the initial temporary and seasonal job offerings give the same preference in hiring as would be given to permanent jobs under these rules. This option gives the airlines maximum flexibility in dealing with temporary and cyclical employment while still assuring the first-right-of-hire for permanent jobs.

A third reason the Department expects the economic impact of the regulations to be minimal is that the regulations recognize the right of covered carriers to impose their own qualifications and hiring criteria (subject to certain prohibitions) on job applicants and to freely select from among all designated employee applicants who possess the requisite qualifications. Thus, the regulations maintain existing employer personnel policies and job criteria intact, and they do not impose dual personnel systems for qualified designated employees and other applicants. The only change from present carrier practices is that they are required by the Airline Deregulation Act to give preference to qualified designated employees in any outside hiring.

Two costs stemming from the obligation to hire designated workers come from the statutory prohibition against age discrimination and the statutory guarantee of a worker's recall rights. The Department recognizes that covered air carriers may experience some increased training costs because of the statute's prohibition against age restrictions and the requirement which insures preservation of seniority and recall rights. Since investments in training are amortized over a number of years, employers incur higher training costs for short tenure workers, everything else being equal. The designated employee pool may have a shorter tenure horizon on average than other applicants because it includes some older workers close to retirement or those who may be recalled back to their previous employer with their seniority rights intact.

In addition, carriers have commented that hiring experienced employees sometimes involves certain costs of "untraining" and that some workers may find it difficult to adjust to the system of a new employer. Nevertheless, many carriers have found it beneficial to hire experienced, displaced employees. The skills and experience of these employees will offset the problems associated with hiring them.

The problem with worker recall rights is particularly troublesome for airlines with wage scales below those of the older established airlines. Workers may choose to hire on with a smaller airline in today's hard times, but may want to return to their old employer when the economy recovers and industry growth resumes. This puts a potential burden on the carriers hiring these employees, because they may go through a costly period of breaking in these employees only to lose them to their former employers. For this reason, these regulations permit any covered carrier to require designated employees to reveal the status of their recall rights when exercising their first-right-of-hire. While arguably this may reduce the attractiveness of a designated employee who has good prospects for recall to his previous job, such a provision is necessary to allow these airlines to make informed hiring and personnel decisions with respect to designated employees. This policy will help reduce the costs of the program to carriers without undermining the basic protection afforded by the Act.

In sum, while the duty-to-hire obligation imposes some costs on employers, these regulations afford the carriers maximum flexibility in meeting this obligation. At the same time, workers are afforded their full rights as established by the Act. The Department concludes that its regulations defining the first right-of-hire impose no significant costs beyond those required by the Act.

The regulations detailing the administration of the program naturally impose some costs on the airlines. The principal administrative burdens placed on the airlines are: (1) The statutory requirement for all certificated airlines to list job vacancies, (2) a requirement that each covered carrier create a list of its protected employees, (3) a requirement that each covered carrier notify its protected employees of their protected status, (4) a requirement that each covered carrier notify furloughed and terminated workers of their rights and (5) a requirement that each covered carrier submit a semi-annual list to the Department of Labor of all new employees hired. These reporting requirements are the minimum necessary to administer the program, and to guarantee employees their rights under the Act.

The statute requires all certificated airlines to list available jobs with the Center established by the Department. Several commentators argued that only covered carriers should be required to list jobs, because the more recently

certified airlines have no duty-to-hire obligation. However, neither the express language of the statute nor the legislative history support such an interpretation, and indeed they suggest that a comprehensive list be provided about a broad range of job opportunities. The requirement for listing vacancies is a clear statutory obligation for all airlines holding a Section 401 certificate.

In practice, the requirement for a listing will impose minimal costs in most hiring circumstances. First, the job listing generally requires only nine pieces of information. Thus each listing will be easy to prepare. In addition, a number of openings may be covered by a single job listing. For example, a single listing may solicit applicants for 20 flight attendant openings. Second, the rule allows employers to list job vacancies entirely by telephone, rather than through written job orders. This increases the efficiency of the job listing program and reduces unnecessary employer delays in filling job vacancies. Third, while the rules prescribe a minimum "waiting period" for each listing, a carrier must abide by this waiting period only if it hires a non-designated employee. The purpose of the waiting period is to assure that designated employees have the opportunity to exercise their rights, and it would be needlessly burdensome to require employers to wait out the listing period before hiring a designated employee. Thus, for example, carriers may retain applications of designated employees on file, and hire them at the same time they file the vacancy with the Center.

Even in cases when the carrier must wait 30 days, this requirement is not always burdensome. For example, the larger airlines generally hire entire classes of employees rather than isolated individuals. This type of hiring decision takes place well in advance, at which time employers may list the anticipated vacancies. Similarly, under negotiated union contracts many jobs must be bid to existing employees for a period of time before outside hiring can take place. These listings may be placed simultaneously with internal bidding procedures.

