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Wednesday
August 22, 1984

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Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Computer Technology
Child Support Enforcement Office

Endangered and Threatened Species
Fish and Wildlife Service

Fisheries
National Oceanic and Atmospheric Administration

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Agricultural Marketing Orders

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Presidential Documents

Title 3—

The President

Proclamation 5230 of August 21, 1984

Hawaii Statehood Silver Jubilee Day

By the President of the United States of America

A Proclamation

On August 21, 1959, President Dwight D. Eisenhower proclaimed Hawaii the fiftieth State. The admission of Hawaii to the Union has proved to be of immense benefit both to the United States and to the State of Hawaii. On the twenty-fifth anniversary of Hawaii's Statehood, we recognize the many contributions the people of Hawaii have made to our country.

Hawaii is blessed with clean waters, pure air and extraordinary natural beauty. These attributes have made it an outstanding center of tourism, attracting people from many different countries. Moreover, Hawaii's ethnically diverse people have shown a warm spirit of friendship toward all the peoples of the world.

Hawaii is one of our major agricultural States. It is the Nation's largest producer of sugarcane and pineapple, and the only major domestic source of coffee, macadamia nuts and certain kinds of flowers. Always on the frontiers of technological progress, the State is an outstanding leader in commercial aquaculture, astronomy, ocean science and energy research and development. It is also essential to our national security as the site of some of the country's most renowned defense facilities. Finally, it is an important international commercial center and base for cultural and technical exchange with the Pacific nations.

In honor of the twenty-fifth anniversary of Hawaii's admission to the Union, the Congress, by Senate Joint Resolution 248, has resolved that August 21, 1984, shall be known throughout the Nation as "Hawaii Statehood Silver Jubilee Day" and authorized and requested the President to issue an appropriate proclamation in observance of this anniversary.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim August 21, 1984, as Hawaii Statehood Silver Jubilee Day, and I call upon the people of the United States to observe this day with appropriate activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of August, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 84-22511
Filed 8-21-84; 11:08 am]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 911 and 915

Limes Grown in Florida; Avocados Grown in South Florida; Amendment of Subparts-Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends rules and regulations issued under Marketing Orders 911 and 915 to remove provisions requiring Florida lime and avocado handlers to provide approved facilities for the grading and preparation of limes and avocados for market as a condition for registration with the committees. The rule removes requirements which are not necessary for effective administration of these marketing orders.

DATES: Effective date: August 22, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricutural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida, and under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. These agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Florida Lime Administrative Committee, and the Avocado Administrative Committee and upon other available information.

The USDA issued an interim rule which amended §§ 911.120 and 915.120 effective April 1, 1984, to requrie that handlers provide facilities determined by the Florida Lime and Avocado Administrative Committees to be adequate for the grading and preparation of limes and avocados for market as a condition of becoming registered handlers under the marketing orders. This rule was based upon the unanimous recommendations of these committees. The rule was published in the **Federal Register** (49 FR 11618) on March 27, 1984, and provided that comments could be filed through April 26, 1984. While no formal comments were received during the 30-day comment period, some handlers communicated objections directly to the committees which met on May 9, 1984 to further evaluate the rule's impact on Florida lime and avocado handlers. At that time they unanimously recommended that the additional requirements implemented under the interim rule be rescinded. Therefore, the USDA has decided to revise §§ 911.120 and 915.120 to remove language in these sections pertaining to requirements that handlers need to provide packing and grading facilities deemed by the committees to be adequate, as a condition of handler registration, and to make certain nonsubstantive language changes for clarity and brevity.

Accordingly the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in other public procedures, and postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: This action relieves restrictions on handlers; the rule was recommended by the committee at a public meeting; handlers are aware of the proposed rule and need no additional time to comply therewith; and no constructive purpose would be served by delaying the effective date beyond the day of publication. The rule relieves certain registration requirements on the part of handlers, and they have been apprised of the changes. It is found that this action will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 911

Agricultural Marketing Service, Marketing agreements and orders, Limes, Florida.

7 CFR Part 915

Agricultural Marketing Service, Marketing agreements and orders, Avocados, Florida.

PART 911—[AMENDED]

Therefore paragraphs (a)(10), (b), and (e) of § 911.120, and paragraphs (a)(11), (b), and (e) of § 915.120 are revised to read as follows:

§ 911.120 Handler registration.

(a) * * *

(10) An agreement to comply with the provisions of this part.

(b) When the committee receives an application for registration, it shall issue the applicant a certificate of registration, if it determines based upon an investigation that the applicant may be expected to handle limes in accordance with this part.

* * * * *

(e) The committee shall suspend the certificate of registration issued under this section of any handler who fails to pay assessments or furnish reports as required under this part, and so advise the handler in writing of the suspension and the effective date. The committee shall lift such suspension at such time as the handler pays such assessments and furnishes such reports, and the committee determines that the handler may be expected to handle limes in the future in accordance with this part.

PART 915—[AMENDED]

§ 915.120 Handler registration.

(a) * * *

(11) An agreement to comply with the provisions of this part.

(b) When the committee receives an application for registration, it shall issue the applicant a certificate of registration, if it determines based upon an

investigation that the applicant may be expected to handle avacados in accordance with this part.

* * * * *

(e) The committee shall suspend the certificate of registration issued under this section of any handler who fails to pay assessments or furnish reports as required under this part, and so advise the handler in writing of the suspension and the effective date. The committee shall lift such suspension at such time as the handler pays such assessments and files such reports, and the committee determines that the handler may be expected to handle avacados in the future in accordance with this part.

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

Dated: August 17, 1984.

Thomas R. Clark,

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

[FR Doc. 84–22278 Filed 8–21–84; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 967

Celery Grown in Florida; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This handling regulation establishes the quantity of Florida celery to be marketed fresh during the 1984–85 season, with the objective of assuring adequate supplies and orderly marketing.

EFFECTIVE DATE: August 22, 1984.

FOR FURTHER INFORMATION CONTACT: James B. Wendland, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–5432.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Marketing Agreement No. 149 and Order No. 967, both as amended, regulate the handling of celery grown in Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for local administration.

This regulation is based upon the unanimous recommendations made by the committee at its public meeting at Buena Vista on June 6.

The committee recommended a Marketable Quantity of approximately 6.8 million crates of fresh celery for the 1984–85 season. This recommendation is based on the appraisal of the expected supply and prospective market demand.

Notice of the proposed regulation was published in the July 10 **Federal Register** (49 FR 28070) inviting written comments by August 9, 1984. None was received.

The Marketable Quantity is about 22 percent more than the approximately 5.6 million crates marketed fresh during the season which ended July 31, 1984. Each producer registered pursuant to § 967.37(f) will have an allotment equal to 100 percent of his historical marketings. This recommendation provides the industry an opportunity to (1) produce to its fullest capacity for the benefit of the consumer, and (2) determine its actual or potential maximum production capacity.

As required by § 967.37(d)(1) a reserve of six percent of the 1983–84 total Base Quantities is authorized for new producers and for increases by existing producers. However, no applications were received for this reserve.

Findings. On the basis of all considerations it is hereby determined that this regulation will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) adequate notice has been given of the requirements of this regulation through publicity in the production area and by publication in the July 10 **Federal Register**; (2) the regulation should become effective as early as possible in the marketing year which begins August 1, so producers and handlers will be afforded maximum time in which to plan their operations; and (3) compliance with this section, which is similar to those issued in previous seasons, requires no special preparation by handlers which cannot be completed prior to the time actual handling of harvested celery begins, generally in the latter part of October.

List of Subjects in 7 CFR Part 967

Marketing agreements and orders, Celery, Florida.

PART 967—[AMENDED]

Section 967.319 (48 FR 39213, August 30, 1983) is removed and a new § 967.320 is added as follows:

§ 967.320 Handling Regulation; Marketable Quantity; and Uniform Percentage for the 1984–85 Season ending July 31, 1985.

(a) The Marketable Quantity established under § 967.36(a) is 6,789,738 crates of celery.

(b) As provided in § 967.38(a), the Uniform Percentage shall be 100 percent.

(c) Pursuant to § 967.36(b), no handler shall handle any harvested celery unless it is within the Marketable Allotment of a producer who has a Base Quantity and such producer authorizes the first handler thereof to handle it.

(b) As required by § 967.37(d)(1) a reserve of six percent of the total Base Quantities is hereby authorized for (1) new producers and (2) increases for existing Base Quantity holders.

(e) Terms used herein shall have the same meaning as when used in the said marketing agreement and order.

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

Dated August 17, 1984 to become effective upon publication.

Thomas R. Clark,

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

[FR Doc. 84–22279 Filed 8–21–84; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1030

[Docket No. A0–361–A20]

Milk in the Chicago Regional Marketing Area; Order Amending Order

Correction

In FR Doc. 84–21487 beginning on page 32336 in the issue of Tuesday, August 14, 1984, make the following corrections:

1. On page 32338, in the middle column, in § 1030.7(a)(1), in the twelfth line, insert "Class" before "III".

2. In the same column, in § 1030.7(b), in the eleventh line, "§ 1030.9(c) including" should read "§ 1030.9(c), including".

3. On the same page, in the third column, in § 1030.7(c)(1), in the last line, "paragraph" should read "paragraphs".

4. On page 32339, in the first column, in § 1030.7(d), introductory text, in the eighth line, "(d)(2), and (d)(3)" should read "(d)(2), (d)(3)".

5. On the same page, in the second column, in § 1030.7(d)(1)(i), in the sixth line, "paragraph" should read "paragraphs".

6. In the same column, in § 1030.7(d)(1)(i)(*a*)(*2*), in the fifteenth line, "receipt" should read "receipts".

7. In the same column, in § 1030.7(d)(1)(i)(*b*), in the eighth and

ninth lines, "such as breakdown" should read "such as a breakdown".

8. On page 32340, in the first column, in § 1030.13(d)(3), in the fifteenth line, "reverse" should read "reserve".

9. On the same page, in the middle column, in § 1030.30(a), introductory text, in the eighth and ninth lines, "skim milk butterfat" should read "skim milk and butterfat".

BILLING CODE 1505-01-M

7 CFR Part 1076

Milk in the Eastern South Dakota Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for the months of August 1984 through February 1985 the provisions of the Eastern South Dakota milk order that limit the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The suspension was requested by Land O'Lakes, Inc., a cooperative association representing most of the producers supplying the market. The suspension is needed to prevent uneconomic movements of milk.

EFFECTIVE DATE: August 22, 1984.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued July 27, 1984; published August 2, 1984 (49 FR 30964).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Eastern South Dakota marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on August 2, 1984 (49 FR 30964) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded opportunity to file data, views, and arguments thereon. No comments were received in opposition to the proposed suspension.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of August 1984 through February 1985 the following provisions do not tend to effectuate the declared policy of the Act:

In § 1076.13, paragraphs (c) (2) and (3).

Statement of Consideration

This action makes inoperative for August 1984 through February 1985 the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The order now provides that a cooperative association may divert up to 35 percent of its total member milk received at all pool plants or diverted therefrom during the months of August through February. Similarly, the operator of a pool plant may divert up to 35 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of August through February.

The suspension was requested by Land O'Lakes, Inc., a cooperative association that supplies most of the market's fluid milk needs and handles most of the market's reserve milk supplies. The suspension is necessary because of the cessation in 1983 of bottling operations by a major distributing plant on the market. As a result, Land O' Lakes' deliveries to regulated distributing plants under the Eastern South Dakota order have declined approximately 33 percent during the first six months of 1984. Land O' Lakes indicated that they have associated some producer milk formerly pooled on the Eastern South Dakota market with the Upper Midwest pool, but that producer milk on the Eastern South Dakota market has declined less rapidly than have deliveries to distributing plants. Consequently, the cooperative expects its reserve milk supplies during August 1984 through February 1985 to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. In the absence of the suspension, the cooperative expects that some of the milk of its member producers who regularly have supplied the fluid market would have to be moved, uneconomically, first to pool plants and then to nonpool manufacturing plants in order to continue producer status for such milk during August 1984 through February 1985.

In the absence of diversion limits, the order's supply plant shipping requirements assure adequate performance on the part of the market's milk suppliers.

In view of these circumstances, it is concluded that the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. The suspension will provide greater flexibility in the handling of the market's reserve milk supplies and thus prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the affected and adjoining marketing areas;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. No views opposing this suspension were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1076

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, that paragraphs (c) (2) and (3) in § 1076.13 of the order are hereby suspended for August 1984 through February 1985.

Effective Date: August 22, 1984.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Signed at Washington, D.C. on: August 16, 1984.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 84-22213 Filed 8-21-84; 8:45 am]

BILLING CODE 3410-02-M

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Review and Consolidation; Regulations and Policy Statements; Registrations, Rates, Brand Inspection and Stockyard Posting

Correction

Through an editorial error, FR Doc. 84–21943, beginning on page 33001 in the issue of Monday, August 20, 1984, contained an incorrect **SUMMARY**. The correct **SUMMARY**, together with the **AGENCY, ACTION, EFFECTIVE DATE,** and **FOR FURTHER INFORMATION CONTACT** captions, reads as follows:

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: This document revises and consolidates the regulations regarding registrations, rates, brand inspection and stockyard posting. The document also removes the policy statement regarding self-regulation by stockyard owners and issues a new policy statement with respect to packers which engage in the business of operating a custom feedlot. These actions reduce reporting requirements for industry participants and clarify existing regulations.

EFFECTIVE DATE: September 19, 1984.

FOR FURTHER INFORMATION CONTACT: Harold W. Davis, Director, Livestock Marketing Division, phone (202) 447–6951, or Kenneth Stricklin, Director, Packer and Poultry Division, phone (202) 447–7363.

BILLING CODE 1505-01-M

FEDERAL ELECTION COMMISSION

11 CFR Part 6

[Notice 1984–15]

Enforcement of Nondiscrimination on the Basis of Handicap in Federal Election Commission Programs

AGENCY: Federal Election Commission.

ACTION: Final rule; transmittal to Congress.

SUMMARY: The Commission is publishing today regulations to implement and enforce section 504 of the Rehabilitation Act of 1973, as amended, to prohibit discrimination on the basis of handicap in Commission programs and activities.

EFFECTIVE DATES: Further action, including the announcement of an effective date, will be taken by the Commission after the regulations have been before Congress 30 calendar days in accordance with 29 U.S.C. 794.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463 (202) 523–4143 or (800) 424–9530. TDD (202) 523–5955.

SUPPLEMENTARY INFORMATION:.

Preamble

As amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95–602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 provides in pertinent part that:

No otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under * * * *any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978.* 29 U.S.C. 794.

On June 27, 1984, the Commission published a Notice of Proposed Rulemaking seeking comments on proposed regulations to implement and enforce section 504 to prohibit discrimination on the basis of handicap in Commission programs and activities. *See* 49 FR 26244 (June 27, 1984). These proposed rules were adapted from prototypes prepared by the Department of Justice and were also based on the Justice Department's own notice of proposed rulemaking, 48 FR 5996 (Dec. 16, 1983), and comments filed in response to that notice. The comment period on the Commission's notice ended on July 27, 1984. Seven comments were received in response to the notice. The Commission is now publishing the text of its final rules implementing section 504.

While the comments received were, for the most part, favorable, some general objections to the proposed rules were raised. For example, two organizations, Paralyzed Veterans of America and the State of Washington Governor's Committee on Employment of the Handicapped, objected to the fact that the regulations would not apply to the activities of candidates and conventions that received federal financing under Title 26, United States Code. The Commission's proposed rules were based on the district court's determination in *Paralyzed Veterans of America* v. *Civiletti*, No. CV79–1979–WPG (C.D. Ca., Sept. 12, 1980), that the obligations of section 504 do not apply to presidential candidates who receive public funding under Title 26. Although, as the commentors correctly point out, the *Paralyzed Veterans* case is still pending in the district court, the Commission has been dismissed as a party to the lawsuit pursuant to the aforementioned order. Therefore, the Commission has not expanded the final rules to cover the activities of candidates and conventions receiving federal financing. Should the district court's order be reversed, the Commission will reevaluate its section 504 regulations.

Some of the comments also contended that the Commission's rules should be the same as those governing federally assisted programs and activities under 28 CFR Part 41. However, the Commission notes that the obligations of federal agencies and recipients of federal funds are not identical under section 504 due to differences in the nature of their respective interests and operations. These differences require variations in the rules governing each area. The substantive nondiscrimination obligations imposed on the agency under the Commission's rules, however, are essentially the same as those established by federal regulations for programs and activities receiving federal financial assistance. Moreover, in response to comments on the Justice Department's notice, the Commission's regulations conform more closely to the federally assisted regulations than those proposed by other federal agencies. *See* section 6.130.

29 U.S.C. 794 requires that copies of any proposed regulations under this section be submitted to the appropriate authorizing committees of Congress and may not take effect until thirty calendar days after they have been submitted to these committees. These regulations were transmitted to Congress on August 17, 1984.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) Regulatory Flexibility Act

These rules will not have a significant economic impact on a substantial number of small entities because the proposed regulations would impact only on the Commission's own programs and activities, not those of regulated entities. Therefore, no Regulatory Flexibility Analysis is required.

Statement of Basis and Purpose

The final rules contain only one textual change from the proposed language published in the June notice. The term "Commission" has been substituted for the term "agency" throughout the text of the regulations. This revision was made so that the terminology used in these rules would be the same as that used in other Commission regulations. A section-by-section analysis of the rules follows.

Section 6.101 Purpose.

Section 6.101 states the purpose of the rules, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

Section 6.102 Application.

The regulations apply to all programs or activities conducted by the Federal Election Commission.

Section 6.103 Definitions.

(a) "Auxiliary aids." "Auxiliary aids" means services, including attendant services, or devices that enable handicapped persons, including those with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicitly only by § 6.160(a)(1), they may also be necessary to meet other requirements of the regulations.

(b) "Commission." For purposes of these regulations, "Commission" means the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(c) "Complete complaint." The definition of "complete complaint" enables the agency to determine the beginning of its obligation to investigate a complaint (*see* § 6.170(b)).

(d) "Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted to clarify its coverage. The phrase, "or interest in such property," has been deleted because the term "facility", as used in this regulation refers to structures and not to intangible property rights. However, the regulations make it clear that the term "facility" applies to all programs and activities conducted by the agency regardless of whether the facility is owned, leased, or used on some other basis, such as rental of conference facilities. The term "facility" is used in § 6.150 and § 6.170(e).

(e) "Handicapped person." The definition of "handicapped person" is identical to the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31).

(f) "Qualified handicapped person." The definition of "qualified handicapped person" is a revised version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Paragraph (1) deviates from existing regulations for federally assisted programs. It defines "qualified handicapped person" with regard to any program under which a person is required to perform services or to achieve a level of accomplishment. In such programs, a qualified handicapped person is one who, with reasonable accommodation, can achieve the purpose of the program. This definition deviates from that contained in the Department of Justice's notice of proposed rulemaking and the prototypes. The definitions proposed in those documents incorporated language from the Supreme Court's decision in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979). Under the Justice Department's proposed rules, a "qualified handicapped person" would be defined as one "who can achieve the purpose of the program *without modifications in the program that would result in a fundamental alteration in its nature.*" Numerous comments objecting to the underscored language in the proposed definition were received in response to the notice. These comments pointed out that the proposed rules combined what should be a two-step inquiry into a one-step process that could work to the detriment of handicapped individuals. The Commission believes that the issue of whether a handicapped person is "qualified" should be separate from an inquiry into what type of accommodation or modification, if any, is needed for the person to participate in a particular program. Therefore, the Commission has not included the *Davis* language in its proposed definition of "qualified handicapped person".

For programs or activities that do not fall under the first paragraph, paragraph (2) adopts the existing definition of "qualified handicapped person" with respect to services in the coordination regulation for programs receiving Federal financial assistance (28 CFR 41.32(b)). Under this definition, a qualified handicapped person is a handicapped person who meets the essential eligibility requirements for participation in the program or activity.

(g) "Section 504." This definition makes clear that, as used in these regulations, "section 504" applies only to programs or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

Section 6.110 Evaluation.

The agency will conduct an evaluation of its compliance with section 504 within one year of the effective date of these regulations. The process will include consultation with interested persons, including consultation with handicapped persons or organizations representing handicapped persons. The evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance. (28 CFR 41.5(b)(2)). Experience has demonstrated the evaluation process to be a valuable means of establishing a working relationship with handicapped persons that promotes both effective and efficient implementation of section 504. The Commission has not completed its study of whether the Federal Advisory Committee Act, 5 U.S.C. App. I, applies to this consultation requirement. The Commission will make its decision on this issue public at a later date.

The rules contain specific criteria for conducting the agency evaluation. Section 6.110(a) provides that the evaluation will include a determination of whether the agency's policies and practices meet the requirements of section 504 and whether modification of any such policies and practices is required. If modification of any policy or practice is found to be required as a result of this evaluation, the agency is required to proceed to make the necessary modifications. Following the completion of the evaluation, under section 6.110(b), the agency is required to keep on file and make available for public inspection, for at least three years, the following information: (1) A list of interested persons consulted; (2) a description of areas examined and any problems identified; and (3) a description of any modifications made.

Section 6.111 Notice.

Section 6.111 requires the agency to disseminate sufficient information to employees, applicants, participants,

beneficiaries, and other interested persons to apprise them of the rights and protections afforded by section 504 and the proposed regulations. Methods of providing this information include, for example, the publication of information in handbooks, manuals and pamphlets that describe the agency's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section 6.130 General prohibitions against discrimination.

Section 6.130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.51).

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § 6.130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. Whenever the agency has violated a provision in any of the subsequent sections, it has also violated one of the general prohibitions found in § 6.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of handicapped persons. The agency may not refuse to provide a handicapped person with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (*e.g.*, epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question.

Section 504, however, prohibits more than just obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit accorded to a handicapped person be as effective as that afforded to others. The later sections on program accessibility (§§ 6.150–6.151) and communications (§ 6.160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons, paragraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide handicapped persons with an equal opportunity to participate in or benefit from the agency's programs or activities. Paragraph (b)(1)(iv) requires that different or separate aids, benefits, or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, paragraph (b)(2) provides that a qualified handicapped person still has the right to choose to participate in the program that is not designed to accommodate handicapped persons.

Paragraph (b)(1)(v) was added in response to comments on the Department of Justice's notice of proposed rulemaking. It incorporates a provision from the regulations for federally-assisted programs (28 CFR 41.51(b)(1)(v) to prohibit the agency from aiding or perpetuating discrimination against a qualified handicapped person by providing significant assistance to an agency, organization or person, except candidates or conventions receiving public financing under Title 26, United States Code, that discriminates on the basis of handicap in providing any aid, benefit or service to beneficiaries of the recipient's program.

Paragraph (b)(1)(vi) prohibits the agency from denying a qualified handicapped person the opportunity to participate as a member of a planning or advisory board.

Paragraph (b)(1)(vi) prohibits the agency from limiting a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Paragraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny handicapped persons access to the agency's programs or activities. The phrase "criteria or methods of administration" refers to official written agency policies and the actual practices of the agency. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny handicapped persons an effective opportunity to participate. Paragraph (b)(3)(iii) was taken from the regulations governing federally-assisted programs (28 CFR 41.51(b)(3)(iii)) in response to comments on the Justice Department's notice. It prohibits the agency from utilizing criteria or methods of administration that would have the purpose or effect of perpetuating the discrimination of another agency.

Paragraph (b)(4) specifically applies the prohibition enunciated in § 6.130(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the agency. Paragraph (b)(4) does not apply to construction of additional buildings at an existing site.

Paragraph (b)(5) prohibits the agency from using criteria for the selection of procurement contractors that subject qualified handicapped persons to discrimination on the basis of handicap.

Paragraph (b)(6) prohibits the agency from discriminating against qualified handicapped persons on the basis of handicap in the granting of a certification. A person is a "qualified handicapped person" with respect to certification, if he or she can meet the essential eligibility requirements for receiving the certification (see § 6.103).

In addition, the agency may not establish requirements for the programs or activities of certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. The agency must ensure that standards that it promulgates do not discriminate against the employment of qualified handicapped persons in an impermissible manner.

This section applies to the Commission's certification of presidential candidates eligible to receive public funding under the Presidential Election Campaign Fund Act, 26 U.S.C. 9001–9013, and the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031–9042. The rules were included even though there is little opportunity for discriminatory treatment since public financing is granted according to automatic formulas on either a matching basis or a cent-per-vote basis. *See* S. Rep. No. 689, 93rd Cong., 2d Sess. 9–10 (1974).

Paragraph (b)(6) does not, however, extend section 504 directly to the programs or activities of certified entities themselves (i.e., the presidential candidates). The program or activities of Federal certified entities are not themselves federally conducted programs or activities nor are they programs or activities receiving Federal financial assistance merely by virtue of the Federal certificate. This is consistent with the district court's determination in

Paralyzed Veterans of America v. *Civiletti*, No. CV79–1979–WPG (C.D. Ca., Sept. 12, 1980), that the obligations of section 504 do not apply to presidential candidates who receive public funding under the Act. However, as noted above, section 504 may affect the content of the rules established by the agency for the operation of the program or activity of the certified entity, and thereby indirectly affect limited aspects of their operations.

Paragraph (c) provides that programs conducted pursuant to Federal statute or Executive order that are designed to benefit only handicapped persons or a given class of handicapped persons may be limited to those handicapped persons.

Section 6.140 Employment.

Section 6.140 prohibits discrimination on the basis of handicap in employment by Executive agencies. This regulation is in accord with a recent decision of the Fifth Circuit that holds that, despite the resulting overlap of coverage with section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791), Congress intended section 504 to cover the employment practices of Executive agencies. The Court also held that in order to give effect to both section 504 and section 501, the administrative procedures of section 501 must be followed in processing section 504 complaints. *Prewitt* v. *United States Postal Service*, 662 F.2d 292 (5th Cir. 1981).

Consistent with that decision, this section provides that the standards, requirements, and procedures of section 501 of the Rehabilitation Act, as established in the regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613, will be those applicable to employment in federally conducted programs or activities. In addition to this section, § 6.170(b) specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (3 CFR, 1979 Comp., p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis of handicap.

Section 6.149 Program accessibility: Discrimination prohibited.

Section 6.149 states the general nondiscrimination principles underlying the program accessibility requirements of §§ 6.150 and 6.151.

Section 6.150 Program accessibility: Existing facilities.

This section adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance programs (28 CFR 41.56–41.58) with certain modifications. Thus, § 6.150 requires that the agency's program or activity, when viewed in its entirety, be readily accessible to and usable by handicapped persons. The regulations also make clear that the agency is not required to make each of its existing facilities accessible (§ 6.150(a)(1)). However, § 6.150, unlike 28 CFR 41.56–41.57, places explicit limits on the agency's obligation to ensure program accessibility (§ 6.150(a)(2)).

Paragraph (a)(2) provides that in meeting the program accessibility requirement the agency is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. A similar limitation is provided in § 6.160(e). Several comments on the Commission's notice objected to the inclusion of these provisions. The Commission has decided to retain § 6.150(a)(2) and § 6.160(e) in its final rules, however, because it is a fair codification of the Supreme Court's holding in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979). In *Davis*, the Court found that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504. *See, e.g., Dopico* v. *Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association* v. *Lewis* (*APTA*), 655 F.2d 1272 (D.C. Cir. 1981). Thus, in *APTA* the United States Court of Appeals for the District of Columbia Circuit applied the *Davis* language and invalidated the section 504 regulations of the Department of Transportation. The court in *APTA* noted "that at some point a transit system's refusal to take modest, affirmative steps to accommodate handicapped persons might well violate section 504. But DOT's rules do not mandate only modest expenditures. The regulations require extensive modifications of existing systems and impose extremely heavy financial burdens on local transit authorities." 655 F.2d at 1278.

The inclusion of paragraph (a)(2) is an effort to conform the agency's regulations implementing section 504 to the Supreme Court's interpretation of the statute in *Davis*, as well as to the decisions of lower courts following the *Davis* opinion. This paragraph acknowledges, in light of recent case law, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs or administrative burdens, that the refusal to undertake the accommodations is not discriminatory. Thus, paragraph (a)(2) clarifies the factors the Commission will consider in determining what constitutes a "reasonable accommodation" under these regulations.

Moreover, the Commission notes that this paragraph does not establish an absolute defense; it does not relieve the agency of all obligations to handicapped persons. Although the agency is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that handicapped persons receive the benefits and services of the federally conducted program or activity. Inclusion of this paragraph would also not prevent the Commission from making necessary modifications in stages when to do so all at once would result in extensive financial or administrative burdens.

The Commission expects that compliance with § 6.150(a) would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity will be considered. Under the rules, the burden of proving that compliance with § 6.150(a) would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by majority vote of the Commission accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency's decision or failure to make a decision may file a complaint under the compliance procedures established in § 6.170.

Paragraph (b) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency will give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of handicapped persons. Structural changes in exising facilities are required only when there is no other feasible way to make the agency's program accessible. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of these regulations. Where structural modifications are required, a transition plan will be developed within six months of the effective date of the regulations. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days.

Section 6.150(d) requires that the agency consult with interested persons, including handicapped persons and organizations representing handicapped persons, in developing a transition plan for structural changes. The Commission has not completed its study of whether the Federal Advisory Committee Act applies to this consultation requirement. If it is necessary to formulate a transition plan, the Commission will make a determination regarding its applicability at that time.

Section 6.151 Program accessibility: New construction and alterations.

Overlapping coverage exists with respect to new construction under section 504, section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section 6.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the agency shall be designed constructed, or altered to be readily accessible to and usable by handicapped persons in accordance with 41 CFR 101–19.600 to 101–19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act, the proposed rules would adopt the existing Architectural Barriers Act standard for section 504 compliance. Adoption of this standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the agency after the effective date of the regulations are not required to meet the new construction standard. They are subject, however, to the requirements of § 6.150.

Section 6.160 Communications.

Section 6.160 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants, and members of the public. These steps will include procedures for determining when auxiliary aids are necessary under § 6.160(a)(1) to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They will also include an opportunity for handicapped persons to request the auxiliary aids of their choice. This expressed choice will be given primary consideration by the agency (§ 6.160). The agency will honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 6.160(e). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it (*see supra* preamble § 6.150(a)(2)). Unless not required by § 6.160(e), the agency will provide auxiliary aids at no cost to the handicapped person.

As under § 6.150, the Commission need not take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. The Commission expects that compliance with § 6.160 would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity will be considered. Under the rules, the burden of proving that compliance with § 6.160 would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by majority vote of the Commission accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency's decision or failure to make a decision may file a complaint under the compliance procedures established in § 6.170.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly where the hearing-impaired applicant or participant is not skilled in spoken or written language. Then, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency will make clear to the public: (1) The communications services it offers to afford handicapped persons an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids if it can demonstrate that several different modes are effective.

The agency will ensure effective communication with vision-impaired and hearing-impaired persons involved in hearings conducted by the agency. Auxiliary aids must be afforded where necessary to ensure effective communication at the proceedings. If sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature. § 6.160(a)(1)(ii). For example, the agency need not provide wheelchairs, eye glasses, or hearing aids to applicants or participants in its programs.

Paragraph (b) requires the agency to provide information to handicapped persons concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide signage at inaccessible facilities that directs users to locations with information about accessible facilities.

Paragraph (d) requires the agency to take appropriate steps to provide handicapped persons with information that is disseminated under § 6.111 regarding section 504 rights and protections.

Section 6.170 Compliance procedures.

Paragraph (a) specifies that paragraphs (c) through (l) of this section establish the procedures for processing complaints other than employment complaints.

Paragraph (b) provides that the agency will process employment complaints according to existing regulations of the EEOC (29 CFR Part 1613) pursuant to section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791).

The agency will designate an official, the Rehabilitation Act Officer, who will be responsible for coordinating implementation of this section (§ 6.170(c)).

Under § 6.170(d), any person who believes that he or she or a specific class of persons of which he or she is a member has been discriminated against may file a complaint within 180 days from the date of the alleged discrimination. The regulations also provide that any person who believes that a denial of his or her services will result or has resulted in discrimination prohibited by section 504 may file a complaint under this part. This provision was included based on comments on the Department of Justice's notice, as well as the facts in *United States* v. *Baylor Medical Center*, 564 F.Supp. 1495 (N.D. Tex. 1983). In that case, an interpreter was permitted to file a section 504 complaint on his own behalf when he was denied admission to a hospital to provide assistance to a hearing-impaired person undergoing surgery. The agency may extend the time limit when the complainant shows good cause. Good cause could be found if, for example, (1) the complainant could not reasonably be expected to know of the act or event said to be discriminatory; or (2) the complainant mistakenly filed with the wrong agency and was not informed of the mistake within the 180 days.

Paragraph (e) requires the agency to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act or section 502 was designed, constructed, or altered in a manner that does not provide ready access and use to handicapped persons.

The agency is required to accept and investigate all complete complaints (§ 6.170(f)(1)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal government (§ 6.170(f)(3)). If a complaint is not complete when it is filed, the agency will notify the complainant within 30 days that additional information is needed. The complainant must furnish the necessary information within 30 days of receipt of the notice, or the complaint will be dismissed without prejudice.

Paragraph (g) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted in noncompliance is found, and notice of the right to appeal. One appeal within the agency will be provided (§ 6.170(h)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance. A provision in the prototype that would have authorized the Assistant Attorney General for Civil Rights to grant the agency an extension of time in which to respond to a complaint or appeal under section 504 was not included in the rules. This proposed oversight role is not statutorily required.

Paragraph (l) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

List of Subjects in 11 CFR Part 6

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

For the reasons set forth in the preamble, Chapter I, title 11 of the Code of Federal Regulations is proposed to be amended by adding new Part 6 as follows:

PART 6—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL ELECTION COMMISSION

Sec.

6.101 Purpose.
6.102 Application.
6.103 Definitions.
6.104–6.109 [Reserved].
6.110 Evaluation.
6.111 Notice.
6.112–6.129 [Reserved].
6.130 General prohibitions against discrimination.
6.131–6.139 [Reserved].
6.140 Employment.
6.141–6.148 [Reserved].
6.149 Program accessibility: Discrimination prohibited.
6.150 Program accessibility: Existing facilities.
6.151 Program accessibility: New construction and alterations.
6.152–6.159 [Reserved].
6.160 Communications.
6.161–6.169 [Reserved].
6.170 Compliance procedures.
6.171–6.999 [Reserved].

Authority: 29 U.S.C. 794.

§ 6.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 6.102 Application.

This part applies to all programs or activities conducted by the Commission.

§ 6.103 Definitions.

For purposes of this part, the term—

(a) "Auxiliary aids" means services, including attendant services, or devices that enable handicapped persons, including those with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Commission. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices. Although auxiliary aids are explicitly required only by 11 CFR 6.160(a)(1), they may also be used to meet other requirements of this part.

(b) "Commission" means the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(c) "Complete complaint" means a written statement that contains the complainant's name and address and describes the Commission's actions in sufficient detail to inform the Commission of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

(d) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property whether owned, leased or used on some other basis by the Commission.

(e) "Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction, and alcoholism.

(2) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Commission as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in 11 CFR 6.103(e)(1) but is treated by the agency as having such an impairment.

(f) "Qualified handicapped person" means—

(1) With respect to any Commission program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who, with reasonable accommodation, meets the essential eligibility requirements and who can achieve the purpose of the program or activity; and

(2) With respect to any other program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

(g) "Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978 (Pub. L. 95–602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by the Commission and not to any federally assisted programs or activities that it administers.

§§ 6.104–6.109 [Reserved]

§ 6.110 Evaluation.

(a) Within one year of the effective date of this part, the Commission will conduct, with the assistance of interested persons, including handicapped persons and organizations representing handicapped persons, and evaluation of its compliance with section 504. This evaluation will include a determination of whether the Commission's policies and practices, and the effects thereof, meet the requirements of this part and whether modification of any such policies or practices is required to comply with section 504. If modification of any policy or practice is found to be required as a result of this evaluation, the Commission will proceed to make the necessary modifications.

(b) For at least three years following completion of the evaluation required under paragraph (a), the Commission will maintain on file and make available for public inspection:

(1) A list of the interested persons consulted;

(2) A description of areas examined and any problems identified; and

(3) A description of any modifications made.

§ 6.111 Notice.

The Commission will make available to employees, applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the programs or activities conducted by the Commission. The Commission will make such information available to them in a manner it finds necessary to effectively apprise such persons of the protections against discrimination assured them by section 504 and the provisions of this part.

§§ 6.112–6.129 [Reserved]

§ 6.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Commission.

(b)(1) The Commission, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aids, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program, except that this paragraph does not apply to candidates or conventions receiving public financing under Title 26, United States Code;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of

any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The Commission may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The Commission may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap;

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to handicapped persons; or

(iii) Perpetuate the discrimination of another agency.

(4) The Commission may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the Commission; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The Commission, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(6) The Commission may not administer a certification program in a manner that subjects qualified handicapped persons to discrimination on the basis of handicap, nor may the Commission establish requirements for the programs or activities of certified entities that subject qualified handicapped persons to discrimination on the basis of handicap. However, the programs or activities of entities that are certified by the Commission are not, themselves, covered by this part.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive Order to a different class of handicapped persons is not prohibited by this part.

(d) The Commission will administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§§ 6.131–6.139 [Reserved]

§ 6.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the Commission. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§§ 6.141–6.148 [Reserved]

§ 6.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in 11 CFR 6.150 and 11 CFR 6.151, no qualified handicapped person shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Commission because its facilities are inaccessible to or unusable by handicapped persons.

§ 6.150 Program accessibility; Existing facilities.

(a) *General.* The Commission will operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the Commission to make each of its existing facilities accessible to and usable by handicapped persons;

(2) Require the Commission to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. The Commission has the burden of proving that compliance with 11 CFR 6.150(a) would result in such alterations or burdens. The decision that compliance would result in such alteration or burdens must be made by the Commission after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the Commission will take any other action that would not result in such an alteration or such a burden but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods.* The Commission may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The Commission is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The Commission, in making alterations to existing buildings, will meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157) and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the Commission will give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(c) *Time period for compliance.* The Commission will comply with the obligations established under this section within sixty days of the effective date of this part except that where structural changes in facilities are undertaken, such changes will be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the Commission will develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan will be developed with the assistance of interested persons, including handicapped persons and organizations representing handicapped persons. A copy of the transition plan will be made available for public inspection. The plan will, at a minimum—

(1) Identify physical obstacles in the Commission's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period;

(4) Indicate the official responsible for implementation of the plan; and

(5) Identify the persons or groups with whose assistance the plan was prepared.

§ 6.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constucted or altered by, on behalf of, or for the use of the Commission shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. The definitions, requirements, and standards of the Architectural Barriers Act, 42 U.S.C. 4151–4157, as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ 6.152–6.159 [Reserved]

§ 6.160 Communications.

(a) The Commission will take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The Commission will furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the Commission.

(i) In determination what type of auxiliary aid is necessary, the Commission will give primary consideration to the requests of the handicapped person.

(ii) The Commission need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the Commission communicates with applicants and beneficiaries by telephone, telecommunications devices for deaf persons (TDD's), or equally effective telecommunication systems will be used.

(b) The Commission will ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The Commission will provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) The Commission will take appropriate steps to provide handicapped persons with information regarding their section 504 rights under the Commission's programs of activities.

(e) This section does not require the Commission to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. The Commission has the burden of proving that compliance with this section would result in such alterations or burdens. The decision that compliance would result in such alteration or burdens must be made by the Commission after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the Commission will take any other action that would not result in such an alteration or such a burden but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§§ 6.161–6.169 [Reserved]

§6.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the Commission.

(b) The Commission will process complaints alleging violations of section 504 with respect to employment according to the procedures established in 29 CFR Part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) Responsibility for implementation and operation of this section shall be vested in the Rehabilitation Act Officer.

(d)(1)(i) Any person who believes that he or she or any specific class of persons of which he or she is a member has been subjected to discrimination prohibited by this part may file a complaint with the Rehabilitation Act Officer.

(ii) Any person who believes that a denial of his or her services will result or has resulted in discrimination prohibited by this part may file a complaint with the Rehabilitatin Act Officer.

(2) All complete complaints must be filed within 180 days of the alleged act of discrimination. The Commission may extend this time period for good cause.

(3) Complaints filed under this part shall be addressed to the Rehabilitation Act Officer, 1325 K Street, NW., Washington, D.C. 20463.

(e) The Commission will notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), are not readily accessible and usable to handicapped persons.

(f)(1) The Commission will accept and investigate a complete complaint that is filed in accordance with paragraph (d) of this section and over which it has jurisdiction. The Rehabilitation Act Officer will notify the complainant and the respondent of receipt and acceptance of the complaint.

(2) If the Rehabilitation Act Officer receives a complaint that is not complete (See 11 CFR 6.101(c)), he or she will notify the complainant within 30 days of receipt of the incomplete complaint, that additional information is needed. If the complainant fails to complete the complaint within 30 days of receipt of this notice, the Rehabilitation Act Officer will dismiss the complaint without prejudice.

(3) If the Rehabilitation Act Officer receives a complaint over which the Commission does not have jurisdiction, the Commission will promptly notify the complainant and will make reasonable efforts to refer the complaint to the appropriate governmental entity.

(g) Within 180 days of receipt of a complete complaint for which it has jurisdiction, the Commission will notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description or a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the Commission of the letter required by § 6.170(g). The Commission may extend this time for good cause.

(i) Timely appeals to the Commission shall be addressed to the Rehabilitation Act Officer, Federal Election Commission, 1325 K Street, NW., Washington, D.C 20463.

(j) The Commission will notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the Commission determines that it needs additional information from the complainant, it shall have 60 days from the date it receives the additional

information to make its determination on the appeal.

(k) The Commission may extend the time limits in paragraphs (g) and (j) of this section for good cause.

(l) The Commission may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

§§ 6.171–6.999 [Reserved]

Dated: August 16, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 84–22073 Filed 8–21–84; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 29

[Docket No. 84–26]

Adjustable-Rate Mortgages

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency is amending its adjustable-rate mortgage regulation (12 CFR Part 29) to permit national banks to alter the bank disclosure statement required for short-term or demand mortgage loans under § 29.7(d). Where a bank uses a loan application form or loan note that is written in the first person, it may also insert first-person terminology, as appropriate, for second-person terminology if the disclosure statement. It has become apparant that the language in § 29.7(d) statement may confuse borrowers when used in conjunction with certain loan applications and note forms in use among banks. The sole purpose of this amendment is to bring about consistency in the language of the required disclosure statement in order to avoid borrower confusion as to their obligations.

EFFECTIVE DATE: August 22, 1984.

FOR FURTHER INFORMATION CONTACT: Jonathan L. Levin, Senior Attorney, Legal Advisory Services Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, (202) 447–1880.

SUPPLEMENTARY INFORMATION: The Comptroller's adjustable-rate mortgage regulation, 12 CFR Part 29, provides in § 29.7(d) that the disclosure statement prescribed for short-term and demand mortgage loans be displayed prominently and in capital letters in or affixed to the relevant mortgage loan application and loan note forms in order to exempt such loans from coverage. This amendment clarifies the manner in which borrowers are identified in the disclosure statement, to ensure that they recognize all obligations to which they will be held.

Recently, it has become apparent to the Office that the language in the § 29.7(d) statement may confuse borrowers when used in conjunction with certain loan application and note forms in widespread use among banks. An increasing number of such forms are written in the first person, i.e., "I" or "we," whereas the statement refers to the borrower strictly in the second person, i.e., "you." Consequently, a borrower executing the loan application or note may fail to recognize the direct applicability of the terms in the § 29.7(d) disclosure statement.

To resolve the inconsistency and potential confusion arising from the use of a loan application or loan note forms written in the first person, the amendment allows the bank to replace each occurrence of "you" in the disclosure statement with "I (me)" or "we (us)." In all other respects, the language of the statement remains unchanged.

This amendment is wholly non-substantive. In no way does it affect a bank's obligation to comply with the disclosure requirements of § 29.7(d) for short-term or demand mortgage loans. Its sole purpose is to bring about consistency in the language of the required disclosure statement in order to avoid borrower confusion as to their obligations. For that reason, the Office finds in accordance with 5 U.S.C. 553(b)(B) that notice and public comment are unnecessary.

Regulatory Flexibility Act

Since this amendment is not subject to notice and comment procedures under 5 U.S.C. 553, preparation of a regulatory flexibility analysis is not required. The Office believes, however, that the language clarifications will ensure better communication between banks and borrowers, and will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

The Office has determined that this final rule is not a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Part 29

National banks, Adjustable-rate mortgages, Disclosure.

PART 29—[AMENDED]

Accordingly, for the reasons set forth above, 12 CFR Part 29 is amended to read as follows:

1. The authority citation for Part 29 reads as follows:

Authority: 12 U.S.C. 1 *et seq.;* 12 U.S.C. 93a; 12 U.S.C. 371.

2. Paragraph (d) of § 29.7 is amended by adding a sentence after the fourth [4] sentence in the paragraph which ends with "the word 'bank' " and before the sentence beginning with "The bank may also." The new sentence reads as follows:

§ 29.7 Disclosure.

* * * * *

(d) * * *

If the loan application form or loan note refers to the borrower(s) in the first person, the bank may also replace each occurrence of the word "you" in the statement with the word "I (me)" or "we (us)" as appropriate.

* * * * *

Dated: August 13, 1984.

H. Joe Selby,

Acting Comptroller of the Currency.

[FR Doc. 84–22167 Filed 8–21–84; 8:45 am]

BILLING CODE 4810–33–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83–AWA–22]

Alteration of the Dallas-Fort Worth Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: An error was noted in the description of the Dallas-Fort Worth, TX, Terminal Control Area (TCA) published in the **Federal Register** on June 21, 1984 (49 FR 25424) that describes a modification to Area B located southeast of the airport. This action corrects that error.