Finally, the listing of jobs with the Center is not without benefits. The national listing of openings and list of protected employees will increase the efficiency of the labor market in the airline industry by facilitating the matching of job vacancies with qualified applicants.

The remaining administrative requirements are not specifically required by the statute, but are held to

be the minimum necessary to ensure the effectiveness of the first-right-of-hire and job listing programs. First, each covered carrier is required to submit to the Secretary a list of protected employees who were employed by that carrier at the time of deregulation. The Department had considered an alternative to such a list under which each individual had to declare his or her protected status whenever he or she asserted the first-right-of-hire, with this declaration subject to confirmation by the former employer. This alternative may be less expensive for any small airline which may not have automated employment records. However, several of the smaller carriers, which received their certificates shortly before deregulation have no protected employees and are not subject to this provision. And for many of the bigger airlines, the one-time generation of a master list of protected employees may be the most efficient alternative.

However, apart from the issue of costs, the overriding consideration in requiring a list was to assure that protected employee status is ascertained while employment records are still relatively current. This will avoid the costs of having to confirm employment records potentially ranging back 10 or more years in the later years of the program. In addition, requiring the list at the outset of the program assures that employment records will not be wiped out by any future bankruptcies or mergers of covered airlines. Therefore, while this alternative imposes higher initial costs than the case-by-case treatment, in the long run it may cost the same or less, and it will assure a much more effective administration of the program in the later years.

The requirement that covered carriers notify potentially protected employees (those with an employment relationship on October 24, 1978) of their protected status also is not a statutory requirement, but the Department considers it a necessary one if the program is to operate effectively. The employees so notified would know that they are protected or, at a minimum, they would know that they met one of the two criteria necessary for protected status. Those deemed not protected would then also be informed of the appeal rights available to them. Carriers could easily accomplish this notice on pay stubs or on other forms of internal communication for current employees. Similarly, notices of rights required by § 220.27 can be given to employees already furloughed along with the notices of protected status. Workers furloughed after the regulations become

effective can receive notices of rights along with their separation papers.

The other requirement is that each covered carrier submit a semi-annual list of new employees hired (excluding recalls). While the precise costs of these reporting requirements cannot be estimated because the number of jobs to be filled through outside hiring is not known, they are expected to be minimal.

The cost to the Federal Government to establish the Center and to publish a minimum number of job vacancies would be \$22,000 per year. If vacancies in the industry occurred at the same rates they occurred in the 1970's, the cost would not exceed \$100,000 per year.

The increased administrative costs imposed on air carriers and the Federal Government as a result of the job listing program and the filing and processing of one-time notices and semi-annual reports will not be major. While the precise costs on air carriers cannot be estimated, the flexibility given to carriers to meet these requirements and the existence of automated personnel files for most of the carriers should reduce the costs to a minimum.

In conclusion, the Department has determined that this rule does not meet the tests for a "major rule" under Executive Order 12291. These rules carry out the statutory mandate of the Airline Deregulation Act to put the first-right-of-hire program into place, and they do so without expanding the scope of the program beyond the intent of Congress. The economic impact of these rules for implementing the first-right-of-hire program is substantially below the threshold for designation as a "major rule" by the Office of Management and Budget. It is not likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in cost or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

#### Paperwork Reduction Act

The Department has sought to keep paperwork requirements to that minimum which would be necessary to secure the rights of protected employees. The regulation requires covered air carriers to: (1) Develop a list of their protected employees, (2) send notices of possible protected status, (3) send notices of furloughs and terminations,

and (4) file semi-annual reports on their hiring. In addition, all air carriers would also list job vacancies to create a comprehensive list of the industry. The latter provision is a direct statutory requirement, which can be accomplished by telephone.

Several commentators objected to the costs of preparing the list of protected employees and the notices. We believe, contrary to their assertions, that the existence of automated data systems will make the costs low. In any event, the alternative of verification of protected status at the time of a prospective hire could ultimately be more costly and less effective. The Department received no specific comments on the reporting requirements.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the information collection requirements that are included in this regulation have been submitted for review to the Office of Management and Budget. They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

#### Regulatory Flexibility Act

As indicated in the notice of proposed rulemaking, the Department finds that these regulations do not have a "significant economic effect upon a substantial number of small entities."

This is true both because the regulations do not impose substantial costs beyond those required by the Act, and because the costs fall to a large degree on large establishments. Contrary to the suggestions of several commentators, Congress gave no indication that distinctions should be drawn among the different certificated airlines. In addition, as noted already in this preface, the regulations afford maximum flexibility to airlines to pre-list prospective positions and to take whatever other steps may reduce their costs of complying with the first-right-of-hire program. The reporting requirements generally are proportional to the number of employees affected, and therefore will not disproportionately burden the smaller carriers. In addition, several of the small carriers do not have protected employees, and they will not incur the costs of creating lists and notifying employees.