EFFECTIVE DATE: 0901 Gmt, August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Brent A. Fernald, 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:

History

Federal Register Document 84–16547 was published on June 21, 1984, which altered the description of the Dallas-Fort Worth TCA that modifies Area B in order to contain large turbine-powered aircraft making ILS approaches to Runway 31R. An error was noted in the geographical reference points and this action corrects that error.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 84–16547, as published in the **Federal Register** on June 21, 1984, (49 FR 25424) is corrected as follows:

Dallas-Fort Worth, TX [Amended]

In Area B, by deleting the words "to lat. 32°50'10"N., long. 96°52'30"W.;"and inserting the words "to lat. 32°50'15"N., long. 96°52'37"W.; thence clockwise along a 9-mile arc of the Dallas-Fort Worth Airport to lat. 32°49'45"N., long. 96°53'00"W.; to lat. 32°49'20"N., long. 96°52'33"W.; thence clockwise along a 9.5-mile arc of the Dallas-Fort Worth Airport to lat. 32°47'07"N., long. 96°54'33"W.; to lat. 32°47'24"N., long. 96°54'55"W.;"

(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)

Issued in Washington, D.C. on August 6, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84–22191 Filed 8–21–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 73

[Airspace Docket No. 84–AWA–15]

Alteration of Restricted Areas, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the using agencies for Restricted Areas R–2510 and R–2521 in the State of California.

EFFECTIVE DATE: 0901 G.m.t., October 25, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Davis, 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: The purpose of this amendment to § 73.25 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to designate Commander, Fleet Area Control and Surveillance Facility, San Diego, CA, as the using agency for R–2510 and R–2521. Previously the using agency for R–2510 was the Commanding Officer, U.S. Marine Corps Air Station, Yuma, AZ, and the using agency for R–2521 was Commanding Officer, Naval Air Facility, El Centro, CA. The change in using agency does not alter the type activities conducted in the restricted areas. Since this amendment is editorial in nature, it is a minor matter in which the public would have no particular desire to comment, therefore notice and public procedure thereon is unnecessary. Section 73.25 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 3, 1984.

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

List of Subjects in 14 CFR Part 73

Aviation safety, restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 73.25 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

R–2510 El Centro, CA [Amended]

By removing the words "Commanding Officer, U. S. Marine Corps Air Station, Yuma, AZ" and substituting the words "Commander, Fleet Area Control and Surveillance Facility, San Diego, CA."

R–2521 Salton Sea, CA [Amended]

By removing the words "Commanding Officer, Naval Air Facility, El Centro, CA" and substituting the words "Commander, Fleet Area Control and Surveillance Facility, San Diego, CA."

(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)

Issued inWashington, D.C., on August 6. 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84–22192 Filed 8–21–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 95

[Docket No. 24196; Amdt. No. 319]

Air Traffic and General Operating Rules; IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: August 30, 1984.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO–230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace, Aviation safety.

Adoption of the Amendment

PART 14—[AMENDED]

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 GMT August 30, 1984.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

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. For the same reason, the FAA certifies that this amendment 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 August 13, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 319 EFFECTIVE DATE, AUGUST 30, 1984

FROM	TO	MEA
§95.1001 DIRECT ROUTES-U.S.		
IS ADDED TO READ		
SYRACUSE, NY VORTAC VIA SYR VORTAC 357 & YGK NDB 178 *2300 - MOCA	U.S. CANADIAN BORDER	*3000
IS AMENDED TO READ IN PART		
FRANKLIN, VA VORTAC	FRANKLIN, VA VORTAC 071/48	1600
		MAA-10000
§95.6004 VOR FEDERAL AIRWAY 4		
IS AMENDED TO READ IN PART		
TATOOSH, WA VORTAC	JAWBN, WA FIX	8000
JAWBN, WA FIX *6000 - MRA	*LOFAL, WA FIX	7500
LOFAL, WA FIX *5200 - MCA SEATTLE VORTAC, E BND	*SEATTLE, WA VORTAC	6000
§95.6007 VOR FEDERAL AIRWAY 7		
IS AMENDED TO READ IN PART		
BISCAYNE BAY, FL VORTAC *1500 - MOCA	SWAGS, FL FIX	*6000
§95.6013 VOR FEDERAL AIRWAY 13		
IS AMENDED TO READ IN PART		
CORPUS CHRISTI, TX VORTAC *2500 - MRA	*WORRY, TX FIX	1700
IS AMENDED TO DELETE		
HARLINGEN, TX VOR VIA W ALTER.	FOXEL, TX FIX VIA W ALTER.	1600
FOXEL, TX FIX VIA W ALTER. *4000 - MCA NORIA FIX, N BND	*NORIA, TX FIX VIA W ALTER.	2000
NORIA, TX FIX VIA W ALTER. *1600 - MOCA	JETTY, TX FIX VIA W ALTER.	*4000
JETTY, TX FIX VIA W ALTER.	CORPUS CHRISTI, TX VORTAC VIA W ALTER.	2000
PALACIOS, TX VORTAC VIA W ALTER. *1700 - MOCA	HUMBLE, TX VORTAC VIA W ALTER.	*2500
HUMBLE, TX VORTAC VIA E ALTER.	DAISETTA, TX VORTAC VIA E ALTER.	2000
DAISETTA, TX VORTAC VIA E ALTER.	LUFKIN, TX VORTAC VIA E ALTER.	2000
LUFKIN, TX VORTAC VIA E ALTER. *1700 - MOCA	LINEN, LA FIX VIA E ALTER.	*5500
LINEN, LA FIX VIA E ALTER.	SHREVEPORT, LA VORTAC VIA E ALTER.	2500
RICH MOUNTAIN, OK VORTAC VIA W ALTER. *3500 - MCA SPIRO FIX, S BND **3700 - MOCA	*SPIRO, OK FIX VIA W ALTER.	**4400
SPIRO, OK FIX VIA W ALTER.	CHELA, OK FIX VIA W ALTER.	3000
CHELA, OK FIX VIA W ALTER. *3000 - MOCA	RAZORBACK, AR VORTAC VIA W ALTER.	*3700
§95.6016 VOR FEDERAL AIRWAY 16		
IS AMENDED TO READ IN PART		
QUITMAN, TX VORTAC	TEXARKANA, AR VORTAC	2300
§95.6018 VOR FEDERAL AIRWAY 18		
IS AMENDED TO DELETE		
QUITMAN, TX VORTAC VIA S ALTER. *3000 - MRA **1900 - MOCA	*WORKS, TX FIX VIA S ALTER.	**2500
WORKS, TX FIX VIA S ALTER.	SHREVEPORT, LA VORTAC VIA S ALTER.	3000
SHREVEPORT, LA VORTAC VIA N ALTER. *3000 - MRA	*COTTA, LA FIX VIA N ALTER.	2000
COTTA, LA FIX VIA N ALTER.	MONROE, LA VORTAC VIA N ALTER.	2000
SHREVEPORT, LA VORTAC VIA S ALTER. *3000 - MRA	*WETER, LA FIX VIA S ALTER.	2000
WETER, LA FIX VIA S ALTER.	MONROE, LA VORTAC VIA S ALTER.	2000
§95.6023 VOR FEDERAL AIRWAY 23		
IS AMENDED TO READ IN PART		
PORTLAND, OR VORTAC	*MALAY, WA FIX NW BND	6000
	SE BND	5000
*9500 - MRA		
MALAY, WA FIX	*MCKEN, WA FIX S BND	6000
	N BND	5000
*4100 - MCA MCKEN FIX, S BND		

FROM	TO	MEA

§95.6054 VOR FEDERAL AIRWAY 54

IS AMENDED TO READ IN PART

QUITMAN, TX VORTAC	TEXARKANA, AR VORTAC	2300
TEXARKANA, AR VORTAC	*WASHO, AR FIX	**2500
*4000 - MRA		
**1600 - MOCA		
WASHO, AR FIX	MALVE, AR FIX	*3500
*1800 - MOCA		
TEXARKANA, AR VORTAC	*JAMMI, AR FIX	
VIA N ALTER.	VIA N ALTER.	**3500
*5000 - MRA		
**1800 - MOCA		
JAMMI, AR FIX	PIKES, AR FIX	
VIA N ALTER.	VIA N ALTER.	*3500
*1800 - MOCA		
PIKES, AR FIX	MARKI, AR FIX	
VIA N ALTER.	VIA N ALTER.	*3500
*2000 - MOCA		
HOT SPRINGS, AR VOR	LONNS, AR FIX	
VIA N ALTER.	VIA N ALTER.	*3000
*2500 - MOCA		

§95.6066 VOR FEDERAL AIRWAY 66

IS AMENDED TO READ IN PART

ABILENE, TX VORTAC	CHAPI, TX FIX	4000

IS AMENDED TO DELETE

SULPHUR SPRINGS, TX VORTAC	TEXARKANA, AR VORTAC	
VIA N ALTER.	VIA N ALTER.	2000
SULPHUR SPRINGS, TX VORTAC	REDER, TX FIX	
VIA S ALTER.	VIA S ALTER.	*2300
*2000 - MOCA		
REDER, TX FIX	TEXARKANA, AR VORTAC	
VIA S ALTER.	VIA S ALTER.	*2300
*1800 - MOCA		

§95.6070 VOR FEDERAL AIRWAY 70

IS AMENDED TO READ IN PART

RAYMO, TX FIX	NORIA, TX FIX	*4000
*1600 - MOCA		
NORIA, TX FIX	LOCOE, TX FIX	*4000
*1500 - MOCA		

§95.6071 VOR FEDERAL AIRWAY 71

IS AMENDED TO DELETE

NATCHEZ, MS VOR/DME	*ALTOS, LA FIX	
VIA E ALTER.	VIA E ALTER.	**3000
*3000 - MRA		
**1600 - MOCA		
ALTOS, LA FIX	MONROE, LA VORTAC	
VIA E ALTER.	VIA E ALTER.	2000

FROM	TO	MEA

§95.6073 VOR FEDERAL AIRWAY 73

IS AMENDED TO READ IN PART

FRAKS, OK FIX	WICHITA, KS VORTAC	4000

§95.6093 VOR FEDERAL AIRWAY 93

IS AMENDED TO READ IN PART

PAWLING, NY VORTAC	CHESTER, MA VORTAC	*4000
*3500 - MOCA		

§95.6095 VOR FEDERAL AIRWAY 95

IS AMENDED TO READ IN PART

GUNNISON, CO VORTAC	*CHILT, CO FIX	16200
*12600 - MCA CHILT FIX, SW BND		
CHILT, CO FIX	KIOWA, CO VORTAC	16200

§95.6103 VOR FEDERAL AIRWAY 103

IS AMENDED TO READ IN PART

HENBY, VA FIX	TABER, VA FIX	5100

§95.6124 VOR FEDERAL AIRWAY 124

IS AMENDED TO READ IN PART

HOT SPRINGS, AR VOR	LONNS, AR FIX	*3000
*2500 - MOCA		

§95.6159 VOR FEDERAL AIRWAY 159

IS AMENDED TO READ IN PART

FORT LAUDERDALE, FL VOR/DME	TBIRD, FL FIX	*5000
*1500 - MOCA		
TBIRD, FL FIX	VERO BEACH, FL VORTAC	2000

§95.6165 VOR FEDERAL AIRWAY 165

IS AMENDED TO READ IN PART

PITER, OR FIX	CETRA, WA FIX	6000
CETRA, WA FIX	OLYMPIA, WA VORTAC	
	N BND	4000
	S BND	6000

§95.6194 VOR FEDERAL AIRWAY 194

IS AMENDED TO READ IN PART

FROM	TO	MEA
§95.6194 VOR FEDERAL AIRWAY 194—Continued		
LIBERTY, NC VORTAC	RALEIGH-DURHAM, NC VORTAC	2800

§95.6272 VOR FEDERAL AIRWAY 272

IS AMENDED BY ADDING

MC ALESTER, OK VORTAC	FORT SMITH, AR VORTAC	3500

§95.6287 VOR FEDERAL AIRWAY 287

IS AMENDED TO READ IN PART

PORTLAND, OR VORTAC	*MALAY, WA FIX	
	NW BND	6000
	SE BND	5000
*9500 - MRA		
MALAY, WA FIX	TONNO, WA FIX	6000
CARRO, WA FIX	*BREDA, WA FIX	**5000
*5500 - MRA		
*5500 - MCA BREDA FIX, N BND		
**4400 - MOCA		
BREDA, WA FIX	*LOFAL, WA FIX	
	S BND	**5500
	N BND	**6000
*6000 - MRA		
**4400 - MOCA		
LOFAL, WA FIX	PAINE, WA VOR/DME	
	E BND	3000
	W BND	6000

§95.6289 VOR FEDERAL AIRWAY 289

IS AMENDED TO READ IN PART

LUFKIN, TX VORTAC	*PIPES, TX FIX	2400
*3500 - MRA		

§95.6407 VOR FEDERAL AIRWAY 407

IS ADDED TO READ

HARLINGEN, TX VOR	FOXEL, TX FIX	1600
FOXEL, TX FIX	NORIA, TX FIX	2000
NORIA, TX FIX	JETTY, TX FIX	*4000
*1500 - MOCA		
JETTY, TX FIX	CORPUS CHRISTI, TX VORTAC	2000
CORPUS CHRISTI, TX VORTAC	*WORRY, TX FIX	1700
*2500 - MRA		
WORRY, TX FIX	*AUSTS, TX FIX	1700
*3000 - MRA		
AUSTS, TX FIX	PALACIOS, TX VORTAC	1700
PALACIOS, TX VORTAC	HUMBLE, TX VORTAC	2500
HUMBLE, TX VORTAC	DAISETTA, TX VORTAC	2000
DAISETTA, TX VORTAC	LUFKIN, TX VORTAC	2000
LUFKIN, TX VORTAC	LINEN, LA FIX	*5500
*1700 - MOCA		

FROM	TO	MEA
§95.6407 VOR FEDERAL AIRWAY 407—Continued		
LINEN, LA FIX	SHREVEPORT, LA VORTAC	2500

§95.6448 VOR FEDERAL AIRWAY 448

IS AMENDED TO READ IN PART

RUBEL, WA FIX	MOSES LAKE, WA VOR/DME	
	SW BND	6000
	NE BND	4000

§95.6495 VOR FEDERAL AIRWAY 495

IS AMENDED TO READ IN PART

SEATTLE, WA VORTAC	*LOFAL, WA FIX	6000
*6000 - MRA		
LOFAL, WA FIX	U.S. CANADIAN BORDER	7500

§95.6402 HAWAII VOR FEDERAL AIRWAY 2

IS AMENDED TO READ IN PART

HONOLULU, HI VORTAC	ROSHE, HI FIX	3000
ROSHE, HI FIX	LANAI, HI VORTAC	4000

IS AMENDED TO DELETE

SOUTH KAUAI, HI VORTAC	LIHUE, HI VORTAC	5000
LIHUE, HI VORTAC	MOREY, HI FIX	
	SE BND	3000
	NW BND	4000
MOREY, HI FIX	BROMS, HI FIX	*3000
*1200 - MOCA		
BROMS, HI FIX	HONOLULU, HI VORTAC	4000

§95.6404 HAWAII VOR FEDERAL AIRWAY 4

IS AMENDED TO READ

*CHOKO, HI FIX	**ZUKEY, HI FIX	
	E BND	13000
	W BND	19000
*19000 - MRA		
**13000 - MRA		
ZUKEY, HI FIX	GECKO, HI FIX	
	E BND	5000
	W BND	13000
GECKO, HI FIX	HONOLULU, HI VORTAC	5000

§95.6408 HAWAII VOR FEDERAL AIRWAY 8

IS AMENDED TO READ IN PART

HONOLULU, HI VORTAC	*ALANA, HI FIX	3000
*5000 - MRA		
*3500 - MCA ALANA FIX, E BND		
*3500 - MCA ALANA FIX, W BND		

FROM	TO	MEA
§95.6408 HAWAII VOR FEDERAL AIRWAY 8—Continued		
ALANA, HI FIX	HAUNA, HI FIX	5000
HAUNA, HI FIX	LOKIE, HI FIX	2000
LOKIE, HI FIX	MOLOKAI, HI VORTAC	3500

§95.6409 HAWAII VOR FEDERAL AIRWAY 9

IS AMENDED TO DELETE

*LULUS, HI FIX	CLANN, HI FIX	**9000
*9000 - MRA		
**1000 - MOCA		
CLANN, HI FIX	CORAL, HI FIX	*6000
*1000 - MOCA		
CORAL, HI FIX	*MAKAI, HI FIX	**4000
*4000 - MCA MAKAI FIX, S BND		
**1000 - MOCA		
MAKAI, HI FIX	SOLDO, HI FIX	*2000
*1200 - MOCA		
SOLDO, HI FIX	HONOLULU, HI VORTAC	
	N BND	4000
	S BND	2000

§95.6411 HAWAII VOR FEDERAL AIRWAY 11

IS AMENDED TO DELETE

MAUI, HI VORTAC	*NAPIR, HI FIX	5000
*7000 - MRA		
NAPIR, HI FIX	*MOLOKAI, HI VORTAC	7000
*5000 - MCA MOLOKAI VORTAC, E BND		
MOLOKAI, HI VORTAC	LINDY, HI FIX	3500
LINDY, HI FIX	MAKAI, HI FIX	2000

§95.6412 HAWAII VOR FEDERAL AIRWAY 12

IS AMENDED TO READ IN PART

KATHS, HI FIX	*NONNI, HI FIX	24000
*24000 - MRA		
NONNI, HI FIX	*LEANE, HI FIX	
	E BND	7000
	W BND	24000
*7000 - MRA		
LEANE, HI FIX	KEOLA, HI FIX	
	E BND	4000
	W BND	7000
KEOLA, HI FIX	HONOLULU, HI VORTAC	4000

§95.6413 HAWAII VOR FEDERAL AIRWAY 13

IS AMENDED TO DELETE

LIHUE, HI VORTAC	KOKO HEAD, HI VORTAC	4000

§95.6414 HAWAII VOR FEDERAL AIRWAY 14

IS AMENDED TO DELETE

*DOGGY, HI FIX	SOUTH KAUAI, HI VORTAC	**10000
*10000 - MRA		
**4000 - MOCA		

FROM	TO	MEA
§95.6414 HAWAII VOR FEDERAL AIRWAY 14—Continued		
SOUTH KAUAI, HI VORTAC	KOKO HEAD, HI VORTAC	4000

§95.6415 HAWAII VOR FEDERAL AIRWAY 15

IS AMENDED TO READ IN PART

*CANON, HI FIX	LILIA, HI FIX	
	E BND	7000
	W BND	29000
*29000 - MRA		
LILIA, HI FIX	SOUTH KAUAI, HI VORTAC	*7000
*4800 - MOCA		
SOUTH KAUAI, HI VORTAC	LIHUE, HI VORTAC	5000
LIHUE, HI VORTAC	BOOKE, HI FIX	*5000
*3800 - MOCA		
BOOKE, HI FIX	SHIGI, HI FIX	3000
SHIGI, HI FIX	HONOLULU, HI VORTAC	4000
HONOLULU, HI VORTAC	KOKO HEAD, HI VORTAC	5000

§95.6416 HAWAII VOR FEDERAL AIRWAY 16

IS AMENDED TO READ IN PART

*SILVA, HI FIX	**PUPPI, HI FIX	
	E BND	10000
	W BND	29000
*29000 - MRA		
**10000 - MRA		
PUPPI, HI FIX	SOUTH KAUAI, HI VORTAC	
	E BND	*5000
	W BND	*10000
*4800 - MOCA		
SOUTH KAUAI, HI VORTAC	MORKE, HI FIX	
	E BND	3000
	W BND	4300
MORKE, HI FIX	GRAIL, HI FIX	3000
GRAIL, HI FIX	*ALANA, HI FIX	5000
*5000 - MRA		
*3500 - MCA ALANA FIX, E BND		
*3500 - MCA ALANA FIX, W BND		
ALANA, HI FIX	JULLE, HI FIX	5000
JULLE, HI FIX	GRAMY, HI FIX	2000
GRAMY, HI FIX	LANAI, HI VORTAC	4000

§95.6420 HAWAII VOR FEDERAL AIRWAY 20

IS AMENDED TO READ IN PART

HONOLULU, HI VORTAC	HAUNA, HI FIX	3000
HAUNA, HI FIX	JULLE, HI FIX	2000
JULLE, HI FIX	NANNU, HI FIX	4000
NANNU, HI FIX	TYPHO, HI FIX	8000

§95.6421 HAWAII VOR FEDERAL AIRWAY 21

IS AMENDED TO READ IN PART

HONOLULU, HI VORTAC	*ALANA, HI FIX	3000
*5000 - MRA		
*3500 - MCA ALANA FIX, E BND		
*3500 - MCA ALANA FIX, W BND		

FROM	TO	MEA
§95.6421 HAWAII VOR FEDERAL AIRWAY 21—Continued		
ALANA, HI FIX	JULLE, HI FIX	5000
JULLE, HI FIX	GRAMY, HI FIX	2000
GRAMY, HI FIX	LANAI, HI VORTAC	4000

§95.6422 HAWAII VOR FEDERAL AIRWAY 22

IS AMENDED TO READ IN PART

*MOLOKAI, HI VORTAC	**PLUMB, HI FIX	7000
*5000 MCA MOLOKAI VORTAC, E BND		
**7000 MRA		

FROM	TO	MEA	MAA
§95.6422 HAWAII VOR FEDERAL AIRWAY 22—Continued			
PLUMB, HI FIX	MAUI, HI VORTAC	5000	

§95.7007 JET ROUTE NO. 7

IS AMENDED TO READ IN PART

BOISE, ID VORTAC	SALMON, ID VOR/DME	18000	45000
SALMON, ID VOR/DME	GREAT FALLS, MT VORTAC	18000	45000

§95.7109 JET ROUTE NO. 109

IS AMENDED TO READ IN PART

SHAWNEE, VA VORTAC	MIROY, PA FIX	18000	45000
MIROY, PA FIX	WEVEL, PA FIX	23000	45000
WEVEL, PA FIX	BUFFALO, NY VORTAC	18000	45000

§95.7529 JET ROUTE NO. 529

IS ADDED TO READ

FORT YUKON, AK VORTAC	U.S. CANADIAN BORDER	28000	45000

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
V-66			
IS AMENDED TO READ IN PART			
ABILENE, TX VORTAC	BRIDGEPORT, TX VORTAC	48	ABILENE
V-95			
IS AMENDED TO READ IN PART			
GUNNISON, CO VORTAC	KIOWA, CO VORTAC	50	GUNNISON
V-124			
IS AMENDED TO READ IN PART			
HOT SPRINGS, AR VOR	LITTLE ROCK, AR VORTAC	14	HOT SPRINGS
V-407			
IS AMENDED BY ADDING			
HARLINGEN, TX VOR	CORPUS CHRISTI, TX VORTAC	27	HARLINGEN
HAWAII V-2			
IS AMENDED TO DELETE			
HONOLULU, HI VORTAC	LANAI, HI VORTAC	29	HONOLULU
HAWAII V-15			
IS AMENDED TO DELETE			
SOUTH KAUAI, HI VORTAC	HONOLULU, HI VORTAC	51	SOUTH KAUAI

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
J-109			
IS AMENDED BY ADDING			
SHAWNEE, VA VORTAC	BUFFALO, NY VORTAC	78	SHAWNEE

[FR Doc. 84-22185 Filed 8-21-84; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 97

[Docket No. 24190; Amdt. No. 1275]

Air Traffic and General Operating Rules; Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorported by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state and affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs): In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Standard instrument approaches, Aviation safety.

Adoption of the Amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By Amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

* * * *Effective September 27, 1984*

Mobile, AL— Brookley, VOR RWY 14, Amdt. 4

Mobile, AL—Brookley, VOR RWY 32, Amdt. 9

Harrison, AR—Boone County, VOR-A, Amdt. 10

Sacramento, CA—Sacramento Executive, VOR RWY 2, Amdt. 9

Escanaba, MI—Delta County, VOR RWY 9, Amdt. 11

Escanaba, MI—Delta County, VOR RWY 18 Amdt. 5

Escanaba, MI—Delta County, VOR RWY 27, Amdt. 9

Elizabeth City, NC—Elizabeth City CG Air Station/Muni, VOR RWY 1, Amdt. 8

Elizabeth City, NC—Elizabeth City CG Air Station/Muni, VOR RWY 19, Amdt. 7

Blackwell, OK—Blackwell-Tonkawa Muni, VOR-A, Amdt. 1

Stillwater, OK—Stillwater Muni, VOR RWY 17, Amdt. 6

Kenedy, TX—Karnes County, VOR/DME-A, Amdt. 5

Laredo, TX—Laredo Intl, VOR/DME or TACAN RWY 14, Amdt. 4

Laredo, TX—Laredo Intl, VOR or TACAN RWY 32, Amdt. 4

Rockwall, TX—Rockwall Muni, VOR/DME RWY 16, Amdt. 2

Wheeling, WV—Wheeling Ohio Co, VOR RWY 21, Amdt. 10

* * * *Effective August 8, 1984*

Kalamazoo, MI—Kalamazoo Muni, VOR RWY 17, Amdt. 15

* * * *Effective August 2, 1984*

Coffeyville, KS—Coffeyville Muni, VOR/DME-A, Amdt. 5

* * * *Effective July 27, 1984*

Mitchell, SD—Mitchell Muni, VOR RWY 12, amdt. 4

2. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

** * * Effective September 27, 1984*

Escanaba, MI—Delta County, LOC/DME (BC) RWY 27, Amdt. 2
Portland, OR—Portland Intl, LOC/DME RWY 20, Amdt. 4
Temple, TX—Draughon-Miller Muni, LOC/DME BC RWY 33, Orig.

** * * Effective August 8, 1984*

Kalamazoo, MI—Kalamazoo Muni, LOC BC RWY 17, Amdt. 16

** * * Effective July 26, 1984*

Reno, NV—Reno Cannon Intl, LOC/DME BC-B, Amdt. 6
Reno, NV—Reno Cannon Intl, LOC-1 RWY 16R, Amdt. 3
Reno, NV—Reno Cannon Intl, LOC-2 RWY 16R, Amdt. 2

3. By amending § 97.27 NDB and NDB/DME SIAPs identified as follows:

** * * Effective September 27, 1984*

Hartselle, AL—Roundtree Field, NDB-A, Orig.
Harrison, AR—Boone County, NDB RWY 18, Amdt. 3
Harrison, AR—Boone County, NDB RWY 36, Amdt. 3
Sacramento, CA—Sacramento Executive, NDB RWY 2, Amdt. 9
Cambridge, MD—Cambridge-Dorchester, NDB RWY 34, Amdt. 6
Easton, MD—Easton Muni, NDB RWY 22, Amdt. 5
Millville, NJ—Millville Muni, NDB RWY 14, Amdt. 5
Elizabeth City, NC—Elizabeth City CG Air Station/Muni, NDB-A, Amdt. 8
Laredo, TX—Laredo Intl, NDB RWY 17C, Amdt. 5
Platteville, WI—Grant County, NDB RWY 25, Amdt. 1

** * * Effective August 30, 1984*

Cadillac, MI—Wexford County, NDB RWY 25, Amdt. 5
Austin, TX—Robert Mueller Muni, NDB RWY 31L, Amdt. 31

** * * Effective August 2, 1984*

Coffeyville, KS—Coffeyville Muni, NDB RWY 35, Amdt. 8

4. By amending § 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

** * * Effective September 27, 1984*

Sacramento, CA—Sacramento Executive, ILS RWY 2, Amdt. 22
Atlanta, GA—The William B. Hartsfield Atlanta Intl, ILS RWY 8, Amdt. 55
Escanaba, MI—Delta County, ILS RWY 9, Amdt. 2
Jackson, MS—Allen C. Thompson Field, ILS RWY 15L, Amdt. 3
Las Vegas, NV—McCarran Intl, ILS RWY 25, Amdt. 11
Williamsport, PA—Williamsport-Lycoming County, ILS RWY 27, Amdt. 15
Laredo, TX—Laredo Intl, ILS RWY 17C, Amdt. 6

** * * Effective August 30, 1984*

Cadillac, MI—Wexford County, MLS RWY 25, Orig.
Austin, TX—Robert Mueller Muni, ILS RWY 31L, Amdt. 30

** * * Effective July 26, 1984*

San Francisco, CA—San Francisco Intl, ILS RWY 28R, Amdt. 5
Reno, NV—Reno Cannon Intl, ILS RWY 16R, Amdt. 5

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective September 27, 1984*

Blytheville, AR—Blytheville, Muni, RADAR-1, Orig.
New Orleans, LA—New Orleans Intl (Moisant Field), RADAR 1, Amdt. 13

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective September 27, 1984*

Wichita, KS—Colonel James Jabara, RNAV RWY 18, Orig.
Ashland, KY—Ashland-Boyd County, RNAV RWY 28, Amdt. 1, Cancelled
Blackwell, OK—Blackwell-Tonkawa Muni, RNAV RWY 17, Amdt. 1
Blackwell, OK—Blackwell-Tonkawa Muni, RNAV RWY 35, Amdt. 1

** * * Effective August 30, 1984*

Cadillac, MI—Wexford County, RNAV RWY 7, Amdt. 4
Cadillac, MI—Wexford County, RNAV RWY 25, Amdt. 3

** * * Effective August 2, 1984*

Coffeyville, KS—Coffeyville Muni, RNAV RWY 35, Amdt. 2

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on August 10, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 84-22184 Filed 8-21-84; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 9007 and 9038

[Notice 1984-14]

Repayments by Publicly Financed Presidential Candidates

AGENCY: Federal Election Commission.

ACTION: Final Rule; Transmittal to Congress.

SUMMARY: The Commission is publishing today revised rules governing the formula used to determine repayments for non-qualified campaign expenses by publicly-financed Presidential candidates. The regulations provide for a pro-rata, rather than 100%, repayment of funds used for such expenses, in accordance with the recent decisions by the U.S. Court of Appeals for the D.C. Circuit in *Kennedy for President Committee* v. *Federal Election Commission*, No. 83-1521 (D.C. Cir. May 15, 1984) and *Reagan for President Committee* v. *Federal Election Commission*, No. 83-1666 (D.C. Cir. May 15, 1984). Further information on the revised regulations is found in the Supplemental Information which follows.

EFFECTIVE DATES: Further action, including the announcement of an effective date, will be taken by the Commission after these regulations have been before the Congress 30 legislative days in accordance with 26 U.S.C. 9009(c) and 9039(c).

FOR FURTHER INFORMATION CONTACT: Susan E. Propper, Assistant General Counsel, (202) 523-4143 or Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION: On June 28, 1984, the Commission published a Notice of Proposed Rulemaking seeking comments on proposed revisions to the regulations govering certain kinds of repayments by publicly-financed candidates. 49 FR 26596. The comment period ended on July 30, 1984. No comments were received in response to the Notice.

26 U.S.C. 9009(c) and 9038(c) require that any rule or regulation prescribed by the Commission to carry out the provisions of Title 26, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. These regulations were transmitted on August 17, 1984.

Explanation and Justification

On May 15, 1984, the U.S. Court of Appeals for the D.C. Circuit held that repayments by publicly-financed Presidential primary candidates for non-qualified campaign expenses should be "limited to the amount of federal funds that the Commission reasonably determined were spent" by the candidates for such purposes. *Kennedy for President Committee et al.* v. *Federal Election Commission*, No 83–1521 (D.C. Cir. May 15, 1984); *Reagan for President Committee* v. *Federal Election Commission*, No. 83–1666, slip op. at 2 (D.C. Cir. May 15, 1984). In accordance with the court's order, the Commission has revised its regulations, which currently require repayment of the total amount spent on non-qualified campaign expenses. *See*, 11 CFR 9007.2(b)(2) and 9038.2(b)(2) [1983]. The revised regulations implement a pro-rata formula based on the proportion of federal funds to total funds received by the candidate. The amount of any repayment sought would then be a similar proportion of the total amount spent on non-qualified campaign expenses. In the case of Presidential primary candidates, the proportion of federal funds certified will be determined as of the candidates date of ineligibility. In the general election, a pro-rata formula will only be used for major party candidates who have received private contributions to make up a deficiency in the Fund and for minor or new party candidates receiving partial Federal funding. The use of such formulas is consistent with the court's opinion, which does not require a mathematically precise determination of the amount of the Federal funds spent improperly but only a reasonable determination of the amount of federal matching funds so used. *Kennedy* slip op. at 7. Moreover, the revisions are limited to repayment determinations under 26 U.S.C. 9007(b)(4) and 9038(b)(2), as those were the only types of repayment determinations addressed in the *Kennedy* and *Reagan* decisions.

To demonstrate how these formulas will operate, the Commission has prepared two examples of hypothetical repayment determinations under 26 U.S.C. 9038(b)(2). Although the examples deal with repayments by Presidential primary candidates, they may be analogized to repayments by general election candidates as the issues presented in both cases are similar. The examples cover hypothetical repayments by candidates in a surplus and in a deficit position.

Illustration No. 1: Surplus Candidate

Assumptions:

Date of ineligibility (DOI): 7/19/84.

Surplus on DOI: $1,000,000.

Matching funds received through DOI: $8,000,000 (net).

Total deposits through DOI: $20,000,000.

Non-qualified campaign expenses incurred pre-DOI: $100,000 (in excess of New Hampshire limit).

Non-qualified campaign expenses incurred post-DOI: $25,000 (purchase of 1984 Corvette).

1. Calculate 26 U.S.C. 9038(b)(3) ratio and determine amount of 26 U.S.C. 9038(b)(3) surplus repayment.

The Audit staff verified the Candidate's NOCO statement (as of 7/19/84) and reach agreement with the Treasurer as to the amount of the surplus at DOI (i.e., $1,000,000). The Audit staff then calculated the 26 U.S.C. 9038(b)(3) ratio using figures developed by reviewing reports and records of the Committee. The ratio calculated was

$$(40\%)\ \frac{\$8,000,000}{\$20,000,000}$$

Applying this ratio (40%) to the verified surplus ($1,000,000)[1], the 26 U.S.C. 9038(b)(3) repayment amount becomes $400,000. Since some estimates (for winding down costs) were used to calculate the surplus, adjustments to the amount repayable may be appropriate as a result of audit fieldwork updates.

2. Calculate 26 U.S.C. 9038(b)(2) ratio and determine amount of 26 U.S.C. 9038(b)(2) repayment for non-qualified campaign expenses.

In order to determine the repayment for $100,000 in expenditures in excess of the New Hampshire state limit, several calculations and adjustments were performed by the Audit staff. First, the ratio had to be calculated. In this case, the Treasurer had workpapers supporting his calculation of the 26 U.S.C. 9038(b)(2) ratio and the Audit staff verified his figures. The Treasurer's ratio was

$$38.7755\%\ \frac{\$7,600,000}{\$19,600,000}$$

The Treasurer reasoned that since $400,000 was to be repaid via the 26 U.S.C. 9038(b)(3) repayment, actual matching funds certified (NET) was equal to matching funds certified through DOI ($8,000,000) less the $400,000 to be repaid. A similar adjustment was made to the denominator. The Audit staff explained that for purposes of calculating the 26 U.S.C. 9038(b)(2) ratio, repayments pursuant to 26 U.S.C. 9038(b)(1) and (b)(3) did not come into consideration.[2] The 26 U.S.C. 9038(b)(2) ratio was calculated to be

$$40\%\ \frac{\$8,000,000}{\$20,000,000}$$

Since the $100,000 ($75,000 paid and $25,000 yet to be paid) were the only non-qualified expenses incurred prior to date of ineligibility, the Audit staff simply multiplied 40% time $100,000 to arrived at the amount ($40,000) repayable pursuant to 26 U.S.C. 9038(b)(2).

With respect to the review of post-DOI disbursements, the Audit staff noted a $25,000 payment for purchase of an automobile made on 8/2/84. It was also noted that the Treasurer had properly: (1) not included this amount for purposes of inclusion in the NOCO statement and (2) considered this expense to have been defrayed with excess campaign funds pursuant to 2 U.S.C. 439a. (The Committee's calculated residual funds after all repayments and qualified expenses were satisfied, amounted to approximately $560,000).

In summary, the total repayment requested would have been as follows:

$$\frac{\$8,000,000}{\$20,000,000} \times \$1,000,000 = \$400,000$$

26 U.S.C. 9038(b)(3):

[1] The Treasurer included $25,000 in accounts payable for expenses chargeable in the New Hampshire limit and arrived at a calculated surplus of $975,000. The Audit staff excluded the $25,000 in accounts payable for non-qualified campaign expenses, thus making the surplus $1,000,000.

[2] There is no adjustment for repayments under 26 U.S.C. 9038 (b)(1) or (b)(3) because the repayment formula for section 9039(b)(2) is based on the amount of funds certified to the candidate and therefore available to defray non-qualified campaign expenses. This is so even if the Commission may later determine that the candidate was not entitled to a portion of the funds or that the candidate had a surplus.

$$\frac{\$8,000,000}{\$20,000,000} \times \$100,000 = \$40,000$$

Total repayment, $440,000.

Illustration No. 2: Deficit Candidate

Assumptions:

Date of ineligibility (DOI): 3/20/84.

Matching Funds Certified Through DOI: $3,000,000.[3]

Total Contributions Deposited Through DOI: $6,000,000.

Amount of Non-Qualified Expenses *incurred* Pre-DOI:

Undocumented	$50,000
Excess Iowa	25,000
Total 26 U.S.C. 9038(b)(2) incurred pre-DOI	75,000

Amount of Non-Qualified Expenses incurred Post-DOI:

Date incurred	Date paid	Amount paid	Non-qualified type
June 1, 1984	July 1, 1984	$20,000	Non-campaign related (Convention expenses)
May 4, 1985	May 4, 1985	5,000	Transfer to National Party
Total post-DOI non-qualified.		25,000	

Amount of Last Matching Fund Payment: $1,750 on 2/5/85.

1. Calculate 26 U.S.C. 9038(b)(2) ratio and resultant repayment amount.

During initial fieldwork, the Audit staff reviewed workpapers prepared by the Treasurer concerning the Committee's NOCO position and 26 U.S.C. 9038(b)(2) repayment situation. The Audit staff verified the Committee's NOCO position (entitlement). Several differences were noted between the Committee Treasurer's calculations and those performed by the Audit staff.

The Treasurer did not include the $300,000 matching payment received on 3/23/84 in computing the 26 U.S.C. 9038(b)(2) ratio. This appeared to be an oversight on the Treasurer's part. The Audit staff pointed out that the 26 U.S.C. 9038(b)(2) ratio (both numerator and denominator) is to include the amount of matching funds *certified* through the date of ineligibility, whether or not received by that date. Hence, the correct ratio for 26 U.S.C. 9038(b)(2) repayment purpose was

$$\frac{\$3,000,000}{\$3,000,000+\$6,000,000} \text{ or } 33.3333\%;$$

not the

$$31.0345\% \text{ or } \frac{\$2,700,000}{\$2,700,000+\$6,000,000}$$

as originally calculated by the Treasurer. Applying the 33.3333% ratio to the amount of non-qualified campaign expenses incurred prior to the date of ineligibility ($75,000), the repayment amount was $25,000.

The Audit staff verified the figures contained on the Treasurer's NOCO workpapers. It was noted that the Treasurer had included $25,000 in non-qualified expenses as a payable on her NOCO statement. This amount represented expenses for materials and services used in February 1984 which had not been paid and are included in the pre-ineligibility non-qualified expenses included above. The Audit staff explained that, if permitted, inclusion of the $25,000 in non-qualified campaign expenses could result in an additional $25,000 in matching fund entitlement.

During the audit fieldwork update, the Audit staff reviewed expenses incurred after the date of ineligibility, the updated NOCO statements submitted, and the liquidation of matching fund payments received after the date of ineligibility. It was noted that the Treasurer included on her NOCO statement, $20,000 in expenses relating to the candidate's and his staff's travel, food and lodging costs at the nominating convention. The Audit staff pointed out two problems with the Treasurer's approach.

First, the $20,000 in convention-related expenses were not valid winding down costs and, therefore, could not be defrayed with matching funds. The Audit staff informed the Treasurer that the $20,000 payment was a non-qualified campaign expense subject to repayment pursuant to 26 U.S.C. 9038(b)(2). The Treasurer agreed.

Second, for the same reasons that the $25,000 in pre-DOI non-qualified campaign expenses could not be included on the NOCO statement, the $20,000 in post-DOI non-qualified campaign expenses also could not be included. Thus, the entitlement as calculated by the Treasurer was reduced by $20,000 [4] and the 26 U.S.C. 9038(b)(2) ratio was applied to the $20,000 which resulted in a repayment amount of $6,666.67 for convention expenses. It should be noted that the $5,000 transfer (dated 5/4/85) was made after all matching funds received had been disposed of and thus, this transfer was considered to have been made using non-federal monies.

The total 26 U.S.C. 9038(b)(2) repayment is $31,666.67, comprised of the following:

Pre-DOI non-qualified campaign expenses ($75,000x33.3333%)	$25,000.00
Post-DOI non-qualified expenses ($20,000X33.3333%)	6,666.67
Total 26 U.S.C. 9038(b)(2) repayment	31,666.67

At the close of follow-up fieldwork, the Treasurer inquired concerning the possible impact of settling a $500,000 debt for $50,000 in the near future. The Audit staff advised her of the Commission's debt settlement procedures and informed the Treasurer that all NOCO statements filed carried this debt at $500,000. Should the debt be settled for less, it was the Commission's policy to recalculate entitlement based on the $50,000 settlement amount, and seek a 26 U.S.C. 9038(b)(1) repayment, if appropriate.

Statutory Authority

26 U.S.C. 9007, 9038

List of Subjects in 11 CFR Parts 9007 and 9038

Campaign funds, Administrative practice and procedure, Political candidates.

PART 9007—[AMENDED]

11 CFR Part 9007 is amended by revising § 9007.2(b)(2)(i), (ii) (B), (C) and (D); and adding (b)(2)(iii) as follows:

§ 9007.2 Repayments.

* * * * *

(b) * * *

(2) * * *

(i) If the Commission determines that any amount of any payment to an eligible candidate from the Fund was used for purposes other than those described in paragraphs (A) through (C) below, it will notify the candidate of the amount so used, and such candidate shall pay to the United States Treasury an amount equal to such amount.

* * * * *

(ii) * * *

(B) Determinations that amounts spent by a candidate, a candidate's authorized committee(s), or agent(s) from the Fund

[3] Actual matching funds received through DOI totaled $2,700,000; however, a certification for $300,000 was approved on 3/18/84, with the resulting payment not received until 3/23/84.

[4] To the extent the candidate's entitlement was inflated by this amount, a repayment determination would also be made under 26 U.S.C. 9038(b)(1).

were not documented in accordance with 11 CFR 9003.5;

(C) Determinations that any portion of the payments made to a candidate from the Fund was expended in violation of State or Federal law; and

(D) Determinations that any portion of the payments made to a candidate from the Fund was used to defray expenses resulting from a violation of State or Federal law, such as the payment of fines or penalties.

(iii) In the case of a candidate who has received contributions pursuant to 11 CFR 9003.3 (b) or (c), the amount of any repayment sought under this section shall bear the same ratio to the total amount determined to have been used for non-qualified campaign expenses as the amount of payments certified to the candidate from the Fund bears to the total amount of deposits of contributions and federal funds, as of December 31 of the Presidential election year.

* * * * *

PART 9038—[AMENDED]

11 CFR Part 9038 is amended by revising § 9038.2(b)(2)(i), adding (b)(2)(iii) and revising (b)(3) as follows:

§ 9038.2 Repayments.

* * * * *

(b) * * *

(2) * * *

(i) The Commission may determine that amounts of any payments made to a candidate from the matching payment account were used for purposes other than those set forth in (b)(2)(i) (A)–(C) of this section:

* * * * *

(iii) The amount of any repayment sought under this section shall bear the same ratio to the total amount determined to have been used for non-qualified campaign expenses as the amount of matching funds certified to the candidate bears to the total amount of deposits of contributions and matching funds, as of the candidate's date of ineligibility.

(3) *Failure to Provide Adequate Documentation.* The Commission may determine that amount(s) spent by the candidate, the candidate's authorized committee(s), or agents were not documented in accordance with 11 CFR 9033.11. The amount of any repayment sought under this section shall be determined by using the formula set forth in 11 CFR 9038.2(b)(2)(iii).

* * * * *

Dated: August 16, 1984.

Lee Ann Elliott,

Chairman.

[FR Doc. 84-22212 Filed 8-21-84; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 1710

[Docket No. N-84-1286; FR-1732]

Guidelines for Exemptions Available Under the Interstate Land Sales Full Disclosure Act; Correction

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

ACTION: Notice of Final Guidelines (Interpretive Rule)—correction.

SUMMARY: This document corrects an interpretive rule consisting of guidelines for exemptions under the Interstate Land Sales Full Disclosure Act that appeared in the **Federal Register** of Monday, August 6, 1984 on page 31375 (49 FR 31375). This document corrects the language of issuance to indicate that the Guidelines are Appendix A to Part 1710, to assure that the Guidelines will be codified in the Code of Federal Regulations with that Part—as the preamble to the Guidelines stated was the Department's intent.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Interstate Land Sales Registration Division, 202–755–0502. (This is not a toll-free number.)

On page 31375, third column, the last paragraph, the following words of issuance and heading, "Accordingly, the Exemption Guidelines are published as follows:

Guidelines for Exemptions Available Under the Interstate Land Sales Full Disclosure Act" are corrected to read as follows:

"Accordingly, 24 CFR Part 1710 is amended by adding Appendix A, to read as follows:

Appendix A—Guidelines for Exemptions Available Under the Interstate Land Sales Full Disclosure Act"

Dated: August 17, 1984.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 84-22072 Filed 8-21-84; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 5f

[T.D. 7965]

Income Taxes; Sanctions on Issuers and Holders of Registration-Required Obligations Not in Registered Form

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the definition of the term "registration-required obligation" with respect to obligations issued to certain foreign persons and the imposition of sanctions on issuers issuing registration-required obligations in bearer form. This document also contains temporary regulations relating to the imposition of sanctions on persons holding registration-required obligations in bearer form. This document removes § 5f.163–1(c) of the existing temporary regulations. Changes to the applicable law were made by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Tax Reform Act of 1984 (the 1984 Act). These temporary regulations affect issuers and holders of obligations and provide them with guidance needed to comply with the law.

DATES: The temporary regulations under sections 163, 165, and 1287 and the removal of § 5f.163–1(c) are effective with respect to obligations originally issued after September 21, 1984.

FOR FURTHER INFORMATION CONTACT: P. Ann Fishers or Carol T. Doran of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3289).

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1982, the **Federal Register** published temporary regulations (26 CFR Part 5f) (47 FR 51361) and proposed regulations (26 CFR Part 1) (47 FR 51414) under section 163 of the Internal Revenue Code of 1954. On September 2, 1983, the **Federal Register** published revisions to proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 163 and published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 165, and 1232 of the Internal Revenue Code of 1954 (48 FR 39953). The

amendments were proposed to conform the regulations to section 310 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248; 96 Stat. 595). A public hearing was held on November 10, 1983. After consideration of all comments regarding the proposed amendments, the proposed regulations are superseded by the temporary regulations published in this document. In addition, the text of the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the Proposed Rules section of today's Federal Register.

Section 310 of TEFRA added new sections 163(f), 165(j), and 1232(c) to the Code. The Tax Reform Act of 1984 (Pub. L. 98–369; 98 Stat. 552) redesignated section 1232(c) as section 1287. Section 163(f) disallows an interest deduction otherwise allowable under 163(a), or any other provision of the Code, if the interest is attributable to a registration-required obligation issued in bearer form. Section 165(j) disallows a deduction for any loss sustained on a registration-required obligation that is held in bearer form. Section 1287(a) provides that, if a registration-required obligation is held in bearer form, any gain on the sale or other disposition of such obligation shall be treated as ordinary income.

Explanation of Provisions

The temporary regulations contained in this document provide rules for determining whether an issuer may claim an interest deduction for interest paid on an obligation in bearer form, which is otherwise a registration-required obligation, because the issuer satisfies the conditions set forth in section 163(f)(2)(B). Under section 163(f)(2)(B) an obligation is not a registration-required obligation if it meets the following conditions: it is sold under arrangements reasonably designed to ensure that it is not sold (or resold in connection with its original issuance) to United States persons; interest on the obligation is payable only outside the United States and its possessions; and on the face of the obligation there is a statement that any person who holds the obligation will be subject to limitations under U.S. income tax laws.

Section 1.163–5(c)T(1)(ii)(B) provides rules for applying the requirement that a statement be printed on the face of the obligation. The regulations require the statement to be printed on any interest coupons which may be detached from an obligation. Commentators suggested that this was not required by the statute and that printing the legend on the coupons would increase printing and handling costs and that, therefore, this requirement should be deleted. The statute may be interpreted to require the legend on the coupons. The legend provides notice to purchasers who buy stripped coupons. Handling costs should not be greatly increased so long as coupon size is standardized. Therefore, this requirement has been retained.

Section 1.163–5(c)T(2)(i) provides rules for determining whether an obligation is issued pursuant to arrangements reasonably designed to ensure sale to non-United States persons. An issuer will satisfy this requirement if it can comply with one of three tests. United States Government-owned or United States Government-sponsored enterprises, such as the Federal National Mortgage Association, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Farm Credit Administration, and the Student Loan Marketing Association will not be permitted to issue or guarantee bearer securities.

Although the Treasury Department has the statutory authority to issue bearer obligations, it has no plans to do so. To the extent that the Treasury Department intends to issue obligations targeted to foreign purchasers, it will issue registered obligations pursuant to arrangements reasonably designed to ensure sale to non-United States persons under A–13 of § 35a.9999–5.

Concerning the first test contained in § 1.163–5(c)T(2)(i)(A), one commentator suggested that the final regulations drop the requirement that the obligation be offered for sale outside the United States if the obligation need not be registered under the Securities Act of 1933 because it is intended for distribution to person who are not United States persons.

As the Internal Revenue Service is concerned that bearer obligations not be made available to U.S. persons, this requirement was retained. In addition, the temporary regulations require that the obligation be delivered outside the United States.

Several commentators suggested that the requirement that the issuer obtain an opinion from independent counsel be deleted. The temporary regulations require a written opinion from counsel.

The second test contained in § 1.163–5(c)T(2)(i)(B) provides rules for determining whether an obligation which is registered under the Securities Act of 1933, exempt from registration by reason of section 3 or section 4 of the 1933 Act, or not a security under the 1933 Act is issued pursuant to arrangements reasonably designed to ensure sale to non-United States persons. In response to suggestions of commentators, this test was changed in several respects. First, the category of obligations was expanded to include those obligations which do not qualify as securities under the Securities Act of 1933. Second, issuers are permitted to offer obligations for sale to specific categories of United States persons who are exempt from the holder sanctions. Third, changes were made to clarify that the requirements of a covenant and a confirmation apply only to sales or resales in connection with the original issuance, to require an issuer to state on its confirmation that a United States institutional purchasers will comply with the requirements of section 165(j)(3) (A), (B), or (C) and the regulations thereunder, and to permit an issuer to accept this statement in a certificate from a person who receives the obligation. Fourth, the requirement that the terms of the obligation provide that it may not be offered for sale to United States persons was deleted because such a condition is more properly part of the underwriting agreement.

Commentators also suggested several changes that were not made. These included dropping the following requirements: that the underwriters must actually send confirmations to purchasers; and that the members of the selling group not have actual knowledge that the certificate obtained is false. The issuer will be subject to the issuer sanctions if the underwriters do not acutally send confirmations to purchasers.

The temporary regulations provide that a member of the selling group will be deemed to have actual knowledge that the certificate is false if the member of the selling group has knowledge that the purchaser has a U.S. address unless the member of the selling group has other clear and convincing documentary evidence that the purchaser is not a U.S. person or that if the purchaser is a U.S. person it will comply with section 165(j) (A), (B), or (C) and the regulations thereunder.

In addition, the temporary regulations provide that if a clearing organization is giving the certificate necessary on issuance, it must have statements from its member organizations that provide the clearing organization with the basis for its statement. The requirement that the underwriters and members of the selling group not have actual knowledge was retained because the issuer should not be able to do something indirectly without penalty that it could not do

directly. Thus, the issurer will be subject to the issuer sanctions if an underwriter or a member of the selling group has actual knowledge that the certificate described above is false.

Finally, the temporary regulations provide that bearer obligations must be delivered outside the United States and its possessions.

Concerning the third test contained in § 1.163–5(c)T(2)(1)(i)(C), several commenters suggested that the final regulations indicate what activities of an issuer will cause it to be significantly engaged in interstate commerce with respect to an obligation. This suggestion was adopted. When an issuer's involvement in interstate commerce is limited to activities of a preparatory or auxiliary character, an issuer is not significantly engaged in interstate commerce. Examples of activities that are considered preparatory or auxiliary are provided. A commentator recommended the deletion of the limitation under § 1.163–5(c)T(2)(ii) that an obligation does not satisfy the interstate commerce test if the obligation is substantially identical to obligations issued by a United States shareholder of the issuer. This comment was not adopted because a substantially identical issuance may be an indirect guarantee. The definition of substantially identical obligations is expanded so that the term of each of the issues is considered in determining whether they are substantially identical.

The temporary regulations provide that a United States person or a controlled foreign corporation that is engaged in the conduct of a banking business outside of the United States is eligible to use the third test. However, such persons may only satisfy this test with respect to obligations: issued through an entity or the branch of an entity that is engaged in the banking business outside the U.S.; not issued to the public as part of a larger issuance made by means of a public offering; and for which the issuer maintains documentary evidence that the purchaser is permitted to hold an obligation in bearer form.

A commentator recommended that a statement be added to the final regulation to the effect that the determination of whether an obligation satisfies the interstate commerce exemption will be made on an obligation-by-obligation basis. This is the application intended by the former proposed regulations, and examples were added in which the interstate commerce determination is made as to an individual obligation.

Section 1.163–5(c)T(2)(v) requires that interest be payable outside of the United States unless United States dollars become unavailable outside the United States. Changes proposed by commentators to permit payment of interest in the United States if some paying agents are precluded from making full payment in United States dollars or if the obligation is redeemed early were not adopted because the requirement that interest be payable only outside the United States is imposed by section 163(f)(2)(B)(I) of the Code, and the rule contained in the regulations is intended to permit an exception only when necessary. The suggestion by a commentator that a *de minimis* amount of original issue discount not be considered interest was not adopted. By definition under section 1273(a)(3), original issue discount excludes a *de minimis* amount of original issue discount.

A commentator suggested that the regulations provide expressly that an issuer be permitted to pay principal in excess of original issue discount in the United States and its possessions. This suggestion was not adopted because the place of payment rules apply only to interest and not to principal.

The temporary regulations delete the rule that permitted interest to be considered paid outside the United States even though it was paid into an account in the United States. The temporary regulations provide that interest is considered paid in the U.S. if it is paid on an obligation issued by a United States person, a controlled foreign corporation, or a foreign corporation if 50 percent or more of its gross income for the 3-year period preceding the original issuance of the obligation is effectively connected with the conduct of a trade or business within the United States and such interest is paid into an account in the United States. This rule does not apply to payments to persons described in section 165(j)(3) (A), (B), or (C) and the regulations thereunder. This rule was changed to make it more difficult for United States persons to collect interest on bearer obligations.

Section 1.163–5(c)T(2)(vi) of the proposed regulations described conditions under which obligations in registered form could be converted to bearer form. This rule has been deleted because of concern that this conversion rule would have created a substantial market of bearer paper that would be more readily available to U.S. persons. An obligation may not be considered to be issued in registered form if it may be converted, under any conditions, to bearer form. The rule provided by the temporary regulations is prospective only. Obligations that were otherwise in registered form but that were convertible under § 5f.163–5 or proposed regulations § 1.163–5(c) published on September 2, 1983 shall be considered to be in registered form for purposes of sections 165(j) and 1287(a).

Sections 1.165–12T and 1.1287–1T provide exceptions to the rules that any loss sustained on a registration-required obligation held in bearer form is not deductible and that any gain on the disposition of such obligation is ordinary income. Three major changes were made in these provisions. First, the final regulations delete the requirement that a financial institution hold a registration-required obligation through a clearing organization. Several commentators requested this change because important capital markets function without a clearing organization. Second, the temporary regulations delete the requirement that a holder obtain a signed certificate from a person to whom a bearer obligation is delivered stating that the recipient is not a United States person. Third, the regulations no longer permit delivery of bearer obligations to United States persons other than financial institutions.

Several commentators objected to the certification requirement because it would be an administrative burden and it would severely disrupt trading on international markets. Most purchases are consummated over the telephone or by telex and there is no opportunity to obtain a certificate from the purchaser prior to the completion of the transaction. In light of the administrative problems, this requirement has been deleted. Under the temporary regulations the holder must provide a confirmation to a person to whom a bearer obligation is delivered. The confirmation must state that a person who holds a bearer obligation and who is not specifically exempted for purposes of the United States income tax will be denied a deduction for any loss incurred with respect to the obligation and will be dened capital gain treatment for any gain recognized with respect to the obligation.

The temporary regulations delete the requirement that a financial institution holding on its own account indicate on its income tax return the amount of interest, gain or loss that is attributable to registration-required obligations. Commentators indicated that the administrative burden associated with providing this information with a tax return would be great and that the information is available on audit. Therefore, the temporary regulations require only that the taxpayer indicate that there is interest, gain or loss

attributable to registration-required obligations held in bearer form.

Both the proposed regulations and the temporary regulations generally prohibit persons subject to United States tax on a bearer obligation from holding the obligation outside of a financial institution that reports interest payments and proceeds from any disposition of the obligation to the Internal Revenue Service. If a person subject to United States tax on a bearer obligation does not hold it through a financial institution that reports to the IRS, then the holder will be denied a loss deduction if the obligation is sold at a loss or becomes worthless, or will be denied capital gain treatment if the obligation is sold at a gain. The temporary regulations require that a holder establish a reporting relationship with a financial institution within 30 days of the date of purchase of the registration-required obligation that is in bearer form.

Sections 1.165–12T(b) (2) and (3) and 1.1287–1T provide that a financial institution holding bearer obligations must report original issue discount includable in the holders' gross income for the taxable year. A commentator suggested that financial institutions should not have to report original issue discount on foreign obligations unless the obligation appears on a list published by the Internal Revenue Service. This comment was adopted as to reporting by financial institutions with respect to original issue discount includable in the gross income of a person that holds through the financial institution under §§ 1.165–12T(b)(3)(i) and 1.1287–1T(b).

Regulatory Flexibility Act and Executive Order 12291

The Secretary of the Treasury has certified that the regulations herein will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6), and a regulatory impact analysis is therefore not required. The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and therefore a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980. These requirements have been approved by OMB (1545–0786).

Need for Temporary Regulations

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision by reason of the repeal of 30% withholding on obligations issued after July 18, 1984. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Drafting Information

The principal authors of these temporary regulations are P. Ann Fisher and Carol T. Doran of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.61–1 through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR 1.1201 through 1.1287–1T

Income taxes, Capital gains and losses, Recapture.

Adoption of Amendments to the Regulations

The following amendments to 26 CFR Parts 1 and 5f are hereby adopted:

Paragraph 1. A new § 1.163–5 is added immediately after § 1.163–4 to read as follows:

Income Tax Regulations

PART 1—[AMENDED]

§ 1.163–5 Denial of interest deduction on certain obligations issued after December 31, 1982, unless issued in registered form.

(a) [Reserved]

(b) [Reserved]

(c)T *Obligations issued to foreign persons after September 21, 1984—(1) In general.* A determination of whether an obligation satisfies each of the requirements of this paragraph shall be made on an obligation-by-obligation basis. An obligation may not satisfy this paragraph (c) and, thus an obligation cannot be considered to be issued pursuant to arrangements reasonably designed to ensure sale to non-United States persons, if once the obligation has been made payable to a named payee the obligation may be made payable to bearer. An obligation issued directly (or through affiliated entities) in bearer form by, or guaranteed by, a United States Government-owned agency or a United States Government-sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Banks, the Federal Loan Mortgage Corporation, the Farm Credit Administration, and the Student Loan Marketing Association, may not satisfy this paragraph (c). An obligation issued after September 21, 1984 is described in this paragraph if—

(i) There are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with its original issuance) only to a person who is not a United States person or a United States person that is a financial institution (as defined in § 1.165–12T(c)(1)(iv)) that agrees to comply with the requirements of section 165(j)(3) (A), (B), or (C) and the regulations thereunder, and

(ii) In the case of a obligation which is not in registered form—

(A) Interest on such obligation is payable only outside the United States and its possessions, and

(B) Unless the obligation is described in subparagraph (2)(i)(C) of this paragraph or is a temporary global security, the following statement appears in English on the face of the obligation and on any interest coupons which may be detached therefrom: "Any United States person who holds this obligation will be subject to limitations under the United States income tax laws, including the limitations provided in sections 165(j) and 1287(a) of the Internal Revenue Code." For purposes of this paragraph, the term "temporary global security" means a security in bearer form which is held for the benefit of the purchasers of the obligations of the issuer and interests in which are exchangeable for securities in definitive registered or bearer form prior to its stated maturity.

(2) *Rules for the application of this paragraph—(i) Arrangements reasonably designed to ensure sale to non-United States persons.* An obligation will be considered to satisfy paragraph (c)(1)(i) of this section if the conditions of (A), (B), or (C) of this subdivision (i) are met.

(A) In connection with the original issuance of an obligation, the obligation is offered for sale or resale only outside of the United States and its possessions, is delivered only outside the United States and its possessions and need not be registered under the Securities Act of 1933 because it is intended for distribution to persons who are not United States persons. An obligation

will not be considered to be required to be registered under the Securities Act of 1933 if the issuer, in reliance on the writtin opinion of counsel received prior to the issuance thereof, determines in good faith that the obligation need not be registered under the Securities Act of 1933 for the reason that it is intended for distribution to persons who are not United States persons. Solely for purposes of this subdivision (i)(A), the term "United States person" has the same meaning as it has for purposes of determining whether an obligation is intended for distribution to persons that are not United States persons under the Securities Act of 1933.

(B) The obligation is registered under the Securities Act of 1933, the obligation is exempt from registration by reason of section 3 or section 4 of such Act, or the obligation does not qualify as a security under the Securities Act of 1933, and all the conditions set forth in paragraph (c)(2)(i)(B) (*1*), (*2*), (*3*), (*4*) and (*5*) are met with respect to such obligation.

(*1*) In connection with the original issuance of an obligation, the obligation is offered for sale or resale only outside the United States and its possessions and is delivered only outside the United States and its possessions.

(*2*) The issuer does not, and each underwriter and each member of the selling group, if any, covenants that it will not, in connection with the original issuance of the obligation, offer to sell or resell the obligation in bearer form to United States persons other than financial institutions that provide a written statement that they will comply with section 165(j)(3) (A), (B), or (C) and the regulations thereunder.

(*3*) In connection with its sale or resale during the original issuance of the obligation, each underwriter and each member of the selling group, if any, or the issuer, if there is no underwriter or selling group, sends a confirmation to the purchaser of the bearer obligation stating that the purchaser represents that it is not a United States person or if it is a United States person it is a financial institution that will comply with the requirements of section 165(j)(3) (A), (B), or (C) and the regulations thereunder. The confirmation must also state that if the purchaser is a dealer, it will send similar confirmations to whomever purchases from it.

(*4*) In connection with the original issuance of the obligation, the obligation is released in definitive form to the person entitled to physical delivery thereof only upon presentation of a certificate signed by such person to the issuer, underwriter, or member of the selling group, which certificate states that the obligation is not being acquired by or on behalf of a United States person, or for offer to resell or for resale to a United States person, or, if a beneficial interest in the obligation is being acquired by a United States person, that such person is a financial institution or is acquiring through a financial institution and that the obligation is held by a financial institution that has agreed to comply with the requirements of section 165(j)(3) (A), (B), or (C) and the regulations thereunder. When a certificate is provided by a clearing organization, it must be based on statements provided to it by its member organizations. A clearing organization is an entity which is in the business of holding obligations for member organizations and transferring obligations among such members by credit or debit to the account of a member without the necessity of physical delivery of the obligation.

(*5*) The issuer, underwriter, or member of the selling group does not have actual knowledge that the certificate described in paragraph (c)(2)(i)(B)(*4*) of this section is false. The issuer, underwriter, or member of the selling group shall be deemed to have actual knowledge that the beneficial owner (other than a United States person that is a finanical institution that represents that it will comply with the requirements of section 165(j)(3) (A), (B), or (C) and the regulations thereunder) is a United States person if the issuer, underwriter, or member of the selling group has a United States address for the beneficial owner and does not have clear and convincing documentary evidence that the beneficial owner is not a United States person.

(C) The obligation is issued only outside the United States and its possessions by an issuer that does not significantly engage in interstate commerce with respect to the issuance of such obligation either directly or through its agent, an underwriter, or a member of the selling group. In the case of an issuer that is a United States person, such issuer may only satisfy the test set forth in this paragraph (c)(2)(i)(C) if—

(*1*) It is engaged through the branch in the active conduct of a banking business, within the meaning of section 954(c)(3)(B) and the regulations thereunder, outside the United States;

(*2*) The obligation is issued outside of the United States by the branch in connection with that trade or business;

(*3*) The obligation that is so issued is sold directly to the public and is not issued as a part of a larger issuance made by means of a public offering; and

(*4*) The issuer maintains documentary evidence that demonstrates that the purchaser is not a United States person or that if it is a United States person, other than an individual who is either a citizen or resident of the United States, that it will comply with section 165(j)(3) (A), (B), or (C) and the regulations thereunder.

In addition, an issuer that is a controlled foreign corporation within the meaning of section 957 (a) that is engaged in the active conduct of a banking business outside the United States, within the meaning of section 954(c)(3)(B) and the regulations thereunder, can only satisfy the provisions of this paragraph (c)(2)(i)(C), if it meets the requirements of this paragraph (c)(2)(i)(C) (*2*), (*3*), and (*4*).

(ii) *Special rules.* An obligation shall not be considered to be described in paragraph (c)T(2)(i)(C) of this section if it is—

(A) Guaranteed by a United States shareholder of the issuer;

(B) Convertible into a debt or equity interest in a United States shareholder of the issuer; or

(C) Substantially identical to an obligation issued by a United States shareholder of the issuer.

For purposes of this paragraph (c)T(2)(ii), the term United States shareholder is defined as it is defined in section 951(b) and the regulations thereunder. For purposes of paragraph (c)T 2)(ii)(C), obligations are substantially identical if the face amount, interest rate, term of the issue, due dates for payments, and maturity date of each is substantially identical to the other.

(iii) *Interstate commerce.* For purposes of this paragraph, the term "interstate commerce" means trade or commerce in obligations or any transportation or communication relating thereto between any foreign country and the United States or its possessions. An issuer will not be considered to engage significantly in interstate commerce with respect to the issuance of an obligation if the only activities with respect to which the issuer uses the means or instrumentalities of interstate commerce are activities of a preparatory or auxiliary character that do not involve communication between a prospective purchaser and an issuer, its agent, an underwriter, or member of the selling group if either is inside the United States or its possessions. Such activities include, but are not limited to, the following activities:

(A) Establishment or participation in establishment of policies concerning the issuance of obligations and the allocation of funding by a United States shareholder with respect to obligations issued by a foreign corporation or by a United States office with respect to obligations issued by a foreign branch;

(B) Negotiation between the issuer and underwriters as to the terms and pricing of an issue;

(C) Transfer of funds to an office of an issuer in the United States or its possessions by a foreign branch or to a United States shareholder by a foreign corporation;

(D) Consultation by an issuer with accountants and lawyers or other financial advisors in the United States or its possessions regarding the issuance of an obligation;

(E) Document drafting and printing; and

(F) Provision of payment or delivery instructions to members of the selling group by an issuer's office or agent that is located in the United States or its possessions.

Activities that will not be considered to be of a preparatory or auxiliary character include, but are not limited to, any of the following activities: Negotiation or communication between a prospective purchaser and an issuer, its agent, an underwriter, or a member of the selling group concerning the sale of an obligation if either is inside the United States or its possessions; Involvement of an issuer's office, its agent, an underwriter, or a member of the selling group in the United States or its possessions in the offer or sale of a particular obligation, either directly with the prospective purchaser, or through the issuer in a foreign country; Delivery of an obligation in the United States or its possessions; or Advertising or otherwise promoting an obligation in the United States or its possessions. The following examples illustrate the application of this subdivision (iii) of § 1.163–5(c)T(2).

Example (1). Foreign corporation A, a corporation organized in and doing business in foreign country Z, issues its debentures outside the United States. The debentures are not guaranteed by a United States shareholder of A, nor are they convertible into a debt or equity interest of a United States shareholder of A, nor are they substantially identical to an obligation issued by a United States shareholder of A. A consults its accountants and lawyers in the United States for certain securities and tax advice regarding the debt offering. The underwriting and selling group in respect of A's offering is composed entirely of foreign securities firms, some of which are foreign subsidiaries of United States securities firms. A U.S. affiliate of the foreign underwriter communicates payment and delivery instructions to the selling group. All offering circulars for the offering are mailed and delivered outside the United States and its possessions. All debentures are delivered and paid for outside the United States and its possessions. No office located in the United States or in a United States possession is involved in the sale of debentures. Interest on the debentures is payable only outside the United States and its possessions. A is not significantly engaged in interstate commerce with respect to the offering.

Example (2). B, a United States bank, does business in foreign country X through a branch located in X. The branch is a staffed and operating unit engaged in the active conduct of a banking business consisting of one or more of the activities set forth in § 1.954–2(d)(2)(ii). As part of its ongoing business, the branch in X issues negotiable certificates of deposit with a maturity in excess of one year to customers upon request. The certificates of deposit are not guaranteed by a United States shareholder of B, nor are they convertible into a debt of equity interest of a United States shareholder of B, nor are they substantially identical to an obligation issued by a United States shareholder of B. Policies regarding the issuance of negotiable certificates of deposit and funding allocations for foreign branches are set in the United States at B's main office. Branch personnel decide whether to issue a negotiable certificate of deposit based on the guidelines established by the United States offices of B, but without communicating with the United States offices of B with respect to the issuance of a particular obligation. Negotiable certificates of deposit are delivered and paid for outside the United States and its possessions. Interest on the negotiable certificates of deposit is payable only outside the United States and its possessions. B maintains documentary evidence described in § 1.163–5(c)T(2)(ii)(C)(*3*). After the issuance of negotiable certificates of deposit by the foreign branch of B, the foreign branch sends the funds to a U.S. branch of B for use in domestic operations. B is not significantly engaged in interstate commerce with respect to the issuance of such obligations.

Example (3). The facts in example (2) apply except that the foreign branch of B consulted, by telephone, the main office in the United States. The branch requested the main office's approval of the issuance of the certificate of deposit to the particular purchaser based on a credit check done by the branch. The main office granted permission to issue the negotiable certificate to deposit to the customer by a telex sent from the main office of B to the branch in X. B is significantly engaged in interstate commerce with respect to the issuance of the obligation as a result of the involvement of B's United States office in the issuance of the obligation.

Example (4). The facts in example (2) apply with the additional fact that a customer contacted the foreign branch of B through a telex originating in the United States or its possessions. Subsequent to the telex, the foreign branch issued the negotiable certificate of deposit and recorded it on its books. B is significantly engaged in interstate commerce with respect to the issuance of the obligation as a result of its communication by telex with a customer in the United States.

(iv) *Possessions.* For purposes of this section, the term "possessions" includes Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Wake Island, and Northern Mariana Islands.

(v) *Interest payable outside of the United States.* Interest will be considered to be payable only outside the United States and its possessions if payment of such interest can be made only upon presentation of a coupon, or upon making of any other demand for payment, outside of the United States and its possessions to the issuer or a paying agent. The fact that payment is made by a draft drawn on a United States bank account or by a wire or other electronic tranfer from a United States account does not affect this result. Interest payments will not be considered to be made outside of the United States if the payments are made by a transer of funds into an account maintained by the payee in the United States or mailed to an address in the United Sates, if—

(A) The interst is paid on an obligation issued by either a United Sates person, a controlled foreign corporation as defined in section 957(a), or a foreign corporation if 50 percent or more of the gross income of the foreign corporation from all sources of the 3-year period ending with the close of its taxable year preceding the original issuance of the obligation (or for such part of the period that the foreign corporation has been in existence) was effectively connected with the conduct of a trade or business within the United States; and

(B) The interest is paid to a person other than a person who may satisfy the requirements of section 165(j)(3) (A), (B), or (C) and the regulations thereunder. Interest is considered to be paid within the United States and its possessions of a coupon is presented, or a demand for payment is otherwise made, to the issuer or a paying agent (whether a United States or foreign person) in the United States and its possessions even if the funds paid are credited to an account maintained by the payee outside the United States and its possessions. Interest will be considered payable only outside the United States and its possessions notwithstanding that such interest may become payable at the office of the issuer or its United States paying agent under the following conditions: the issuer has appointed paying agents located outside the United States and its possessions with the

reasonable expectation that such paying agents will be able to pay the interest in United States dollars, and the full amount of such payment at the offices of all such paying agents is illegal or effectively precluded because of the imposition of exchange controls or other similar restrictions on the full payment or receipt of interest in United States dollars. A lawsuit brought in the United States or its possessions for payment of the obligation or interest thereon as a result of a default shall not be considered to be a demand for payment. For purposes of this subdivision (v), interest includes original issue discount as defined in section 1273(a). For purposes of determining the amount of original issue discount on an obligation described in paragraph (c)T(2)(i) which is part of an issue that neither is registered with the Securities Exchange Commission nor is part of a privately placed issue, section 1273(a) shall apply as if the obligation were registered with the Securities Exchange Commission.

(v) *Rules relating to obligations issued on or before September 21, 1984.* Whether an obligation originally issued before September 21, 1984, is described in section 163(f)(2)(B) shall be determined under the rules provided in § 5f.163–1(c) as in effect prior to its removal. Nowithstanding the preceding sentence, an issuer will be considered to satisfy the requirements of section 163(f)(2)(B) with respect to an obligation issued on or before September 21, 1984, if the issuer substantially complied with the proposed regulations provided in § 1.163–5(c) and published in the **Federal Register** on September 2, 1983 (48 FR 39953).

Par. 2. A new § 1.165–12T is added immediately after § 1.165–11 to read as follows:

§ 1.165–12T Denial of deduction for losses on registration-required obligations not in registered form.

(a) *In general.* Except as provided in paragraph (c) of this section, nothing in section 165(a) and the regulations thereunder, or in any other provision of law, shall be construed to provide a deduction for any loss sustained on any registration-required obligation held after December 31, 1982, unless the obligation is in registered form or the issuance of the obligation was subject to tax under section 4701. The term "registration-required obligation" has the meaning given to that term in section 163(f)(2), except that clause (iv) of subparagraph (A) thereof shall not apply. Therefore, although an obligation that is not in registered form is described in § 1.163–5(c)T(1), the holder of such an obligation shall not be allowed a deduction for any loss sustained on such obligation unless paragraph (c) of this section applies. The term "holder" means the person that would be denied a loss deduction under section 165(j)(1) or denied capital gain treatment under section 1287(a).

(b) *Registered form*—(1) *Obligations issued after September 21, 1984.* With respect to any obligation originally issued after September 21, 1984, the term "registered form" has the meaning given that term in section 103 (j)(3) and the regulations thereunder. Therefore, an obligation that would otherwise be in registered form is not considered to be in registered form if it may be converted to bearer form. For purposes of this section, an obligation shall, however, be considered to be in registered form, even though initially issued in bearer form, if it is converted to registered form and may not be subsequently converted to bearer form.

(2) *Obligations issued on or before September 21, 1984.* With respect to any obligation originally issued on or before September 21, 1984 that obligation will be considered in registered form if it satisfied § 5f.163–1 or the proposed regulations provided in § 1.163–5(c) and published in the **Federal Register** on September 2, 1983 (48 FR 39953).

(c) *Registration-required obligations not in registered form which are not subject to section 165(j)(1).* Notwithstanding the fact that an obligation is a registration-required obligation that is not in registered form, the holder will not be subject to section 165(j)(1) if the holder meets the conditions of any one of the following subparagraphs (1), (2), (3), or (4) of this paragraph (b).

(1) *Persons permitted to hold in connection with the conduct of a trade or business.* (i) The holder is an underwriter, broker, dealer, bank, or other financial institution (defined in paragraph (c)(1)(iii)) that holds such obligation outside the United States in connection with its trade or business conducted outside the United States; or the holder is a broker-dealer (registered under Federal or State law or exempted for registration by the provisions of such law because it is a bank) that holds such obligation outside the United States for sale to customers in the ordinary course of its trade or business conducted outside the United States.

(ii) The holder must hold, offer to sell, sell, and deliver the obligation only outside of the United States.

(iii) If the holder delivers an obligation in bearer form to a financial institution, then the holder must also deliver to such person a confirmation. The confirmation must state that any U.S. taxpayer who holds this obligation in bearer form and who is not exempt under section 165(j)(3) (A), (B), or (C) and the regulations thereunder will, for purposes of the United States income tax, be denied a deduction for any loss incurred with respect to the obligation and will be denied capital gain treatment with respect to the obligation. The holder may not deliver a registration-required obligation that is not in registered form to any person other than a financial institution unless the holder has documentary evidence which demonstrates that the person is not a United States person. Documentary evidence may include a statement received from the person to whom the obligation is delivered which provides that the person is not a United States person. For purposes of this paragraph (c), the word "deliver" does not include a transfer of an obligation to the issuer or its agent for cancellation or extinguishment. If an obligation is transferred between the accounts of member organizations of a clearing organization or between accounts of members of different clearing organizations, (defined in § 1.163–5(c)T(2)(i)(B)(*4*)) then the member organization that is selling the bearer obligation shall send the confirmation required by this paragraph (c)(1)(ii) to the member organization that is purchasing the bearer obligation.

(iv) The term "financial institution" means a person which itself is, or more than 50 percent of the total combined voting power of all classes of whose stock entitled to vote is owned by a person which is—

(A) Engaged in the conduct of a banking, financing, or similar business within the meaning of section 954(c)(3)(B) and the regulations thereunder;

(B) Engaged in business as a broker or dealer in securities;

(C) An insurance company;

(D) A person that provides pensions or other similar benefits to retired employees;

(E) Primarily engaged in the business of rendering investment advice;

(F) A regulated investment company or other mutual fund; or

(G) A finance corporation a substantial part of the business of which consists of making loans (including the acquisition of obligations under a lease which is entered into primarily as a financing transaction), acquiring accounts receivable, notes or installment obligations arising out of the sale of tangible personal property or the

performing of services, or servicing debt obligations.

(2) *Persons permitted to hold obligations for their own investment account.* (i) The holder is a financial institution holding the obligation for its own investment account that—

(ii) Reports on its Federal income tax return for the taxable year any interest payments received (including original issue discount includable in gross income for such taxable year) with respect to such obligation and gain or loss on the sale or other disposition of such obligation:

(iii) Indicates on its Federal income tax return that income, gain or loss described in paragraph(c)(2)(ii) is attributable to registration-required obligations held in bearer form for its own account; and

(iv) Does not deliver such obligation in bearer form to any other person unless it complies with the requirements of this paragraph (c)(1)(iii).

(3) *Persons permitted to hold through financial institutions.* The holder is any person that purchases and holds a registration-required obligation in bearer form through a financial institution with which the holder maintains a customer, custodial, or nominee relationship and such institution agrees to satisfy, and does in fact satisfy, the conditions set forth in subdivisions (i), (ii), and (iii) of this paragraph (c)(3).

(i) The financial institution makes a return of information to the Internal Revenue Service with respect to any interest payments received. The financial institution must report original issue discount includable in the holder's gross income for the taxable year on any obligation so held, but only if the obligation appears in an Internal Revenue Service publication of obligations issued at an original issue discount and only in an amount determined in accordance with information contained in that publication. An information return for any interest payment shall be made on a Form 1099 for the calendar year. It shall indicate the aggregate amount of the payments received, the name, address, and taxpayer identification number of the holder, and such other information as is required by the form. No return of information is required under this subdivision if the financial institution reports payment under section 6041 or 6049 or if the financial institution would not be required to report payments under section 6049 because the recipient is an exempt recipient within the meaning of § 1.6049–4(c)(1)(ii).

(ii) The financial institution makes a return of information on Form 1099B with respect to any disposition by the holder of such obligation. The return shall show the name, address, and taxpayer identification number of the holder of the obligation, Committee on Uniform Security Information Procedures (CUSIP), gross proceeds, sale date, and such other information as may be required by the form. No return of information is required under this subdivision if such financial institution reports with respect to the disposition under section 6045, or if the financial institution would not be required to report the disposition under section 6045 because the recipent is an exempt recipient within the meaning of § 1.6049–4(c)(1)(ii) with respect to which reporting under section 6045 does not otherwise apply.

(iii) The financial institution covenants with the holder that the financial institution will comply with the requirements of paragraph (c)(1)(iii) concerning delivery.

(4) *Conversion of obligations into registered form.* The holder is not a person described in paragraph (c) (1), (2), or (3) of this section, and within thirty days of the date when the seller or other transferor is reasonably able to make the bearer obligation available to the holder, the holder surrenders the obligation to a transfer agent or the issuer for conversion of the obligation into registered form. If such obligation is not registered within such 30 day period, the holder shall be subject to sections 165(j) and 1287(a).

Par. 3. A new § 1.1287–1T is added to read as follows:

§ 1.1287–1T Denial of capital gains treatment for gains on registration-required obligations not in registered form.

(a) *In general.* Except as provided in paragraph (c) of this section, any gain on the sale or other disposition of a registration-required obligation held after December 31, 1982, that is not in registered form shall be treated as ordinary income unless the issuance of the obligation was subject to tax under section 4701. The term "registration-required obligation" has the meaning given to that term is section 163(f)(2), except that clause (iv) of subparagraph (A) thereof shall not apply. Therefore although an obligation that is not in registered form is described in § 1.163–5(c)(1), the holder of such an obligation shall be required to treat the gain on the sale or other disposition of such obligation as ordinary income. The term "holder" means the person that would be denied a loss deduction under section 165(j)(1) or denied capital gain treatment under section 1287(a).

(b) *Registered form*—(1) *Obligations issued after September 21, 1984.* With respect to any obligation originally issued after September 21, 1984, the term "registered form" has the meaning given that term in section 103(j)(3) and the regulations thereunder. Therefore, an obligation that would otherwise be in registered form is not considered to be in registered form if it may be converted to bearer form. For purposes of this section, an obligation shall, however, be considered to be in registered form, even though initially issued in bearer form, if it is converted to registered form and may not be subsequently converted to bearer form.

(2) *Obligations issued on or before September 21, 1984.* With respect to any obligation originally issued on or before September 21, 1984 that obligation will be considered to be in registered form if it satisfied § 5f.163–1 or the proposed regulations provided in § 1.163–5(c) and published in the **Federal Register** on September 2, 1983 (48 FR 39953).

(c) *Registration-required obligations not in registered form which are not subject to section 1287(a).* Notwithstanding the fact that an obligation is a registration-required obligation that is not in registered form, the holder will not be subject to section 1287(a) if the holder meets the conditions of § 1.165–12T(c).

Temporary Income Tax Regulations Under the Tax Equity and Fiscal Responsibility Act of 1982

PART 5f—[AMENDED]

§ 5f. 163–1 [Amended]

Par. 4. Section 5f.163–1 is amended by removing paragraph (c).

This Treasury decision is issued under the authority contained in section 165 (j) (96 Stat. 595; 26 U.S.C. 165) and section 7805 (68A Stat. 917; U.S.C. 7805) of the Internal Revenue Code of 1954. Approved by the Office of Management and Budget under control number 1545–0786.

Approved: August 17, 1984.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84–22291 Filed 8–17–84; 5:10 pm]

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26 CFR Part 35a

[T.D. 7966]

Employment Taxes; Application of Information Reporting and Backup Withholding to Payments by Foreign Offices of U.S. and Foreign Brokers and by U.S. Offices of Banks and Brokers, and Other Related Matters

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the application of information reporting and backup withholding to payments by foreign offices of U.S. foreign brokers and by U.S. offices of banks and brokers, and other related matters. These regulations affect both United States and foreign banks and brokers and provide the public with the guidance necessary to comply with the Interest and Dividend Tax Compliance Act of 1983.

DATES: The temporary regulations are effective for payments made after July 1, 1984.

FOR FURTHER INFORMATION CONTACT: Charles C. Saverude of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (202-566-3323, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

These temporary regulations contain questions and answers (Q&As) relating to the application of information reporting and backup withholding to certain foreign related transactions. The first and second Q&As would clarify and, to some extent, liberalize the information reporting and backup withholding rules applicable to foreign offices of United States and foreign brokers. The Internal Revenue Service currently is considering the questions of whether foreign offices of United States brokers should be subject to backup withhoding and whether the information reporting requirements to which they are subject should be tightened. However, until provided to the contrary in future temporary or final regulations, such offices are exempted from backup withholding. The temporary regulations also add an exemption for such foreign offices from information reporting under section 6045 for payments to foreign customers with respect to whom the broker has evidence beyond a mere foreign address that the customer is a foreign person. This standard is the same as that applicable to interest payments by foreign branches of United States banks under A-34 of §35a.9999-3. That standard, however, is modified to provide that both in the case of payments of interest and of principal, it is not sufficient for a payee or customer merely to make an oral statement of foreign status to an employee of the bank or broker.

The other grounds for exemption for foreign offices of United States brokers formerly provided by A-32 (now removed) of § 35a.9999-3 are generally retained by these temporary regulations, expanded to include withholding of tax under subchapter A of chapter 3 of the Code with respect to the foreign customer by any other payor or middleman. Also, the period of time within which the withholding by either the broker or other payor or middleman, must have taken place for the exemption to be effective is extended to the entire 12-month period immediately preceding the transaction.

Foreign offices of foreign brokers are generally exempted from all information reporting and backup withholding requirements unless they are either (1) controlled foreign corporations under section 957(a) or (2) corporations 50 percent or more of whose gross income from all sources for the three-year period ending with the close of the foreign broker's taxable year immediately preceding the payment (or for such part of that period that the foreign broker has been in existence) was effectively connected with the conduct of a trade or business within the United States. Foreign Offices of foreign brokers falling within this exception are treated the same as foreign offices of United States brokers.

The issue of whether backup withholding should be required in the case of foreign offices of either United States or foreign brokers or banks, as well as the issue of the standard of evidence required to prove foreign status for information reporting purposes, is still under consideration by the Department of the Treasury and the Internal Revenue Service. Any change to the rule contained in these temporary reglations will be announced in future regulations, whether temporary or final, and any such change will be prospective only.

The third Q&A extends the deadline to January 1, 1985 for United States offices of banks and brokers to obtain certificates of foreign status (Forms W-8) with respect to pre-1984 foreign accounts. The fourth Q&A exempts certain payments in redemption or retirement of obligations issued by certain international organizations.

Nonapplication of Executive Order 12291

The Treasury Department has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 20, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for this regulation. Accordingly, the Regulatory Flexibility Act foes not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of this regulation is Charles C. Saverude of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and the Treasury Department participated, however, in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR Part 35a

Employment taxes, Income taxes, Backup withholding, Interest and Dividend Tax Compliance Act of 1983.

Adoption of Amendments to the Regulations

Accordingly, Part 35a is amended as follows:

PART 35a—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE INTEREST AND DIVIDEND TAX COMPLIANCE ACT OF 1983

Paragraph 1. Part 35a is amended by removing Question and Answer 32 and by revising Question and Answer 34.

This change reads as follows:

§ 35a.9999-3 Questions and answers concerning backup withholding.

* * * * *

Q-34. Are payments of foreign source interest made on deposits outside the United States by a foreign branch of a United States bank reportable payments that may be subject to backup withholding?

A-34. As provided in § 1.6049-5(b)(1)(ix) of the Income Tax Regulations, such payments are not required to be reported under section 6049. However, except to the extent such payments are less than $600 in a taxable year or are made to persons who are neither citizens nor residents of the United States, they are subject to

information reporting under section 6041(a).

For purposes of section 6041(a), a foreign branch of a United States bank may treat a person as being neither a citizen nor a resident of the United States if the bank has evidence in its records to such effect (provided it does not have actual knowledge that the evidence is false). Such evidence may include a written indication from the payee (e.g., appearing on an account application form) that the payee is neither a citizen nor a resident of the United States. The mere fact, however, that the payee has provided in address outside the United States is insufficient evidence to establish for this purpose that the payee is neither a citizen nor a resident of the United States. For payments made on or before November 20, 1984 on deposit accounts opened on or before August 22, 1984, an affidavit by an employee of the bank stating that the employee knows, or that the payee has represented orally, that the payee is not a U.S. person will be sufficient to establish such foreign status. For all other payments on deposits, the employee's affidavit will be sufficient to establish the payee's foreign status only if the affidavit states that the employee has a reasonable basis, founded on documentary evidence, for believing that the payee is neither a citizen nor a resident of the United States. Foreign source interest payments made on deposits outside the United States by foreign branches of United States banks to United States persons, although reportable payments under section 6041(a), are not subject to backup withholding at this time. However, the issue of whether backup withholding should be applied with respect to payments described in this A–34, as well as the issue of the standard of evidence required to provide foreign status for information reporting purposes, is presently under further consideration. If backup withholding is subsequently determined to be appropriate, or the circumstances in which information reporting is required are changed, such will be provided in future regulations. Such changes, in that case, would apply on a prospective basis only.

The foregoing provisions do not apply, however, with respect to a payment by the branch of interest on a deposit evidenced by a bearer obligation that it has issued in accordance with the procedures of § 1.163–5T(c)(2)(i) (B) or (C) (which include, in the case of § 1.163–5T(c)(2)(i)(C), the requirement that the issuer maintain documentary evidence that demonstrates that the purchaser is either not a United States person, or if it is a United States person, that it is not an individual who is either a citizen or resident of the United States, and that it will comply with section 165(j)(3) (A), (B), or (C) and the regulations thereunder), provided that the branch does not act in the capacity of a custodian, nominee, or other agent of the payee with respect to the obligation. Where the branch is not acting in that capacity with respect to the obligation, it is not subject to the information reporting provisions of section 6041(a) unless it has actual knowledge that the payee is a United States person. Notwithstanding any provision of Q–37 of § 35a.9999–3 to the contrary, a payment of interest on deposits evidenced by obligations issued in accordance with the procedures of § 1.163–5(c)(2)(i) (B) or (C) shall not be considered to be made outside the United States if it is made to a United States address, whether by mail or by electronic transfer.

Par. 2. Part 35a is amended by the addition of a new § 35a.9999–4 immediately after § 35a.9999–3A to read as follows:

§ 35a.9999–4 Questions and answers relating to the application of information reporting and backup withholding to payments by foreign offices of United States and foreign brokers and by United States offices of banks and brokers, and other related matters.

The following questions and answers concern the application of information reporting and backup withholding to payments by foreign offices of United States and foreign brokers and by United States offices of banks and brokers, and other related matters. These questions and answers are issued under the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98–67, 97 Stat. 369):

Q–1. Was a foreign office of a U.S. broker required to commence backup withholding on July 1, 1984, with respect to transactions effected by that office for a foreign customer who has not provided the broker with the penalty of perjury statement described in § 1.6045–1(g)(1) of the regulations?

A–1. Although it has not received a statement described in § 1.6045–1(g)(1), a foreign office of a U.S. broker may treat a cusotmer as an exempt foreign person with respect to a transaction effected by that office for that customer if, in the case of both pre-1984 and post-1983 brokerage accounts, the broker has evidence in its records that the customer is a foreign person (provided the broker does not have actual knowledge that the evidence is false, the customer does not, except in infrequent and isolated circumstances, transmit instructions to the foreign office from within the United States, by mail, telephone, electronic transfer or otherwise, and the customer has not opened an account with a United States office of the broker). Such evidence may include a written indication from the customer (e.g., appearing on an account application form) that the customer is neither a citizen nor a resident of the United States. The mere fact, however that the customer has provided an address outside the United States is insufficent evidence to establish for this purpose that the customer is neither a citizen nor a resident of the United States. For payments made on or before November 20, 1984 on brokerage accounts opened on or before August 22, 1984, an affidavit by an employee of the broker stating that the employee knows, or that the customer has represented orally, that the customer is not a U.S. person will be sufficient to establish such foreign status. For all other payments on brokerage accounts, the employee's affidavit will be sufficient to estblish the customer's foreign status only if the affidavit states that the employee has a reasonable basis, founded on documentary evidence, for believing that the cusomter is neither a citizen nor a resident of the United States.