In addition, most of the covered carriers are large entities whether the definition of small entity is based upon annual revenues, or, as some commenters suggested, the definition is based upon employment or upon the kind of aircraft operated by the airline. In the notice of proposed rulemaking it

was indicated that four of the carriers affected have gross annual revenues of under \$10 million. In terms of employment, 19 of the carriers have fewer than 1,000 employees. In terms of aircraft type, if the 60-seat/18,000 pound payload standard is used, only seven carriers would be small businesses. Hence, these regulations do not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

#### Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b) that the final rule published hereinafter (29 CFR Part 220), for the Airline Employee Protection Program, will not have a significant economic impact on a substantial number of small entities. This conclusion is reached because this rule only has a minimal economic impact on a limited number of small air carriers certificated under section 401 of the Federal Aviation Act of 1958.

Signed at Washington, D.C. this 16th day of November 1983.

Raymond J. Donovan,  
Secretary of Labor.

#### List of Subjects in 29 CFR Part 220

Labor, Airline employees, Air carriers. Accordingly, a new 29 CFR Part 220 is added to read as set forth below.

Signed at Washington, D.C. this 16th day of November 1983.

Raymond J. Donovan,  
Secretary of Labor.

### Part 220—AIRLINE EMPLOYEE PROTECTION PROGRAM

#### Subpart A—Purpose and Scope of the Airline Employee Protection Program

Sec.

- 220.01 Definitions.
- 220.02 Purpose.
- 220.03 Scope.
- 220.04 Responsibilities of the Secretary of Labor.

#### Subpart B—Designated Employees' Eligibility and Rights

- 220.10 Eligibility requirements.
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#### Subpart C—Carriers' Responsibilities

- 220.20 Duty to hire.
- 220.21 Criteria for employment.
- 220.22 Listing a vacancy.
- 220.23 Content of vacancy listing.
- 220.24 Filling a vacancy.
- 220.25 List of protected employees.
- 220.26 Appeals to the Secretary.
- 220.27 Notice of rights.
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- 220.29 Equal employment opportunity.

#### Subpart D—Designated Employees' Responsibilities

- Sec.
- 220.30 Designated employees' responsibilities.

#### Subpart E—Department of Labor's Responsibilities

- 220.40 Comprehensive job list.
- 220.41 List of protected employees.

#### Subpart F—Administration

- 220.50 Effective period of the program.
- 220.51 Disclosure of information.

Appendix I—U.S. carriers certificated as of October 23, 1978 under Section 401 of the Federal Aviation Act of 1958, as amended.

Authority: Section 43(f) of the Airline Deregulation Act of 1978, Pub. L. No. 95-504, 92 Stat. 1750-1753 (49 U.S.C. 1552). (Secretary's Order No. 1-79, 44 FR 13093)

#### Subpart A—Purpose and Scope of the Airline Employee Protection Program

##### § 220.01 Definitions.

As used in this Part, unless the content otherwise indicates:

(a) "Act" means the Airline Deregulation Act of 1978, Public Law 95-504, 92 Stat. 1705.

(b) "Air Carrier" means an air carrier certificated under Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371).

(c) "Center" means the entity or location which from time to time may be designated by the Secretary to receive, maintain and distribute the job listing information required by this Part.

(d) "Corporate officer" means an individual who holds any officer's position established pursuant to the Articles of Incorporation or bylaws of any air carrier, or who is otherwise identified as an officer by any air carrier, in filings with the Federal Aviation Administration, Civil Aeronautics Board or Securities and Exchange Commission or in any reports to stockholders or any public communications of an air carrier.

(e) "Covered air carrier" means an air carrier which was certificated prior to October 24, 1978 (A listing of such carriers appears as an appendix to these regulations).

(f) "Designated employee" means a protected employee who meets the eligibility requirements set forth in Section 220.10.

(g) "Effective period" means the period commencing on the effective date of these regulations and ending on the later of: (1) October 23, 1988, or (2) the last day of the final month in which the Secretary is required to make a payment under Section 43 of the Act; except that nothing in these regulations shall preclude the exercise of statutory rights

and duties between October 24, 1978, and the effective date of these regulations.

(h) "Eligibility period" means the ten-year period beginning on October 24, 1978.

(i) "Employment relationship" means an attachment to a covered air carrier which includes, but is not limited to, compensated service, furlough, leave, or strike.

(j) "Equal employment opportunity requirement" means a specific equal employment requirement, pursuant to a federal court or administrative order, consent decree, or conciliation agreement, requiring that named individuals or specific members of a class are entitled to relief by virtue of the carrier's unlawful employment discrimination.

(k) "Occupational specialty" means the class, craft, or field of endeavor in which an individual was employed at the time of separation from a covered air carrier or in which the employee was employed during the 12 months immediately preceding the date of separation.