A foreign office of a U.S. broker may also treat a customer as an exempt foreign person with respect to payments made outside the United States on a transaction effected by that office on behalf of that customer if any one of the following conditions is satisfied: (i) during the 12-month period immediately preceding the transaction, the broker has withheld tax on any amount, including interest and dividends, paid to such person under subchapter A of chapter 3 of the Code in accordance with the provisions of chapter 3; (ii) during the 12-month period immediately preceding the transaction another payor or middleman has withheld tax under subchapter A of chapter 3 of the Code in accordance with the provisions of chapter 3 on any amount, including interest and dividends, collected by the broker on behalf of the customer; or (iii) the broker, in accordance with § 1.1441–6 (b) or (c) of the regulations, has received from the customer a Form 1001 (Ownership, Exemption or Reduced Rate Certificate) or special variation thereof that is in effect with respect to any amount, inlcuding interest, that is or may be paid to the customer during the calendar year in which the transaction is effected. (Notwithstanding the foregoing, the Internal Revenue Service is reconsidering the question of whether

a broker should be permitted to treat a customer as an exempt foreign person for purposes of either information reporting or backup withholding merely by virtue of the fact that the broker or another person withheld tax under subchapter A of chapter 3 of the Code on any amount collected by the broker on behalf of the customer; any change in this rule will be announced in future regulations and will apply prospectively only).

If the broker does not obtain the statement described in § 1.6045–1(g)(1) and does not otherwise establish in accordance with any of the foregoing procedures that a customer is not a U.S. citizen or resident, the information reporting provisions of section 6045 will apply. However, the issue of whether backup withholding should apply with respect to transactions effected by a foreign office of a U.S. broker, as well as the issue of the standard of evidence required to prove foreign status for information reporting purposes, is still under consideration. Until provided otherwise, backup withholding shall not apply with respect to such transactions. If backup withholding is subsequently determined to be appropriate, or the circumstances in which information reporting is required are changed, such will be provided in future regulations, and such changes will apply on a prospective basis only.

Q–2. Are payments made with respect to transactions effected for a U.S. customer of a foreign office of a foreign broker reportable payments under section 6045 that may be subject to backup withholding?

A–2. A payment made with respect to a transaction effected for a U.S. customer by a foreign office of a foreign broker is subject to information reporting under section 6045 only in the following circumstances: (i) The foreign broker is a controlled foreign corporation within the meaning of section 957(a); or (ii) 50 percent or more of the gross income of the foreign broker from all sources for the 3-year period ending with the close of its taxable year preceding the payment (or for such part of the period that the foreign broker has been in existence) was effectively connected with the conduct of a trade or business within the United States.

For purposes of determining whether a customer is an exempt foreign person, the foreign office of a foreign broker may use the same procedures as used by a foreign office of a U.S. broker. If the foreign broker does not obtain the statement described in § 1.6045–1(g)(1) and does not otherwise establish in accordance with those procedures that a customer is not a U.S. citizen or resident, the information reporting provisions of section 6045 will apply. However, as in the case of foreign offices of United States brokers, the issue of whether backup withholding should be applied with respect to such foreign offices, as well as the issue of the standard of evidence required to prove foreign status for information reporting purposes, is still under consideration. If backup withholding is subsequently determined to be appropriate, or the circumstances in which information reporting is required are changed, such will be provided in future regulations, and such changes will apply on a prospective basis only.

Q–3. Was a U.S. office of a bank or a broker required to commence backup withholding on July 1, 1984, with respect to the pre-1984 account of a foreign payee or customer (other than a payee or customer who may be treated as an exempt recipient) if the bank or broker has not received a taxpayer identification number or the penalty of perjury statement described in § 1.6049–5(b)(2)(iv) or § 1.6045–1(g)(1) from that payee or customer?

A–3. The bank or broker is not required to commence backup withholding with respect to the pre-1984 account of a foreign payee or customer until January 1, 1985, provided, however, that the following conditions are satisfied: (i) The bank or broker has otherwise complied with the requirements of A–52 or A–55 of § 35a.9999–1 of the regulations and (ii) the bank or broker sends an additional mailing (which need not be a separate mailing) during calendar year 1984 requesting the payee or customer to provide the requisite statement signed under penalties of perjury. The additional mailing must be by first-class mail, or by airmail if sent to a foreign address, and must contain a notice describing the requisite statement and advising the payee or customer that backup withholding may commence if the statement is not provided. The mailing must include a reply envelope and a form on which the payee or customer may provide the requisite statement. However, no further mailing is required by this A–3 after the bank or broker has received the statement signed by the payee or customer under penalties of perjury. The rules of A–18 of § 35a.9999–1 relating to persons for whom the payor has no correct address, the rules of A–19 of § 35a.9999–1 relating to "do not mail" or "stop mail hold" instructions, and the rules of A–52 of § 35a.9999–3 relating to the delivery of mailings shall apply with respect to the mailings required by this A–3.

Backup withholding must commence with respect to payments on pre-1984 accounts of foreign payees or customers on or after January 1, 1985, if the bank or broker has received neither a taxpayer identification number nor a statement described in § 1.6049–5(b)(2)(iv) or § 1.6045–1(g)(1) from the foreign payee or customer.

Q–4. Do the backup withholding provisions apply to a payment in redemption or retirement of an obligation issued by an international organization if the payment is made within the United States by the international organization or by a person acting in its capacity as a paying agent for such organization?

A–4. No, provided the international organization is an organization of which the United States is a member and which enjoys immunity or exemption from any liability or obligation to pay, withhold, or collect tax pursuant to an international agreement having full force and effect in the United States.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. Publication of these Q&As is necessary to alleviate problems encountered by banks and brokers in obtaining certificates of foreign status (Forms W-8) with respect to pre-1984, foreign accounts. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 3406, section 6041, section 6045, section 6049, and section 7805 of the Internal Revenue Code of 1954 (97 Stat. 371, 26 U.S.C. 3406; 68A Stat. 745, 26 U.S.C. 6041; 96 Stat. 600, 26 U.S.C. 6045; 96 Stat. 592, 26 U.S.C. 6049; 68A Stat. 917, 26 U.S.C. 7805) and in sections 104, 105, and 108 of the Interest and Dividend Tax Compliance Act of 1983 (97 Stat. 369, 371, 380 and 383).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: August 17, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84–22290 Filed 8–17–84; 5:07 pm]

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26 CFR Part 35a

[T.D. 7967]

Employment Taxes; Application of the Repeal of 30 Percent Withholding by the Tax Reform Act of 1984 and of Information Reporting and Backup Withholding in Light of Such Repeal

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the repeal of 30 percent withholding by the Tax Reform Act of 1984, and to the application of information reporting and backup withholding in light of such repeal. These regulations affect issuers of obligations held by foreign persons and payors of interest and redemption or retirement proceeds with respect to such obligations. They provide the public with the guidance necessary to comply with the Interest and Dividend Tax Compliance Act of 1983 and the Tax Reform Act of 1984.

DATES: The temporary regulations are effective for payments made after September 21, 1984, except for payments of portfolio interest, within the meaning of section 871(h)(2) and 881(c)(2), for which these temporary regulations are effective for payments made after July 18, 1984.

FOR FURTHER INFORMATION CONTACT: Charles C. Saverude of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (202–566–3323, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

These temporary regulations contain questions and answers (Q&As) relating to the conditions in accordance with which interests may qualify for repeal of the 30 percent withholding tax by section 127 of the Tax Reform Act of 1984 (Pub. L. 98–369) and to the application of information reporting and backup withholding to certain obligations held by foreign persons in light of such repeal. These Q&As also deal with the information reporting and backup withholding requirements with respect to the following three types of obligations: obligations issued in bearer form; registered obligations which are not targeted to foreign markets; and registered obligations which are targeted to those markets. The Q&As dealing with obligations issued in bearer form also deal with information reporting and backup withholding on payments made with respect to obligations issued by financial institutions which were exempt from 30 percent withholding prior to its repeal, as well as to certain short-term original issue discount obligations.

The Q&As are not intended to address comprehensively the issues raised by the repeal of 30 percent withholding and the application of information reporting and backup withholding in light of such repeal. Taxpayers may rely for guidance on these Q&As, which the Internal Revenue Service will follow in resolving issues expressly raised herein arising under section 127 of the Tax Reform Act of 1984 and the information reporting and backup withholding rules affected thereby. No inference, however, should be drawn regarding questions not expressly raised and answered.

Obligations Issued in Bearer Form

The Q&As address the scope of the repeal with respect to obligations issued in bearer form. It contains provisions that exempt from information reporting and backup withholding certain interests and principal payments made by U.S. corporate issuers or their agents on obligations the interest on which meets the definition of portfolio interest in section 871(h)(2)(A) and section 881(c)(2)(A) (as amended by the Tax Reform Act of 1984). The interest on a bearer obligation may meet the definition of portfolio interest if the obligation would be a registration-required obligation within the meaning of section 163(f)(2)(A) but for the fact that the obligation is described in section 163(f)(2)(B). In accordance with section 163(f)(2)(B), the obligation must be marketed under arrangements reasonably designed to ensure that it will be sold (or resold in connection with its original issuance) only to persons who are not United States persons. Interest on the obligation must be payable only by a paying agent outside the United States and generally cannot be paid to a United States address. In addition, the obligation must contain a statement on its face and on any interest coupons that any United States holder will be subject to limitations under the United States income tax laws.

The Q&As similarly exempt from information reporting and backup withholding interest or original issue discount paid by an issuer or its agent outside the United States on the following types of obligations: Obligations the interest on which is described in section 861(c); original issue discount obligations with maturities of six months or less; and obligations issued by United States issuers or controlled foreign corporations the interest payments on which constitute foreign-source income. All of these obligations are required to meet similar conditions intended to ensure that they are sold or resold in connection with their original isuance only to foreign persons or financial institutions. In addition, in the case of those obligations having maturities at issue of one year or less, the exemption applies only if the face amount of each individual obligation is at least $500,000. This restriction, as well as a special lending requirement, is imposed as a disincentive to their purchase by U.S. individuals since the holder sanctions of sections 165(j) and 1287(a) are inapplicable to those short-term obligations.

The exemption from information reporting and backup withholding does not extend to payments by a person acting in the capacity of a custodian, nominee or other agent of the payee with respect to the obligations if that person is otherwise required to report payments made to the payee.

Foreign-non-Targeted Registered Obligations

Payments on registered obligations that have not been targeted to foreign markets are exempted from 30 percent withholding only if the beneficial owner is identified, either by a Form W–8 or by a certificate from a financial institution to the effect that the financial institution has received a Form W–8. In the case of payment to a U.S. address, however, backup withholding is imposed in lieu of 30 percent withholding if the appropriate Form W–8 or a taxpayer identification number for the payee is not received and if the payee is not a U.S. exempt recipient. The Form W–8 is required to avoid 30 percent withholding, however, if a payment is made to an exempt recipient that is a foreign person or if a payment is made to an address outside the United States. The person required to withhold the 30 percent tax if the Form W–8 is not received is generally the last U.S. institution in the chain of payment that is within the United States.

Foreign-Targeted Registered Obligations

The Q&As provide that the Form W–8 is not required to avoid 30 percent withholding with respect to interest paid on certain registered obligations that have been targeted to foreign markets in accordance with procedures generally similar to those applicable to corporate bearer obligations. However, a certification that represents that the beneficial owner is not a United States

person is required with respect to interest paid by a U.S. person on those obligations to a registered ownner outside the United States, provided that the registered owner is a financial institution that holds customers' securities in the ordinary course of its trade or business. The certificate must be provided by the registered owner with respect to each interest payment. A certificate provided by a clearing organization must be based upon a written statement from the member organization to which the interest is paid that the beneficial owner is not a U.S. person. The certification must be provided no earlier than 90 days before the interest payment date. However, if it is not received by 30 days before that payment date, the U.S. payor has discretion to withhold the 30 percent amount. Rules similar to those for a Form W–8 are prescribed for the retention of the certificate and the requirement of notification of changes in the information provided on the certificate.

The temporary regulations also require that a United States person making a payment of portfolio interest who is required to receive a Form W–8 must report that payment on a Form 1042S and must attach the Form W–8. An ownership certificate from the payee is also required in that case, but it generally is not required with respect to portfolio interest paid on a foreign-targeted obligation.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 20, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for this regulation. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of this regulation is Charles C. Saverude of the Office of Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations.

List of Subjects in 26 CFR Part 35a

Employment taxes, Income taxes, Backup withholding, Interest and Dividend Tax Compliance Act of 1983.

PART 35a—[AMENDED]

Adoption of Amendments to the Regulations.

Accordingly, Part 35a is amended as follows:

Paragraph 1. Part 35a is amended by the addition of a new § 35a.9999–5 immediately after § 35a.9999–4 to read as follows:

§ 35a.9999–5 Questions and answers relating to repeal of 30 percent withholding by section 127 of the Tax Reform Act of 1984 and to the application of information reporting and backup withholding in light of such repeal.

The following questions and answers concern the repeal of 30 percent withholding by section 127 of the Tax Reform Act of 1984 and the application of information reporting and backup withholding in light of such repeal.

(a) *Concerning Obligations in Bearer Form.*

Q–1. What conditions must be satisfied for interest to qualify as portfolio interest within the meaning of section 871(h)(2)(A) or section 881(c)(2)(A)?

A–1. Interest is portfolio interest within the meaning of section 871(h)(2)(A) or section 881(c)(2)(A) only if it is paid with respect to an obligation issued after July 18, 1984, that is in bearer form and if the obligation would be a registration-required obligation within the meaning of section 163(f)(2)(A) but for the fact that it is described in section 163(f)(2)(B). Therefore, interest paid on an obligation issued by a natural person, on an obligation with a maturity at issue of not more than one year, or on an obligation not of a type offered to the public (within the meaning of section 163(f)(2)(A)(ii) and the regulations thereunder) is not portfolio interest.

Q–2. Is a payment of portfolio interest described in section 871(h)(2)(A) or section 881(c)(2)(A) from sources within the United States subject to information reporting under section 6041 or 6049 or to backup withholding if the payment is made outside the United States?

A–2. Unless an issuer or its agent has actual knowledge that a payee is a United States person, no information reporting under section 6041 of 6049 is required with respect to a payment of U.S. source portfolio interest by the issuer or agent if the payment is made outside the United States. As a payment of U.S. source portfolio interest made outside the United States by the issuer or agent is not subject to information reporting under section 6041 or 6049, it is not a reportable payment within the meaning of section 3406(b)(1) and is not subject to backup withholding by the issuer or its agent. Whether a payment of this interest is considered to be made outside the United States shall be determined for this purpose under the rules of A–37 of § 35a.9999–3 of the regulations. However, notwithstanding the rules of A–37, for purposes of this A–2, payment shall not be considered to be made outside the United States if the interest is paid to a United States address, whether by mail or by electronic transfer. The payment or collection outside the United States of U.S. source portfolio interest on a bearer obligation by a person acting as a custodian, nominee or other agent of the payee with respect to the obligation is subject to information reporting under section 6049 if that person is otherwise required to report amounts paid to or collected on behalf of the payee. For example, a foreign branch of a U.S. bank holding the bearer obligation on behalf of a customer is required to report or backup withhold with respect to the portfolio interest collected for the customer unless the customer is an exempt recipient described in § 1.6049–4(c)(1)(ii) or unless the branch has documentary evidence in its files that the customer is not a citizen or resident of the United States. See, *e.g.*, revised Q–34 of § 35.9999–3.

Q–3. Is a payment of interest from sources outside the United States on an obligation of a issuer that is a United States person or a controlled foreign corporation subject to information reporting under section 6041 or 6049 or to backup withholding if the obligation was issued in accordance with procedures described in § 1.163–5(c)(2)(i) (A) or (B)?

A–3. Unless an issuer or its agent has actual knowledge that a payee is a United States person, no information reporting under section 6041 or 6049 is required with respect to the payment of interest described in Q–3 by the issuer or agent if the payment is made outside the United States. As a payment of interest described in this A–3 is not subject to information reporting under section 6041 or 6049, it is not a reportable payment within the meaning of section 3406(b)(1) and is not subject to backup withholding by the issuer or its agent. Whether a payment of this interest is considered to be made outside the United States shall be determined for this purpose under the rules of A–37 of § 35a.9999–3 of the regulations. However, payment will not be considered to be made outside the United States for purposes of this A–3 if the interest is paid to a United States address by mail or by electronic

transfer. In the case of obligations issued prior to September 21, 1984, the foregoing sentence shall apply only with respect to interest paid more than 90 days after August 22, 1984.

Notwithstanding any provision to the contrary in § 1.6049–5(b)(1) (vii) or (ix), the payment of collection outside the United States of interest described in this A–3 by a person acting as a custodian, nominee, or other agent of the payee with respect to the obligation is subject to information reporting under section 6049 if that person is otherwise required to report amounts paid to or collected on behalf of the payee. For example, a foreign branch of a U.S. bank holding the bearer obligation on behalf of a customer is required to report or backup withhold with respect to interest described in this A–3 unless the customer is an exempt recipient described in § 1.6049–4(c)(1)(ii) or unless the branch has documentary evidence that the customer is not a citizen or resident of the United States. See, *e.g.*, revised Q–34 of § 35a.9999–3. The provisions of this Q–3 do not apply with respect to interest on obligations described in A–4 or A–5.

Q–4. Is information reporting under section 6041 or 6049 required with respect to interest described in section 861(c) that is paid outside the United States on an obligation that would be a registration-required obligation within the meaning of section 163(f)(2)(A) but for the fact that the obligation is described in section 163(f)(2)(B)?

A–4. Unless the issuer or its agent has actual knowledge that the payee is a United States person, interest described in section 861(c) is not subject to information reporting under section 6041 or 6049 when paid by the issuer or agent outside the United States if the following conditions are met: (i) The obligation with respect to which the interest is paid is in bearer form; (ii) the obligation would be a registration-required obligation within the meaning of section 163(f)(2)(A) but for the fact that it is described in section 163(f)(2)(B); and (iii) the obligation is part of a larger single public offering of obligations. As a payment of interest by the issuer or its agent that meets these requirements is not subject to information reporting under section 6041 or 6049, it is not a reportable payment within the meaning of section 3406(b)(1) and is not subject to backup withholding by the issuer or agent. Whether a payment of this interest is considered to be made outside the United States shall be determined for this purpose under the rules of A–37 of § 35a.9999–3 of the regulations. However, notwithstanding the rules of A–37, for purposes of this A–4, payment shall not be considered to be made outside the United States if the interest is paid to a United States address, whether by mail or by electronic transfer. The payment or collection outside the United States of interest on an obligation described in the foregoing paragraph by a person acting as a custodian, nominee or other agent of the payee with respect to the obligation is subject to information reporting under section 6049 if that person is otherwise required to report amounts paid to or collected on behalf of the payee. For example, a foreign branch of a U.S. bank holding the obligation on behalf of a customer is required to report or backup withhold with respect to this interest collected for the customer unless the customer is an exempt recipient described in § 1.6049–4(c)(1)(ii) or unless the branch has documentary evidence that the customer is not a citizen or resident of the United States. See, *e.g.*, revised Q–34 of §35a.9999–3.

Q–5. Is information reporting under section 6041 or 6049 required with respect to interest described in section 861(c) that is paid outside the United States on an obligation that would be a registration-required obligation but for the fact that it has a maturity (at issue) of not more than one year?

A–5. Unless the issuer or its agent has actual knowledge that a payee is a United States person, no information reporting by the issuer or agent is required with respect to a payment of interest on such an obligation, whether in registered or bearer form, if the following conditions are satisfied: (i) the payment is made outside the United States; (ii) the face amount of the obligation is not less than $500,000; (iii) the obligation satisfies the requirements of section 163(f)(2)(B)(i) and (ii)(I) and the regulations thereunder (as if the obligation would otherwise be a registration-required obligation within the meaning of section 163(f)(2)(A)); (iv) the obligation, if in registered form, is registered in the name of an exempt recipient described in § 1.6049–4(c)(1)(ii); and (v) the obligation contains the following statement (or a similar statement having the same effect): "By accepting this obligation, the holder represents and warrants that it is not a United States person (other than an exempt recipient described in section 6049(b)(4) of the Internal Revenue Code and the regulations thereunder) and that it is not acting for or on behalf of a United States person (other than an exempt recipient described in section 6049(b)(4) of the Internal Revenue Code and the regulations thereunder)." As a payment by the issuer or its agent of interest meeting these requirements is not subject to information reporting under section 6041 or section 6049, it is not a reportable payment within the meaning of section 3406(b)(1) and is not subject to backup withholding by the issuer or agent. Whether a payment of interest is made outside the United States shall be determined for this purpose under the rules of A–37 of § 35a.9999–3 of the regulations. However, notwithstanding the rules of A–37, payment shall not be considered to be made outside the United States for purposes of this A–5 if the interest is paid to a United States address, whether by mail or electronic transfer. The payment or collection outside the United States of interest on an obligation described in the foregoing paragraph by a person acting as a custodian, nominee or other agent of the payee with respect to the obligation is subject to information reporting under section 6049 if that person is otherwise required to report amounts paid to or collected on behalf of the payee. For example, a foreign branch of a U.S. bank holding the obligation on behalf of a customer is required to report or backup withhold with respect to the interest collected for the customer unless the customer is an exempt recipient described in § 1.6049–4(c)(1)(ii) or unless the branch has documentary evidence that the customer is not a citizen or resident of the United States.

Q–6. Is a payment of original issue discount from sources within the United States on an obligation that is payable six months or less from the date of its original issue subject to information reporting under section 6041 or 6049 or backup withholding if it is paid outside the United States?

A–6. Whether original issue discount described in Q–6 is subject to information reporting or backup withholding shall be determined under the same rules as those set forth in A–5 with respect to interest described in section 861(c).

Q–7. Is information reporting under section 6045 required by an issuer or its agent with respect to the redemption or retirement of an obligation described in A–2, –3, –4 or –5?

A–7. An issuer or its agent is not subject to the information reporting requirements of section 6045 with respect to the redemption or retirement of an obligation described in A–2, –3, –4 or –5, provided (i) that the issuer or agent does not have actual knowledge that the payee is a United States person, (ii) that the obligation is presented for

retirement or redemption, or payment is otherwise made, at the office of the issuer or its agent outside the United States, and (iii) that if the obligation is in registered form, it is registered in the name of an exempt recipient described in § 1.6049–4(c)(1)(ii). The determination of whether a payment is made at the office of the issuer or its agent outside the United States shall be made for this purpose under rules similar to those contained in A–37 of § 35a.9999–3 of the regulations. However, notwithstanding the rules of A–37, the provisions of this A–7 shall not apply if payment with respect to the retirement or redemption is made to an address within the United States by mail or electronic transfer. (In the case of obligations described in A–3 and issued prior to September 21, 1984, the foregoing sentence shall apply only with respect to amounts paid more than 90 days after August 22, 1984). As a retirement or redemption by an issuer or its agent that meets the requirements of this A–7 is not subject to reporting under section 6045, it is not a reportable payment within the meaning of section 3406(b)(1) and is not subject to backup withholding by the issuer or its agent. Notwithstanding any provision to the contrary in § 35a.9999–3A, a person acting as a custodian, nominee or other agent for a customer with respect to an obligation described in A–2, –3, –4 or –5 that presents such obligation to the issuer or its agent for redemption or retirement, or that otherwise acts as a broker with respect to the obligation, is subject to information reporting under section 6045 if that person is otherwise required to report transactions effected on behalf of the customer. For example, a foreign office of a United States broker presenting an obligation outside the United States for retirement or redemption on behalf of a customer who is an individual is required to report or backup withhold unless the broker has documentary evidence in its files that the customer is a foreign person. See, *e.g.*, revised Q–34 of section 35a.9999–3.

(b) *Rules Concerning Obligations in Registered Form.*

Q–8. What conditions must be satisfied for interest to qualify as portfolio interest within the meaning of section 871(h)(2)(B) or 881(c)(2)(B)?

A–8. To qualify as portfolio interest described in section 871(h)(2)(B) or 881(c)(2)(B), the interest must be paid with respect to an obligation issued after July 18, 1984, (i) that is in registered form (within the meaning of section 163(f)), (ii) that is a registration-required obligation within the meaning of section 163(f)(2)(A) (without regard to whether the obligation is described in section 163(f)(2)(B)), and (iii) with respect to which the United States person (including a foreign paying agent of an issuer who is a United States person) who would otherwise be required to deduct and withhold tax from the interest under section 1441(a) or 1442(a) has received the statement described in A–9 (or described in A–14, in the circumstances described in A–12) from the beneficial owner or a financial institution described in section 871(b)(4)(B). In accordance with the principles of section 163(f) concerning the term "registered form", interest paid on an obligation issued 30 days after August 22, 1984 that would otherwise be in registered form but for the fact that is convertible into bearer form is not portfolio interest.

Q–9. In order for interest on a registered obligation to qualify as portfolio interest within the meaning of section 871(h)(2)(B) or section 881(c)(2)(B), what form of statement must be provided to a United States person (including a foreign paying agent of an issuer who is a United States person) who would otherwise be required to withhold tax on that interest under section 1441(a) or 1442(a)?

A–9. Interest on a registered obligation may be treated as portfolio interest by a United States person otherwise required to deduct and withhold tax under section 1441(a) or 1442(a) if that person receives a statement that (i) is signed by the beneficial owner under penalties of perjury, (ii) certifies that such owner is not a United States person, or in the case of an individual, that he is neither a citizen nor a resident of the United States, and (iii) provides the name and address of the beneficial owner. The statement may be made, at the option of the person otherwise required to withhold, on a Form W–8 or on a substitute form that is substantially similar to Form W–8. The statement must be prepared, renewed and retained in accordance with the procedures prescribed in § 1.6049–5(b)(2)(iv). If the information provided on the statement changes, the beneficial owner must so inform the person otherwise required to withhold within 30 days of such change. Interest paid on a registered obligation also may be treated as portfolio interest if an appropriate statement is provided to the United States person otherwise required to withhold by a securities clearing organization, a bank, or another financial institution that holds customers' securities in the ordinary course of its trade or business. In such case the statement must be signed under penalties of perjury by an authorized representative of the financial institution and must state (i) that the institution has received from the beneficial owner a Form W–8 or substitute form in accordance with the provisions of § 1.6049–5(b)(2) (iv) or (ii) that it has received from another financial institution a similar statement that it, or another financial institution acting on behalf of the beneficial owner, has received the Form W–8 or substitute form from the beneficial owner. In the case of multiple financial institutions between the beneficial owner and the person otherwise required to withhold, this certificate must be given by each financial institution to the one above it in the chain. No particular form is required for the certificate provided by the financial institutions. However, the certificate must provide the name and address of the beneficial owner, and a copy of the Form W–8 provided by the beneficial owner must be attached. The certificate must be prepared, renewed and retained in accordance with procedures similar to those prescribed in § 1.6049–5(b)(2)(iv). If the information on the Form W–8 changes, the beneficial owner must so notify the financial institution acting on its behalf within 30 days of such changes, and the financial institution must promptly so inform the United States person otherwise required to withhold. This notice also must be given if the financial institution has actual knowledge that the information has changed but has not been so informed by the beneficial owner. In the case of multiple financial institutions between the beneficial owner and the person otherwise required to withhold, this notice must be given by each financial institution to the institution above it in the chain. A United States person otherwise required to deduct and withhold tax under section 1441(a) or section 1442(a) who receives the certificate described in A–9 must make an information return on Form 1042S of the payment with respect to which the certificate described in A–9 is required for the calendar year in which the payment is made. A payment described in the preceding sentence shall be treated as a payment for which there is a requirement to file a Form 1042S within the meaning of § 1.1461–2(c)(1), and thus all the provisions of § 1.1461–2(c) relating to the time and manner of filing the Form 1042S relate to the payment. The certificate described in A–9 received with respect to the payment shall be attached to the Form 1042S required to be filed with respect to the payment. Section 1.1461–2(c) will be amended to conform with the provisions of this paragraph.

Q–10. In the absence of the receipt of a certificate described in A–9, what United States persons are required to deduct and withhold tax under section 1441(a) or 1442(a) from interest otherwise qualifying as portfolio interest within the meaning of section 871(h)(2)(B) or 881(c)(2)(B)?

A–10. In general, any United States person who is otherwise a withholding agent for purposes of section 1441(a) or 1442(a) is required to deduct and withhold unless the certificate described in A–9 is received. However, a United States person is not required to withhold under section 1441(a) and 1442(a), regardless of whether the certificate is received, under the following circumstances: (i) The interest is paid to, or collected on behalf of, an exempt recipient at an address within the United States (other than an exempt recipient who is not a United States person); or (ii) the interest is paid to a person at an address within the United States, and backup withholding is required with respect to that interest in accordance with the provisions of section 3406 (*e.g.*, because neither a Form W–8 nor a Form W–9 has been received). For purposes of this A–10, an exempt recipient is a person described in § 1.6049–4(c)(1)(ii).

Q–11. Does information reporting under section 6041 or 6049 or backup withholding apply with respect to portfolio interest paid on a registered obligation to a payee who has provided the payor with a Form W–8 or substitute form?

A–11. No. Provided the payor does not have actual knowledge that the payee is a United States person, neither information reporting under section 6041 or 6049 nor backup withholding is required in such case.

Q–12. Is a United States person (including a foreign paying agent of an issuer who is a United States person) who is otherwise required to deduct and withhold tax in accordance with A–10 required to obtain the certificate described in A–9 with respect to interest on a registered obligation that has been targeted to foreign markets?

A–12. The certificate described in A–9 is not required with respect to interest paid on a registered obligation that is targeted to foreign markets (in accordance with the provisions of A–13) if the interest is paid by a United States person to a registered owner at an address outside the United States, provided that the registered owner is a financial institution described in section 871(h)(4)(B). In that case, the United States person otherwise required to deduct and withhold tax may treat the interest as portfolio interest if it does not have actual knowledge that the beneficial owner is a United States person and if it receives the certificate described in A–14 from the financial institution in accordance with the procedures described in A–15.

Q–13. When is a registered obligation considered to be targeted to foreign markets for purposes of A–12?

A–13. An obligation is considered to be targeted to foreign markets for purposes of A–12 if it is sold (or resold in connection with its original issuance) only to foreign persons (or to foreign branches of U.S. financial institutions described in section 871(h)(4)(B)) in accordance with procedures similar to those prescribed in subsection (A) or (B) of § 1.163–5(c)(2)(i). However, the provisions of that section that require an obligation to be offered for sale or resale in connection with its original issuance only outside the United States do not apply with respect to registered obligations offered for sale through a public auction. Similarly, the provisions of that section that require delivery to be made outside the United States do not apply to registered obligations offered for sale through a public auction if the obligations are considered to be in registered form by virtue of the fact that they may be transferred only through a book entry system. The obligation, if evidenced by a physical document other than a confirmation receipt, must contain on its face a legend indicating that it has been sold (or resold in connection with its original issuance) in accordance with those procedures.

Q–14. What is the certificate that may be provided in lieu of the Form W–8 (or substitute form) in the two circumstances described in A–12?

A–14. No particular form is required for the certificate. However, it must identify the obligation with respect to which it is given and must state that the beneficial owner of the obligation is not a United States person. The statement must identify and provide the address of the person providing the statement.

Q–15. What procedures apply with respect to the certificate described in A–14?

A–15. The certificate described in A–14 must be provided with respect to each interest payment by a financial institution described in section 871(h)(4)(B) to the United States person (including a foreign paying agent of an issuer that is a United States person) who is otherwise required to withhold. The certificate must be provided within the period beginning 90 days prior to the interest payment date. However, the United States person otherwise required to deduct and withhold tax may, in its discretion, withhold the tax under section 1441(a) or 1442(a) if the certificate is not received by the date 30 days prior to the interest payment. A certificate described in A–14 that is provided by a clearing organization must be based on a written statement from the member organization to which the interest is paid that the beneficial owner of the interest is not a United States person. If the information provided on the statement to the United States person otherwise required to withhold (or to a clearing organization by a member organization) changes within the 90 day period prior to the interest payment date, the person providing such statement must so inform the United States person (or the clearing organization) within 30 days of such change. The statement must be retained in the records of the United States person (or the clearing organization, in the case of a statement received from one of its member organizations) for at least four years from the end of the calendar year in which it was received. In accordance with the provisions of section 871(h)(4), the Secretary may make a determination in appropriate cases that a statement by any person, or class of persons, does not satisfy the requirements of that section. Should that determination be made, all payments of interest that otherwise qualifies as portfolio interest to that person would become subject to the 30 percent withholding tax.

Q–16. Is information reporting under section 6041 or 6049 or backup withholding required with respect to portfolio interest paid on a foreign-targeted registered obligation in the circumstances described in A–12?

A–16. No. Absent actual knowledge that the beneficial owner is a United States person, neither information reporting nor backup withholding is required in such circumstances if the certificate described in A–14 is provided to the payor in accordance with the provisions of A–15. Notwithstanding the foregoing, the collection outside the United States of portfolio interest on a registered obligation by a person acting as a custodian, nominee or other agent of the payee with respect to the obligation is subject to information reporting under section 6049 if that person is otherwise required to report amounts paid to, or collected on behalf of, the payee. For example, a foreign branch of a U.S. bank holding the obligation on behalf of a customer is required to report or backup withhold with respect to portfolio interest collected for the customer unless the customer is an exempt recipient described in § 1.6049–4(c)(1)(ii) or unless

the branch has documentary evidence in its files that the customer is not a citizen or resident of the United States.

Q–17. Do the information reporting provisions of section 6045 apply with respect to the retirement or redemption of a registered obligation that has been targeted to foreign markets in accordance with A–13?

A–17. The general rules of section 6045 apply. For instance, a financial institution acting as a custodian, nominee or other agent for a customer with respect to a foreign-targeted registered obligation that presents such obligation to the issuer or its agent for redemption or retirement, or that otherwise acts as a broker with respect to the obligation, is subject to information reporting under section 6045 if that person is otherwise required to report transactions effected on behalf of the customer. For example, a foreign office of a United States broker presenting an obligation to an agent of the issuer outside the United States for retirement or redemption on behalf of a customer who is an individual is required to report or backup withhold unless the broker has documentary evidence in its files that the customer is a foreign person.

(c) *Convertibility of Obligations.*

Q–18. May a bearer or a registered obligation that has been targeted to a foreign market be converted into a registered obligation that is subject to the certification requirements of A–9?

A–18. Yes, but a bearer obligation cannot be converted into a foreign-targeted registered obligation with respect to which the certification described in A–14 applies. In addition, once an obligation has been converted into a registered obligation that is subject to the certification requirements of A–9, it may not then be converted back into a bearer obligation or a foreign-targeted registered obligation subject to the certification requirements of A–14. See A–8 concerning conversion of a registered obligation into bearer form generally. The certificate described in A–9 is required with respect to interest paid on any foreign-targeted registered or bearer obligation that has been converted into a non-targeted registered obligation. Also the general information reporting and backup withholding provisions of section 6045 and 6049 of section 3406 apply.

(d) *Form 1042S Requirements.*

Q–19. Is the owner of an obligation the interest on which qualifies as portfolio interest (within the meaning of section 871(h)(2) or section 881(c)(2)) required to file an ownership certificate described in § 1.1461–1(b) with respect to the obligation?

A–19. No, the owner of any interest in an obligation the interest on which qualifies as portfolio interest is not required to file the ownership certificate, unless the interest payment is one with respect to which the certificate described in A–9 is required. Thus, the ownership certificate described in § 1.1461–1(b) is required to be filed by the owner of an obligation the interest on which qualifies as portfolio interest within the meaning of section 871(h)(2)(B) or section 881(c)(2)(B) and with respect to the payment of which the certificate described in A–9 is required, if the obligation is one to which § 1.1461–1(b) would otherwise apply. The ownership certificate is not required of the owner of any interest in an obligation the interest on which qualifies as portfolio interest within the meaning of section 871(c)(2)(A) or section 881(c)(2)(A), or an obligation the interest on which qualifies as portfolio interest within the meaning of section 871(h)(2)(B) or section 881(c)(2)(B) and with respect to which the certificate described in A–9 is not required by reason of A–12. Section 1.1461–1(b) will be amended to conform with the provisions of this A–19.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. Publication of the Q&As is necessary to implement the repeal of 30 percent withholding by section 127 of the Tax Reform Act of 1984, which was effective for obligations issued after July 18, 1984. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 871, section 881, section 1441, section 1442, section 3406, section 6041, section 6045, section 6049, and section 7805 of the Internal Revenue Code of 1954 (98 Stat. 648, 26 U.S.C. 871; 98 Stat. 650, 26 U.S.C. 871, 98 Stat. 652, 26 U.S.C. 1441; 98 Stat. 652, 26 U.S.C. 1442; 97 Stat. 371, 26 U.S.C. 3406; 68A Stat. 745, 26 U.S.C. 6041; 96 Stat. 600, 26 U.S.C. 6045; 96 Stat. 592, 26 U.S.C. 6049; 68A Stat. 917, 26 U.S.C. 7805) and in sections 104, 105, and 108 of the Interest and Dividend Tax Compliance Act of 1983 (97 Stat. 369, 371, 380 and 383) and section 127 of the Tax Reform Act of 1984 (98 Stat. 494, 648).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: August 17, 1984.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84–22292 Filed 8–17–84; 5:08 pm]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Approval of Kentucky Permanent Regulatory Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 917 by announcing the approval of certain amendments to the Kentucky permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

These amendments are submitted (1) to satisfy certain conditions imposed by the Secretary of the Interior on the approval of the Kentucky program, and (2) as further modifications to the Kentucky program. The amendments pertain to (1) citizen complaints, (2) injunctive relief and monetary damages, (3) temporary relief, (4) intervention, (5) reclamation deferrals, (6) the definition of a principal shareholders, and (7) coal extraction incidental to the extraction of other minerals.

After providing opportunity for public comment and conducting a thorough review of the program amendments in accordance with 30 CFR 732.17, the Secretary has decided to approve these amendments and remove certain conditions on the appoval of the Kentucky Program. The Federal rules at 30 CFR Part 917 which codify decisions concerning the Kentucky permanent regulatory program are being amended to implement these actions.

EFFECTIVE DATE: The approval of the program amendment is effective August 22, 1984.

FOR FURTHER INFORMATION CONTACT: W.H. Tipton, Director, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone: (606) 233–7327.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky State Program

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register** notice.

II. Submisssion of Program Amendments and Material To Satisfy Conditions

By a letter dated May 1, 1984, Kentucky submitted to OSM pursuant to 30 CFR 732.17, certain revisions to the Kentucky Revised Statutes (KRS) Chapter 350. These modifications are intended to satisfy conditions (e), (f), (g), (h), (m) and (n) of approval placed on the Kentucky program.

III. Secretary's Findings

Finding 1, Condition (e)

Condition (e) requires Kentucky to amend its program to provide a right of action in accordance with section 520(a) of SMCRA for any person having an interest which is or may be adversely affected. Kentucky proposed to satisfy the condition by modifying KRS 350.250(1).

Kentucky amended its statute to include the phrase "any person with an interest which is or may be adversely affected". The Secretary finds the modification to be in accordance with section 520(a) of SMCRA pertaining to citizen suits and, therefore, satisfies condition (e).

Finding 2, Condition (f)

Condition (f) requires Kentucky to amend its program to create two causes of action against a violator. These causes should compel compliance through (1) injunctive relief and (2) monetary damages. Kentucky proposed to satisfy condition (f) by modifying KRS 350.250 (3) to add a provision for injunctive relief and a protective clause on the Commonwealth's sovereign immunity.

In revising its statute Kentucky created the two required actions by adding language specifying that an adversely affected person may bring a civil action "for injunctive relief or for damages or both". The Secretary finds that this modification is in accordance with section 520 of SMCRA and, therefore, satisfies condition (f).

Finding 3, Condition (g)

Condition (g) requires Kentucky to amend its program to provide for intervention in citizen suits by the Kentucky Natural Resources and Environmental Protection Cabinet (KERPC) as a matter of right in accordance with section 520 of SMCRA. Kentucky proposed to satisfy this condition by adding a new provision to KRS 350.250(4). In amending its statute, Kentucky provides that the Cabinet, if not a party in such a civil action, may intervene as a matter of right. The Secretary finds this modification to be in accordance with section 520 of SMCRA and, therefore, satisfies condition (g).

Finding 4, Condition (h)

Condition (h) requires Kentucky to amend its program to set standards for State courts granting temporary relief in accordance with section 526(c) of SMCRA. Kentucky amended its law at KRS 350.032 to add new language applying the same or similar standards of relief as provided in SMCRA. In modifying its statute, Kentucky provides that the court may grant temporary relief under certain conditions if (1) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief; (2) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determinaiton of the proceeding and (3) such relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

The Secretary finds Kentucky's modification to be in accordance with section 526 of SMCRA and, therefore, satisfies conditon (h).

Finding 5, Condition (m)

In the **Federal Register** dated May 13, 1983 (48 FR 21574–21579) the Secretary announced his conditional approval of Kentucky's amendments pertaining to reclamation deferrals. In announcing this approval, the Secretary placed a new condition (m) on the Kentucky regulatory program.

Condition (m) requires Kentucky to amend by May 1, 1984, KRS 350.093, section 2, in a manner consistent with section 515(b)(16) of SMCRA and by October 31, 1984, to change 405 KAR 16:020 section 4 to be no less effective than 30 CFR 816.101.

The Secretary's conditional approval of this amendment was challenged in *Sierra Club* v. *Clark et al.*, NOV No. 83–35 (E.D. KY.). The Challenge has been resolved by way of a settlement agreement entered by the district court on June 15, 1984 which requires Kentucky to implement a program for the deferment of mining and reclamation consistent with the agreement and submit any regulatory changes to the Director of OSM for approval.

Specifically, Condition (m) requires Kentucky to amend its regulations by October 31, 1984, to: (1) Clarify that of all times the applicant for a deferral of mining and reclamation has the burden of proof in establishing the need for such a deferral; (2) provide criteria for reclamation deferrals, (3) require that the applicant demonstrate that reclamation on the site is contemporaneous as of the date of the request for deferral and that certain distance requirements pertaining to backfilling and grading (405 KAR 16:020(2)) will be met during the period of deferral and (4) require re-evaluation of the bond on all deferrals.

Kentucky amended KRS 350.093(2) to specify that the Cabinet may allow an operator to defer the time criteria of contemporaneous reclamation requirements on specific areas provided that the operator demonstrate said deferment is necessary to address certain prescribed conditions. Further, the modification to KRS 350.093(2)(b) sets out specifically that the operator has the burden of proof in establishing the need for such a deferral. The Secretary finds this modification to Kentucky's statute to satisfy the May 1, 1984 requirement of condition (m). The Commonwealth amended KRS 350.093(2)(a) to provide specific conditions that the operator must address in demonstrating that such deferment is necessary. Kentucky specified three (3) conditions as follows: (1) Adverse conditions including weather, labor and other conditions clearly beyond the operator's control; (2) where combined surface and underground operations are conducted and other bona fide mining operations are carried out on a strip mined area, pursuant to KRS 350.080; and (3) coal marketing problems. Additionally, in amending KRS 350.093(2)(b), Kentucky requires that the applicant for such a deferral must demonstrate that reclamation on the site is

contemporaneous as of the date of the request for deferment and that distance requirements for contemporaneous reclamation will be met during the period of deferment. These statutory changes only partially meet the October 31, 1984 requirements that specify certain modifications be made.

The Secretary finds that Kentucky has partially satisfied the requirements of condition (m) by the modifications to KRS 350.093 accompanied by the previously approved regulations at 405 KAR 8:050, section 7; and 16:020, section 2. The Secretary finds that the modifications to KRS 350.093 are consistent with section 515(b)(16) of SMCRA and thereby approves these amendments to the Kentucky statute. However, the Secretary still requires Kentucky by October 31, 1984, as imposed in the **Federal Register** dated May 13, 1983, (48 FR 21574–21599), to submit copies of promulgated regulations amending 405 KAR 16:020, section 4 so as to make Kentucky's program no less effective than the Federal Regulations at 30 CFR 816.102 (48 FR 23368, May 24, 1983, as amended at 48 FR 41734, September 16, 1983). The specific provisions the Commonwealth must include in its regulations are set out in the condition, § 917.11(m)(1)–(4).

Finding 6, Condition (n)

Condition (n) requires that Kentucky amend its law at KRS 350.060 section 5(g), by May 1, 1984, to be consistent with section 507(b)(4) of SMCRA pertaining to the definition of a principal stockholder. Condition (n) also requires that by October 31, 1984, Kentucky modify its regulations at 405 KAR 7:020 section 1(86) to be no less effective than 30 CFR 770.5.

In its amendment, Kentucky modified KRS 350.06(5)(a) to include "ten percent (10%) or more of any class of voting stock of the applicant." The Secretary finds the modification to be consistent with section 507(b)(4) of SMCRA and satisfies the requirement that Kentucky amend KRS 350.060 to provide a consistent definition with SMCRA of principal stockholder. However, Kentucky is also required to modify its regulations at 405 KAR 7:020 by October 31, 1984 to make such program provisions no less effective than 30 CFR 770.5. See the **Federal Register** dated May 13, 1983 (48 FR 21574–21579) for a complete explanation of condition (n).

Finding 7

Kentucky modified KRS 350.010 (1) and (2)) to provide an exclusion from the definition of a "surface coal mining operation" for activities that extract coal incidental to the extraction of other minerals where the coal does not exceed sixteen and two-thirds percent (16⅔%) of the tonnage of minerals removed for purposes of commercial use or sale or coal exploration subject to KRS 350.057. The Secretary finds that Kentucky's modification is consistent with section 528 of SMCRA and no less effective than 30 CFR 700.11(a)(4).

IV. Disposition of Public Comments

Thomas J. FitzGerald, attorney at Law, submitted comments on behalf of (1) The Kentucky Governmental Accountability Project of The Kentucky Resources Council; (2) Sierra Club, Cumberland Chapter and (3) Kentucky Conservation Committee.

The commenter endorses the modifications made by Kentucky pertaining to conditions (e), (f), (g), (h) and (n) but does not endorse the statutory changes pertaining to condition (m) relating to reclamation deferrals.

Additionally, the commenter urges the Secretary to require certain further modifications before removing certain conditions. These specific recommendations are discussed below by condition.

Condition (e)

The commenter believes the modified statute satisfies the condition only if the State will commit to construe the standing requirement in a fashion consonant with the broadest declarations on standing rendered by the U.S. Supreme Court.

Kentucky modified its statute pertaining to "standing" as required by the Secretary. In doing so, Kentucky indicated the modification was made consistent with section 520(a) of SMCRA. The Secretary agrees with the commenter in that the material satisfies condition (e) and has found the modification consistent with SMCRA. As with any state program requirement, the implementation of the provision will be monitored by oversight activities and if the intent of SMCRA is not being realized through the State's implementation, OSM will take the necessary action to correct the deficiency. Since Kentucky indicated the modification was made to make the Kentucky program consistent with SMCRA, it would at this time be premature for the Secretary to exact the type of commitment that the commenter suggested.

Condition (f)

The commenter expressed concern pertaining to sovereign immunity for the State when it is acting in a proprietary rather than a governmental capacity and from the mandamus type relief of KRS 350.250 and SMCRA.

The Secretary does not construe the change to KRS 350.250 to bar a suit against the State for injunctive relief. The Secretary required the State to modify its statute to create two causes of action against a violator through injunctive relief and monetary damages. The Secretary finds that Kentucky modified its statute to create these required causes and believes the commenter's concern pertaining to sovereign immunity is not well founded.

Condition (m)

The commenter asserts that the policy of granting deferrals to contemporaneous reclamation is illegal and reserves the right to continue to challenge this underlying illegality through the settlement of the case entitled *Sierra Club, et al.* v. *Clark, et al.*, Civ. No. 83–35 (E.D. KY.).

The Commenter believes that condition (m) has not been satisfied insofar as the State has not set specific criteria for granting such deferrals. The commenter is particularly troubled and believes that without additional specific qualifying criteria Kentucky's statute provides too many instances that could qualify for a deferral. The Secretary found that Kentucky's revision to its statute is consistent with SMCRA, and satisfies the requirement imposed in the May 13, 1983 **Federal Register** that Kentucky modify its statute. However, condition (m) consists of two parts. The second part of condition (m) directs the State to modify its regulations by October 31, 1984 to (1) provide criteria for reclamation deferrals, (2) require that the applicant demonstrate that reclamation on the site is contemporaneous as of the date of the request for deferral and that certain distance requirements pertaining to backfilling and grading (405 KAR 16:020) will be met during the period of deferral and (3) require re-evaluation of the bond on all deferrals. The Secretary is approving Kentucky's statutory changes but will not remove condition (m) until all the requirements have been satisfied. These future modifications required to Kentucky's regulations should satisfy the commenter's concerns.

Finally, Kentucky's compliance with the settlement agreement on *Sierra Club* v. *Clark et al.* should satisfy the commenter's concerns.

Condition (n)

The commenter indicates that the proposed modification to the Kentucky statute appears to satisfy the required statutory change imposed by condition

(n). However, the commenter expresses concern that operators with continuing violations are continuing to operate in Kentucky without permits or under different permits. The Secretary appreciates the commenter's concern. OSM will continue through oversight activities to identify such operations and take the necessary action to see that operators comply with the provisions of the approved State program.

No other comments were received in response to the proposed rulemaking published in the **Federal Register** dated May 24, 1984 (49 FR 21944).

Additional Determinations

1. *Compliance With the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule 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.*). This rule will not impose any new requirements; rather, it will insure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: August 15, 1984.

Garrey E. Carruthers,

Assistant Secretary, Land and Minerals Management.

PART 917—KENTUCKY

§ 917.11 [Amended]

1. 30 CFR 917.11 is amended by removing and reserving paragraphs (e), (f), (g) and (h). Paragraphs (m) and (n) are revised as follows.

* * * * *

(m) Termination of the approval found in 30 CFR 917.10 will be initiated unless Kentucky submits to the Secretary by October 31, 1984, copies of promulgated regulations amending 405 KAR 16:020 Section 4 to be no less effective than 30 CFR 816.102 (48 FR 23368, May 24, 1983 as amended at 48 FR 41734, September 16, 1983). Specifically, changes to the regulations must provide:

(1) Clarification that at all times the applicant for a reclamation deferral pursuant to KRS 350.093 section 2 has the burden of proof in establishing the need for such a deferral;

(2) Criteria that operators must meet in order to obtain such deferrals;

(3) A requirement that the applicant must demonstrate that: (i) Reclamation on the site is contemporaneous as of the date of the request for deferral; and (ii) the distance requirements of 405 KAR 16:020 section 2, regarding backfilling and grading requirements, will be met during the period of deferral; and

(4) Re-evaluation of the bond on all deferrals issued to assure sufficiency thereof.

Further, all deferrals previously issued will be re-evaluated on the basis of this condition; and in the interim, the State will meet the terms of this condition as a matter of policy.

(n)(1) Termination of the approval found in 30 CFR 917.10 will be initiated unless Kentucky submits to the Secretary by October 31, 1984, copies of promulgated regulations amending 405 KAR 7:020 section 1(86) to provide a definition of the term "principal shareholder" which is no less effective than 30 CFR 770.5.

(2) In the interim, the State shall require: (i) Reporting in a manner consistent with SMCRA section 507(b)(4), and (ii) corporate operators to amend their permit applications to include the identification of appropriate individuals.

2. 30 CFR 917.15 is amended by adding paragraph (h).

§ 917.15 Approval of Amendments to State Regulatory Program

* * * * *

(g) The following amendments are approved effective on August 22, 1984: Revisions to the Kentucky Revised Statutes (KRS) Chapter 350 as specified in Kentucky House Bill number 514 as follows: KRS 350.010; KRS 350.250 (1), (3), (4); KRS 350.032; KRS 350.093 (2); KRS 355.060(5)(g).

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

[FR Doc. 84–22231 Filed 8–21–84; 8:45 am]

BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual, Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 15 of the Domestic Mail Manual (DMM), which is incorporated by reference in the **Federal Register**, 39 CFR 111.1. These revisions are primarily minor, editorial, or clarifying and have not previously been published in the **Federal Register.**

EFFECTIVE DATE: July 12, 1984.

FOR FURTHER INFORMATION CONTACT: Fred Eggleston, (202) 245–4636.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual, which is incorporated by reference in the **Federal Register** (see 39 CFR 111.1) has been amended by the publication of a transmittal letter for issue 15, dated July 12, 1984. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

Issue 15 contains all DMM revisions published between April 19, 1984 and July 12, 1984 (Postal Bulletins 21454 through 21466).

The following Summary of Changes section of the transmittal letter for issue 15 describes each of the changes made.

Summary of Changes

Major Revisions

1. *Zone Charts.* Section 122.71 and Exhibit 722.1 are revised to (1) reflect changes in zone charts based on the distance between 3-digit ZIP Code areas rather than sectional center facilities (SCFs) and (2) to update the ZIP Code areas served by bulk mail centers (BMCs) and auxiliary service facilities (ASFs) (PB 21462, 6–14–84).

2. *Second-Class Palletization.* Sections 467.211, 467.222, and 467.25 are modified and sections 467.242*e* and 467.342*e* are added to allow mailers of second-class publications entitled to newspaper treatment, as well as other second-class publications, to prepare

SDC pallets after all required 5-digit, 3-digit, and SCF pallets are prepared. Parts 467, 667, and 767 are further revised to allow publishers and their mailing agents to apply for authorization to bedload or palletize second-class publications (PB 21458, 5–17–84; PB 21461, 6–7–84; and PB 21462, 6–14–84).

Other Revisions

1. Section 111.2*a* is amended to reflect the change in responsibility for providing postal services to the Republic of the Marshall Islands (PB 21456, 5–3–84).

2. Section 113.8 is added to provide proper and fair handling of articles found in lobbies or public areas around a post office (PB 21461, 6–7–84).

3. Sections 115.21*e* and 115.91*e* are added to permit postal inspectors to reopen an inbound sealed mail article under certain conditions (PB 21462, 6–14–84).

4. Sections 115.21, 159.32, and 593 are amended to require immediate correction, at an E–COM site, of an E–COM message inserted into its envelope so that the delivery address is not visible through the envelope window (PB 21461, 6–7–84, and PB 21462, 6–14–84).

5. Exhibits 121.3*a–f* were inadvertently dropped in DMM Issue 14; they are reinserted.

6. Exhibit 125.2, including its footnotes, is revised to reflect changes in the restrictions applied to mail that is addressed to military post offices overseas (PB 21454, 4–19–84).

7. Section 137.2 is amended to allow officials of the executive and judicial branches of the Federal Government to use penalty mail stamps as a form of penalty mail indicia (PB 21460, 5–31–84).

8. Section 142.3 is modified and section 142.124 becomes 142.311 to explain the validity of postage stamps which carry service inscriptions, such as airmail and bulk rate stamps (PB 21466, 7–12–84).

9. Section 144.11 is revised to allow prepayment of metered reply postage on single piece, special fourth-class, and library rate mail (PB 21457, 5–10–84).

10. Section 144.37 is amended to allow the postage meter user and numeric files to be maintained in computer memory; section 147.252*a*(2) is amended to deal with refunds for unused meter stamps when the stamps are on a window envelope (PB 21458, 5–17–84).

11. Section 153.11*g* is revised to clarify the conditions governing the delivery, refusal, and return of short-paid mail (PB 21463, 6–21–84).

12. Section 423.11 has been changed to reflect the controlled circulation's incorporation into second-class mail (PB 21464, 6–28–84).

13. Section 642.134 is revised because the provisions which allow mailers to obtain temporary authorization at additional offices to mail at the special bulk rates of postage have been extended until July 1, 1985 (PB 21456, 5–3–84).

14. Section 693*e* is amended to show the limitations of address correction for mail addressed with an exceptional address format (PB 21419, 9–1–83).

15. Section 724.222*c* is added to cover handling requirements for mailers preparing special fourth-class mail for palletization (PB 21456, 5–3–84).

16. Minor editorial and typographical changes have been made to 159.225; 362.31; 462.24*a*; Exhibit 464; 467.211; 467.232; Exhibit 482 *e* and *f*; and 767.535.

List of Subjects in 39 CFR Part 111

Postal service, Incorporation-by-reference.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual

* * * * *

Transmittal letter for issue	Dated	"Federal Register" publication
15	July 12, 1984	49 FR (page number and date of publication).

(5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001–3011, 3201–3218, 3403–3405, 3601, 3621; 42 U.S.C. 1973cc–13, 1973cc–14)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84–22257 Filed 8–21–84; 8:45 am]

BILLING CODE 7710–12–M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. A–25]

Travel and Transportation Expense Payment System Using Contractor-Issued Charge Cards, GTS Accounts, and Travelers Checks

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation prescribes policies and procedures for the GSA Government travel and transportation expense payment system using contractor-issued charge cards, GTS accounts, and travelers checks and is needed to implement the payment system fully.

DATES: Effective date: August 22, 1984. Expiration date: This regulation expires one year from the date of publication in the **Federal Register** unless sooner superseded or canceled.

FOR FURTHER INFORMATION CONTACT: Mr. Charles T. Angelo, Director, Travel and Transportation Services Division (FTE), Office of Transportation FTS 557–1264/(703) 557–1264.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–40

Freight, Government property management, Moving of household goods, Office relocations, Transportation.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

July 6, 1984.

Federal Property Management Regulations; Temporary Regulation A–25

To: Heads of Federal agencies.

Subject: Travel and transportation expense payment system using contractor-issued charge cards, Government travel system (GTS) accounts, and travelers checks.

1. *Purpose.* This regulation prescribes policies and procedures for a travel and transportation expense payment system which provides for the use of General Services Administration (GSA) contractor-issued charge cards,

Government travel system (GTS) accounts, and travelers checks by Federal agencies and their travelers for the procurement of passenger transportation services, payment to commercial facilities for subsistence (lodging, meals, etc.) and miscellaneous travel and transportation expenses during official travel.

2. *Effective date.* This regulation is effective August 22, 1984.

3. *Expiration date.* This regulation expires 1 year from date of publication in the **Federal Register**, unless sooner superseded or canceled.

4. *Scope.* This regulation shall be used in conjunction with the Federal Travel Regulations (FTR), 41 CFR 101–7, and 41 CFR 101–41. Except as provided in this temporary regulation, all provisions of the FTR, 41 CFR 101–41, and related regulations (i.e., FPMR Temporary Regulation A–22, governing use of airline contract fares) continue in effect.

5. *Applicability.* This regulation applies to Federal agencies and departments, and employees, that have voluntarily agreed to participate in GSA's travel and transportation expense payment system using contractor-issued charge cards, GTS accounts, and travelers checks.

6. *Background.*

a. Under 41 CFR 101–41.203, Federal agencies normally use GTRs (SF 1169, U.S. Government Transportation Requests) to purchase passenger transportation services directly from a common carrier, through a commercial travel agent under contract to GSA, or through a Scheduled Airlines Traffic Office (SATO). Also, under the FTR, travelers are eligible for advances to pay for allowable travel expenses. Upon completion of the official travel, the employee submits a travel voucher to the agency finance office which reimburses the employee for authorized and allowable travel expenses.

b. GSA entered into a contract with Citicorp/Diners Club, Inc., to issue and maintain charge cards and establish GTS accounts. GSA also contracted with Citicorp for the issuance of travelers checks to be used by Federal employees to cover subsistence and other allowable travel and minor transportation expenses.

c. On October 1, 1983, agencies and their employees became eligible to participate in the charge card program described in b, above. Authority to deviate from 41 CFR 101–41.203 when procuring passenger transportation services was granted by the Administrator of General Services on August 4, 1983. (See 48 FR 36893.)

7. *Definitions.* For purposes of this regulation, certain terms used herein are defined as follows:

a. A "charge card" means a Citicorp/Diners Club charge card to be used by travelers of a participating agency to pay for passenger transportation services, to pay commercial facilities for subsistence expenses, and to pay other allowable travel and transportation expenses incurred in connection with official travel. The term includes an individual employee charge card only. The term does not include personal credit cards issued to employees based upon their own financial merit by any credit card or other company.

b. "Contractor" means The Diners Club, Inc.

c. "GTS account" means a Government Travel System account established by the Contractor at the request of a participating agency.

d. "Participating agency" means agencies and departments that volunteer to participate in GSA's travel and transportation expense payment system.

e. "SATO" means a Scheduled Airlines Traffic Office. SATOs are travel offices, staffed by scheduled airlines' personnel, that provide reservations, ticketing and related travel management services for official Government travelers.

f. "TMC" means a Travel Management Center. TMCs are commercial travel firms under contract to GSA that provide reservations, ticketing, and related travel management services for official travelers.

g. "Travelers checks" are Citicorp travelers checks.

8. *Travel and transportation expense program.* This GSA travel management program incorporates provisions for the following:

a. Individual employee charge cards used to pay for major travel and transportation expenses, i.e., passenger transportation tickets, vehicle rental charges, lodgings, meals, etc. (see par. 9);

b. GTS accounts used by designated agency offices only for the purchase of airline passenger tickets (see par. 12); and

c. Travelers checks (or cash) used for other expenses, i.e., laundry, parking, local transportation, tips, or official telephone calls (see par. 14).

9. *Individual employee charge cards.*

a. *Issuing charge cards.* Participating agencies shall determine and name employees who may be issued an individual employee charge card. The employees are requested to complete an employee card account application for agency approval and submission to the Contractor. The charge card is issued directly to the employee in his or her name.

b. *Use of charge cards.* (1) The employee shall use charge cards issued under this program only for expenses incurred in conjunction with official travel. The employee shall use the charge card to pay for official travel expenses to the maximum extent possible. There is no preset expense limit on the charge cards. Although the employee is liable for payment of all charges incurred, the employee shall be reimbursed by his/her agency for all authorized and allowable travel and transportation expenses. However, employees are cautioned that charges in excess of authorized and allowable travel and transportation expenses, i.e., lodging and meal costs which exceed authorized amounts, are the financial responsibility of the employee and are not reimbursable. Use of the charge card does not relieve the employee of the responsibility to employ prudent travel practices and to observe rules and regulations governing official travel as set forth in the FTR and implementing agency regulations.

(2) The charge card may be used to pay for passenger transportation services (including services under contract fares offered by carriers under contract to GSA) at the transportation carrier's ticket counter, TMC, SATO or agency travel office, as appropriate, under the participating agency's policies and procedures. The charge card shall not be used to procure travel and transportation services from commercial travel agencies that are not under contract to the Government to provide such services to the Government traveler. Employees shall not use the charge card to procure transportation services directly from a carrier except as authorized under agency policies and procedures implementing the charge card program.

c. *Monthly Contractor bills and payments.* The contractor bills charges directly to the individual employee each month. Interest or late charges are not assessed by the contractor on the employee charge card billings. However, charges billed to the individual employee are due and payable in full within 25 calendar days of the billing date. Extended or partial payment is not permitted. Questions concerning billings or payments should be directed to the contractor at: 800–525–5289 or 303–799–6670.

d. *Travel voucher claims*—(1) *Preparing and submitting travel vouchers.* Upon completing official travel, the employee must prepare and

submit a travel voucher in the usual manner to be reimbursed under the FTR and agency policies and procedures, together with any required receipts, to the appropriate finance or paying office. The employee is reimbursed for authorized and allowable travel and transportation expenses. Participating agencies shall make every effort to process travel vouchers promptly.

(2) *Unused transportation tickets.* Unused or partially unused tickets purchased with individual Diners Club cards shall be returned to a TMC, SATO or carrier and a refund credit receipt obtained. Unused tickets that have been prepaid for pickup at the airport must be refunded by the airline upon whose ticket stock the ticket was issued. The employee may claim reimbursement on the travel voucher only for the cost of the tickets actually used. Refunds for unused tickets will be credited to the employee's account. The unused tickets shall NOT be submitted with the travel voucher.

(3) *Transportation charges and assignment of rights.* Use of charge cards for purchase of passenger transportation services is considered to be a cash purchase. Travel vouchers submitted for reimbursement of transportation purchased with charge cards must include a statement which assigns to the United States all rights which the traveler has in connection with recovery of overcharges from the carrier(s). This statement is preprinted on the SF 1012, Travel Voucher, and must be initialed by the employee when claiming reimbursement for transportation expenses. Employees using agency travel vouchers under approved exceptions to the SF 1012 must add this statement if it is not preprinted on the voucher.

10. *Charge card cancellation.* Charge cards may be canceled by the employee, the participating agency, or the contractor after consultation with and concurrence by the agency. In all cases, cancellation requests may be accomplished by telephone notification with subsequent written confirmation to the contractor. For accounts that are delinquent past 60 days, Diners Club, in consultation with the agency, may suspend charge card privileges until payment is made.

11. *Lost or stolen charge cards.* Neither the participating agency nor the employee is responsible for any charges incurred against a lost or stolen card; provided, the employee reports loss of the card to the contractor promptly under the terms of the cardmember agreement made when the charge card was issued. Employees may call the following telephone numbers 24 hours a day to report lost or stolen Diners Club cards:

In the continental U.S. (toll free), 800–525–5289 or 800–525–9150
In Alaska, Canada, Hawaii, Puerto Rico, the Caribbean, and Colorado (collect), 303–779–6670
In metropolitan Denver, Colorado (call direct), 779–6670

12. *Participating agency GTS accounts.*

a. *Establishment.* Participating agencies may establish GTS accounts with the contractor for one or more designated offices within the agency to purchase airline tickets only, principally for groups or for infrequent travelers, i.e., employees not designated to receive individual cards. Agencies shall ensure that only authorized personnel use the accounts and that all tickets purchased are authorized. Charge cards are not issued for GTS accounts.

b. *Use of GTS accounts.* GTS accounts may be used only if agencies use a TMC, SATO, or agency travel office. They are intended principally to supplement the individual card, rather than be the sole means of purchasing airline tickets for all agency employees.

c. *Contractor billing and payment.* Consolidated contractor airline ticket charges accrued through use of GTS accounts shall be billed monthly to the agency's finance or paying office. Expenses billed monthly against GTS accounts are paid to the contractor. Monthly payment of charges incurred through the use of GTS accounts is subject to the provisions of the Prompt Payment Act of 1982, and charges billed to agency offices are due in full within 30 calendar days of the billing date.

d. *Travel voucher claims*—(1) *Preparation and submission of travel vouchers.* On completing official travel, the employee shall prepare and submit a travel voucher in the usual manner, together with any required receipts, to the finance or paying office, to be reimbursed.

(2) *Unused transportation tickets.* The employee shall submit any unused transportation tickets (wholly or partially unused) to the appropriate agency office, TMC, or SATO that furnished the airline ticket under a GTS account for agency credit. Each agency shall provide procedures to be followed by travelers when submitting documentation and justification relating to unused or downgraded passenger transportation services.

13. *Financial obligations/liability.*

a. *Employee.* Except for charges accrued against promptly reported lost or stolen charge cards, employees with charge cards are liable for all billed charges. (See pars. 9b and 11.) Government employees must pay their bills on time under section 206 of Executive Order 11222 (May 8, 1965) and Office of Personnel Management Regulations, 5 CFR 735.207. At the request of the contractor, Federal agencies and departments, without Government liability, may assist in collecting delinquent employee accounts after 60 calendar days.

b. *Government.* The Government assumes no liability for charges incurred on employee charge cards, nor is the Government liable for lost or stolen charge cards. The Government is liable only for authorized charges incurred in conjunction with official travel on GTS accounts.

14. *Travelers checks.* Travelers checks issued under this program are available to participating agencies in denominations of $20, $50, $100, $500, and $1,000. Specific arrangements for issuing, shipping, and paying for bulk stocks of travelers checks are made during initial discussions between Citicorp and the participating agency.

15. *Lost or stolen travelers checks.* Lost or stolen travelers checks shall be reported promptly by telephone to Citicorp. Employees may call the following numbers 24 hours a day to report lost or stolen travelers checks and to obtain refund information:

Continental U.S., 800–645–6556
Outside continental U.S. (collect), 813–879–7701

16. *Establishing accounts.*

a. The contractor shall issue charge cards and establish GTS accounts only upon the request of authorized representatives of participating agencies. Interested offices within the participating agency shall contact their local administrative or travel office to initiate this program. Only the headquarters agency office, however, can approve participation in the program.

b. The contractor mails charge cards to authorized individuals or to requesting agency offices within 3 workdays of notifying the contractor.

17. *Additional agency guidance and information.*

a. *Purchasing passenger transportation.* (1) Passenger transportation services procured with contractor-issued charge cards under this payment system are not subject to the $100 cash limitation, pursuant to the deviation from 41 CFR 41.203–2 authorized by the Administrator of General services. Any credit card other than the contractor-issued charge card, and all travelers checks used to

purchase passenger transportation services, shall be considered the equivalent of cash for the purposes of 41 CFR 41.203–2 which requires the approval of the participating agency, for emergency travel, or GSA, for non-emergency travel, when using cash to procure passenger transportation services in excess of $100.

(2) The portion of the charge card application form, Optional Employee Data, Field 2, is to be used to record the standard Federal organization code(s) contained in the Department of Commerce/National Bureau of Standard publication, *Codes for the Identification of Federal and Federally-assisted Organizations* (FIPS PUB 95), dated December 23, 1982. Specific details concerning this requirement will be communicated by the contractor directly to each participating agency during the initial program implementation phase.

b. *Submitting passenger ticketing information to GSA for audit.*

(1) Travel vouchers containing reimbursable transportation charges purchased with contractor-issued charge cards shall not be considered transportation vouchers under 41 CFR 101–41.807.

(2) Passenger ticketing information is furnished directly by the Diners Club, Inc., to GSA's Office of Transportation Audits. It is used to identify and collect carrier overcharges.

c. *Examination of payments and collection.*

(1) A GSA notice of overcharge is mailed to the billing carrier when GSA finds that the carrier was overpaid for the services rendered.

(2) Carriers shall promptly refund overcharges identified by GSA as overcharges due the United States. Checks shall be made payable to the General Services Administration and mailed directly to General Services Administration (BWCA), Washington, DC 20405. Payment or credit to the contractor shall not be considered as proper payment of overcharge claims due the U.S. Government.

(3) Protests to notices of overcharge shall be handled and processed in accordance with 41 CFR 101–41.503.

(4) Collection of unrefunded overcharges owed to the U.S. Government shall be processed in accordance with 41 CFR 101–41.504.

(5) Debts collected by GSA based on audits of transportation accounts shall be deposited to miscellaneous receipts, U.S. Treasury.

(6) Claims against the United States related to the actions taken above must be processed under 41 CFR 101–41.6.

(7) Reconsideration and review of GSA transportation claim settlements must follow 41 CFR 101–41.7.

18. *Employee training.* Participating agencies shall ensure that each of their eligible employees is adequately trained in the use of the contractor-issued charge card or GTS account before allowing them to use either a charge card or use a GTS account.

19. *Agency participation.* Agencies or departments desiring to participate in this program should contact the Travel and Transportation Services Division, General Services Administration (FTE), Washington, DC 20406, telephone (703) 557–1264; FTS 557–1264.

20. *Effect on other directives.* GSA Bulletin FPMR A–85 is canceled.

21. *Comments and recommendations.* Comments and recommendations on using the travel and transportation expense payment system or on this regulation may be sent to: General Services Administration, Office of Federal Supply and Services (FT), Washington, DC 20406.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–22268 Filed 8–21–84; 8:45 am]

BILLING CODE 6820–24–M

National Archives and Records Service

41 CFR Part 101–11

[FPMR Amendment B–59]

Regulations Update

AGENCY: National Archives and Records Service, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending its regulations to update statutory and executive order citations, delete a reference to a defunct moratorium on the purchase of filing equipment, add the titles of two new General Records Schedules (GRS) and clarify several sections concerning application of the GRS and agency disposition schedules. This amendment clarifies that new or revised GRS items are mandatory unless NARS has previously approved a shorter retention period for the records of an individual agency. In such cases, the shorter retention period must be applied. This information was promulgated in GSA Temporary Regulation FPMR B–2, but was not previously included in the regulation. Interagency and internal agency reorganizations may cause confusion regarding the applicability of agency disposition schedules for records series affected by such changes. This amendment specifies that a schedule cannot be used by an agency other than the one which developed it, and that if a particular office is specified on the SF 115, Request for Records Disposition Authority, it cannot be applied to records transferred to another office within the agency. The final change included in this amendment specified the information that must accompany requests to NARS for permission to retire unscheduled or contingent records to Federal records centers. In order to ensure agency commitments to scheduling unscheduled records, exceptions to retire such records will only be considered if accompanied by an acceptable SF 115, and volume and reference activity statistics. Requests to retire contingent records must include the series title, records schedule citation number, annual volume, periodic review interval for disposal, and justification.

EFFECTIVE DATE: August 22, 1984.

FOR FURTHER INFORMATION CONTACT: David F. Peterson, Assistant Archivist for Federal Records Centers (FTS or 202–724–1614).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–11

Advisory committee, Archives and records, Classified information, Freedom of information, Government procurement, Government property management, Interagency reports, Micrographics, National Archives and Records Service, Privacy, Records and information management, Word processing.

PART 101–11—RECORDS MANAGEMENT

1. The authority citation for Part 101–11 reads as follows:

Authority: 44 U.S.C. 3301–3314; 44 U.S.C. 2101–2114, 2901–2909, 3101–3107

Subpart 101–11.1—Federal Records; General

2. Section 101–11.101–1 is revised to read as follows:

§ 101–11.101–1 Authority.

The regulations in this subpart are issued under the authority in the Records Disposal Act of 1943, as amended (44 U.S.C. Chapter 33) and the Federal Records Act of 1950, as amended (44 U.S.C. Chapters 21, 25, 29, and 31).

3. Section 101–11.101–3 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101–11.101–3 Records defined.

(a) Section 1 of the Records Disposal Act (44 U.S.C. 3301 defines the term "records" for disposition purposes, to include "all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included."

(b) This definition also applies to the term "records" when used in the Federal Records Act of 1950 by virtue of section 511(a) thereof, as amended (44 U.S.C. 2901(1)).

4. Section 101–11.102–1 is revised to read as follows:

§ 101–11.102–1 Authority.

Section 506(b) of the Federal Records Act of 1950, as amended (44 U.S.C. 3102) requires the head of each Federal agency to establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.

§ 101–11.102–2 [Amended]

5. Section 101–11.102–2 is amended by removing paragraph (d).

Subpart 101–11.4—Disposition of Federal Records

6. Section 101–11.404–1 is amended by revising paragraph (f) to read as follows:

§ 101–11.404–1 Comprehensive agency records disposition schedules.

* * * * *

(f) *Applicability.* (1) Records described by items marked "disposition not approved" or withdrawn may not be destroyed until a specific disposition has been approved by NARS.

(2) Disposition authority for items on approved SF 115s may be applied only by the organizational component of the agency identified on the SF 115, if such designation is made. If functions and records are transferred, the successor office must submit another SF 115 to schedule the records. Authority approved for items described in a functional format may be applied by any organizational component within the agency.

(3) Disposition authorizations approved for one agency may not be applied by another. Agencies that acquire records from another agency and/or continue creating the same series of records previously created by another agency through interagency reorganization must submit an SF 115 to NARS for disposition authorization for the records.

* * * * *

7. Section 101–11.404–2 is amended by revising paragraphs (a)(3), (a)(4), (a)(5) and (b) to read as follows:

§ 101–11.404–2 General Records Schedules.

* * * * *

(a) * * *

(3) New items or changes in the disposition authorization for General Records Schedule records supersede approved agency schedules for the same series of records, unless the agency schedule provides for a shorter retention period. Agencies must not request authority to apply General Records Schedule authorizations (see § 101–11.404–1(a)(3)).

(4) Agencies may request authority to deviate from the disposition instructions in the General Records Schedules by submitting a SF 115 in accordance with § 101–11.406–3 accompanied by a justification in accordance with § 101–11.406–8.

(5) Provisions of the General Records Schedules may be applied to records in the custody of the Archivist of the United States at his or her discretion subject to the provisions of § 101–11.411–12.

(b) *Current schedules.* The following General Records Schedules governing the disposition of records common to several or all agencies were developed by the National Archives and Records Service following consultation with the Office of Personnel Management, and other appropriate agencies. They have been approved by the Archivist of the United States.

Schedule Number and Type of Records Governed:

1. Civilian Personnel Records.
2. Payrolling and Pay Administration Records.
3. Procurement, Supply, and Grant Records.
4. Property Disposal Records.
5. Budget Preparation, Presentation, and Apportionment Records.
6. Accountable Officers' Accounts Records.
7. Expenditure Accounting Records.
8. Stores, Plant, and Cost Accounting Records.
9. Travel and Transportation Records.
10. Motor Vehicle Maintenance and Operation Records.
11. Space and Maintenance Records.
12 Communications Records.
13. Printing, Binding, Duplication, and Distribution Records.
14. Informational Services Records.
15. Housing Records.
16. Administrative Management Records.
17. Cartographic, Remote Sensing Imagery, and Related Records.
18. Security and Protective Service Records.
19. Research and Development Records.
20. Machine-Readable Records.
21. Audiovisual Records.
22. Design and Construction Drawings and Related Records.
23. Records Common to Most Offices.
24. Temporary Commissions, Committee, and Boards Records.

* * * * *

8. Section 101–11.406–9 is amended by revising paragraph (b) to read as follows:

§ 101–11.406–9 Methods of disposal.

(a) * * *

(b) Sale or salvage. Paper records to be disposed of normally must be sold as wastepaper. If the records are defense classified, their disposal is governed by Executive Order 12356. If the records are restricted; that is, if laws or regulations forbid their use by the public, the wastepaper contractor must be required to pulp, macerate, or shred the records and a Federal employee must witness the disposal. The contract for sale must prohibit the resale of all other records

for use as records or documents. Records other than paper records (film and plastic recording, etc.) may be salvaged or sold in the same manner and under the same conditions as paper records. All sales must be in accordance with the established procedures for the sale of surplus personal property. (See Part 101–45, Sale, Abandonment, or Destruction of Personal Property.)

* * * * *

9. Section 101–11.410–2 is amended by revising paragraph (a)(1) to read as follows:

§ 101–11.410–2 Procedures for transfers to Federal records centers.

* * * * *

(a) * * *

(1) The records are properly scheduled. If the records are not scheduled, or if the records are scheduled for final disposition after the occurrence of an event at some unspecified future time (contingent), an exception to this regulation must be obtained by submitting a request, in writing, to the General Services Administration (NC), Washington, DC 20408.

(i) Requests for exceptions for unscheduled records will be considered only if accompanied by an SF 115. The request must include information on the volume of the records and the anticipated reference activity.

(ii) Requests for exceptions for contingent records must include the series title, records disposition schedule and item numbers, approximate volume accumulated annually, periodic review interval for disposal and justification for retirement to a Federal records center.

* * * * *

Dated: July 6, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–22267 Filed 8–21–84; 8:45 am]

BILLING CODE 6820–26–M

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41 CFR Part 105–61

[ADM 7900.2 CHGE 24]

Public Use of Archives and FRC Records

AGENCY: National Archives and Records Service, GSA.

ACTION: Final rule.

SUMMARY: This rule changes procedures for using microfilm records and clarifies those for using agency records stored in Federal records centers. Present procedures for using microfilm reading rooms are a burden to both the National Archives and to researchers. The current regulation does not tell how to obtain access to records in Federal records centers not yet transferred to the National Archives. These changes simplify procedures for researchers who wish to use only microfilm reading rooms and help those who wish to use non-accessioned records.

EFFECTIVE DATE: This regulation is effective August 22, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wallace (202–523–3081).

SUPPLEMENTARY INFORMATION: This regulation was published as a proposed rule July 19, 1983 (48 FR 32838). One agency questioned the procedures for using records stored at Federal records centers. The language in § 105–61.101–3(f) is revised to clarify that NARS will inform researchers of procedures to obtain access to the material. The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 105–61

Archives and records, Researcher identification cards, Research room conduct, Classified information, Freedom of information, Government property management, Privacy.

For reasons set forth in the preamble, 41 CFR Part 105–61 is amended as follows:

PART 105–61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIAL, AND FACILITIES AT THE NATIONAL ARCHIVES AND RECORDS SERVICE

1. The authority citation for 41 CFR Part 105–61 reads as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. The table of contents for Part 105–61 is amended by revising one entry and adding another as follows:

105–61.101–3 Research procedures.
106–61.102a Restrictions on using microfilm readers.

3. Section 105–61.001–1 is revised to read as follows:

§ 105–61.001–1 Records.

"Records" means records, or microfilm copies of records, transferred to the National Archives and Records Service under 44 U.S.C. 2103, 3103; namely archives and Federal records center records as the terms are defined in § 105–61.001. The term "records" does not include current operating records of the National Archives and Records Service, the public availability of which is governed by Part 105–60, or donated historical materials, as defined in this part.

4. Section 105–61.101–2 is amended by revising paragraph (a) as follows:

§ 105–61.101–2 Location of records and hours of use.

(a) Researchers should identify the location of the records needed. Inquiries may be addressed to the General Services Administration (NNIR), Washington, DC 20408.

* * * * *

5. Sections 105–61.101–3 and 105–61.101–4 are revised as follows:

§ 105–61.101–3 Research procedures.

(a) Before applying to use records, the researcher should ask the depository holding them whether the records are available, whether there are enough records to warrant a visit, or whether copies would be more practical.

(b) Researchers must apply in person at the depository that has custody of the records.

(c) Researchers who wish to use paper records (not on microfilm) in a depository where the microfilm research room is separate from textual research rooms, must register and provide the information needed to decide which records can be made available. Applicants must have proper identification. If applying for access to large quantities of records or to records that are especially fragile or valuable, the researcher must furnish a letter of reference or introduction when requested. An identification card is issued to each person whose application is approved under § 105–61.101–4.

(d) Researchers using only microfilm, where the microfilm research room is separate from textual research rooms, are not issued an identification card but must register as described in § 105–61.102–1.

(e) In addition to the procedures in this section, researchers desiring to use archives that contain national security classified information must follow procedures in § 105–61.104.

(f) The legal custody and control over access to records that are in the physical custody of the records centers, but not yet accessioned into the National Archives of the United States, remains with the agency. NARS informs researchers of the procedures required to obtain access.

§ 105-61.101-4 Researcher identification card.

An identification card is issued to each person whose application is approved to use records other than microfilm. The card is valid at each depository (except the Presidential libraries which issue cards valid only at the issuing library) for 2 years, but it may be renewed upon application. Cards are not transferable and must be produced if requested by a guard or research room attendant.

6. Sections 105-61.102 through 105-61.102-2 are revised as follows:

§ 105-61.102 Research room rules.

§ 105-61.102-1 Registration.

Researchers must register each day they enter a research facility, furnishing the information asked for on the registration form and may be asked to provide additional personal identification.

§ 105-61.102-2 Researcher's responsibility for records.

(a) The research room attendant may limit the quantity of records delivered to a researcher at one time. If requested, a researcher must sign for the records received. The researcher is responsible for all records delivered to him/her until he/she returns them. When the researcher is finished using the records, the records should be returned to the research room attendant. The reference service slip that accompanies records to the research room must not be removed. If requested, the researcher must return records as much as 10 minutes before closing time. Before leaving a research room, even for a short time, a researcher must notify the research room attendant and place all records in their proper containers.

(b) Most microfilm is available on a self-service basis. Research room attendants can assist researchers in identifying which roll(s) of film contains the information of interest, but the researcher is responsible for locating the roll(s). Unless otherwise directed, the researcher is limited to one roll at a time. After using each roll, the researcher must place the roll on top of the cabinet from which it was removed, unless instructed otherwise.

7. Section 105-61.102-2a is added to read as follows:

§ 105-61.102-2a Restrictions on using microfilm readers.

If many researchers need to use the microfilm readers, individual use may be limited to 2 hours per day. Other procedures to ensure fair use of the readers may also be instituted by the facility (also called the director). The procedures can be enforced on orders from the director.

8. Sections 105-61.102-3 and 105-61.102-4 are revised to read as follows:

§ 105-61.102-3 Prevention of damage to records.

Researchers must exercise all possible care to prevent damage to records, and may not use them at a desk where there is a container of liquid or where a fountain pen is being used. Records must not be leaned on, written on, folded anew, traced, or handled in any way likely to cause damage. Records will be fastened with paper clips or rubber bands only if they cannot be otherwise identified for reproduction. Microfilm must be carefully removed from and returned to the proper microfilm boxes. Care must be taken loading and unloading microfilm from microfilm readers. Damaged microfilm must be reported to the research room attendant as soon as it is discovered. Exceptionally valuable or fragile records may be used only under the conditions specified by the research room attendant.

§ 105-61.102-4 Removal or mutilation of records.

Researchers may not remove records from a research room. Removing or mutilating records is forbidden by law and is punishable by fine or imprisonment or both (18 U.S.C. 2071). Researchers must check personal belongings, including briefcases, folders, coats, newspapers, or containers of any kind before entering a research room. Upon leaving, researchers must present for examination any article that could contain records. To ensure that records are not unlawfully removed or mutilated, the director may issue and post at the entrance to the research room instructions supplementing the rules in § 105-61.102.

9. Section 105-61.102-5 is amended by revising paragraph (b) to read as follows:

§ 105-61.102-5 Conduct.

* * * * *

(b) *Revocation of a researcher identification card.* If researchers who receive researcher identification cards refuse to comply with the rules and regulations of a NARS facility, or by their actions demonstrate that they present a danger to the records or a danger or annoyance to other researchers or employees, they may have their identification cards revoked by the director. A researcher whose card is revoked is denied research privileges at all NARS facilities and must receive a written notice of the reasons for the revocation within 3 workdays. A researcher whose identification card is revoked has 30 calendar days after the revocation to appeal in writing to the Archivist of the United States, General Services Administration (N), Washington, DC 20408, for reinstatement of research privileges. On receiving an appeal, the Archivist of the United States has 30 days to decide whether or not to reinstate the research privileges. If the revocation is upheld or if no appeal is made, the researcher may not apply for another identification card for 6 months from the date of the revocation, and all NARS facilities will be so notified. At the end of 6 months, a researcher whose identification card was revoked may reapply for a new card. Upon application, a new identification card is issued for a probationary period of 2 months. However, if the probationary reinstatement of a researcher poses a serious threat to the safety of persons or property, the director may deny probationary reinstatement and will so advise the applicant in writing within 3 workdays of receiving the application. At the end of the probationary period the researcher may apply for a new identification card valid for 2 years. If the researcher's conduct in NARS facilities during the probationary period is proper, a regular 2-year identification card is issued. If the researcher's conduct during the probationary period is found unsatisfactory or if the director denies reinstatement, research privileges will again be denied for 6 months. A second and any later revocation of research privileges may be appealed to the Archivist of the United States under the procedures in this section.

10. Section 105-61.102-6 is revised to read as follows:

§ 105-61.102-6 Keeping records in order.

A researcher must keep unbound records in the order in which they are delivered to him/her. Records that appear to be in disorder must not be rearranged by the researcher, but should be referred to the research room attendant. Researchers are not allowed to remove records from more than one container at a time. Researchers should bring to the attention of the research

room attendant microfilm put in the wrong box or file cabinet.

Dated: July 18, 1984.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 84-22270 Filed 8-21-84; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6563

[C-16379]

Withdrawal of Public Land for Sand Canyon Archeological Site; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 4,886.24 acres of public land from surface entry and mining for protection of archeological values for a period of 20 years. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: August 22, 1984.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from settlement, sale, location, or entry under all of the general land laws, including the mining laws, 30 U.S.C. Ch. 2, as a Bureau of Land Management protective withdrawal.

New Mexico Principal Meridian

T. 36 N., R. 17 W.,
Sec. 30, lots 1, 2, 3, 4, and E½W½.
T. 36 N., R. 18 W.,
Sec. 12, N½NE¼, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 13, W½E½, and W½;
Sec. 14, S½SW¼, and SE¼;
Sec. 15, S½SE¼;
Sec. 22, NE¼, E½W½, S½SE¼, NE¼ SE¼;
Sec. 23;
Sec. 24, W½E½, and W½;
Sec. 25;
Sec. 26, N½, N½SW¼, and SE¼;
Sec. 27, E½, and E½W½;
Sec. 36, N½NE¼.

The area described aggregates 4,886.24 acres in Montezuma County.

This order does not affect NW¼SE¼, sec. 22, T. 36 N., R. 18 W., which remains withdrawn by Public Land Order 3843.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of its mineral or vegetative resources other than under the mining laws. This withdrawal does not affect the oil and gas leases which presently exist on this site.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Inquiries concerning these lands shall be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 1037-20th Street, Denver, Colorado 80202.

Dated: August 13, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-22302 Filed 8-21-84; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 302, 303, 304 and 307

Child Support Enforcement Program; Computerized Support Enforcement Systems

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: Interim final rules published in the **Federal Register** on September 30, 1981 amended OCSE regulations at 45 CFR Parts 302, 303, and 304 to implement the new computerized child support enforcement system (CSES) provisions in section 405 of Pub. L. 96-265. The amendments to Part 304 increased Federal financial participation (FFP) to 90 percent for the costs of developing and enhancing certain approved CSESs. They also specified when FFP is available at the 75 percent rate (now 70 percent rate) for CSESs. The amendments to Part 302 added a new State plan requirement which a CSES must meet in order to be eligible for Federal matching at the 90 percent rate. In addition, the regulations amended Part 303 as follows: they specified criteria OCSE must determine exist prior to approving an advance planning document (APD) for a system funded at 90 percent FFP; they specified that approved CSESs funded at the 90 percent rate must be reviewed and evaluated by OCSE on a continuous basis; and they specified the conditions under which OCSE would suspend approval of APDs for these systems. This document makes changes to those interim final rules in response to the comments received and reorganizes and redesignates most of the regulations as a new 45 CFR Part 307. OCSE has also made several changes to the regulations as part of a Department-wide effort to simplify and make consistent the regulations that govern the availability of FFP for automated data processing systems.

Please note that the provisions of these regulations concerning Federal funding at the 90 percent rate for costs of hardware are effective through September 30, 1984. Effective October 1, 1984, the Child Support Enforcement Amendments of 1984 change section 455(a)(1)(B) of the Act to provide 90 percent Federal funding for the full cost of hardware components of a child support enforcement system. Separate regulations will be issued to implement the new provision.

EFFECTIVE DATE: August 22, 1984.

FOR FURTHER INFORMATION CONTACT: Michael P. Fitzgerald, (301) 443-5350.

SUPPLEMENTARY INFORMATION:

Statutory Requirements

Section 405 of Pub. L. 96-265 amends title IV-D of the Social Security Act (the Act) regarding CSESs. First, the amendment adds paragraph 455(a)(3) to the Act which requires the Secretary to provide Federal funding at the 90 percent rate for costs attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system that meets the requirements in paragraph 454(16), also added to the Act. The new paragraph 454(16) provides States with the option to amend their state plans to establish, in accordance with an APD approved under section 452(d) of the Act, a system that meets certain specified requirements. The new paragraph 452(d)(1) of the Act specifies criteria and requirements that an APD must satisfy in order for the Secretary to approve a CSES for Federal matching at 90 percent. The new paragraph 452(d)(2)(A) of the Act requires OCSE to review the development and operation of CSESs funded at 90 percent FFP to determine whether they conform to the approved APDs and the conditions for an approvable system specified in paragraph 454(16) of the Act. The new

paragraph 452(d)(2)(B) of the Act requires the Secretary to suspend approval of any APD for a system funded at 90 percent if the Secretary determines that the CSES fails to comply substantially with the requirements in the APD. Finally, the new paragraph 452(e) of the Act requires the Secretary to provide any technical assistance considered necessary to assist the States in developing, implementing and providing security for CSESs funded at 90 percent. Section 405 has an effective date of July 1, 1981.