(l) "Protected employee" means a person other than a member of the Board of Directors or corporate officer of a covered air carrier:

(1) Who had an employment relationship with a covered air carrier on October 24, 1978, and

(2) Who on October 24, 1978, had four years of employment or four years accrued seniority with a single covered air carrier. The term employee shall include any full or part-time employee other than an employee in seasonal or temporary employment as defined herein. As used herein four years of employment shall mean not less than 48 months (whether or not consecutive) in which the employee actually completed the minimum number of hours of regular employment required for such employee's craft, class or position under the then applicable requirements of the employing carrier.

(m) "Seasonal employment" means employment during limited periods of the year due to peak market conditions or other factors which are periodic in nature, and in positions which do not confer seniority or recall rights.

(n) "Secretary" means the Secretary of Labor of the United States.

(o) "Temporary employment" means employment of limited duration which does not confer seniority or recall rights.

(p) "Terminated," means, unless expressly provided to the contrary, termination of employment, other than for cause.

(q) "Terminated for cause" means the separation of an individual from

employment initiated by an air carrier for violation of such carrier's rules, policies, procedures, or practices pertaining to employee standards of conduct, job performance, or dependability.

(r) "Vacancy" means an employment opportunity other than seasonal or temporary employment, which an air carrier seeks to fill from outside its existing or furloughed work force.

#### § 220.02 Purpose.

Section 43(d) of the Act provides a first-right-of-hire for designated employees of covered air carriers. The regulations in this Part are issued to effectuate section 43(d) (1) and (2) of the Act (hereinafter referred to as the Rehire Program).

#### § 220.03 Scope.

(a) The Rehire Program is applicable only to designated employees, as more fully set forth herein, and only those employees who are expressly granted a hiring preference under the Act and these regulations have any rights under the Rehire Program. The Secretary of Labor will also publish a comprehensive list of jobs available with air carriers.

#### § 220.04 Responsibilities of the Secretary of Labor.

The Secretary of Labor is responsible for administering the Rehire Program, and the Assistant Secretary for Labor-Management Relations, Labor-Management Services Administration (LMSA), has been delegated responsibility for the following:

(a) The development and promulgation of policies, regulations and procedures covering the first-right-of-hire provisions of Section 43(d)(1) of the Act;

(b) The development and promulgation of policies, regulations, and procedures covering the comprehensive job list required under Section 43(d)(2) of the Act; and

(c) The establishment and implementation of reporting requirements for air carriers to obtain pertinent information necessary for fulfilling the Secretary's responsibilities under Section 43(d)(2) of the Act.

#### Subpart B—Designated Employees' Eligibility and Rights

##### § 220.10 Eligibility requirements.

(a) To qualify as a designated employee eligible for rights under this Part 220, an applicant must be a protected employee who is involuntarily placed on furlough or is terminated by a covered air carrier during the eligibility period.

(b) A protected employee shall not be deemed to be furloughed or terminated if such employee:

(1) Retired voluntarily;

(2) Was required to retire by virtue of reaching the mandatory retirement age, if any, established by a covered air carrier or as prescribed by any government agency with regulatory authority over a covered air carrier;

(3) Retired due to a disability;

(4) Is on strike or is withholding services in support of other employees who have struck the covered air carrier;

(5) Is terminated for cause as defined in § 220.01;

(6) Resigned or voluntarily quit for any reason.

(c) A designated employee who is recalled by his former carrier is no longer eligible under this section to exercise the first-right-of-hire. Such a person may become a designated employee in the future due to a subsequent termination or furlough which occurs on or prior to the expiration of the eligibility period.

#### § 220.11 Designated employees' rights.

(a) A designated employee shall have a first-right-of-hire in such employee's occupational specialty, regardless of age, with any covered air carrier hiring additional employees: *Provided, however,* That each designated employee must satisfy all qualifications or other requirements established by the hiring carrier (subject to the limitations contained in Section 220.21) and must make a timely application in accordance with normal carrier procedures for any particular job vacancy.

(b) A designated employee hired by any covered air carrier pursuant to the provisions of the Act shall not be required, as a condition of employment, or in any other manner, to relinquish, waive, or forfeit any seniority or recall rights which such person may possess with any other air carrier: *Provided, however,* That the provisions of this part shall not be deemed to create or prolong any such seniority or recall rights.

#### Subpart C—Carriers' Responsibilities

##### § 220.20 Duty to hire.

(a) Subject to § 220.24, a covered air carrier shall have the duty to hire a designated employee, regardless of age, who otherwise meets the qualification requirements established by such carrier before it hires any other applicant when such carrier is seeking to fill a vacancy in the designated employee's occupational specialty from outside its work force. As used herein "work force" shall include all present employees and

any furloughed or terminated employees who, at the time of furlough or termination, possessed recall or seniority rights.

(b) Subject to the provisions of § 220.24, a covered air carrier shall not fill a vacancy, which would otherwise be available to a designated employee, by promoting or reassigning a seasonal or temporary employee, unless such seasonal or temporary employee is a designated employee.

(c) When considering applications from more than one designated employee for a particular vacancy, a covered air carrier shall be entitled to offer employment to any such designated employee in its absolute discretion.

#### § 220.21 Criteria for Employment.

(a) A covered air carrier shall be entitled to apply any prerequisites or qualifications determined by it for any vacancy, except that, solely with respect to the duty to hire created by the Act, a covered air carrier shall not be entitled to limit employment opportunities for designated employees on the basis of:

(1) Initial hiring age (provided that such prohibition shall not be applicable to retirement ages applicable to all of any class or craft of such air carrier's employees); or

(2) The existence of any seniority, recall rights or previous experience with any other air carrier. *Provided, however,* That covered air carriers shall be entitled to require prospective employees to disclose the existence of any such seniority or recall rights in making application for employment and to take the existence or nonexistence of such rights into account in selecting from among those qualified designated employees who have applied for a particular job vacancy.

(b) In filling job vacancies during the effective period, covered air carriers shall be entitled to require applicants to furnish evidence that they are designated employees.

#### § 220.22 Listing a vacancy.

(a) During the effective period all air carriers shall be required to list each vacancy with the Center at the earliest practicable time, and to include with such listing a statement as to whether the carrier is subject to an equal employment opportunity requirement, as defined in these regulations, in filling the vacancy. In addition, any air carrier shall be entitled to list anticipated vacancies with the Center at any time.

#### § 220.23 Content of vacancy listing.

Air carriers shall provide the Center with a description for each job listing,

which shall include, but need not be limited to, the following—

- (a) Job title;
- (b) Type of position (full or part-time);
- (c) Salary;
- (d) Basic qualifications and/or training requirements;
- (e) Brief description of duties;
- (f) Location of vacancy (if known);
- (g) Special requirements such as type rating, licensing, skill requirements, etc.;
- (h) Whether the vacancy is subject to the duty to hire;

(i) Information on how to apply, such as contact person, mailing address, and any special application procedures; and

(j) Whether the carrier is subject to an equal employment opportunity requirement, as defined in these regulations, in filling the vacancy.

#### § 220.24 Filling a vacancy.

(a) A covered air carrier may fill a vacancy with a designated employee at any time after a vacancy has been listed with the Center.

(b) A covered air carrier may fill a vacancy with someone who is not a designated employee after the vacancy has been listed with the Center for at least 30 calendar days; if

(1) No designated employee with the requisite occupational specialty has applied for the vacancy in accordance with § 220.30 within that time;

(2) No designated employee who did apply within that time period meets the carriers' criteria for employment as set forth in § 220.21; or

(3) The vacancy is subject to an equal employment opportunity requirement and the carrier cannot satisfy such equal employment opportunity requirement by hiring a designated employee.

(c) A covered air carrier may fill a vacancy on a temporary basis with someone who is not a designated employee while the carrier is considering applications for the vacancy which were received from designated employees during the listing period.

(d) The date of the listing shall be the date on which the listing is received by the Center.

#### § 220.25 List of protected employees.

(a) Within 60 calendar days of the effective date of these regulations, each covered air carrier shall provide the Secretary with a list of all protected employees who were employed by it on October 24, 1978.

(b) The list shall contain the following information:

- (1) Protected employee's name;
- (2) Social Security number (if available); and
- (3) Current occupational specialty for present employees or occupational

specialty at the time of separation from employment for former employees.

(c) Not later than 90 calendar days after the effective date of these regulations, each covered air carrier shall provide a onetime notice to each employee with an employment relationship with the carrier on October 24, 1978, stating whether or not the carrier has determined that employee to be a protected employee within the meaning of these regulations, and if so that the carrier has reported his or her name to the Secretary. Employees who are determined to be not protected shall be advised of their rights to appeal.

(2) Employees who dispute the carrier's determination of protected status may submit evidence of their status to the covered air carrier within 60 calendar days of receiving the notice required by paragraph (c)(1).

(3) The covered air carrier shall consider the evidence submitted by the employee and shall inform the employee of its final determination within 15 calendar days of the submission of evidence. In the event the carrier determines that the employee qualifies as a protected employee, it shall forward the information required by paragraph (b) of this section to the Secretary.

#### § 220.26 Appeals to the Secretary.

(a) If the employee disagrees with the carrier's final determination under § 220.25 that he or she is not a protected employee within the meaning of this part, the employee (or his or her designated representative with express authorization) may appeal such determination to the Secretary within 60 calendar days of the carrier's final decision under § 220.25(c)(3) or the date when such decision was required.