Provisions of Interim Final Regulations

The interim final regulations published on September 30, 1981 contained the following provisions.

1. Computerized Child Support Enforcement Eligible for 90 Percent FFP

45 CFR 302.85, Computerized child support enforcement systems eligible for 90 percent FFP, (1) defines several technical terms used in the automated data processing field; (2) permits a State to elect in its State plan to provide for the establishment of a CSES that will assist State and local IV–D agencies in the administration of the approved State plan; and (3) requires a system funded at 90 percent FFP to be planned, designed, developed, installed or enhanced in accordance with an APD approved under § 303.65 and requires the system to control, account for, and monitor all the factors in the child support collection and paternity determination processes under the State plan.

2. Approval of Advance Planning Documents for CSESs Funded at 90 Percent FFP

45 CFR 303.65, Approval of advance planning documents for computerized child support enforcement systems eligible for 90 percent FFP, establishes requirements that an initial and updated APD must meet in order to be approvable for Federal funding at 90 percent. The APD must specify how the objectives of the system will be met and represent the sole systems effort being undertaken by the State in accordance with 45 CFR 302.85.

Section 303.65 also requires the State to update the APD budget if it determines that a cost overrun is expected to exceed the total APD budget resulting in the need for additional Federal funding and/or if the Federal share of the total APD budget exceeds $100,000 and the overrun would result in a direct cost category overrun that is expected to exceed 5 percent of the total budget.

3. Review of Computerized Child Support Enforcement Systems Funded at 90 Percent FFP.

45 CFR 303.66, Review of computerized child support enforcement systems eligible for 90 percent FFP, specifies that OCSE will review, assess and inspect on a continuous basis the planning, design, development, installation, enhancement and operation of CSESs funded at 90 percent FFP.

4. Suspension of Approval of Advance Planning Documents for CSESs Funded at 90 Percent FFP

45 CFR 303.67, Suspension of approval of advance planning documents for computerized child support enforcement systems eligible for 90 percent FFP, provides that OCSE will suspend approval of an APD as of the date the system ceases to comply substantially with the approved APD specifications. If OCSE determines that a State has taken actions, as provided in the notice of suspension, that will qualify its systems effort for FFP at the 90 percent and/or 70 percent rate, as appropriate, Federal funding will resume.

5. FFP Rates for Computerized Child Support Enforcement Systems

45 CFR 304.90 Federal financial participation at the 90 percent rate for computerized child support enforcement systems, makes FFP available at the 90 percent rate in expenditures that OCSE determines are consistent with an APD approved under § 303.65 for CSESs that meet the requirements found in § 302.85. States are required by § 304.90 to obtain approval from OCSE for cost overrun expenditures by updating their APD budget and to obtain approval for costs not covered in an approved APD by amending their APD. As with all other costs eligible for Federal funding under the IV–D program, costs of developing a CSES can be matched only to the extent that a CSES is carrying out child or child and spousal support enforcement activities specified in a State's title IV–D State plan.

It should be noted that OCSE regulations at 45 CFR 304.24 cover conditions for FFP in costs of non-expendable personal property. The Department published a final rule (47 FR 41575 on September 21, 1982) which revised § 304.24 to cross-reference new regulations at 45 CFR Part 95, Subpart G, on non-expendable personal property published in the same document. Prior to publication of the departmental regulations, § 304.24 only covered the capitalization and depreciation of property reimbursed at the 75 percent rate because that was the only rate at which expenditures were matched at the time this regulation was adopted. The new departmental regulations cover property reimbursed at both the 70 percent and 90 percent FFP rates under the Child Support Enforcement program.

Section 304.90 also establishes the consequences of suspension of an APD for a Statewide system funded at 90 percent FFP. It specifies that, in conjunction with suspending approval of an APD, OCSE shall disallow all FFP the CSES as of the date the State failed to comply substantially with the approved APD. Should OCSE determine that the State has taken the necessary actions as specified in the notice of termination, it will notify the State that FFP is again available. If a State does not wish to take the actions necessary to resume Federal funding at the 90 percent rate, it may apply for FFP at the 70 percent rate under the requirements of Part 95, Subpart F (see the discussion below).

Finally § 304.90 requires the State IV–D agency to submit annual updates to the APD for a system funded at 90 percent FFP at least 60 days before the beginning of the month that coincides with the month in which the initial APD was approved.

45 CFR 304.91 specifies that: (1) FFP is available at the 70 percent rate for the operation of CSESs that meet the requirements specified in § 302.85, if the APD approval requirements in § 303.65 are met; and (2) FFP is available at the 70 percent rate in expenditures for CSESs approved under 45 CFR Part 95, Subpart F. Under this section, 70 percent funding may be secured both retroactively and prospectively for a systems effort which failed to comply substantially with an APD which had been approved for 90 percent funding. Thus, the expenditures disallowed in regard to that effort may become eligible for 70 percent funding if the State applies for funding under the requirements of Part 95, Subpart F, and is granted approval from OCSE to secure this reduced funding. Future funding at the 70 percent rate for this same effort may also be granted by OCSE in the same fashion.

Reorganization and Redesignation of the Interim Final Rules

The Department of Health and Human Services (HHS) has decided to simplify and make consistent to the maximum extent possible under current law all HHS regulations that govern the availability of FFP for automated data processing systems.

As part of this effort, most of the interim final rules published in the **Federal Register** to implement section

405 of Pub. L. 96–265 are reorganized and redesignated in this document as 45 CFR Part 307. The interim final rules at § 302.85(b) are redesignated as a new § 302.85. In addition, we have amended 45 CFR 304.20 to cross-reference the funding provisions for computerized support enforcement systems in the new 45 CFR Part 307. We believe that these changes will make the regulations more understandable to those who use them.

Redesignation and Derivation Tables

For the convenience of readers, we have developed the following redesignation and derivation tables to indicate the relationship between the sections in the interim final rules and these final regulations.

Old section	New section
302.85(a)	307.1.
302.85(b)	302.85.
302.85(c)	307.10.
303.65(a)	307.1.
303.65 (b), (c) and (d)	307.15 (b), (c) and (d).
303.66(a)	307.1
303.66(b)	307.25.
303.67(a)	307.1.
303.67 (b) and (c)	307.40.
304.90(a)	307.1.
304.90(b)	307.30(a) and 304.20(c).
304.90 (c), (d), (e) and (f)	307.30 (b), (c), (d) and (e).
304.90(g)	307.20.
304.91(a)	307.1.
304.91(b)	307.35 and 304.20(b) (9) and (10).

New section	Old section
302.85	302.85(b).
304.20(b) (9) and (10)	304.91(b).
304.20(c)	304.90(b).
307.0	New.
307.1	302.85(a), 303.65(a), 303.66(a) 303.67(a), 304.90(a) and 304.91(a).
307.10	302.85(c).
307.15(a)	New.
307.15 (b), (c) and (d)	303.65 (b), (c) and (d).
307.20	304.90(g).
307.25	303.66(b).
307.30	304.90 (b), (c), (d), (e) and (f).
307.35	304.91(b).
307.40	303.67 (b) and (c).

Changes Made To Interim Final Regulations

On December 23, 1982, final regulations with a comment period were published in the **Federal Register** (47 FR 57277) to implement section 2332 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981, and section 171(a)(1) of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982. These final rules revised the interim final rules by:

—Removing the word "child" where it appeared in § 302.85; and

—Substituting the phrase "computerized support enforcement" for "computerized child support enforcement" wherever it appeared in §§ 303.65, 303.66, 303.67, 304.90 and 304.91, redesignated as §§ 307.15, 307.25, 307.40, 307.30 and 307.35.

In response to the comments received on the interim final rules, we have made four changes to the regulations.

1. Section 307.10(b)(13) was added to require a State's CSES developed or enhanced under § 302.85 to be compatible with the State's Medicaid system with respect to the transfer of the medical support information specified in 45 CFR Part 306.

2. Section 304.90(e), redesignated as § 307.30(d), is revised to specify that, if OCSE suspends approval of a State's APD and later reinstates its approval of the APD, the State cannot receive FFP at either the 70 or 90 percent rates for any costs incurred under the APD during the period of suspension. The disallowed expenditures may become eligible for 70 percent funding, however, if the State submits an APD under 45 CFR Part 95, Subpart F.

3. Section 304.90(g)(1), redesignated as § 307.20(a), is revised to specify that States must submit their APDs in accordance with the submission process prescribed in 45 CFR Part 95, Subpart F.

4. Section 304.91(b)(1), redesignated as §307.35(a), is revised to clarify that the requirements of §307.10 must be met in order to obtain 70 percent FFP in expenditures for the operation of systems approved under § 307.15.

We have also made several changes to the regulations as part of our effort to simplify and make consistent all HHS regulations that govern the availability of FFP for automated data processing systems.

1. The new 45 CFR Part 307, Computerized Support Enforcement Systems, includes an introductory regulation at § 307.0 that summarizes the content of Part 307.

2. The definitions of the terms "Design," "Development" and "Installation" are clarified in § 302.85(a), redesignated as § 307.1, to specify that each term includes hardware to the extent necessary for the CSES phase being defined. This is consistent with current OCSE policy.

3. Section 307.15(a) more clearly prescribes the requirements for OCSE approval of an APD for a CSES as reflected in the language of section 452(d)(1) of the Act. The interim final rules at § 302.85 were unclear on these requirements.

We have also revised § 303.65(d)(2), redesignated as § 307.15(d)(2), to clarify the conditions under which States must update the APD budget.

Waiver of Proposed Rulemaking

The Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, if the Department for good cause finds that a notice of proposed rulemaking is unnecessary, impracticable, or contrary to the public interest, it may dispense with such notice. The Department finds that there is good cause to dispense with proposed rulemaking with respect to the reorganization and redesignation of the interim final rules and related changes because they are not substantive or policy significant, and accordingly, a notice of proposed rulemaking is unnecessary.

Discussion of Comments

Comments on the interim final rules were received from six States and one individual. While the commenters generally supported the interim final regulations, several changes were recommended. A summary of the substantive comments and our responses follows.

CSES Requirements (45 CFR 302.85 Redesignated Here as 45 CFR 302.85, 307.1 and 307.10)

1. *Comment:* One State asked whether the regulations permit the States to meet the requirements in § 302.85(c) (redesignated here as § 307.10) via combined automated/manual systems when it would be cost beneficial to develop and use such systems.

Response: § 302.85 requires CSESs funded at 90 percent FFP to meet all of the functional requirements prescribed in the redesignated § 307.10(b). Under paragraph (b), each CSES must control, account for, and monitor all the factors in the support collection and paternity determination process under the State plan. The States may comply with § 302.85 via combined automated/manual systems that meet all of the functional requirements prescribed in § 307.10(b). However, OCSE will only approve a combined automated/manual system for 90 percent FFP if the proposed system is the most efficient and effective way to carry out the functional requirements referred to above. We envision any one of the six types of automated system design alternatives described below in the response to question 5 to be approvable for 90 percent FFP in a State. These alternatives can be used in various combinations within a State. (Also see response to question 6 below.)

2. *Comment:* One State commented that the provision in the regulations that requires the CSES to interface with the State's automated AFDC system will result in considerable modification-

related costs to States which have, or are in the process of developing, automated AFDC systems.

Response: Section 454(16)(B) of the Act and the implementing regulations at the redesignated 45 CFR 307.10(b)(10) require each CSES to interface with the records of the State's AFDC program to determine whether a support collection causes a change in eligibility for, or the amount of, aid under the AFDC program. Thus, a CSES is required to interface with the State's automated AFDC system when State AFDC records are maintained as part of the system. The provision at the redesignated 45 CFR 307.10(b)(9) that the CSES accept case referrals and update information from the State's AFDC program does not require that the CSES interface with the State's automated AFDC system. Thus, the State has some flexibility and discretion in determining how it will meet these requirements.

3. *Comment:* One State commented that, because HHS is encouraging interface between State CSESs and State medical assistance program systems, the final regulations should address the issue of compatibility between the two systems.

Response: Section 454(16) of the Act prescribes the requirements that a CSES must meet to qualify for 90 percent FFP. Although the statute does not require CSESs developed or enhanced with 90 percent FFP to be compatible with State Medicaid mechanized claims processing and information retrieval systems, in response to the above comment, we are requiring States to ensure that new or enhanced systems are compatible with the State Medicaid system in order to provide for the most cost-effective and efficient means of transferring medical support information to State Medicaid agencies under 45 CFR Part 306.

4. *Comment:* One State commented that the definition of the term "Computerized Child Support Enforcement System" should be revised to indicate that the reference to "child support" in the definition includes "medical support" when the State IV–D agency has elected in its State plan to secure and enforce medical support obligations on behalf of the State Medicaid agency.

Response: Section 454(16) of the Act requires each new or enhanced CSES to control, account for, or monitor any of the factors related to securing and enforcing medical support obligations when the State IV–D agency has elected in its State plan to do so under cooperative agreement with the State Medicaid agency. Nonetheless, the IV–D agency may include these items as part of a CSES development or enhancement effort. Funding is available for CSES developmental, enhancement and operational costs incurred in connection with medical support enforcement activities performed under the agreement (see 45 CFR 306.30 and 42 CFR 433.152(b)(2)).

Approval of an APD for a Statewide CSES (45 CFR 303.65, Redesignated Here as 45 CFR 307.1 and 307.15)

5. *Comment:* One State commented that the discussion in the preamble to the interim final rules regarding two of the six system design alternatives we envision to be approvable for 90 percent FFP conflicts with § 303.65(b)(1) (redesignated here as § 307.15(b)(1)) which states in part that "the APD must represent the sole system effort being undertaken by the State."

Response: We agree that the fourth and sixth system design alternatives presented in the interim final rules as approvable for 90 percent FFP do not represent a single State systems effort. Therefore, we have revised the acceptable design alternatives as follows: (1) State management system with local components performing major functions; (2) comprehensive State system with little or no local automated functioning other than data transmission; (3) comprehensive local system meeting all functional requirements and developed under the State APD as a component of a State system; (4) State management system with local feeder system performing limited functions; (5) improvement of an existing State system; and (6) improvement of an existing local system as part of a State management system.

6. *Comment:* One State suggested that the interim final rules at 45 CFR 303.65(b)(2) (redesignated here as § 307.15(b)(2)) be revised to indicate that the State would not have to install an automated CSES in counties with small IV–D caseloads.

Response: The regulations at the redesignated 45 CFR 307.15(b)(2) do not require the States to install the CSES in counties with small caseloads. Instead, § 307.15(b)(2) requires the APD to specify how the objectives of the CSES prescribed in § 307.15 will be carried out throughout the State. We believe that a State could use any one of six basic CSES design alternatives and meet the requirements prescribed in § 307.15(b)(2). The State can use these alternatives in various combinations within the State. For example, a State determines that the most efficient and effective way to carry out the functional requirements prescribed in § 307.15 throughout the State is to develop a State management system with local feeder systems in all but three counties within the State. The feeder systems would perform limited functions and transmit all necessary information to the State management system. The three remaining counties, all with small IV–D caseloads, would manually maintain the information necessary to meet the functional requirements prescribed in § 307.15. Such counties would provide all necessary information to the State via hard copy for input into the State management system. The State system will use the information received from all counties within the State to meet the CSES functional requirements.

7. *Comment:* One State indicated that the reference to 75 percent FFP (now 70 percent FFP) is confusing because § 303.65 (redesignated here as § 307.15) is entitled "Approval of Advance Planning Documents for Computerized Child Support Enforcement Systems Eligible for 90 Percent FFP."

Response: We believe that the references to 70 percent FFP in the redesignated § 307.15 are appropriate because the APD must address all costs of the proposed system, including the expenditures for the operation of the CSES which are reimbursable at the 70 percent rate (see § 307.35). The title of § 307.15 does not indicate that all expenditures for a CSES established under an appoved APD are eligible for 90 percent Federal funding. Rather, the title distinguishes that the regulation deals with the approval of APDs for systems that are eligible for 90 percent FFP (except for operating costs), as opposed to the regulations at 45 CFR Part 95, Subpart F, dealing with systems funded strictly at the 70 percent rate.

8. *Comment:* One State questioned the appropriateness and feasibility of requiring the use of the Model CSES or its functional equivalent as a condition for 90 percent Federal funding.

Response: The regulations do not require the States to use the Model CSES or its functional equivalent as a condition for 90 percent FFP. Rather, the regulations at § 307.15(b)(11) require the States to describe each alternative system considered including the Model CSES, any State system identified by OCSE for consideration and any State system already in place in the State that might be enhanced to meet the requirements for 90 percent FFP. We believe this requirement is necessary to ensure that the State considers all feasible alternatives. The regulations require the States to consider the Model CSES because we believe that it is a technically sound, comprehensive, cost efficient system that is adaptable to environments in many States. However,

we recognize the fact that the Model CSES may at times not be the best alternative available.

9. *Comment:* One State objected to the provision in the interim final rules that requires proposed State systems to be compared with the OCSE Model system on a cost alone basis because the Model system has only been satisfactorily transferred to one State.

Response: We believe that the Model CSES is a technically sound, comprehensive and cost efficient system that with some modification is readily transferable to the environment in many States. The interim final rules under the heading "Approval of Advance Planning Documents for CSESs Funded at 90 Percent FFP" indicate that costs play a major role in the comparison of a proposed system to the Model. However, OCSE also compares each proposed State system to the Model using factors such as the capability to carry out the functional requirements prescribed in § 307.10, anticipated life span and compatability with State/local environment. In comparing a proposed State system to the Model CSES, we also take into consideration the estimated cost of modifying the Model to meet a State's particular needs. Although cost is a significant factor, OCSE will consider, as part of the APD review and approval process, all relevant factors before making a decision regarding a State's proposed system.

10. *Comment:* One State commented that the interim final rules at 45 CFR § 303.65(b)(13) (redesignated here as § 307.15(b)(13)) should not require the APD to include the methodology for determining operational costs because that is approved by the Regional Administrative Support Center, Division of Cost Allocation.

Response: § 307.15(b)(13) requires the APD to specify the basis for all direct and indirect costs of the proposed CSES because we want to ensure that costs associated with the CSES can be derived and apportioned appropriately. In addition, information regarding the basis of such costs is helpful in determining the validity of the proposed CSES budget. As the commenter indicated, however, the approval of an APD for a Statewide CSES does not constitute approval of the basis for determining direct and indirect costs for the development and operation of the proposed CSES. To comply with the new requirement at 45 CFR 95.509(a), a State that receives approval to develop a CSES must promptly submit for approval, as part of its amended cost allocation plan, the basis for determining direct and indirect costs of the development and operation of the system, including the methodology for determining costs of planning, design, development, installation, enhancement and operation to the Director, Division of Cost Allocation, in the appropriate HHS Regional Office. If the State does not submit an amended cost allocation plan as required by § 95.509, all CSES related costs would be disallowed in accordance with 45 CFR 95.519.

11. *Comment:* Two States objected to the provision in the interim final rules that requires the States to update annually their APDs for CSESs funded at 90 percent FFP in order to be eligible for continued Federal funding because it will place a heavy work burden and funding uncertainty on the States.

Response: The States must annually update their APDs for CSESs funded at 90 percent FFP because section 454(16) of the Act requires the States that have decided to develop CSESs with 90 percent Federal funding to establish such systems in accordance with an initial and annually updated APD. The regulations at § 303.65, redesignated as § 307.15, specify the requirements that an initial and annually updated APD must meet. Although the initial APD must meet all of the requirements prescribed in § 307.15(b), the annual APD update must meet only those requirements of paragraph (b) of the regulation prescribed in instructions issued by OCSE. In October 1981, OCSE issued a CSES guidance document entitled "Program Procedures Guide for 90 Percent Federal Financial Participation" which lists on pages II–13 and II–14 the requirements in § 307.15(b) that an annually updated APD must meet. We believe that these minimum APD update requirements are necessary to ensure that the States are developing systems consistent with approved APDs.

FFP for CSESs (45 CFR 304.90 and 304.91, Redesignated Here as 45 CFR 304.20(b) (9) and (10), 304.20(c), 307.1, 307.20, 307.30 and 307.35)

12. *Comment:* One State expressed concern regarding the requirement in the interim final rules at 45 CFR 304.90(c) (redesignated here as § 307.30(b)) which limits the availability of FFP at the 90 percent rate in expenditures for the rental or purchase of hardware or proprietary software. The commenter suggested that this is inconsistent with the availability of 90 percent Federal funding for equipment in other programs and requires the States to develop mechanisms to identify costs eligible for 90 percent Federal funding versus costs eligible for 70 percent Federal funding.

Response: Congress, in Senate Report No. 96–408, page 68, indicated that FFP in the cost of operating all CSESs is to remain at the 75 (now 70) percent rate. In addition, section 455(a)(3) of the Act limits the availability of FFP at the 90 percent rate to expenditures for the planning, design, development, installation or enhancement of approved CSESs that meet the requirements of the law. We believe that 70 percent Federal funding for expenditures in the rental or purchase of hardware and proprietary software is consistent with the intent of Congress and the provisions of the Act, because these items are part of the operating costs of the system. If a State needs help in developing a mechanism for identifying hardware and proprietary software eligible for 90 percent FFP versus 70 percent FFP, the State IV–D agency should request technical assistance from the Director, Division of Cost Allocation, in the appropriate Regional Office.

13. *Comment:* One State asked about the availability of Federal funding during the period that an APD is suspended.

Response: FFP is not available at either the 90 or 70 percent rate for the costs of systems efforts that are not consistent with an approved APD. Thus, FFP is not available in system expenditures incurred during the period of APD suspension except as provided in § 307.35(b). Since the interim final rules do not adequately address the availability of FFP for expenditures incurred during the period of APD suspension, we have specified in § 307.30(d) that FFP is not available at either the 90 or 70 percent rates in expenditures incurred after the date of APD suspension until OCSE determines that the State has taken the actions specified in the notice of suspension described in § 307.40(a)(2). Thus, if OCSE suspends approval of a State's APD and later reinstates its approval, the State cannot receive FFP for any costs incurred during the period of suspension. Under § 307.35(b), however, if OCSE suspends approval of an APD for 90 percent Federal funding, the State may apply for FFP at the 70 percent rate under 45 CFR Part 95, Subpart F and the expenditures disallowed with regard to the APD for 90 percent funding may become eligible for 70 percent funding on a retroactive basis.

14. *Comment:* One commenter suggested that, because the preamble to the interim final rules indicates that information States must submit in their APDs falls within the general scope of 45 CFR Part 95, Subpart F, and the content and process for submission of APDs specified in such regulations have been approved by the Office of

Management and Budget (OMB) under control number 0990–0058, the interim final rules should have indicated that the APD must be submitted in accordance with the submissions process prescribed in 45 CFR Part 95, Subpart F.

Response: We agree that the interim final rules should have specified that APDs must be submitted in accordance with the submission process prescribed in 45 CFR Part 95, Subpart F. Therefore, we have specified in the final regulations at 45 CFR 307.20(a) that States must submit their APDs in accordance with the submission process contained in 45 CFR Part 95, Subpart F.

15. *Comment:* One State commented that the interim final rules at § 304.91(b)(1) (redesignated here as § 307.35(a)) should be expanded to include more definitive guidelines.

Response: We agree that the provision regarding the availability of FFP at the 70 percent rate in expenditures for the operation of systems was not clear. Rather than repeating the system requirements listed in § 307.10, we have revised 45 CFR 307.35(a) to clarify by cross-reference that the requirements of § 307.10 must be met in order to obtain 70 percent FFP in expenditures for the operation of systems approved under § 307.15.

OMB Review

45 CFR 307.10(b) (1), (3), (4), (7) and (8) and 307.15 (b) and (c) contain information collection requirements. These requirements have been reviewed and approved by OMB. The OMB approval numbers are 0960–0343 and 0960–0344.

List of Subjects

45 CFR Parts 302, 303 and 304

Child welfare, Grant programs/social programs.

45 CFR Part 307

Child welfare, Grant programs/social programs, Computer technology.

Regulatory Impact Analysis

Total projected system costs at 90 percent Federal funding for FY 1983–1985 are $41.57 million. The total projected increase in Federal personnel costs for the same period is $893,800 for implementing the review requirements of the statute. We believe most of the system costs would be incurred even if Federal funding remained at 70 percent. Second, State and Federal government savings resulting from the activity are expected to far exceed total projected system costs. Finally, the system costs identified above are in large part the direct result of statutory change, rather than the provisions of the rules themselves. For these reasons, the Secretary has determined that this final rule is not a "major rule" under Executive Order 12291. Further, because the provisions of these rules primarily affect States, the Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities, and do not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

The interim final rules published at 46 FR 47788 on September 30, 1981, are adopted as final rules with the following changes:

1. 45 CFR 302.85 (a) and (c), 303.65, 303.66, 303.67, 304.90 and 304.91 are revised and redesignated as a new 45 CFR Part 307 which reads as follows:

PART 307—COMPUTERIZED SUPPORT ENFORCEMENT SYSTEMS

Sec.

307.0 Scope of this part.
307.1 Definitions.
307.10 Computerized support enforcement systems.
307.15 Approval of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP.
307.20 Submittal of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP.
307.25 Review of computerized support enforcement systems eligible for 90 percent FFP.
307.30 Federal financial participation at the 90 percent rate for computerized support enforcement systems.
307.35 Federal financial participation at the 70 percent rate for computerized support enforcement systems.
307.40 Suspension of approval of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP.

Authority: (Sec. 1102 of the Social Security Act (42 U.S.C. 1302) and secs. 452 (d) and (e), 454(16) and 455(a) of the Social Security Act (42 U.S.C. 652 (d) and (e), 654(16) and 655(a)).

§ 307.0 Scope of this part.

This part implements sections 452 (d) and (e), 454(16) and 455(a) of the Act which prescribe:

(a) The requirements that a computerized support enforcement system must meet in order to be eligible for Federal financial participation (FFP) at the 90 percent rate;

(b) The criteria the Office must determine exist prior to approving an advance planning document (APD) for a system funded at 90 percent FFP;

(c) The requirements and procedures for the submittal of an APD;

(d) The requirement for a continuous review of each approved computerized support enforcement system funded at the 90 percent rate;

(e) The availability of FFP at the 90 percent rate for the costs of developing, implementing and enhancing a computerized support enforcement system;

(f) The availability of FFP at the 70 percent rate for systems activities; and

(g) The conditions under which the Office will suspend approval of an APD for systems funded at 90 percent rate.

§ 307.1 Definitions.

"Advance planning document" or "APD"—The definition of this term found in § 95.605 of this title also applies to this section. (See § 307.15 of this part for specific requirements that APDs must meet for appropriate system costs to be funded at 90 percent FFP.)

"Computerized support enforcement system" means a system of software and hardware (that may have State and local components) which:

(1) Introduces, processes, accounts for and monitors data used by the Child Support Enforcement program in carrying out activities under the State plan; and

(2) Produces utilization and management information about support enforcement services as required by the State IV–D agency and Federal government for program administration and audit purposes.

"Design" or "system design" means a combination of narrative and diagrams describing the structure of the computerized support enforcement system. This includes the use of hardware to the extent necessary for the design phase.

"Development" means the detailing of system and program specifications, programming, and testing. This includes the use of hardware to the extent necessary for the development phase.

"Enhancement" means modifying or adding to an existing computerized support enforcement system.

"Installation" means the integrated testing of programs and subsystems, system conversion, and turnover to operational status, including pilot testing and data validation. This includes the use of hardware to the extent necessary for the installation phase.

"Operation" means the automated processing of (1) data associated with the provision of support enforcement services and collections (including the distribution and payment of incentives) and (2) reports on a continuous basis. Operation includes the use of supplies, software, hardware and personnel

directly involved in the daily functioning of computerized support enforcement systems.

"Planning" means:

(1) The preliminary project activity to determine the requirements necessitating the project, the activities to be undertaken, and the resources required to complete the project;

(2) The preparation of an APD;

(3) The preparation of a detailed project plan describing when and how the computer system will be designed and developed; and

(4) The preparation of a detailed implementation plan describing specific training, testing, and conversion plans to install the computer system.

"Requirements analysis" means determining and documenting the information needs and the functional and technical requirements the proposed computerized system must meet.

"Software"—The definition of this term found in § 95.605 of this title is also applicable to this part.

The definitions found in § 301.1 of this chapter are also applicable to this part.

§ 307.10 Computerized support enforcement systems.

At a minimum, each State's computerized support enforcement system established under the title IV–D State plan at § 302.85 of this chapter must:

(a) Be planned, designed, developed, installed or enhanced in accordance with an initial and annually updated APD approved under § 307.15 of this part; and

(b) Control, account for, and monitor all the factors in the support collection and paternity determination processes under the State plan. At a minimum this must include:

(1) Maintaining identifying information such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal zip codes) on individuals against whom support obligations are sought to be established or enforced and on individuals to whom support obligations are owed, and other data as required by the Office, and assuring compatibility with the systems of different jurisdictions to permit periodic screening to determine whether an individual is paying or is obligated to pay support in more than one jurisdiction;

(2) Periodically verifying the information on individuals referred to in paragraph (b)(1) with Federal, State and local agencies, both intrastate and interstate;

(3) Maintaining data necessary to meet Federal reporting requirements on a timely basis as prescribed by the Office;

(4) Maintaining information pertaining to:

(i) Delinquency and enforcement activities;

(ii) Intrastate, interstate and Federal location of absent parents;

(iii) The establishment of paternity; and

(iv) The establishment of support obligations;

(5) Collecting and distributing both intrastate and interstate support payments;

(6) Determining, collecting and distributing both intrastate and interstate incentive payments;

(7) Maintaining accounts receivable on all amounts owed, collected, and distributed;

(8) Maintaining costs of all services rendered, either directly or by interfacing with State financial management and expenditure information;

(9) Accepting case referrals and update information from the State's Aid to Families with Dependent Children (AFDC) program and using that information to identify and manage support enforcement cases;

(10) Interfacing with records of the State's AFDC program in order to determine whether a collection of support causes a change in eligibility for, or the amount of aid under, the AFDC program;

(11) Providing security to prevent unauthorized access to, or use of, the data in the system;

(12) Providing management information of all IV–D cases, both AFDC and non-AFDC, under the State plan from initial referral or application through collection and enforcement; and

(13) Ensuring compatibility with the State Medicaid system to provide for the transfer of the medical support information specified in 45 CFR Part 306.

(Approved by the Office of Management and Budget under control number 0960–0344.)

§ 307.15 Approval of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP.

(a) *Approval of an APD.* The Office shall not approve the initial and annually updated APD unless the document, when inplemented, will carry out the requirements of § 307.10 of this part and the conditions for APD approval specified in this section.

(b) *Conditions for initial approval.* In order to be approvable, an initial APD for a computerized support enforcement system described under § 307.10 must meet the following requirements:

(1) The APD must represent the sole systems effort being undertaken by the State in accordance with § 307.10;

(2) The APD must specify how the objectives of the computerized support enforcement system in § 307.10 will be carried out throughout the State; this includes a projection of how the proposed system will meet the functional requirements of § 307.10 and how the system will encompass all political subdivisions in the State within a reasonable period of time;

(3) The APD must assure the feasibility of the proposed effort and provide for the conduct of a requirements analysis study which addresses all system components within the State and includes consideration of the program mission, functions, organization, services, constraints, and current support related to the computerized support enforcement system;

(4) The ADP must indicate how the results of the requirements analysis study will be incorporated into the proposed system design, development, installation or enhancement;

(5) The APD must contain a description of each component within the proposed computerized support enforcement system as required by § 307.10 and must describe information flows, input data, and output reports and uses;

(6) The APD must describe the security requirements to be employed in the proposed computerized support enforcement system;

(7) The APD must describe the intrastate and interstate interfaces set forth in § 307.10 to be employed in the proposed computerized support enforcement system;

(8) The APD must describe the projected resource requirements for staff, hardware, and other needs and the resources available or expected to be available to meet the requirements;

(9) The APD must contain a proposed budget including a description of estimated expenditures by category and amount for:

(i) Items that are eligible for Federal funding at the 90 percent rate; and

(ii) Items related to operating the system that are eligible for Federal funding at the 70 percent rate;

(10) The APD must contain an implementation plan and backup procedures to handle possible failures in system planning, design, development, installation or enhancement;

(11) The APD must describe each alternative system considered including the advantages of the proposed system over the alternatives; if a Model system

or a State system that the Office has identified for consideration by State IV–D agencies in not proposed, these systems must be among the alternatives considered; if a system that is already in place in the State could be enhanced to meet the requirements for 90 percent FFP, that system must be among the alternatives considered;

(12) The APD must contain a cost benefit analysis of the proposed computerized support enforcement system that describes the proposed improvements to the IV–D program in both qualitative and quantitative terms;

(13) The APD must specify the basis for determining direct and indirect costs of the computerized support enforcement system during development and operation, including the methodology for determining costs of planning, design, development, installation or enhancement that are eligible for 90 percent Federal funding versus costs of operations that are eligible for 70 percent Federal funding; and

(14) The APD must contain a statement indicating the period of time the State expects to use the proposed computerized support enforcement system.

(c) *Conditions for approval of annual update.* The APD for a computerized support enforcement system described under § 307.10 must be updated annually. In order to be approvable, the annual update of an APD for a computerized support enforcement system described under § 307.10 must meet only those requirements of paragraph (b) of this section that are prescribed by instructions issued by the Office.

(d) *Periodic update of APD budget.* The budget required under paragraph (b)(9) of this section must be updated any time a cost overrun is anticipated if as a result of the cost overrun:

(1) The total APD budget will be exceeded, resulting in the need for additional Federal funding; or

(2) The Federal share of the total APD budget exceeds $100,000 and the increase of a direct cost category is expected to exceed 5 percent of the total budget. (See § 307.30(e) of this part on treatment of cost overruns.)

(Approved by the Office of Management and Budget under control number 0960–0343.)

§ 307.20 Submittal of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP.

The State IV–D agency must:

(a) Submit an APD for a computerized support enforcement system, approved and signed by the State IV–D Director and the appropriate State official, in accordance with the submission process prescribed in 45 CFR Part 95, Subpart F;

(b) Submit annual updates of the APD at least 60 days before the beginning of the month that coincides with the month in which the initial APD was approved; and

(c) Obtain approval from the Office before incurring costs for activities not covered under an approved APD by amending the APD.

§ 307.25 Review of computerized support enforcement systems eligible for 90 percent FFP.

The Office will on a continuous basis review, assess and inspect the planning, design, development, installation, enhancement and operation of computerized support enforcement systems developed under § 307.10 of this part to determine the extent to which such systems:

(a) Meet the requirements found in § 307.15 of this part; and

(b) Meet the conditions in §307.10.

§ 307.30 Federal financial participation at the 90 percent rate for computerized support enforcement systems.

(a) *Conditions that must be met for FFP.* Federal financial participation is available at the 90 percent rate in expenditures for the planning, design, development, installation or enhancement of a computerized support enforcement system as described in § 307.10 of this part if:

(1) The Office has approved an APD in accordance with § 307.15 of this part;

(2) The Office determines that the system meets the requirements specified in § 307.10;

(3) The Office determies that the expenditures incurred are consistent with the approved APD;

(4) The Office determines that the computerized support enforcement system is designed effectively and efficiently and will improve the management and administration of the State IV–D plan;

(5) The State IV–D agency agrees in writing to use the system for a period of time which is consistent with the APD approved by the Office, or for any shorter period of time which the Office determines is sufficient to justify the Federal funds invested; and

(6) The State or local government has ownership rights in software, software modifications and associated documentation that is designed, developed, installed, or enhanced with 90 percent FFP under this section subject to the Department of Health and Human Services license specified in paragraph (c) of this section.

(b) *Limitation on reimbursement of hardware and proprietary software.* FFP at the 90 percent rate is not available in expenditures for the rental or purchase of hardware or proprietary software except to the limited extent that the hardware or proprietary software is used for the planning, design, development, installation or enhancement of a computerized support enforcement system as described in § 307.10. (See § 307.35 of this part regarding reimbursement at the 70 percent rate.)

(c) *HHS rights to software.* The Department of Health and Human Services reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for Federal government purposes, software, software modifications, and documentation developed under § 307.10. This license would permit the Department to authorize the use of software, software modifications and documentation developed under § 307.10 in another project or activity funded by the Federal government. (Also see 45 CFR 95.617.)

(d) *Consequences of suspension of the APD.* If the Office suspends approval of an APD in accordance with § 307.40 of this part during the planning design, development, installation, enhancement or operation of the system:

(1) The Office shall disallow FFP as of the date the State failed to comply substantially with the approved APD; and

(2) FFP at the 90 and 70 percent rates is not available in any expenditures incurred under the APD after the date of the suspension until the date the Office determines that the State has taken the actions specified in the notice of suspension described in § 307.40(a)(2). The Office will notify the State in writing upon making such a determination. (See § 307.35(b) regarding reimbursement for disallowed expenditures under Part 95, Subpart F of this title.)

(e) *Treatment of cost overruns.* FFP is available in cost overrun expenditures described in § 307.15(d) only if the expenditures are approved by the Office. (See § 307.15 for procedures for initiating the approval process.)

§ 307.35 Federal financial participation at the 70 percent rate for computerized supported enforcement systems.

Federal financial participation at the 70 percent rate is available only in computerized support enforcement system expenditures for:

(a) The operation of systems that meet the requirements specified in § 307.10 of this part if the conditions for APD approval in § 307.15 of this part are met; and

(b) Systems approved in accordance with Part 95, Subpart F of this title. This may include expenditures for a system which were disallowed by the Office because the system failed to comply substantially with an APD approved under § 307.15.

§ 307.40 Suspension of approval of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP.

(a) *Suspension of approval.* (1) The Office will suspend approval of the APD for a computerized support enforcement system approved and developed under § 307.10 of this part as of the date that the system ceases to comply substantially with the criteria, requirements, and other provisions in the APD. Federal funding will be disallowed as described in § 307.30(d) of this part.

(2) The Office will immediately notify the State in writing of the decision to suspend approval of the APD. The notice will give the reasons for and effective date of the suspension and specify the actions required for the State to receive Federal funding in the future for its systems activities.

(b) *Duration of suspension.* The suspension of approval of an APD under paragraph (a) shall remain in effect until the Office determines that actions required for Federal funding in the future, as specified in the notice of suspension, have been taken and the Office so notifies the State.

2. The table of contents to 45 CFR Parts 303 and 304 are amended to read as follows:

PART 303—[AMENDED]

a. The table of contents to 45 CFR Part 303 is amended by removing the following titles:

"303.65 Approval of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP."

"303.66 Review of computerized support enforcement systems eligible for 90 percent FFP."

"303.67 Suspension of approval of advance planning documents for computerized support enforcement systems eligible for 90 percent FFP."

PART 304—[AMENDED]

b. The table of contents to 45 CFR Part 304 is amended by removing the following titles:

"304.90 Federal financial participation at the 90 percent rate for computerized support enforcement systems."

"304.91 Federal financial participation at the 70 percent rate for computerized support enforcement systems."

PART 302—[AMENDED]

3. 45 CFR 302.85(b) is revised to read as follows:

§ 302.85 Computerized support enforcement systems eligible for 90 percent FFP.

The State plan may provide for the establishment of a computerized support enforcement system funded at 90 percent Federal financial participation that meets the requirements in § 307.10 of this chapter.

4. 45 CFR 304.20 is amended by adding new paragraphs (b)(9) and (10) and (c) to read as follows:

§ 304.20 Availability and rate of federal financial participation.

* * * * *

(b) * * *

(9) The operation of systems that meet the conditions of § 307.35(a) of this chapter; and

(10) Systems approved in accordance with 45 CFR Part 95, Subpart F. (See § 307.35(b) of this chapter.)

(c) Federal financial participation is available at the 90 percent rate for the planning design, development, installation and enhancement of computerized support enforcement systems that meet the requirements in § 307.30(a) of this chapter.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302) and Sections 452 (d) and (e), 454(16) and 455(a) of the Social Security Act (42 U.S.C. 652 (d) and (e), 654(16) and 655(a))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: April 5, 1984.

Martha A. McSteen,

Director, Office of Child Support Enforcement.

Approved: May 1, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-22252 Filed 8-21-84; 8:45 am]

BILLING CODE 4190-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

Amendment To Reflect a Reorganization of the Private Radio Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Private Radio Bureau is abolishing its Planning Staff and distributing its functions to the Administration and Management Staff, the Land Mobile and Microwave Division, and the Special Services Division. This action is taken to promote operational efficiency.

EFFECTIVE DATE: May 18, 1984.*

FOR FURTHER INFORMATION CONTACT: Richard D. Goodfriend, (202) 632-7513.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies).

Order

In the matter of amendment of Part 0 of the Commission's Rules to reflect a reorganization of the Private Radio Bureau.

Adopted: May 16, 1984.

Released: May 18, 1984.

By the Commission.

1. The Commission has under consideration proposed changes in the organization of the Private Radio Bureau. Implementation of the proposed changes would require amendment to § 0.132 of the Commission's Rules and Regulations.

2. To promote operational efficiency, the Commission is hereby approving the internal restructuring of the Private Radio Bureau to abolish the Planning Staff. The functions currently performed by the Planning Staff will be decentralized and performed by elements of the Administration and Management Staff, the Land Mobile and Microwave Division, and the Special Services Division. Part 0 of the Rules and Regulations, which describes the organization of the Commission, is being amended to reflect this change.

3. The amendments adopted herein pertain to agency organization. The prior public notice and comment procedures and effective date provisions of Section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are

*Note.—Late publication is due to late receipt of this document by the FCC representative and the Office of the Federal Register.

therefore inapplicable. Authority for the amendments adopted herein is contained in sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, it is ordered, effective May 18, 1984 that Part 0 of the Rules and Regulations is amended as set forth in the Appendix hereto.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 0—[AMENDED]

Part 0 of Chapter 1 of Title 47 of the Code of Federal Regulations is hereby amended as indicated below.

Section 0.132 is revised to read:

§ 0.132 Units in the Office.

The Private Radio Bureau is comprised of the following units:

(a) Office of the Bureau Chief;

(b) Administration and Management Staff;

(c) Land Mobile and Microwave Division;

(d) Licensing Division; and

(e) Special Services Division.

[FR Doc. 84-22250 Filed 8-21-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-842; FCC 84-388]

Elimination of Unnecessary Broadcast Regulation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action eliminates three existing Commission policies restricting the broadcast or cablecast of horse race programming and advertising: Section 73.4125, Horse racing information broadcasts; § 73.4126, Horse racing information SCA transmissions; and § 73.4130, Horse racing: off-track and pari-mutuel betting advertising.

This action is taken by the Commission in its ongoing efforts to eliminate policies and rules which are no longer warranted or required by the public interest.

This action eliminates program content restrictions upon horse race programming and advertising and allows stations to respond to the programming preferences of their audiences.

EFFECTIVE DATE: September 24, 1984.

FOR FURTHER INFORMATION CONTACT: James A. Hudgens, Office of Plans and Policy, (202) 653-5940.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio and television broadcasting.

Report and Order

In the matter of Elimination of Unnecessary Broadcast Regulation; MM Docket 83-842.

Adopted: August 8, 1984.

Released: August 17, 1984.

By the Commission: Commissioner Rivera absent.

1. This action is in response to our *Notice of Proposed Rule Making* adopted August 4, 1983[1] in the above-captioned proceeding which proposes the deletion or substantial modification of three Commission policy statements which restrict the broadcasting and cablecasting of horse race programming and betting advertisements. The August 4, 1983 *Notice*, and a companion *Policy Statement and Memorandum Opinion and Order*[2] adopted the same day in the same proceeding, are part of the Commission's on-going review of broadcast "underbrush" regulation in which we propose to eliminate or modify various broadcast policies and rules which are no longer warranted or required by the public interest. Those two August 4 actions focused upon "underbrush" policies which directly or indirectly affect broadcast program content.

2. "Underbrush" is defined as the accumulation of Commission policies, doctrines, declaratory rulings, rules, and interpretive statements which have grown up around major regulations [and broadcast licensees] over the years. In our two August 4 actions, selected program content policies were reviewed for their continued validity, in light of both First Amendment and regulatory cost/benefit considerations. We explained that "underbrush" matters have the potential to impede the competitive marketplace by imposing unnecessary restraints upon licensee editorial discretion. In the *Policy Statement* we eliminated some ten broadcast policies but, in the *Notice* requested comment on the three additional horse race programming and advertising policies both because they were adopted, in principal part, through notice and comment procedures and because we sought current views and information on the subject, the original policies having been promulgated more than twenty years ago.

3. Those comments and replies have now been received and, upon review, we have concluded that we should no longer retain any of the subject policies. Circumstances have changed so substantially since promulgation of the policies that their continued retention cannot be justified. More importantly, however, we have determined that the collective policies unnecessarily interfere with licensees' editorial discretion by severely restricting horse race programming and advertising without a clear and compelling showing that the public interest requires such governmental intervention. Further, the policies raise cost considerations for all parties affected—consumers, licensees, the horse race agribusiness, state and local governmental entities, and this Commission—without counterbalancing public benefits. Ultimately, these policies may impede the efficient functioning of the marketplace by limiting licensees' abilities to fully respond to the programming preferences of their audiences. Importantly, we believe that elimiation of the policies is unlikely to have any detrimental effect upon the public, inasmuch as the Justice Department in its comments has informed us that it will continue to vigorously enforce the federal statutes prohibiting illegal gambling activities [i.e., 18 U.S.C. 1084, 1952, 1955, and 1962], and that elimination of the policies "is not likely to lead to widespread abuses by broadcast licensees."