(b) An appeal must be written, dated, and signed by the employee. It must set forth:

- (1) The full name, address, and telephone number of the employee;
- (2) The full name and address of the carrier making the determination; the full name of the individual(s) who made the determination for the carrier and the date of that determination;

(3) A summary of the pertinent events and circumstances concerning the employee's status and the basis of the disagreement, including the original date of hire, date of all periods of furlough, leave or termination, and copies of relevant documents; and

(4) Such other information as may be required by the Labor-Management Services Administration (LMSA).

(c) Any appeal hereunder may be filed with any office of the LMSA (LMSA

Area offices are listed as an appendix to these regulations). Upon receipt, an appeal will be forwarded to an LMSA Regional Office where the Regional Administrator will make a preliminary review of the appeal, and if warranted, request information from the parties or conduct such other investigation as may be required. If the matter cannot be resolved informally, the Regional Administrator will forward the file to the Secretary for review.

(d) If upon review of an appeal hereunder the Secretary determines that further action is not appropriate, he will so advise the parties. If upon review of the entire record the Secretary determines that the employee qualifies for protected status, the Secretary will take appropriate steps to add the employee's name to the list of protected employees and will so notify the parties.

#### § 220.27 Notice of Rights.

(a) Not later than the date of separation from employment, a covered air carrier which furloughs or terminates a protected employee during the eligibility period, unless such furlough is limited to a specific period of less than 90 calendar days, shall furnish such protected employee with a notice of rights in the form of a letter or other written documentation that such employee is a designated employee and thereby is entitled to exercise a first-right-of-hire. Such notice of rights shall include, but not be limited to, the following information:

- (1) Name;
- (2) Social Security number (if available);
- (3) Occupational specialty;
- (4) Date of furlough or termination;
- (5) An official of the covered air carrier who can verify the individual's status as a designated employee; and
- (6) Signature, name, and location of the certifying official.

(b) As soon as practicable, but not later than 60 calendar days following the effective date of these regulations, each covered air carrier shall make a reasonable effort to provide the notice of rights required in paragraph (a) of this section to any designated employee who was furloughed or terminated by such carrier on or after October 24, 1978, and prior to the effective date of these regulations and who has not been recalled to employment by such covered air carrier.

(c) A covered air carrier shall provide a verified true copy of the notice of rights to a designated employee who has lost his or her original copy.

#### § 220.28 Air carrier actions to be reported to the Secretary.

(a) A covered air carrier shall report to the Secretary:

(1) The names and Social Security numbers (if available) of all designated employees hired by it, and

(2) The filling of any vacancy with other than a designated employee.

With respect to any occurrences reported under paragraph (a)(2) of this section, the report of the covered air carrier shall contain the job order number assigned to that vacancy by the Center, the date of hire, and a certification by a corporate officer that the carrier complied with the provisions of this part and that no qualified designated employee with the requisite occupational specialty applied in a timely manner.

(b) Two copies of the reports required by this section shall be filed with the Secretary covering the six-month periods ending June 30 and December 31 of each calendar year in which these regulations are in effect and shall be submitted within 60 calendar days of the end of the reporting period.

#### § 220.29 Equal Employment Opportunity.

(a) Where a covered air carrier is under an equal employment opportunity requirement, the covered air carrier shall, to the extent possible, satisfy this equal employment obligation by hiring qualified designated employees.

(b) Where a covered air carrier is under an equal employment opportunity requirement and cannot satisfy such requirement by hiring from the pool of qualified designated employees, the carrier may meet its equal employment requirement by hiring non-designated employees. *Provided, however,* That this provision shall not change or reduce the responsibilities of carriers in regard to the hiring procedures required by §§ 220.21, 220.22, 220.23, and 220.24.

#### Subpart D—Designated Employees' Responsibilities

##### § 220.30 Designated employees' responsibilities.

It is the responsibility of each designated employee to:

(a) Make application to any covered air carrier for whom the designated employee desires to work in the time and manner required by such carrier.

(b) To insure that an application previously submitted to a covered air carrier which currently lists a vacancy is in an active status so as to be considered for such vacancy;

(c) To provide a copy, if requested, of the notice of rights to a potential employing air carrier; and

(d) To retain the original notice of rights for future use.

#### Subpart E—Department of Labor's Responsibilities

##### § 220.40 Comprehensive job list.

(a) The Secretary shall establish a Center to maintain a comprehensive listing of all vacancies listed by air carriers in accordance with §§ 220.22 and 220.23.

(b) The Center will be accessible by telephone throughout the United States to facilitate the listing or modifying of vacancy information by air carriers.

(c) The Center shall provide an air carrier with an identifying number for each vacancy listed on the comprehensive listing.

(d) The comprehensive listing shall be compiled, published and distributed to each local office of the State Employment Security Agencies on a periodic basis as determined necessary by the Secretary, and it shall be distributed to such other individuals or organizations as may desire to receive copies thereof in accordance with criteria established by the Secretary from time to time.

##### § 220.41 List of protected employees.

The Secretary shall establish and publish a list of protected employees as reported by covered air carriers under § 220.25. A copy of this list shall be sent to all covered air carriers as soon as available.

#### Subpart F—Administration

##### § 220.50 Effective period of the program.

(a) *Beginning date.* (1) The requirements set forth in this part shall be effective 60 legislative days from publication of these regulations (A legislative day is defined by the Act as a calendar day when both Houses of Congress are in session).

(2) The Department shall publish a notice in the *Federal Register* announcing the actual effective date.

(b) *Ending date.* This program and these regulations terminate on the last day of the effective period.

(c) Nothing in this Part shall affect the rights and duties of protected employees and covered air carriers under the Act prior to the effective date of this Part.

##### § 220.51 Disclosure of information.

The Department of Labor shall make available to covered air carriers and to designated employees or their authorized representatives, all reports, certifications, or lists collected under this Part, to the extent permitted by the Privacy Act (5 U.S.C. 552a) and the

Department's regulations issued pursuant to that Act (29 CFR Part 70a).

**Appendix I—U.S. Carriers Certificated as of October 23, 1978, Under Section 401 of the Federal Aviation Act of 1958, as Amended**

(Annotations Reflect Operating Status as of October 25, 1983).

1. Airlift International, Inc.
  2. Air Micronesia, Inc.
  3. Air Midwest
  4. Air New England, Inc. (1)
  5. Air Wisconsin, Inc.
  6. Alaska Airlines, Inc.
  7. Allegheny Airlines, Inc. (2)
  8. Aloha Airlines, Inc.
  9. American Airlines, Inc.
  10. Aspen Airways, Inc.
  11. Braniff Airways, Inc. (3)
  12. Capitol International Airways, Inc. (3)
  13. Chicago Helicopter Airways, Inc.\*
  14. Colonial Airlines, Inc. (7)
  15. Continental Air Lines, Inc.
  16. Delta Air Lines, Inc.
  17. Eastern Airlines, Inc.
  18. Evergreen International Airlines, Inc.
  19. The Flying Tiger Line, Inc.
  20. Frontier Airlines, Inc.
  21. Hawaiian Airlines, Inc.
  22. Hughes Air Corp. (4)
  23. Kodiak Western Alaska Airlines, Inc.
  24. Mackey International Airlines, Inc.\*
  25. McCulloch International Airlines, Inc.
  26. Midway Airlines, Inc.
  27. Midway (Southwest) Airways Co.
  28. Modern Airways, Inc. (7)
  29. Munz Northern Airlines, Inc.
  30. National Airlines, Inc.\* (5)
  31. New York Airways, Inc.\*
  32. North Central Airlines, Inc.\* (4)
  33. Northwest Airlines, Inc.
  34. Overseas National Airways, Inc. (6)
  35. Ozark Air Lines, Inc.
  36. Pan American World Airways, Inc.
  37. Piedmont Aviation, Inc.
  38. Reeve Aleutian Airways, Inc.
  39. Rich International Airlines, Inc.
  40. Seaboard World Airways, Inc.\* (7)
  41. Southern Air Transport, Inc.
  42. Southern Airways, Inc.\* (4)
  43. Texas International Airlines, Inc.
  44. Trans International Airlines, Inc. (8)
  45. Trans World Airlines, Inc.
  46. United Airlines, Inc.
  47. Western Air Lines, Inc.
  48. Wien Air Alaska, Inc.
  49. World Airways, Inc.
  50. Wright Air Lines, Inc.
  51. Zantop International Airlines, Inc.
- \* No longer holds certificate.
- (1) Holds certificate, but not operating.
- (2) Renamed U.S. Air, Inc.
- (3) Renamed Capitol Air, Inc.

- (4) Merged in to Republic Airlines, Inc.
- (5) Merged into Pan American World Airways, Inc.
- (6) Ceased operations in September 1978.
- (7) Merged into Flying Tiger Line, Inc.
- (8) Renamed Transamerica Airlines, Inc.

**Note.**—This appendix will appear in the Code of Federal Regulations.

**Appendix II—Area Offices of the Labor-Management Services Administration**

**Note.**—This appendix will not appear in the Code of Federal Regulations.

*California: Los Angeles*

Rm. 4334, Federal Building, 300 N. Los Angeles Street, Los Angeles, California 90012, (213) 688-4975

*California: San Francisco*

Rm. 317, 211 Main Street, San Francisco, California 94105, (415) 974-0544

*Colorado: Denver*

Rm. 1523, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837-5061

*District of Columbia*

Rm. 558, Riddell Building, 1730 K Street NW, Washington, D.C. 20006, (202) 254-6510

*Florida: Miami*

Suite 504, Washington Square Building, 111 NW, 183rd Street, Miami, Florida 33169, (305) 350-4611