The Policies

4. *Section 73.4125 Horse racing information broadcasts,*[3] *Section 73.4126 Horse racing information SCA transmissions;*[4] and *Section 73.4130 Horse racing; off-track and pari-mutuel betting advertising.*[5] These are the Commission's collective policies concerning horse race programming and advertising which are the subject of this proceeding. The first policy statement was issued following the enactment in 1961 of Pub. L. 87-216 (18 U.S.C. 1084) designed to prevent organized gambling interests from using interstate wire

[1] *Notice of Proposed Rule Making in the Matter of Elimination of Unnecessary Broadcast Regulation*, MM Docket No. 83-842, adopted August 4, 1983, —— FCC 2d ——, 1983.

[2] *Elimination of Unnecessary Broadcast Regulation and Inquiry into Subscription Agreements Between Radio Broadcast Stations and Music Format Companies*, Dockets MM 83-842 and No. 19743, adopted August 4, 1983, —— FCC 2d ——, 1983.

[3] *See, Horse Racing Information*, 36 FCC 1571 (1964).

[4] *See, Street Broadcasting Corporation*, 72 FCC 2d 793 (1979).

[5] *See, Horse Racing Information (OTB)*, 32 FCC 2d 705 (1971), clarified 41 FCC 2d 172 (1973). (b) *See, Horse Racing Information*, 41 FCC 2d 893 (1973).

facilities to transmit wagering information. The Commission, acting upon its own initiative, issued a policy statement cautioning its licensees against the potential misuse of broadcast stations to disseminate information which might be of assistance to illegal gambling activities. This policy was amplified in a subsequent 1964 policy statement which effectively prohibited the following practices: (1) Live broadcasts of a full program of races; (2) broadcasting detailed "prerace" information; (3) broadcasting "off times" as soon as such information is available; (4) broadcasting race results and prices paid before the next race; (5) and broadcasting information sponsored by publishers of "scratch-sheets" or similar publications.[6] The second horse racing policy, contained in Section 73.4126, simply clarified that a New York FM station could use its Subsidiary Communications Authorization (SCA) to transmit horse racing information to legal off-track betting parlors. The third horse racing policy (Section 73.4130) actually consists of three separate Commission actions in 1971 and 1973 which interpreted and amplified the 1964 Policy Statement. The first such action was taken in response to a request by the New York City Off-Track Betting Corporation (OTB) for a declaratory ruling on some ten hypothetical broadcasts of cablecasts. The requests and our rulings thereon are summarized as follows:

(1) replays of selected races on which OTB accepted wagers (denied); (2) results of all races, with odds and other details, on which OTB accepted wagers (denied); (3) live showings of some or all races (full program of races is inconsistent with 1964 policy); (4) news reports of some or all subjects in (1)–(3), (bona fide news stories permissible); (5) advertisements of OTB, including explanations of how to use OTB facilities (only "institutional advertisements" permitted); (6) documentary programs (denied); (7) transmission by wire of racing information to OTB (permissible); (8) dissemination by telephone of racing information to OTB (permissible); and (9) and (10) daily thirty minute programs with replays of some races and live coverage of the final race at a given track (permissible).

In a reconsideration of the above action, the Commission issued a ruling permitting advertisements "which encourage people to patronize the State operated off-track organization and which explain how to use OTB facilities." The third Commission action referred to in Section 73.4130 was a clarification of this latter action, in which the Commission granted a request by OTB that the nature of advertising permitted OTB "will be equally acceptable for advertising the pari-mutuel tracks which are licensed by the state for the same purpose that OTB has been authorized."

The Notice

5. After summarizing these policies in our *Notice*, we observed (Par. 9) that:

> * * * of all the Commission's policies and rules dealing with broadcast program content, the collective [horse race] policies possibly represent our most stringent regulation—yet this is accomplished not by statute or rule but by a series of policy statements. Thus these policies are appropriate for review in this phase of our "underbrush" proceeding where we are scrutinizing policies which affect program content to determine if they are unwarranted or unnecessary.

The *Notice* then requested comments from both the public and interested parties on a number of specific topics: (1) Our basic jurisdiction in this area; (2) the continued validity of these policies some twenty years after their adoption, particularly in light of changed societal attitudes towards gambling and the Commission's increased reliance upon license discretion and marketplace forces to supplant strict regulation; (3) the effect of the policies upon cablecasting *vis-a-vis* broadcasting; (4) whether the policies, which only affect the sport of horse racing are either too broad or too narrow in scope; and (5) lastly, we observed that the subject policies had been promulgated after consultation with the Department of Justice, and that the Department similarly would be consulted before any further action is taken.

Comments

6. Comments were timely filed by seven parties: The American Broadcasting Companies, Inc. (ABC); the American Horse Council (AHC); CBS Inc. (CBS); the Department of Justice (Justice); the National Association of Broadcasters (NAB); the National Radio Broadcasters Association (NRBA); and the New York Thoroughbred Breeders, Inc. (NYTB). Reply Comments were submitted by the National Association of Off-Track Betting, Inc. (NAOTB) and the New York City Off-Track Betting Corporation (NYOTB).

7. *ABC* supports the Commission's efforts to remove horse racing "underbrush" policies, urging that such policies are unnecessary on either practical or policy grounds. ABC observes that the Commission's limited *ad hoc* consideration of station practices for 30 years before adoption of the policies suggests an absence of any significant or widespread abuses, and that the polices were adopted without either a demonstrated industry problem or a statutory mandate. The Commission now should, ABC continues, leave this matter to the marketplace and the operating presumption should be that the broadcasting of horse racing information is intended for a legitimate purpose and only if there is "definitive evidence" that specific information is broadcast with the purpose of aiding illegal gambling should the Commission take any role, and only then upon an *ad hoc* basis. Additionally, ABC asserts, the subject policies represent an impermissible intrusion into licensee discretion, effectively barring broadcasters from airing information concerning lawful activities, the antithesis of the goals of the First Amendment and section 326 of the Act, citing *CBS et al.* v. *Democratic National Committees*, 412 U.S. 94 (1973) and *Bigelow* v. *Virginia*, 421 U.S. 809 (1975).

8. *The American Horse Council, Inc. (AHC)* is a Washington, D.C. based association representing 150 horse-related organizations (race tracks, horse breeders, etc.) and approximately two million members of those organizations. AHC feels that the subject policies have become increasingly discriminatory and economically damaging for the sport of horse racing, with little or no counterbalancing benefit to the public. In recent years, AHC continues, the ability of race tracks to advertise and market themselves has worsened "to the point where traditional media commonly reject racing-related materials on first inspection based on their understanding of FCC policy." AHC believes that the Commission has jurisdiction in this area, but that it has been exercised too strictly and that such jurisdiction is derived from the public interest standard of the Communications Act and not the wire statute (18 U.S.C. 1804). With respect to First Amendment considerations, AHC believes that there has not been a clear and compelling showing that the public interest requires such governmental intervention into horse race programming and advertising. AHC suggests "it would be better to rely upon audience and advertiser preferences and pressures than specific Federal prohibitions." AHC next addresses itself to the current validity of the policies and concludes that "the continuing prohibition on showing a full card of races or advertising is out of date and out of touch with what is happening in the country." More than 30 states now offer

[6] See *Report and Order*, in Docket 15040, *In re Proposed Rules to Regulate the Broadcast of Horseracing Information*, 36 FCC 1571, 1573 (1964).

pari-mutuel racing. AHC continues, and racing is the focal point of a huge American agribusiness exceeding some $15 billion. Direct revenues to governments approach $1 billion annually, and purse distribution to horsemen approaches $700 million. Further, AHC continues, horse racing and other forms of legalized gaming are primarily state concerns, permitted only after statewide referenda, and that after a state decides to permit gaming the Federal government should not interfere. With respect to the applicability of the policies to cable television, AHC believes that racing has a "bright future on cable television" but that the policies have a chilling effect. Also, AHC believes, there is no nexus for the application of the policies to cable and the Commission's jurisdictional boundaries may already have been overstepped. Lastly, AHC discusses what it believes to be the Commission's "uneven treatment" of horse racing *vis-a-vis* other sports gambling, and concludes that the policies are overtly discriminatory in relation to other major sports.

9. *CBS* notes initially that the elimination of the policies would likely not have a substantial effect upon its current or future broadcast activities, but supports the elimination of the policies. CBS believes the Commission's originial exercise of jurisdiction was faulty in that it perceived a policy much broader in scope than the statute, which should be strictly construed. CBS also believes that the rigid policies raise serious First Amendment concerns, and:

> it would be a hardy licensee indeed who opted to ignore the Commission's wishes and attempted to prove in a risky and expensive hearing, the public interest value of a program schedule that did not comply with those wishes [the policies].

That, CBS continues, constitutes regulation by "uplifted eyebrow", citing *Illinois Citizens Committee for Broadcasting* v. *FCC*, 515 F. 2d 397, 407 (D.C. Cir. 1975). Further, CBS continues, the policies do not withstand current scrutiny in light of regulatory cost/benefit considerations. CBS sees few benefits from the policies, questioning whether the broadcast of such information aids illegal gambling. The professional gambler, CBS opines, relies upon information from Las Vegas or his bookies. CBS also cites a 1973 statement by the Police Commissioner of New York City that "the bulk of illegal horse wagers are placed in the A.M., including parlay bets and are not contingent upon the speed in which results are obtained." Conversely, CBS observes, the costs attendant to the policies are significant, especially in geographic areas where racing is a major industry "and greater broadcast emphasis on it could be consistent with licensee judgment as to community needs and wants," particularly in states where "a widespread legitimate public interest in parimutuel wagering * * * also exists." CBS also observes that a different moral attitude toward gambling existed when the policies were adopted; now, all but four states permit legalized gambling of some kind, with 33 states permitting horse race betting. Further, CBS continues, studies show: That 60% of all adults engage in some kind of wagering; that 80% of those surveyed in a 1982 Gallup Poll endorsed legal gambling; and that legal gambling now totals more than $24 billion a year.[7] CBS concludes that the Commission's "uniform and inflexible national policies restrict the ability of broadcasters to respond fully to the programming preferences of their audiences, and their retention is inconsistent with the Commission's goals of greater reliance on licensee discretion, licensee editorial judgment, and competitive market forces in the determination of broadcast programming and satisfaction of consumer wants." The Commission, CBS believes, should delete the policies and instead rely on the basic obligation of licenses to operate their stations in the public interest.

10. The *Department of Justice* (Justice) initially comments upon the issue of the Commission's jurisdiction to regulate in this area, states that it takes no position, but notes that the policy has been in effect for more than 20 years and that for the purposes of this discussion it assumes that the jurisdiction was properly exercised. In the remainder of its comments Justice stated:

> With respect to the substance of the policy, * * * we have no basis for objection to the substantial modification or elimination of restrictions on the broadcast of horse-racing information. Although the policy has effectively prevented the misuse of broadcasting facilities to further illegal horse-betting operations, and thus has been salutary from the perspective of law-enforcement authorities, the policy may be overly restrictive in its limitation of broadcasts of such information. We note that no similar restrictions apply in the case of broadcasts of information about football, basketball, and other sports. In our experience since the policy was first stated in 1961, horse racing has become of less concern as a catalyst for illegal bookmaking operations than other sports, particularly in recent years.
>
> Accordingly, although we do not actively support the elimination of the Commission's policy statement, we see no basis to object to its elimination. However, we wish to make it clear that, if the policy is eliminated, the Department, through its Criminal Division and the offices of the United States Attorneys, will maintain, and may increase, its level of vigilance with regard to violations of federal statutes concerning gambling activities. In particular, we would draw attention to Title 18, United States Code, Sections 1084, 1952, 1955, and 1962. Each of these statutes, in appropriate circumstances, gives the federal government authority to prosecute any person who uses interstate broadcasting or wire transmission facilities to conduct or assist in the conduct of a gambling operation in violation of applicable state laws. We believe that this statutory authority is amply sufficient to deter any serious violations of the present policy regarding horse-race broadcasts. On that basis, we are confident that elimination of the policy is not likely to lead to widespread abuses by broadcast licensees.
>
> In addition, we expect to maintain our established liaison with the Commission with regard to this area, and to seek administrative or statutory measures, if necessary, to correct any regulatory gap that might result from the elimination of this policy.

11. *NAB* believes the policies restrict First Amendment rights of licensees without the necessary clear and compelling showing that the public interest requires governmental intervention. Indeed, NAB argues, no FCC intervention was required by the legislative history of 18 U.S.C. 1084; that statute addresses only wire communications and the Congress did not include broadcasting because it regarded the Commission's power to revoke a station's license as a sufficient deterrent. Had the Congress intended broadcasting to be included, NAB states, it would specifically have done so as in the case of the federal lottery legislation, 18 U.S.C. 1304. The policies also are overbroad, NAB continues, because the Commission does not differentiate between legal and illegal gambling whereas the Congress does (in subsection (b) of Section 1084). Further, NAB notes, criminal statutes are to be strictly construed. NAB believes that the policies also should be eliminated in light of cost/benefit considerations. They are costly to the Commission (investigations and hearings) and to broadcasters (loss of programming and advertising) without any benefit to the public and impede the competitive marketplace. The policies also are inconsistent with the public's interest in diversified programming. NAB concludes that the policies should be eliminated and that the Commission should cease initial oversight in this area, relying upon its power to revoke a

[7] *U.S. News and World Report*, May 30, 1983, p. 27–30.

license if a station fails to act in the public interest. NAB maintains that if a licensee used its station to promote illegal gambling, the Justice Department could prosecute under 18 U.S.C. 1952 and the Commission could then, if necessary, act to revoke the station's license under its policy in Section 73.4280, Violation of Laws of USA by Station Applicants.

12. The *New York Thoroughbred Breeders, Inc.* (NYTB), submitted brief comments supporting elimination of the Commission's policies. NYTB generally acknowledges Commission jurisdiction, but is primarily concerned with the effects of the regulation, stating that "* * * the inadequacy of radio and television coverage of horse racing continues to impact adversely on our industry and on the ancillary industries it supports, not to mention the revenue needs of state and local governments which have become increasingly dependent on horse racing." NYTB concludes:

> * * * the FCC should eliminate entirely the three policy statements * * * and leave the question of appropriate limitations to the broadcast licensees and the operations of a competitive marketplace. The problem of illegal gambling is best dealt with through state and federal criminal codes and the existing law enforcement mechanism.
> * * * * * *
> * * * sound and appropriate public policy * * * calls for freedom for the media to cover horse racing as it does other sports, and freedom for the horse race industry to market its product as other sporting industries do.

13. *NRBA* submitted brief comments supporting elimination of the policies, stating that they have outlived their original purpose of preventing illegal off-track organizations from using broadcast facilities to transmit gambling information. The public today, NRBA states, has a legitimate interest in horse racing as a sporting event. In view of the restrictive effect the policies have upon licensee editorial discretion, and the fact that the Department of Justice remains responsible for enforcement of the laws prohibiting illegal gambling, NRBA continues, there is no need for the Commission to regulate in this area. Lastly, NRBA adds that it is inappropriate for the Commission to impose restraints only on horse racing and not upon other sports "equally susceptible to illegal gambling."

Reply Comments

14. *The National Association of Off-Track Betting, Inc. (NAOTB)* represents the off-track betting segment of the legal parimutuel horse racing industry; its membership consists of seven separate off-track betting corporations in New York State and Connecticut charged with raising revenues for their particular jurisdiction. The comments consist of introductory remarks by NAOTB counsel and copies of testimony by two witnesses at November, 1983 Congressional hearings before the Subcommittee on Criminal Law of the Senate Committee on the Judiciary on S. 1876, a bill which would allow the advertisement in interstate and foreign commerce of any lottery scheme so long as it is authorized, licensed and regulated by a state. NAOTB characterizes the Commission's policies as "archaic and unwarranted restrictions" upon legal operations and supports their elimination. It also believes the policies are discriminatory *vis-a-vis* other sporting events and are contrary to the First Amendment. NAOTB notes that although S. 1876 pertains to commercial speech and advertising [and lotteries], it believes that its hearing record "substantiates the removal of many restrictions concerning horse racing information and other operations associated with legal gaming." The first testimony which NAOTB thinks relevant to this proceeding is that of John C. Keeney, Deputy Assistant Attorney General of the Criminal Division of the Department of Justice, containing the Department's position on S. 1876. In brief, although the Department formerly opposed expansion of advertising relative to lotteries, the Department believes that the 1975 Supreme Court decision in *Bigelow* v. *Virginia*, 421 U.S. 809 (1975) "casts serious doubt upon enforceability of the lottery statutes as written", and that the Department now does not oppose enactment of the bill. The second testimony from the hearings referenced by NAOTB is that of Davis M. Etkin, President and Chairman of the Board of the Capital District Regional Off-Track Betting Corporation of Schenectady, New York. After a lengthy recitation of the Commission's three horse racing policies, Mr. Etkin concludes that they are confusing and outdated and urges that the restrictions upon advertising of legalized gambling be relaxed. Mr. Etkin also states that cablecasting is particularly suited to horse racing and should be encouraged.

15. *The New York City Off-Track Betting Corporation (NYOTB)*, which conducts legalized wagering on horse races, submitted Reply Comments supporting the comments of the American Horse Council, *supra*, and urging the elimination of the policies. NYOTB first comments that the 20-year-old policies are not appropriate today in view of changed public attitudes towards gambling as a moral issue, observing "it is now quite commonplace for State and local jurisdictions to look to one or more forms of gambling as not only a valid social activity but also as an important source of incremental government revenues." NYOTB next asserts that the policies are discriminatory to horse racing as a sport *vis-a-vis* other sporting events which have unrestricted access to television. The prohibition on showing all of the races at a racetrack, NAOTB continues, is similar to prohibiting the televising of both games of a baseball doubleheader. Further, NAOTB continues, racing fans are as interested in the statistics of jockeys as baseball fans are in the statistics of pitchers. Lastly, it is NAOTB's view that "one unfortunate result of the Commission's policy has been an interference with the legitimate effort of several states in pursuing their interests in developing their agribusiness based upon horseracing, and the raising of revenues through the legalization of wagering, both on- and off-track, on the races." NAOTB concludes that the elimination of the Commission's policies would both allow States "to be in charge of their own affairs" and would further the policy of the Congress, as set forth in the Interstate Horseracing Act of 1978 [Pub. L. 95–515; 15 U.S. Code § 3001(b)] "to further the horseracing and legal off-track betting industries in the United States."

Discussion and Conclusion

16. Our review of the record herein leads us to the conclusion that we should no longer retain any of the subject policies. This ultimate conclusion—to withdraw the policies restricting horse race programming and advertising—removes the need to resolve certain of the issues raised in our *Notice of Proposed Rule Making*. That is, in view of this total withdrawal of the policies, we need not now explore such matters as: the propriety of the exercise of our original jurisdiction herein; the "fairness" of the horse racing policies *vis-a-vis* other sports upon which wagers are placed; or whether any special regulatory treatment should be accorded to cablecasting as opposed to broadcasting. Deletion of the subject policies moots these peripheral issues.

17. Our decision to eliminate these policies is based upon three principal and related factors: Changed circumstances; unjustified interference with licensee editorial discretion; and cost/benefit considerations. A proper understanding of this action must start with a review of the circumstances under which our original policies

restricting horse race programming were developed. Prior to 1961, the Commission had reviewed the issue of horse race programming upon an *ad hoc* basis as the occasion arose.[8] In 1961, however, the Congress enacted Pub. L. 87–216 (18 U.S.C. 1084) prohibiting the use of wire communications facilities to transmit wagering information or bets in interstate commerce. At that time there was a particularly strong national effort against organized crime, and various legislative and executive studies had shown that illegal gambling provided a substantial source of revenue for organized crime. The statute, *inter alia*, was designed to attack large gambling syndicates which utilized interstate wire facilities, enabling the Federal Government to deal with such operations because state and local governments, with jurisdictional limitations, could not do so effectively.[9] Although the statute did not refer to broadcasting, the Commission quickly acted to establish policies for guidance to broadcasters to implement the policy of Pub. L. 87–216. We note that the policies thus arose from the enactment of the statute, rather than from the existence of any demonstrated industry-wide problem.

18. Circumstances have changed substantially in the twenty-three years since our policies were first adopted. As detailed in the comments herein, the attitude of both the public and governments toward gambling has changed dramatically in this interim. All but four states now permit legalized gambling of some kind, and thirty-three states permit horse race betting. Racing is a major source of revenue to state and local governments ($1 billion annually) and racing also is the center of a large nationwide agribusiness ($15 billion annually). Moreover, as pointed out by NAOTB, the stated policy of the Congress in enacting the Interstate Horseracing Act of 1978 is "to further the horseracing and legal off-track betting industries in the United States." In short, horse racing now is an import legitimate business and sport, with widespread national interest. Further, as evidenced by the comments of several parties, and particularly the Justice Department, the original problem which triggered the adoption of the policies has lessened in this interim:

> In our experience since the policy was first stated in 1961, horse racing has become of less concern as a catalyst for illegal bookmaking operations than other sports, particularly in recent years.

This combination of changed circumstances thus constitutes one major reason why we believe the subject policies should now be eliminated. We concur with the commenting parties who contend that the policies have "outlived their original purpose" and are "out of date." Though established to prevent illegal gambling, the policies have been injurious to legalized gambling, which has increased substantially since the 1960's, and the policies no longer can be justified.

19. Another important consideration is the issue of the effect of these policies upon the editorial discretion of licensees. As noted in our *Notice*, the subject policies are "all-encompassing and inflexible." They directly regulate program content by effectively prohibiting the broadcast of such material as live broadcasts of a full program of races, prerace information of jockeys or post positions, off-times, race results before the next race, or information furnished by publishers of scratch sheets, etc. Our authority to interfere with editorial judgments of licensees is, of course, carefully circumscribed by both the anti-censorship provisions of Section 326 of the Communications Act [10] and the First Amendment unless justified by a clear and compelling showing that the public interest requires governmental intervention.[11]

20. Applying this standard to the subject policies, we must conclude that they unnecessarily restrict licensees' editorial discretion, without the essential counterbalancing factors. The policies were initially adopted, *sua sponte*, without evidence of any significant or widespread abuses. Rather, they were adopted upon the premise that the broadcast of such information *could* aid illegal interstate gambling operations. Also, there was never a showing that these broadcast practicies were of interest to the public solely for the purpose of illegal gambling. Such a rationale simply does not meet the "clear and compelling showing" test. All of the prohibited broadcast material, *supra*, constitutes both legitimate information for legalized gambling purposes and for news and information purposes for sporting and related interests. The continued retention of these policies cannot be justified because the broadcast of such material *might* aid illegal gambling. Moreover, the resultant lack of editorial discretion has had an adverse effect upon the ability of licensees to respond to the programming preferences of their audiences. As noted in CBS' comments, "* * * in some areas where there are local tracks or horse race breeding farms, racing is a major industry and greater broadcast emphasis on it could be consistent with licensee judgment as to community needs and wants. In addition, in many states, a widespread legitimate public interest in parimutuel wagering * * * legally available both at and away from the racetrack also exists." Lastly, we note that the elimination of these policies and the resultant future broadcast of horse race programming and information will, in turn, contribute toward one of this Commission's long standing goals—diversity of programming.[12]

21. Yet another principal reason for our decision to eliminate these policies is that they impose costs upon all parties affected—consumers, broadcasters, the horse race agribusiness, state and local governmental entities, and this Commission—without the essential counterbalancing public benefits of regulation. To members of the consuming public, the continued enforcement of the policies has resulted in severe restrictions upon the source, content, timeliness, and amount of horse race programming, news, and information which is available. And the promotional material broadcast to the public is essentially limited to that of an "institutional" nature. As just noted, such programming may well be of particular interest to members of the public in certain locales or with certain interests. Yet they are denied such programming. Broadcasters not only are prohibited from carrying this programming, which members of its audience may desire, but also from revenues which would be generated by such programming and from easing the restrictions upon advertising content. Costs also are incurred by broadcasters in the internal supervision and enforcement of the Commission's policies. We are informed by comments from members of the horse race agribusiness (the American Horse Council, *supra*) that the policies constitute "constraints upon a

[8] *See, e.g., Standard Cahill Co., Inc.*, 1 FCC 227 (1935); *Joliet Broadcasting Company*, 4 RR 1225 (1948); *Capitol Broadcasting Co.*, 4 RR 21 (1948); *Port Frere Broadcasting Co. Inc.*, 5 RR 1137 (1949); *Annapolis Broadcasting Corp.*, 7 RR 1053 (1952); and *Community Broadcasting Service, Inc.*, 13 RR 179 (1955).

[9] See *Gambling in America: First Report of the Commission on the Review of the National Policy Toward Gambling*. U.S. Government Printing Office: Washington, D.C. (1976), at p. 11. This *Report* contains an extensive historical background of the history of gambling in America.

[10] 47 U.S.C. 326.

[11] *See, e.g., CBS* v. *Democratic National Committee*, 412 U.S. 94 (1973).

[12] *See, e.g., Report and Statement of Policy re: Commission en banc Programming Inquiry*, 44 FCC 2303 (1960).

significant economic activity." AHC also states that race tracks want to "advertise and market themselves" but that proffered advertisements often are rejected by broadcasters. These national policies also adversely affect the states and localities which look to legalized horse racing as a substantial source of revenue. OTB states that the policies ". . . have proven to be economically restricting, discriminatory against horse racing as opposed to other sports, and . . . impede the operators of entities such as OTB in carrying out their State-sanctioned and encouraged responsibilities."

22. Insofar as this Commission is concerned, enforcement costs associated with the subject policies have been minimal in recent years. However, this undoubtedly is attributable to the plenary scope of the policies and a consequent response by many broadcasters of totally avoiding this programming and advertising area. But, even a single investigation resulting in a hearing would greatly increase the resources involved in the administration and enforcement of these policies. Thus, their continued retention represents a potential for significant administrative expenses.

23. While there appear to be substantial costs imposed upon all parties affected, the countervailing benefits appear minimal. The sole purpose of the policies—and public benefit—is to prevent the broadcast of information which could be used to aid illegal gambling operations. We also observe that the record leading to the adoption of our initial policies did not demonstrate evidence that broadcast information was in fact being utilized by illegal bookmakers, only that it *could* be so utilized. While this singular attribute may be of some unquantified benefit to the public (see the comments of the Justice Department, *supra*), it can in no way offset the array of costs (and injuries) to affected parties. Lastly, we note that several parties have made an important comment regarding legal *vis-a-vis* illegal horse race gambling—*i.e.*, that the widespread growth of legalized gambling throughout the country in recent years acts as a strong counter-force to illegal gambling by providing alternative, legal opportunities for gambling. And the Justice Department, *supra*, has confirmed that the problem of illegal horse race gambling has diminished. In sum, we can no longer rest and justify our policies on this "aid to illegal gambling" premise—the heavy costs are not offset by the minimum benefits.

24. As in our companion *Policy Statement and Memorandum Opinion and Order* (FN #2, *supra*), the end result of our action is to delete overly burdensome restrictions upon program content and to return to basic statutory principles, relying upon the basic obligation of licensees to operate their stations in the public interest, and leaving the mechanism of compliance to licensees. This action is consistent with our determination to reduce the regulatory role played by Commission policies and rules and instead to place greater reliance on licensee discretion, licensee editorial judgment and competitive market forces in the determination of broadcast programming and the satisfaction of consumer wants.[13] With this new freedom accorded to broadcasters now to engage in horse race programming and advertising, the marketplace ultimately will decide the nature and amount of such material desired by consumers. We do not anticipate that licensees will now engage in programming for the purpose of aiding illegal gambling, but in the event this should occur, we would look to the Justice Department for enforcement. As noted in their comments in this proceeding (Par. 10, *supra*), the Department believes that existing statutes—18 U.S.C. 1084, 1952, 1955, and 1962—contain "authority to prosecute any person who uses interstate broadcasting—to conduct or assist in the conduct of a gambling operation in violation of applicable state laws."

25. Accordingly, it is ordered that:

Sections 73.4125, 73.4126, and 73.4130 are ordered removed from the Commission's rules, effective September 24, 1984.

26. Pursuant to section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Commission certifies that the action proposed will not have a significant economic impact on a substantial number of small entities. Repeal of the stated policies, if anything, may have a beneficial economic impact.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-22254 Filed 8-21-84; 8:45 am]

BILLING CODE 6712-01-M

[13] See, *FCC* v. *WNCN Listeners Guild*, 450 U.S. 502 (1981) and *Office of Communications of the Church of Christ* v. *FCC*, No. 81-1032 (D.C., Cir. May 10, 1983.

47 CFR Part 87

[FCC 84-312]

Amendment Regarding the Assignment of Two Additional Frequencies to Aeronautical Radionavigation Land Test Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission's rules currently assign two frequencies for testing instrument landing system localizer and glide slope receivers. This order assigns two additional frequencies for such tests. This action is taken at the request of the Federal Aviation Administration and is intended to meet the needs of the industry for additional test frequencies.

EFFECTIVE DATE: August 13, 1984.*

FOR FURTHER INFORMATION CONTACT:

William P. Berges, Private Radio Bureau (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 87

Aeronautical stations, land test stations, Air transportation, Radio.

Order

In the Matter of amendment of Part 87 of the Commission's rules to assign two additional frequencies to aeronautical radionavigation land test stations.

Adopted: June 28, 1984.
Released: July 6, 1984.

By the Commission.

1. This Order makes two additional frequencies available to aeronautical radionavigational land test stations.

2. Paragraph 87.521(d) of the Commission's rules provide two frequencies for the testing of aircraft instrument landing systems (ILS) localizer and glide slope receivers. The frequency 108.10 MHz is used for testing the localizer and 334.70 MHz is used for glide slope tests. Many aircraft are now equipped with ILS systems which utilize two localizer and two glide slope receivers. The output signals of each pair of receivers are fed to a comparator. If a significant difference in the signal deviation is detected by either comparator the pilot is alerted that one or both receivers have failed or degraded.

*Note: Late publication is due to late receipt of this document by the FCC representative and the Office of Federal Register.

3. In letters dated March 21, 1984 and April 10, 1984, the Federal Aviation Administration (FAA) pointed out that two additional frequencies are required to properly test aircraft ILS equipment which employs two localizer and two glide slope receivers. FAA recommends the use of 108.15 MHz for localizer and 334.55 MHz for glide slope tests at a reduced power of 1 milliwatt. We believe the requested change would be beneficial to the aviation public. The two additional test frequencies would permit the testing of subject ILS equipment without the need for case-by-case coordination of frequency assignments for radionavigation land test stations with the Federal Aviation Administration. The Commission's speed of service in processing applications for these station authorizations will also be improved. Accordingly, we are including the frequencies 108.15 MHz and 334.55 MHz in § 87.521 of the Commission's rules for assignment to aeronautical radionavigation land test stations.

4. Authority for this amendment is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Since this amendment makes a minor change which is likely to be noncontroversial, we find good cause to dispense with the prior notice and comment procedure of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B).

5. Accordingly, it is ordered, That the Commission's rules are amended as set forth in the attached Appendix, effective August 13, 1984.

6. Regarding questions on matters covered in this document contact William P. Berges at (202) 632-7175.

Federal Communications Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

William J. Tricarico,

Secretary.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

In § 87.521 introductory paragraph (d) and (d)(1) are revised to read as follows:

§ 87.521 Frequencies available.

* * * * *

(d) The frequencies available for assignment to radionavigation land test stations for the testing of airborne receiving equipment are 108.0 and 108.05 MHz for VHF omnirange, 108.1 and 108.15 MHz for localizer, 334.55 and 334.7 MHz for glide slope, 978 and 979 MHz (X channel)/1104 MHz (Y channel) for DME/TACAN, and 1030 MHz for ATC radar beacon (ATCRBS) transponder tests. Additionally, the frequencies set forth in Subpart N may be assigned to radionavigation land test stations after coordination with the Federal Aviation Administration. The following conditions apply:

(1) The maximum power authorized on the frequencies 108.15 and 334.55 MHz is 1 milliwatt. The maximum power authorized on all other frequencies is one watt.

* * * * *

[FR Doc. 84-22251 Filed 8-21-84; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

[Thirteenth Revised Service Order No. 1474]

49 CFR Part 1033

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee); Decision

AGENCY: Interstate Commerce Commission.

ACTION: Denial of Appeal of Commission decision.

SUMMARY: On July 10, 1984, Seattle and North Coast Railroad Company, Debtor, appealed a decision of the Commission, Railroad Service Board, which was served June 22, 1984, and which deleted its interim authority to operate certain lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee), in the State of Washington pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act. This decision describes the Commission's consideration of that appeal.

DATES: This decision shall be effective on August 21, 1984.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr., (202) 275-7840 or 275-1559.

Decided: August 14, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison. Chairman Taylor was absent and did not participate.

James H. Bayne,

Secretary.

[FR Doc. 84-22208 Filed 8-21-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 675

[Docket No. 31230-251]

Foreign Fishing, Groundfish of the Gulf of Alaska, and Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of inseason adjustments.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF) under provisions of the fishery management plans (FMPs) for Groundfish of the Gulf of Alaska and for Groundfish of the Bering Sea and Aleutian Islands Area. Groundfish are apportioned according to the regulations implementing those FMPs. The intent of this action is to assure optimum use of these groundfish by allowing the domestic and foreign fisheries to proceed without interruption.

EFFECTIVE DATE: August 21, 1984.

FOR FURTHER INFORMATION CONTACT: Janet Smoker (Resource Management Specialist, Alaska Region, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION:

Background

The total allowable catches (TACs) for various groundfish species are established by the FMP for groundfish of the Bering Sea and Aleutian Islands Area; optimum yields (OYs) are established by the FMP for groundfish of the Gulf of Alaska. These FMPs were developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act and are implemented by rules appearing at 50 CFR 611.92 and 611.93, and at 50 CFR Parts 672 and 675. The TACs and OYs are apportioned initially among DAH, reserves, and TALFF. Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b). In addition, surplus amounts of both components of DAH [DAP (domestic processed fish) and JVP (joint venture processed fish)] may be apportioned to TALFF during the fishing year under those same regulations.

The initial DAPs and JVPs for 1984 were based on the projected needs of the U.S. industry, as assessed by a mail

survey sent by the Director, Alaska Region, NMFS (Regional Director) to fishermen and processors in September 1983. To consider changes in the extent to which U.S. industry will harvest and process groundfish, the Regional Director resurveyed the industry (including new participants) in March 1984. The results of that survey allowed estimation of amounts of DAH of groundfish to be harvested and/or processed during each half of 1984.

Anticipated shortfalls in DAH amounts were earlier alleviated by the release of reserves to DAP and JVP (49 FR 23355, June 6, 1984, corrected at 49 FR 27322, July 3, 1984). That action also apportioned to TALFF 75 percent of the reserves in the Bering Sea and Aleutian Islands area, and up to 80 percent of the reserves for certain species/areas in the Gulf of Alaska.

A later action (49 FR 30313, July 30, 1984) raised the JVPs of pollock in the Aleutian Islands area and Atka mackerel in the Bering Sea and Aleutian Islands area by apportionment of reserves. It also transferred 3,742 mt of Pacific cod excess to the needs of the U.S. industry in the Central Gulf area from reserve and DAP to TALFF.

This action announces apportionments of reserve and DAH amounts of groundfish from the Bering Sea and Aleutian Islands area and the Gulf of Alaska that became available for DAH and TALFF in August 1984.

1. Bering Sea and Aleutian Islands area.

Reserves and DAH reapportioned to JVP and TALFF (see Table 2, changes to Table 2 of 49 FR 23355, June 6, 1984, and Table 2 of 49 FR 30313, July 30, 1984):

The total catch of Pacific cod by joint ventures is approaching the JVP of 27,200 mt. One joint venture is targeting on Pacific cod and all joint ventures require Pacific cod for bycatch. In order to allow these fisheries to continue, 20,000 mt of Pacific cod DAP determined excess to the needs of domestic processors is transferred to JVP.

Total deliveries of sablefish to domestic processors in the Bering Sea have not approached the amount anticipated for the first six months of 1984. Survey returns from joint ventures indicate a need for an increase in the Bering Sea sablefish JVP. Therefore, 75 mt of Bering Sea sablefish DAP is transferred to JVP. Because the remaining Bering Sea sablefish DAP is judged excess to the needs of domestic harvesting and processing, 600 mt of the sablefish DAP is reapportioned to TALFF.

Total deliveries of Pacific Ocean perch (POP) to domestic processors in the Bering Sea have not approached the amount anticipated for the first six months of 1984. Because joint ventures have indicated an increased interest in POP in that area, 100 mt of the DAP for Bering Sea POP is transferred to JVP.

The total catch of pollock by joint ventures in the Aleutian Islands area is approaching the JVP of 6,750 mt (49 FR 30313, July 30, 1984) and an additional apportionment to JVP has been requested. For this reason, 10,000 mt of reserves are appointed to the pollock JVP for the Aleutian Islands area. This raises the TAC to 110,000 mt, which is 10,000 mt less than the equilibrium yield (EY) indicated by the latest resource assessment document for Bering Sea and Aleutian Islands area groundfish. The Regional Director has found that this increase will not result in the overfishing of any species.

Reserves and DAH retained: For all other species, reserves and DAH are retained until it can be determined what amounts, if any, are excess to the needs of U.S. fishermen.

2. Gulf of Alaska.

Reserves apportioned to DAH (see Table 3, changes to Table 3 of 49 FR 23355, June 6, 1984, and Table 3 of 49 FR 30313, July 30, 1984):

Deliveries of sablefish to domestic processors in the West Yakutat district are expected to exceed the DAP of 1,344 mt. Therefore, the entire remaining reserve of 296 mt of sablefish in the West Yakutat district is apportioned to DAP.

Deliveries of Atka mackerel to joint venture processors may exceed the current JVPs in the Western and Central Gulf areas. The entire Atka mackerel reserve in each area, 187 mt and 833 mt respectively, is apportioned to JVP.

Reserves and DAH retained: For all other species, reserves and DAH are retained until it can be determined what amounts, if any, are excess to the needs of U.S. fishermen.

Comments and Responses

In accordance with 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), aggregated reports on U.S. catches of Alaska groundfish and the processing of those groundfish were available for public inspection to facilitate informed public comment. In addition, those provisions afforded the public an opportunity to submit timely comments on the extent to which U.S. fishermen will harvest and the extent to which U.S. processors will process Alaska groundfish. Four comments were received.

Comment: Available reserve amounts of Pacific cod in the Bering Sea and in the Central Regulatory Area of the Gulf of Alaska, and all reserve and certain DAH amounts of sablefish in the Bering Sea, exceed the needs of U.S. fishermen and should be apportioned to TALFF.

Response: In the Bering Sea, 600 mt of sablefish is transferred from DAP to TALFF. All reserves and some DAP of Central Gulf Pacific cod were transferred to TALFF in an earlier action. Because it is not yet clear what amount exceed the needs of U.S. fishermen, apportionment to TALFF of reserve and DAH amounts of Bering Sea Pacific cod and DAH amounts of Gulf of Alaska Pacific cod will be considered at a later date.

Comment: Interest by joint ventures in POP in the Bering Sea exceeds the current JVP of 150 mt. Domestic processors have not committed to purchase any POP; therefore, available amounts of POP DAP should be transferred to JVP.

Response: In the Bering Sea, 100 mt of POP DAP is transferred to JVP. Transfer of further amounts will be considered if POP deliveries expected to be made to U.S. processors during the second half of 1984 fall short of anticipated amounts.

Comment: Joint ventures will soon achieve the Atka mackerel JVP in the Bering Sea and Aleutian area and may then move into the Gulf; therefore Atka mackerel reserves should be retained in case JVP requires supplementation.

Response: Due to the expected expansion of the Atka mackerel fishery, all reserves of Atka mackerel in the Western and Central Gulf are apportioned to JVP.

Comment: Due to the continuing growth of joint venture fisheries in the Bering Sea and Aleutian Islands Area in 1984, reserves should be retained for possible later supplementation of JVP's of yellowfin sole, other flounder, pollock, and Pacific cod.

Response: All Bering Sea and Aleutian Islands Area reserves, except reserves of pollock in the Aleutian Islands Area are retained in this action. The JVP of Pacific cod is supplemented by 20,000 mt of DAP.

Classification

In view of the prior notice provided in the authorizing regulation regarding the dates after which apportionment of reserves and reassessment of DAH are to occur, together with the need to avoid disruption of U.S. and foreign fisheries and to afford a reasonable opportunity to achieve OY, the Agency has determined that delaying the effective date of this notice would be

impracticable, unnecessary, and contrary to the public interest.

This action is taken under 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), and complies with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. It does not contain any collection of information request as defined in the Paperwork Reduction Act.

List of Subjects in 50 CFR Parts 611, 672, and 675

Fisheries.

(16 U.S.C. 1801 *et seq.*)

Dated: August 16, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

TABLE 2.—REAPPORTIONMENTS OF TAC IN THE BERING SEA AND ALEUTIAN ISLANDS AREA

	Current	Changes, August	Revised
POLLOCK			
Aleutians (TAC=110,000; EY=120,000):			
DAP	500		500
JVP	6,750	+10,000	16,750
RES	0	−10,000	−10,000
TALFF	92,750		92,750
Pacific cod (TAC=210,000; EY=291,300):			
DAP	104,400	−20,000	84,400
JVP	27,200	+20,000	47,200
RES	7,875		7,875
TALFF	70,525		70,525
POP (Bering Sea: TAC=1,780; EY=1,360):			
DAP	550	−100	450
JVP	150	+100	250
RES	270		270
TALFF	810		810
Sablefish (Bering Sea: TAC=3,740; EY=4,430):			
DAP	2,540	−675	1,865
JVP	100	+75	175
RES	50		50
TALFF	1,050	+600	1,650
Total (TAC=2,000,000):			
DAP	132,880	−20,775	112,105
JVP	410,505	+30,175	440,680
RES	50,645	−10,000	40,645
TALFF	1,405,970	+600	1,406,570

TABLE 3.—REAPPORTIONMENTS OF OY IN THE GULF OF ALASKA

	Current	Changes August	Revised
Sablefish (West Yakutat: OY=1,680):			
DAP	1,344	+296	1,640
JVP	0		0
RES	296	−296	0
TALFF	40		40
Atka Mackerel (Western Gulf: OY=4,678):			
DAP	400		400
JVP	1,149	+187	1,336
RES	187	−187	0
TALFF	2,942		2,942
Atka Mackerel (Central Gulf: OY=20,836):			
DAP	0		0
JVP	1,500	+833	2,333
RES	833	−833	0
TALFF	18,503		18,503
Total (OY-591,753):			
DAP	28,509	+296	28,805
JVP	248,041	+1,020	249,061
RES	24,445	−1,316	23,129
TALFF	290,758		290,758

[FR Doc. 84-22170 Filed 8-17-84; 9:26 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 164
Wednesday, August 22, 1984

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Ch. XIV

Proposed Determination on Payments to and by CCC

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Proposed Determination.

SUMMARY: The purpose of this notice is to propose an increase in the amount from $3.00 or less to $9.99 or less that Commodity Credit Corporation (CCC) may disregard with respect to payments which are or may be due CCC or which are payable by CCC with respect to all CCC programs. This action is necessary because of the increased costs of doing business and to achieve effective money management.

DATE: Comments must be received by September 21, 1984, in order to be assured of consideration.

ADDRESS: Send comments to the Director, Fiscal Division, Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Henry A. Blicharz, ASCS, Fiscal Division, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013; (202) 447–6674.

SUPPLEMENTARY INFORMATION: This notice of proposed determination has been reviewed in conformance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major." This notice has been classified "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs and prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal Domestic Assistance Programs to which this notice of proposed determination applies are: Commodity Loans and Purchases, 10.051; Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Storage Facilities and Equipment Loans, 10.056; Wheat Production Stabilization, 10.058; Rice Production Stabilization, 10.065; Grain Reserve Program, 10.067; as listed in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed determination with respect to the subject matter of this notice.

It is the policy of CCC to disregard small amounts which are or may be due or which are payable by CCC. Currently amounts of $3.00 or less are disregarded as a costs savings measure. (See, for example, 7 CFR 1421.25 and 1434.32). The maximum amount of $3.00, which has been in effect since April 1950, no longer has the same cost savings advantage because it does not recognize the increased costs of doing business over the past 34 years. Therefore, to regain the cost savings advantage, it is proposed that the amount which may be disregarded should be increased from $3.00 or less to $9.99 or less. If this proposal is adopted, all applicable CCC regulations will be amended to conform to this determination.

The public is invited to submit written comments with respect to this notice of proposed determination to the Director, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. All written submissions will be made available for public inspection in Room 6092–S, South Agriculture Building, 14th and Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday. The comment period on this notice of proposed determination has been limited to 30 days to give interested persons time to comment but also to expedite the implementation of this policy which is imperative for effective cash management. This notice of proposed determination will be evaluated in view of the comments received and a final determination will be published in the **Federal Register** discussing comments received and any further revisions which may be deemed to be necessary.

Proposed Determination

Accordingly, the Commodity Credit Corporation (CCC) proposes to increase the amount from $3.00 or less to $9.99 or less which may be disregarded with respect to payments which are or may be due CCC or which are payable by CCC for all CCC programs.

Authority: Sec. 4, Pub. L. 80–89, 60 Stat. 1070, as amended, (15 U.S.C. 714b).

Signed at Washington, D.C. on August 17, 1984.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 84–22276 Filed 8–21–84; 8:45 am]

BILLING CODE 3410–05–M

FARM CREDIT AMINISTRATION

12 CFR Part 602

Releasing Information; Correction

AGENCY: Farm Credit Administration.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule on releasing information issued by the Farm Credit Administration ("FCA") that appeared at page 31293 in the **Federal Register** of Monday, August 6, 1984, (49 FR 31293). The action is necessary to correct the comment period from 57 days to 30 days. The date written comments must be received would be changed from October 2, 1984 to September 5, 1984.

DATE: The period of receipt of written comments is changed from October 2, 1984 to September 5, 1984.

ADDRESS: Comments should be submitted in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090. Copies of all written comments received will be available for further inspection by interested parties in the Office of the Director, Congressional and Public Affairs Division, Office of

Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Mullarkey, (703) 883–4020.

SUPPLEMENTARY INFORMATION: Accordingly, FCA is correcting the comment period of its proposed rule (49 FR 31293, August 6, 1984) on 12 CFR Part 602, to read as follows:

"**DATE:** Written comments must be received on or before September 5, 1984."