*Georgia: Atlanta*

Suite 540, 1365 Peachtree Street, NE, Atlanta, Georgia 30367, (404) 881-4090

*Hawaii: Honolulu*

Rm. 5115, 300 Ala Moana, Post Office 50204, Honolulu, Hawaii 96850, (808) 546-8984

*Illinois: Chicago*

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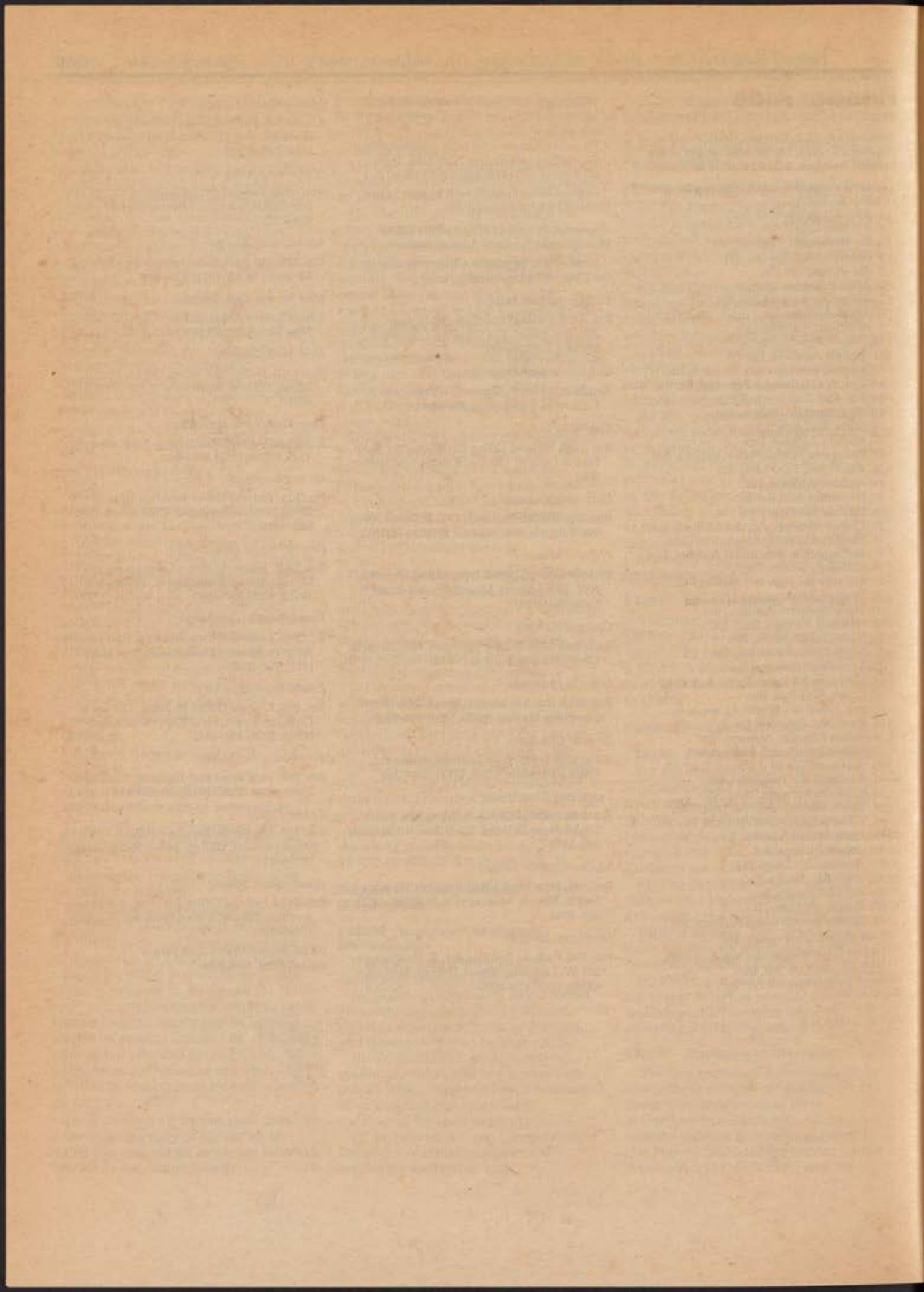
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**LIST OF PUBLIC LAWS**

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. 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, D.C. 20402 (telephone 202-275-3030).

**H.J. Res. 353/Pub. L. 98-156**

To designate the week beginning November 6, 1983, as "Florence Crittenton Mission Week". (Nov. 17, 1983; 97 Stat. 988) Price: \$1.50

**S. 448/Pub. L. 98-157**

To authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes. (Nov. 17, 1983; 97 Stat. 989) Price: \$1.50

**S.J. Res. 92/Pub. L. 98-158**

Designating the week beginning May 13, 1984, as "Municipal Clerk's Week". (Nov. 17, 1983; 97 Stat. 991) Price: \$1.50