Donald E. Wilkinson,

Governor.

[FR Doc. 84–22203 Filed 8–21–84; 8:45 am]

BILLING CODE 6705–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84–AWA–1]

Proposed Alteration of VOR Federal Airways; Montgomery, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the descriptions of several VOR Federal Airways located in the vicinity of Montgomery, AL, by revoking some airway segments, and renumbering other airway segments. This action supports the FAA's agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway designations from the National Airspace System.

DATE: Comments must be received on or before October 8, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 84–AWA–1, 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: 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) 426–8626.

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. 84–AWA–1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, 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 an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several airways located in the vicinity of Montgomery, AL, by deleting all alternate route designations. In addition, some airway segments will be revoked and other segments will be renumbered. Due to the number of airway changes proposed in the vicinity of Montgomery, AL, this action will be continued in Airspace Docket Nos. 84–AWA–2 and 84–AWA–3. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 4, 1984.

The FAA has determined that this proposed regulation only involves an established body of techincal 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 Regualtory 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 hava a significant economic impact on a substantial number of small entities under the criteria o the Regualtory Flexibility Act.

List of Subjects in 14 CFR Part 71

VOR Federal Airways, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V–1 [Amended]

By removing the words "Kinston, including an east alternate from Grand Strand to Kinston via Wilmington, NC;" and substituting the words "Kinston;"

V–70 [Amended]

By removing all the words after "to Allendale, SC." and substituting the words "From Grand Strand, SC; Wilmington, NC; to Kinston, NC. The airspace within Mexico is excluded."

V–3 [Amended]

By removing the words "including a W alternate via INT Melbourne 322° and Ormond Beach 211° radials" and the words "The portion outside the United States has no upper limit except that portion of the E alternate between Jacksonville and Savannah extends up to but not including 18,000 feet MSL."

V–437 [Amended]

By removing the words "From Ormond Beach, FL," and substituting the words "From Melbourne, FL; INT Melbourne 322°T(323°M) and Ormond Beach, FL, 211°T(211°M) radials; Ormond Beach;"

V–7 [Amended]

By removing all the words before "Central City, KY" and substituting the words "From Biscayne Bay, FL, via Fort Myers, FL; Lakeland, Fl; Cross City, FL; Tallahassee, FL; Wiregrass, AL; INT Wiregrass 333°T(331°M) and Montgomery, AL, 129°T(126°M radials; Montgomery; Vulcan, AL; Muscle Shoals, AL; Graham, TN;"

V–521 [New]

From Miami, FL, via INT Miami 337°T(337°M) and Fort Myers, FL, 101°T(100°M) radials; Fort Myers; INT Fort Myers 022°T(021°M) and Lakeland, FL, 154°T(153°M) radials; Lakeland; Cross City, FL; INT Cross City 287°T(286°M) and Marianna, FL, 141°T(141°M) radials; Marianna; Wiregrass, AL; INT Wiregrass 333°T(331°M) and Montgomery, AL, 129°T(126°M) radials; Montgomery; INT Montgomery 357°T(354°M) and Vulcan, AL, 139°T(137°M) radials; Vulcan; INT Vulcan 300°T(298°M) and Muscle Shoals, AL, 178°T(177°M) radials; Muscle Shoals.

V–16 [Amended]

By removing the words "Nashville, TN, including a north alternate from Jacks Creek to Nashville via INT Jacks Creek 049° and Nashville 286° radials; INT Nashville 102° and Hinch Mountain, TN, 285° radials; Hinch Mountain; including a north alternate via INT Nashville 085° and Hinch Mountain 306° radials; Knoxville, TN, including a S alternate via INT Hinch Mountain 100° and Knoxville 243° radials; Holston Mountain, TN, including a S alternate from Knoxville to Holston Mountain via Snowbird, TN, Pulaski, VA, including a N alternate from Knoxville to Pulaski via INT Knoxville 050° and Glade Spring, VA, 246° radials and Glade Spring;" and substituting the words "Nashville, TN; INT Nashville 102°T(103°M) and Hinch Mountain, TN, 285°T(287°M) radials; Hinch Mountain, TN; Knoxville, TN; Holston Mountain, TN; Pulaski, VA;"

V–136 [Amended]

By removing the words "From Pulaski, VA," and substituting the words "From Jacks Creek, TN, via INT Jacks Creek 049°T(047°M) and Nashville, TN, 286°T(287°M) radials; Nashville; INT Nashville 085°T(086°M) and Hinch Mountain, TN, 306°T(308°M) radials; Hinch Mountain, INT Hinch Mountain 100°T(102°M) and Knoxville 243°T(246°M) rfadials; Knoxville, TN; Snowbird, TN; Holston Mountain, TN; Pulaski, VA;"

V–466 [New]

From Knoxville, TN, via INT Knoxville 050°T(053°M) and Glade Spring, VA, 246°T(248°M) radials; Glade Spring; to Pulaski, VA.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 [49 U.S.C. 1348(a) and 1354(a)]; Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Issued in Washington, D.C., on August 14, 1984.

Harold W. Becker,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84–22186 Filed 8–21–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Ch. I

Securities; Solicitation for Public Comments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Solicitation for public comments.

SUMMARY: The Department of the Treasury and the Internal Revenue Service are soliciting public comments with respect to regulations relating to the issuance of Treasury-backed securities or Government agency-enterprise-backed securities in bearer form.

DATE: Written comments must be delivered or mailed by September 21, 1984.

ADDRESS: Send comments to Commissioner of Internal Revenue, Attention: CC:LR:T (LR–151–83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T Telephone 202–566–3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The Treasury Department and the Internal Revenue Service are studying the issuance of Treasury-backed securities or United States Government agency-enterprise-backed securities in bearer form. Should it be subsequently determined that restrictions should be place on such issues, such determination will be announced in future regulations.

This notice invites interested parties to submit written comments (preferably six copies) on this matter. All material submitted will be available for public inspection and copying.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84–22288 Filed 8–17–84; 5:08 pm]

BILLING CODE 4830–01–M

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26 CFR Part 1

[LR–179–84]

Income Taxes; Application of the Repeal of 30 Percent Withholding by the Tax Reform Act of 1984 and of Information Reporting and Backup Withholding in Light of Such Repeal

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking cross-reference to temporary regulations.

SUMMARY: This document provides a notice of proposed rulemaking relating to the application of information reporting and backup withholding pursuant to the repeal of 30 percent withholding by the Tax Reform Act of 1984. In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to these matters. The text of those temporary regulations serves as the comment document for this proposed rulemaking.

DATES: Written comments and request for a public hearing must be delivered or mailed before October 22, 1984.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–179–84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles C. Saverude of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR–179–84), 202–566–3323.

SUPPLEMENTARY INFORMATION: The temporary regulations published in the Rules and Regulations portion of this issue of the **Federal Register** add a new § 35a.9999–5 to 26 CFR Part 35a. The final regulations that are proposed to be based on the temporary regulations would amend 26 CFR Part 1 by adding a new section to the regulations under section 871 of the Internal Revenue Code of 1954. For the text of the temporary regulations, see FR Doc. 84–22292 [T.D. 7967] published in the Rules and Regulations portion of this issue of the **Federal Register.**

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of a proposed

rulemaking which solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of this regulation is Charles C. Saverude of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of substance and style.

List of Subjects in 26 CFR 1.861–1 and 1.997–1

Income taxes, aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Proposal of regulations

The temporary regulations, FR Doc. 84–22292 [T.D. 7967] published in the Rules and Regulations portion of this issue of the **Federal Register**, are hereby also proposed as final regulations under section 871 of the Internal Revenue Code of 1954.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–22293 Filed 8–17–84; 5:08 pm]

BILLING CODE 4830–01–M

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26 CFR Part 1

[LR–151–83]

Income Taxes; Sanctions on Issuers and Holders of Registration-Required Obligations Not in Registered Form

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking cross-reference to temporary regulations and withdrawal of notice of proposed rulemaking.

SUMMARY: This document provides a notice of proposed rulemaking relating to the definition of the term "registration-required obligation" with respect to obligations issued to certain foreign persons and the imposition of sanctions on issuers issuing registration-required obligations in bearer form, and relating to the imposition of sanctions on persons holding registration-required obligations in bearer form. In the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary income tax regulations relating to the definition of the term "registration-required obligation" with respect to obligations issued to certain foreign persons and the imposition of sanctions on issuers issuing registration-required obligations in bearer form, and relating to the imposition of sanctions on persons holding registration-required obligations in bearer form. The text of those temporary regulations serves as the comment document for this proposed rulemaking. This document also withdraws the notice of proposed rulemaking relating to the same subject matter that appeared in the **Federal Register** on September 2, 1983 (48 FR 39953).

DATE: Written comments and requests for a public hearing must be delivered or mailed before October 22, 1984.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–34–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Carol T. Doran of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR–151–83), 202–566–3289.

SUPPLEMENTARY INFORMATION: The temporary regulations published in the Rules and Regulations portion of this issue of the **Federal Register** delete § 5f.163–5(c) from part 5f and add §§ 1.163–5 (c)T, 1.165–12T, and 1.1287–1T to part 1. The final regulations that are proposed to be based on the temporary regulations would amend 26 CFR Part 1 by adding new §§1.163–5(c), 1.165–12 and 1.1287–1. For the text of the temporary regulations, see FR Doc. 84–22291 [T.D. 7965] published in the Rules and Regulations portion of this issue of the **Federal Register.**

This document withdraws the notice of proposed rulemaking that appeared in the **Federal Register** on September 2, 1983 (48 FR 39953). That notice is superseded by this document.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of a proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 8 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington,

D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of this regulation is Carol T. Doran of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of substance and style.

List of Subjects

26 CFR 1.61–1 Through 1.281–4

Income taxes, taxable income Deductions, Exemptions.

26 CFR 1.1201 through 1.1287–1

Income taxes, Capital gains and losses, Recapture.

Withdrawal of Proposed Amendments

The proposed amendments to 26 CFR Part 1 relating to the definition of the term "registration-required obligation" with respect to obligations issued to certain foreign persons and the imposition of sanctions on issuers issuing registration-required obligations in bearer form, and relating to the imposition of sanctions on persons holding registration-required obligations in bearer form and published in the Federal Register on September 2, 1983 (48 FR 39953) are hereby withdrawn.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–22294 Filed 8–17–84; 5:08 pm]

BILLING CODE 4830–01–M

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26 CFR Part 1

[LR–124–76]

Distributions in Redemption of Stock To Pay Death Taxes; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to distributions in redemption of stock to pay death taxes and funeral and administrative expenses. Changes to the applicable law were made by the Tax Reform Act of 1976 and the Economic Recovery Tax Act of 1981. The regulations would provide the public with the guidance needed to comply with the law and would affect those executors and shareholders whose stock is redeemed.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 22, 1984. The amendments are generally proposed to be effective for estates of decedents dying after December 3, 1976. Changes necessitated by the Economic Recovery Tax Act of 1981 are proposed to be effective for estates of decedents dying after December 31, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–124–76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Neil W. Zyskind of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, (202) 566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 303 of the Internal Revenue Code of 1954 (Code). These amendments are proposed to reflect the amendments made to the Code by section 2004(e) of the Tax Reform Act of 1976 (Pub. L. 94–455, 90 Stat. 1871) and sections 422 (b)(1), (b)(2), and (e)(1) of the Economic Recovery Tax Act of 1981 (Pub. L. 97–34, 95 Stat. 314, 316). These regulations are to be issued under the authority contained in Code section 7805 (68A Stat. 917; 26 U.S.C. 7805).

In General

Section 303 allows, subject to certain limitations, a distribution in redemption of stock that is included in a decedent's gross estate to be treated as a distribution in full payment in exchange for the stock redeemed. The amount of any distribution qualifying for this treatment may not exceed certain taxes (including any interest collected as part of such taxes) imposed by reason of the decedent's death and certain funeral and administration expenses.

Percentage Requirements

Prior to the Tax Reform Act of 1976, section 303 treatment was limited to stock of a corporation the value of whose stock comprised more than 35 percent of the value of the decedent's gross estate or more than 50 percent of the decedent's taxable estate. The Tax Reform Act of 1976 eliminated the alternative tests and provided a single test requiring that the value of the stock included in the decedent's gross estate exceed 50 percent of the value of the gross estate reduced by the sum of the amounts allowable as deductions under sections 2053 and 2054, relating to the expenses, indebtedness, taxes, and losses of the estate. The Economic Recovery Tax Act of 1981 reduced the percentage from 50 to 35. In addition, the Economic Recovery Tax Act of 1981 reduced the percentage limitation for aggregating stock of two or more corporations for purposes of the 35-percent test, from more than 75 percent to 20 percent or more.

Proposed § 1.303–1(a)(1) provides that the term "taxes," as used in section 303(a)(1), includes any additional estate tax imposed under section 2032A(c) (as well as any interest imposed with respect to such tax).

Proposed § 1.303–1(a)(3) provides that section 2035(d)(3)(A), relating to transfers made within 3 years of death, applies only for purposes of satisfying the 35-percent and 20-percent limitations of sections 303(b)(2) (A) and (B). Thus, any redemption of stock included in the gross estate as a result of section 2035(d)(3)(A) will not qualify for section 303 treatment.

Proposed § 1.303–1(a)(5) provides that in satisfying the 35-percent test of section 303(a)(2)(A), the deductions under sections 2053 and 2054 shall be determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the estate tax return.

Proposed § 1.303–1(a)(6) provides for recomputation of the 35-percent test where the additional estate tax under section 2032A(c) is imposed.

Period for Distribution

Prior to the Tax Reform Act of 1976, section 303 treatment was available only if the distribution occurred after the death of the decedent but no later than (1) ninety days after the expiration of the period of limitations provided in section 6501(a) for the assessment of Federal estate tax, or (2) sixty days after a decision of the Tax Court becomes final if a petition for redetermination of a deficiency is the estate tax has been filed with the Tax Court within the time prescribed in section 6213.

The Tax Reform Act of 1976 extended the period to permit distributions in redemption of stock at any time before the due date of the last installment of estate tax where an election has been made under section 6166 or 6166A (prior to its repeal by the Economic Recovery Tax Act of 1981). Where redemptions are made more than 4 years after the decedent's death, section 303 treatment is only available for distributions in an

amount which is the lesser of (1) the aggregate of the taxes and funeral and administration expenses which are unpaid immediately before the distribution, or (2) the aggregate amount of taxes and funeral and administration expenses which are paid within a one-year period beginning on the date of the distribution.

Binding Obligation Required

Prior to the Tax Reform Act of 1976, if stock was included in the decedent's gross estate, it could be redeemed from the decedent's estate, from a beneficiary, or from any other person even though that person was not chargeable with any portion of the liability for the estate tax or the funeral and administration expenses. The Tax Reform Act of 1976 amended section 303 to restrict section 303 treatment to those persons whose interest in the estate is reduced directly (or through a binding obligation to contribute) by payment of the taxes or funeral and administration expenses. Proposed § 1.303–1(d) sets forth rules relating to a reduction in a shareholder's interest in the estate.

Multiple Redemptions

Where there are multiple redemptions of stock meeting the requirements of sections 303(b)(2) (A) or (B) and (b)(3), each distribution will be deemed to have been made under section 303 until the limits of section 303(a) (1) and (2) have been reached. Any distributions in excess of the section 303 limitation will be governed by other provisions of the Code. If stock is not stock described in sections 303(b)(2) (A) and (B), then any distributions received upon the redemption of such stock will not affect the section 303 dollar limitation.

The proposed regulations revise the existing regulations by eliminating the strict chronological rule for all shareholders, even those not burdened with any taxes or expenses, and apply a chronological rule only to those shareholders who are burdened with the taxes and funeral and administration expenses.

Regulatory Flexilibity Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 8 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Neil W. Zyskind of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.301–1—1.385–6

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations.

PART 1—[AMENDED]

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.303–1 is revised to read as set forth below.

§ 1.303–1 Requirements.

(a) *General rules*—(1) *In general.* Section 303 treats a distribution of property to a shareholder by a corporation in redemption of all or a part of the stock of the corporation, the value of which is included in determining a decedent's gross estate for Federal estate tax purposes, as a distribution in full payment in exchange for the stock redeemed to the extent the amount of such distribution does not exceed—

(i) The estate, inheritance, legacy, and succession taxes (including any interest collected as part of such taxes) imposed because of the decedent's death; and

(ii) The amount of funeral and administration expenses allowable under section 2053 (or under section 2106 in the case of the estate of a decedent nonresident, not a citizen of the United States) as deductions to the estate.

The term "taxes," as referred to in paragraph (a)(1)(i) of this section, includes any additional estate tax imposed under section 2032A(c). Interest computed under section 1016(c)(5)(B) shall for purposes of paragraph (a)(1)(i) of this section be treated as interest collected as part of such taxes.

(2) *Stock eligible for section 303 treatment.* Section 303(a) and paragraph (a)(1) of this section will apply to a distribution by a corporation (redeeming corporation) only if the total value (for Federal estate tax purposes) of the stock of the redeeming corporation that is included in determining the value of the decedent's gross estate exceeds 35 percent of the excess of—

(i) The value of the gross estate of the decedent; over

(ii) The sum of the amounts allowable as deductions under sections 2053 and 2054.

For purposes of this 35-percent requirement, stock of two or more corporations will be treated as stock of a single corporation if 20 percent or more in value of all the stock of each corporation that is outstanding at the time of the decedent's death is included in determining the value of the decedent's gross estate. For purposes of this 20-percent requirement, the value of the stock which, at the time of the decedent's death, represents the surviving spouse's interest in property held by the decedent and the surviving spouse as community property, joint tenants, tenants by the entirety, or tenants in common will be treated as having been included in determining the value of the decedent's gross estate.

(3) *Transfers within 3 years of death.* In computing the 35-percent and 20-percent requirements of paragraph (a)(2) of this section, there shall be included in the value of the gross estate any transfers of stock of the corporation or corporations to which sections 2035 (a) (relating to transfers made by the decedent within 3 years of death) applies. See section 2035(d)(3)(A). However, redemption of such stock will not qualify for section 303 treatment unless the value of the stock is included in the value of the gross estate as a result of sections 2035 (a) and (d)(2).

(4) *Stock considered.* In determining whether the decedent's estate is comprised of stock of a corporation or corporations of sufficient value to satisfy the percentage requirements of paragraph (a)(2) of this section, the total

value, in the aggregate, of all the classes of stock of the corporation or corporations includible in determining the value of the decedent's gross estate is taken into account. A distribution under section 303(a) may be in redemption of the stock of a corporation includible in determining the value of the gross estate, without regard to the class of such stock.

(5) *Determination date.* Solely for purposes of paragraph (a)(2)(ii) of this section, the sum of the allowable section 2053 and section 2054 deductions shall be determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the return of tax imposed by section 2001 (or, if earlier, the date on which that return was filed). An item may constitute an allowable deduction though its exact amount is not then known, provided it is ascertainable with reasonable certainty and will be paid. No deduction based on a vague or uncertain estimate will be taken into account. It is immaterial whether the section 2053 and section 2054 deductions are claimed on the Federal estate tax return; it is only necessary that the expenses be allowable as a section 2053 of 2054 deduction on the determination date. Accordingly, interest payments on estate tax deferred under section 6166 will not qualify as a section 2053 expense for purposes of paragraph (a)(2)(ii) of this section because they could not be properly claimed as a deduction on the determination date set forth in the first sentence of this paragraph (a)(5).

(6) *Additional estate tax.* Where an additional estate tax is imposed under section 2032A(c), the 35-percent test of paragraph (a)(2) of this section must be recomputed. The recomputation, based on values as determined for Federal estate tax purposes, shall be made as if the section 2032A election has not been made with respect to the interest in qualified real property referred to in section 2032A(c)(1). If the 35-percent test is not met on this recomputed basis, no distributions made after the date of the section 2032A(c) triggering event will be treated as described in section 303(a) and paragraph (a)(1) of this section. Where the 35-percent test was not satisfied but, as a result of the recomputation, is now satisfied, only those distributions made subsequent to the section 2032A(c) triggering event will be treated as described in section 303(a) and paragraph (a)(1) of this section. Where both before and after the recomputation the 35-percent test is satisfied, any distributions in excess of the amounts described in paragraphs (a)(1) (i) and (ii) of this section which were made before the section 2032A(c) triggering event will not be treated as described in section 303(a) and paragraph (a)(1) of this section.

(7) *Examples.* Paragraphs (a) (1) through (6) of this section may be illustrated by the following examples:

Example (1). The gross estate of a decedent who died on January 7, 1983, has a value of $1,000,000. Funeral and administration expenses of $20,000 and casualty losses of $20,000 were deductible under sections 2053 and 2054 when the Federal estate tax return was timely filed. In addition, total transfer taxes (section 303(a)(1)) are $100,000. Included in the value of the gross estate of the decedent is the value of 100% of the stock or two corporations as follows:

Corporation X:	
Common Stock	$250,000
Preferred Stock	50,000
Corporation Y: Common Stock	300,000

Treated as the stock of a single corporation under section 303(b)(2)(B), this stock has a total value in excess of $336,000, which is 35 percent of the value of the gross estate reduced by the section 2053 and section 2054 deductions (($1,000,000–$40,000) × 35 percent). A distribution by either of the corporations within the period prescribed in section 303(b)(1), of amounts not exceeding, in the aggregate, $120,000 ($100,000 (taxes) + $20,000 (funeral and administration expenses)), in redemption of preferred stock or common stock of the corporation or corporations, may be treated as a distribution in full payment in exchange for the stock redeemed.

Example (2). The executor of a decedent who died on January 1, 1983, filed the decedent's estate tax return on October 1, 1983. No extension of time to file the return was requested by the estate. On December 20, 1983, the estate incurred an unanticipated administration expense which was deductible under section 2053. The expense is not taken into account for purposes of meeting the 35-percent test, since the deduction was not allowable as of the October 1, 1983, determination date. However, if the 35-percent test is satisfied, the expense is taken into account in determining the amount of distributions in redemption that may qualify under section 303(a)(2).

(b) *Gross estate.* For purposes of section 303 and this section, the term "gross estate" means the gross estate as computed in accordance with section 2031 (or in the case of the estate of a decedent non-resident, not a citizen of the United States, in accordance with section 2103) and the regulations thereunder.

(c) *Period for distribution*—(1) *In general.* Section 303 applies to distributions made after the death of the decedent and no later than—

(i) 90 days after the expiration of the period of limitations for the assessment of the Federal estate tax provided in section 6501(a) (determined without the application of any provisions of law extending or suspending the running of such period of limitations),

(ii) 60 days after a decision of the Tax Court becomes final (if a petition for redetermination of a deficiency in such estate tax has been filed with the Tax Court within the time prescribed in section 6213) or

(iii) The expiration of the period determined for the payment of the installments under section 6166 (if an election has been made under such section).

The period for distribution provided in paragraph (c)(1)(ii) of this section refers solely to bona fide contests in the Tax Court and will not apply in the case of proceedings instituted or maintained by the taxpayer primarily for delay or where the taxpayer's position in such proceedings is frivolous or groundless. Where an additional estate tax is imposed under section 2032A(c), solely for purposes of determining the timeliness of a distribution that does not exceed the amount of such tax, paragraphs (c)(1) (i) through (iii) of this section shall be applied by substituting the term "additional estate tax" for the term "estate tax."

(2) *Additional limitation.* Where a distribution was made more than 4 years after the date of the decedent's death, such distribution will qualify for section 303 treatment only to the extent of the lesser of the sum of the taxes and expenses described in paragraphs (a)(1) (i) and (ii) of this section which—

(i) Remain unpaid immediately before the distribution, or

(ii) Are paid within the 1-year period beginning on the date of the distribution.

(d) *Relationship of shareholder to the estate taxes and expenses*—(1) *In general.* Section 303 applies to stock redeemed from the executor of the estate or any other person who acquired the stock by any of the means comprehended by part III, subchapter A, chapter 11 of the Code, including the heir, legatee, or donee of the decedent, a surviving joint tenant, surviving spouse, appointee, or taker in default of appointment, or a trusteee of a trust created by the decedent, but only to the extent that the shareholder's interest in the estate is reduced directly (or through a binding obligation to contribute) by the payment of the taxes or expenses described in paragraphs (a)(1) (i) and (ii) of this section. However, section 303 is not applicable to a case where stock is redeemed from a shareholder who has

acquired the stock by gift or purchase from any person to whom such stock has passed from the decedent. Nor is section 303 applicable to the case where stock is redeemed from a shareholder who has acquired the stock from the executor in satisfaction of a specific monetary bequest.

(2) *Redemption from executor.* Where the redemption is from the executor and under the terms of the decedent's will the executor is required to pay the taxes or expenses described in paragraphs (a)(1) (i) and (ii) of this section, then the redemption will qualify for section 303 treatment. However, where the redemption is from the executor and under the terms of the decedent's will and/or local law the executor is not required to pay the taxes or expenses and has the discretion to determine who ultimately receives the stock, then the redemption will qualify for section 303 treatment to the extent the executor's payment of the taxes or expenses described in paragraphs (a)(1) (i) and (ii) of this section reduces the liability of the ultimate taker of the proceeds of the redemption.

(3) *No tracing.* For purposes of paragraphs (d) (1) and (2) of this section, it is not necessary that the distributions be made in advance of the payment of the taxes or expenses or that the proceeds of the distributions be used to pay the taxes or expenses.

(4) *Examples.* Paragraphs (d) (1) through (3) of this section may be illustrated by the following examples:

Example (1). The gross estate of a decedent who died on January 5, 1983, had a value for Federal estate tax purposes of $750,000. The sum of the taxes and funeral and administration expenses allowable when the Federal estate tax return was filed was $150,000. Included in the gross estate of the decedent was stock of a corporation which has a value of $500,000. Under the decedent's will, 50 percent of the stock, valued at $250,000, passed to *A* and the balance of the estate passed to *B*. The terms of the decedent's will provided that *A* and *B* are responsible for the taxes and funeral and administration expenses in the same proportion as their share of the estate. After the stock is distributed, the corporation redeems $100,000 of its stock from *A* and $100,000 from *B* within the periods prescribed in sections 303(b) (1) and (4). $50,000 of the amount distributed to *A* ($250,000/$750,000 × $150,000) and the entire $100,000 amount distributed to *B* ($500,000/$750,000 × $150,000) are treated as described in section 303(a). The tax treatment of the remaining $50,000 distributed to *A* would be determined under other provisions of the Code.

Example (2). The facts are the same as in Example (1), except that under the will *B* is responsible for the payment of all of the taxes and funeral and administration expenses. None of the amount distributed to *A* qualifies for treatment under section 303. See section 303(b)(3). The entire amount distributed to *B* qualifies for treatment under section 303, and later distributions of up to $50,000 to B would be treated as described in section 303(a) if made within the periods prescribed in sections 303(b) (1) and (4).

Example (3). The gross estate of a decent who died on January 1, 1983, had a value for Federal estate tax purposes of $2,000,000. The sum of the taxes and funeral and administration expenses allowable when the Federal estate tax return was filed was $600,000. Included in determining the value of the gross estate was stock of a coproration which for Federal estate tax purposes was valued at $1,000,000. Under the decedent's will, 50 percent of the stock, having a Federal estate tax value of $500,000, passes to *A*, real estate having a Federal estate tax value of $500,000 passes to *B*, and the remainder of the estate, consisting of 50 percent of the stock, having a Federal estate tax value of $500,000, and cash passes to *C*. Under the terms of the will and local law, the shares of *A*, *B*, and *C* bear an allocable portion of the taxes and funeral and administration expenses. The corporation redeems stock having a date of redemption value of $400,000 from the executor within the period prescribed in section 303(b)(1) and the executor disburses $400,000 in payment of part of the taxes and funeral and administration expenses. Under local law, $150,000 of the redeemed stock would have been distributed to *A* and $250,000 to *C* had the redemption not occurred. Since *A* is responsible for $150,000 ($500,000/$2,000,000×$600,000) of the taxes and expenses and *C* is responsible for $300,000 ($1,000,000/$2,000,000×$600,000) of the taxes and expenses, and the executor's payment of the taxes and expenses reduced *A* and *C's* interest in the estate by $150,000 and $250,000, respectively, the entire amount of the distribution in redemption of the stock will qualify for section 303 treatment.

Example (4). The gross estate of a decedent who died on January 1, 1983, had a value for Federal estate tax purposes of $1,000,000. The sum of the taxes and funeral and administration expenses allowable when the Federal estate tax return was filed was $200,000. Included in determining the value of the gross estate was stock of a coroporation valued at $500,000, which was held as tenants by the entirety with the decedent's spouse. The remainder of the estate passed to the decendent's son. Under the terms of the will and local law, the son was responsible for all taxes and funeral and administration expenses. Thus, since the decedent's spouse was not responsible for any of the taxes and expenses, any redemption of stock from the spouse will not qualify for section 303 treatment.

(e) *Multiple redemptions*—(1) *In general.* If there is more than one distribution in redemption of stock described in section 303(b)(2) during the period of time prescribed in sections 303(b) (1) and (4), the distributions that qualify under section 303 (including section 303(b)(3)) will be applied against the total amount which qualifies for treatment under section 303 in the order in which the distributions are made. For example, where an individual who is obligated to pay the taxes and funeral and administration expenses has stock redeemed by the corporation in a section 302 redemption and such stock is stock described in section 303(b)(2), then the distributions will be applied against the total amount which qualifies for section 303 treatment. The term "stock described in section 303(b)(2)" refers to stock of a corporation that either meets the 35-percent test of section 303(b)(2)(A) or meets the 35-percent test through the aggregation provisions of section 303(b)(2)(B). All distributions in redemption of such stock that qualify under section 303 will be applied against the total amount which qualifies for treatment under section 303 in the order in which the distributions are made, including distributions which under another provision of the Code are treated as in part or full payment in exchange for the stock redeemed.

(2) *Examples.* Paragraph (e)(1) of this section may be illustrated by the following examples:

Example (1). A, who died on December 2, 1983, left a gross estate having a value for Federal estate tax purposes of $800,000. The sum of the taxes and allowable funeral and administration expenses was $225,000. Included in determining the value of the gross estate of the decedent is the stock of a corporation which for Federal estate tax purposes is valued at $450,000. During the first year of administration, one-third of the stock is distributed to a legatee, who is obligated to pay $150,000 of the taxes and funeral and administration expenses, and shortly thereafter this stock is redeemed by the corporation for $150,000. During the second year of administration, another one-third of the stock is redeemed for $150,000 to another legatee, who is obligated to pay $75,000 of the taxes and funeral and administration expenses. The first distribution of $150,000 is applied against the $225,000 amount that qualifies for treatment under section 303, regardless of whether the first distribution was treated as full payment in exchange for the stock redeemed under another section of the Code. Only $75,000 of the second distribution may be treated as in full payment in exchange for stock under section 303. The tax treatment of the remaining $75,000 would be determined under other provisions of the Code.

Example (2). A, who died on February 1, 1983, left a gross estate having a value for Federal estate tax purposes of $1,000,000. The sum of the taxes and allowable funeral and administration expenses was $260,000. Included in the gross estate is 100 percent of *X* Corporation stock valued at $800,000 and 100 percent of *Y* Corporation stock valued at $200,000. The executor was required to pay all taxes and expenses. On June 20, 1983, *Y* Corporation was completely liquidated and the estate received $200,000. This distribution

qualified and was treated for Federal income tax purposes as a complete liquidation under section 331(a). On November 1, 1983, the *X* Corporation redeemed stock for $200,000. The distribution received by the estate upon liquidation of *Y* Corporation reduces the amount qualifying for section 303 treatment. Thus, prior to the redemption of the *X* Corporation stock, there was $60,000 remaining which could qualify for section 303 treatment ($260,000 − $200,000). Therefore, when the *X* Corporation stock is redeemed on November 1, 1983, only $60,000 is treated as described in section 303(a).

Example (3). The facts are the same as in Example (2), except that the decedent's interest in the value of the stock of *Y* Corporation represented 15 percent of the value of the outstanding stock of *Y* Corporation. *Y* Corporation's stock does not qualify for section 303 treatment since it does not meet the 35-percent test of section 303(b)(2)(A) or the 20-percent aggregation test of section 303(b)(2)(B) and is, therefore, not stock described in section 303(b)(2). Thus, the amount received in the liquidation does not reduce the amount that qualifies for section 303 treatment. Consequently, the $200,000 distribution received on redemption of *X* Corporation's stock will qualify for section 303 treatment.

(f) *Stock with substituted basis and section 306 stock.* If stock includible in determining the value of the gross estate of a decedent (old stock) is exchanged for new stock, the basis of which is determined by reference to the basis of the old stock, the redemption of the new stock will be treated the same under section 303 as the redemption of the old stock would have been. Thus, section 303 will apply with respect to a distribution in redemption of stock received (1) in a distribution to which section 305(a) applies, (2) in a distribution or exchange under section 355 (or so much of section 356 as relates to section 355), (3) in connection with a reorganization under section 368, or (4) in an exchange under section 1036. Similarly, a distribution in redemption of stock will qualify under section 303 notwithstanding the fact that the stock redeemed is section 306 stock, to the extent that the conditions of section 303 are met.

(g) *Federal estate tax.* For purposes of section 303, the Federal estate tax or any other estate, inheritance, legacy, or succession tax shall be ascertained after the allowance of any credit, relief, discount, refund, remission, or reduction of tax. Additions to the tax, additional amounts, and penalties under chapter 68 of the Code will not be treated as part of the tax for purposes of section 303(a)(1).

(h) *Effective dates*—(1) *In general.* Generally, the provisions of this section are effective for estates of decedents dying after December 31, 1981.

(2) *Tax Reform Act of 1976.* For estates of decedents dying after December 31, 1976, and before January 1, 1982, the provisions of this section are applicable with two exceptions:

(i) The "35 percent" and "20 percent or more" tests of paragraph (a)(2) of this section are to be replaced by "50 percent" and "more than 75 percent" tests, respectively.

(ii) Paragraph (c)(1)(iii) of this section will also apply to periods for payments of installments under section 6166A elections.

§ 1.303–2 [Removed]

Par. 2. Section 1.303–2 is removed.

§ 1.303–3 [Redesignated as §1.303–2 and amended]

Par. 3. Section 1.303–3 is redesignated as § 1.303–2 and is amended by adding two new sentences at the end of paragraph (b) to read as set forth below.

§ 1.303–2 Application of other sections.

* * * * *

(b) * * * See section 311(d)(2) relating to nontaxability of a corporation where the corporation uses appreciated property to redeem stock under section 303. See section 537 relating to reasonable needs of the business for purposes of the accumulated earning tax.

These regulations are proposed to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–22324 Filed 8–21–84; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 1

[LR–72–81]

Federal Grants Not Includable in Income in Certain Cases; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to certain federal grants and scholarships which are not includable in income. Changes to the applicable regulations are necessary due to amendments made by the Tax Treatment Extension Act of 1980. These regulations would provide necessary guidance to Internal Revenue Service personnel who administer the Code and members of the public who are subject to these laws.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 22, 1984. The regulations are proposed to be effective for amounts received under qualifying Federal programs after December 31, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR–72–81) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Margaret M. O'Connor of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington D.C 20224, Attention CC:LR:T, 202–566–3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under § 117(c) of the Internal Revenue Code of 1954 (Code) which was added by section 5(a) of the Tax Treatment Act of 1980 (1980 Act) (Pub. L. 96–541, 94 Stat. 3205).

Section 117 ofd the Code generally provides that those amounts received as scholarships or fellowship grants at educational institutions by degree canidates and those amounts up to three-hundred dollars per month received for up to thirty six months by nondegree candidates as scholarship or fellowship grants are excluded from gross income. Under the general rules of § 117, this exclusion includes the value of services and accomodations contributed to the recipient of the scholalrship or grant and also extends to incidental amounts received for travel, research, clerical help and equipment whether or not required for the recipient's enrollment or course of instruction. Under §§ 117 (a) and (b), educational grants are not excluded from gross income if they represent compensation for past, present or future services or if the studies or research are primarily for the benefit of the grantor or under the supervision of the grantor. Thus, only grants made by relatively disinterested grantors who do not require anay significant consideration from the recipient are exempt from taxation.

The 1980 Act, however, added a new subsection (c) to § 117 which created a permanent exclusion for federal grants which would otherwise qualify for the exlusion under § 177 but for the requiriement that the recipient perform future services for the federal grantor. This exclusion is available only if the individual establishes that the amount received was used for qualified tuition

and related expenses incurred in a course of study at an institution of higher education according to the terms of the grant. Under § 117(c) and the proposed regulations, qualified tuition and related expenses refer to the tuition and fees required for enrollment or attendance of a student at an institution of higher education and the fees, books, supplies, and equipment required for courses of instruction at an institution. Incidental expenses, such as expenses for room and board, travel, clerical help and equipment, which are not required in a course of study are not excluded under § 117(c). An institution of higher education is defined for purposes of § 117(c) as a legally authorized public or other nonprofit institution which admits as students only those possessing a certificate of graduation from high school or its equivalent, and provides a program which either leads to a bachelor's degree or higher, is acceptable for full credit towards such a degree, or prepares students for employment in a recognized health profession.

The Act also extends the exclusion to programs where the recipient of the tgrant is required to work in a health manpower shortage area. The proposed regulations specify that health manpower shortage areas are those areas designated as such by the Secretary of Health and Human Services according to the requirements of the Public Health Services Act (42 U.S.C. 3254(e)) and the regulations promulgated thereunder (42 CFR 5.1–5.4). The proposed regulations also clarify that, with the exception of service in a health manpower shortage area, § 117(c) will only apply if the recipient will be obligated to perform future services as a federal employee.

The proposed regulations, do not apply to certain federal grants given to members of uniformed services. In 1974, Congress adopted a specific, temporary exclusion for amounts received as grants by members of uniformed services who entered qualifying programs prior to January 1, 1981. Pub. L. 93–483 section 4 (as amended by Pub. L. 95–171, Pub. L. 95–600 and Pub. L. 96–167). Members of uniformed services under this provison included members of the Army, Navy, Air Force, Marine Corps, Coast Guard, and the Public Health Service. This legislation allowed qualified recipients to exclude from income amounts received, including the value of contributed services and accommodations and amounts for incidental expenses, under the Armed Forces Health Professions Scholarship Program, National Public Health Service Corps Scholarship Training Program and other similar federal programs which required the recipient to work for the funding service after completion of his or her studies. This special legislation applies only to qualifying amounts received after 1972 and before 1985 by a member of a uniformed service entering training before 1981. Therefore, the proposed regulations provide that amounts received after 1972 and before 1985 by members of uniformed services entering training before 1981 under qualifying programs wil be governed by Pub. L. 93–483 section 4, as amended, and not § 117(c). Thus, under the proposed regulations, if the member of a uniformed service entered training before 1981, only those amounts received after 1984 will be subject to the rules of § 117(c). If a member of a uniformed service entered training after 1980, however, all amounts received under these programs will be subject to the rules of § 117(c).

These regulations are to be issued under the authority contained in § 7805 of the Internal Revenue Code (68 Stat. 917; 26 U.S.C. 7805).

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 8 copies) to the Commission of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed regulations is Margaret M. O'Connor of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects in 26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

PART 1—[AMENDED]

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Paragraph (b) of § 1.117–3 is amended by removing "institution" wherever it appears and inserting in lieu thereof, "organization" and by removing "section 117 adopts" wherever it appears and inserting in lieu thereof "paragraphs (a) and (b) of § 117 adopt".

Par. 2. The first sentence of paragraph (c)(1) of § 1.117–4 is amended by inserting the phrase "and § 1.117–5" after "§ 1.117–2".

Par. 3. A new § 117–5 is added to read as set forth below.

§ 117.5 Federal grants requiring future service as a federal employee.

(a) *In general.* Under section 117(c), amounts received by an individual under a federal program as a scholarship or grant for qualified tuition and expenses at an institution of higher education are excluded from the gross income of the recipient even though the recipient is required to perform future service as a federal employee. See paragraph (c) of this section for the definition of the terms "qualified tuition and expenses" and "institution of higher education."

(b) *Exception for uniformed services scholarship programs.* The requirements

of this section do not apply to amounts received before 1985 by a member of a uniformed service entered training before 1981 under the Armed Forces Health Professions Scholarship Program, National Public Health Service Corps Scholarship Training Program, or other substantially similary federal programs requiring the recipient to work for an uniformed federal service after completion of studies. These awards are governed by section 4 of Pub. L. 93–483 as amended by Pub. L. 95–171, Pub. L. 95–600 and Pub. L. 96–167. See section 101(3) of title 37, United States Code for the definition of the term "uniformed service."

(c) *Definitions.* (1) *Qualified tuition and related expenses.* For purposes of section 117(c) and this section, qualified tuition and related expenses are those amounts which under the terms of the federal program are required to be used and in fact are used for payment of:

(i) Tuition and fees that are required for the recipient's enrollment or attendance at an institution of higher education; and

(ii) Those amounts used for payment of fees, books, supplies and equipment required for courses of instruction at such an institution.

Incidental expenses are not considered related expenses and thus are not excludable from gross income. Incidental expenses include room and board at an institution of higher education, expenses for travel (including expenses for meals and lodging incurred during travel and allowances for travel of the recipient's family), research, clerical help, equipment and other expenses which are not required for enrollment at the institution or in a course of instruction at such institution.

(2) *Institution of higher education.* To qualify as a institution of higher education under this section, the institution must be a public or other nonprofit institution in any state which—

(i) Admits as regular students only individuals who have a certificate of graduation from a high school or the recognized equivalent of such a certificate;

(ii) Is legally authorized within the state to provide a program of education beyond high school; and

(iii) Provides an educational program for which it awards a bachelor's or higher degree or which is acceptable for full credit towards such a degree, or which trains and prepares students for gainful employment in a recognized health profession. For purposes of this section, recognized health professions are those health professions which are supervised or monitored by appropriate state or federal agencies or governing professional associations and which require members to be currently licensed or certified in order to practice.

(3) *Service as a federal employee*—(i) *In general.* Except as otherwise provided in paragraph (c)(3)(ii) of this section, service as a federal employee refers to employment of the recipient by the federal government to work directly for the federal government. Thus, federal grants or scholarships which do not require the recipient to work directly for the federal government are not governed by the rules of this section.

(ii) *Service in a health manpower shortage area.* For purposes of this section an obligation under a grant for the recipient to serve in a health related field in a health manpower shortage area as designated by the Secretary of Health and Human Services according to the criteria of the Public Health Services Act (42 U.S.C. 3284(e)) and the regulations promulgated thereunder (42 CFR 5.1–5.4) will be considered an obligation to serve as a federal employee.

(d) *Records required for exclusion from gross income.* To exclude amounts received under federal programs requiring future services as a federal employee, the recipient must maintain records that establish that the amounts received under such programs were used for qualified tuition and related expenses as defined in paragraph (c)(1) of this section. Qualifying uses may be established by providing to the Service, upon request, copies of relevant bills, receipts, cancelled checks or other convenient documentation or records which clearly reflect the use of the money received under the grant. The recipient must also submit, upon request, documentation establishing receipt of the grant and setting out the terms and requirments of the particular grant.

(e) *Applicability of rules of §§ 117(a) and 117(b).* Except where a different rule has been expressly provided in this section, amounts received under federal grants requiring future service as a federal employee, and which meet the requirements for exclusion from gross income under this section, are subject to the rules, limitations and definitions specified in §§ 117 (a) and (b) of the Code and §§ 1.117–1 through 1.117–4.

(f) *Effective date.* Except as provided in paragraph (b) of this section, this section will apply to amounts received after December 31, 1980 under federal programs which meet the requirements of this section.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–22323 Filed 8–21–84; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 1

[LR–190–78]

Income Tax Exemption for Interest on Industrial Development Bonds for Certain Water Facilities; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the income tax exemption for interest on industrial development bonds issued to finance certain water facilities. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations would affect issuers, holders, and recipients of the proceeds of such obligations and provide them with the guidance needed to comply with the changed tax law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 22, 1984. The amendments are proposed to be effective with respect to obligations issued by or on behalf of a State or local government after November 6, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR–190–78).

FOR FURTHER INFORMATION CONTACT: John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3590).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 333 of the Revenue Act of 1978 (92 Stat. 2840). They are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Explanation of Provisions

Section 333 of the Revenue Act of 1978 amended Code section 103(b)(4)(G) to expand the types of "facilities for the furnishing of water" that qualify for tax-exempt financing under section 103(b)(4)(G). The proposed regulations set out three principal requirements that facilities must meet to qualify for tax-exempt financing under Code section 103(b)(4)(G).

The first of these major requirements is that the facility must be a system that furnishes water or be a component of a system or project that furnishes water. Ordinarily, such a system or project would include only those components necessary for the collection, treatment, and distribution of water to a service area. The facility must not be a production facility.

The second major requirement is that the facility must make its water available to members of the general public, which may include agricultural, industrial, commercial, and electric utility users. Although a facility is not required to serve all segments of the general public within its service area in order to qualify for tax-exempt financing, it must grant access for residential users or municipal water districts to a substantial portion of its water in order to qualify. However, water is not made available to residential users merely because it is available for their recreational use.

The final major requirement is that the facility must be operated either by a governmental unit or by a regulated public utility. In order to meet this third major requirement, the governmental unit or regulated utility must be responsible for the repair and maintenance of the facility.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 8 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Non-Applicable of Executive Order 12291

The Treasury Department has detemrined that these proposed regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the order dated April 29, 1983.

Regulatory Flexibility Act

The Internal Revenue Service has concluded that these proposed regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these proposed regulations is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

PART 1—[AMENDED]

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Section 1.103–8 (relating to exemption for interest on bonds to finance certain exempt facilities) is amended by revising paragraph (h) thereof. The revised provisions read as folows:

§ 1.103–8 Interest on bonds to finance certain exempt facilities.

* * * * *

(h) *Water facilities*—(1) *General rule for obligations issued after November 6, 1978.* Section 103(b)(4)(G) provides that section 103(b)(1) shall not apply to any obligation issued after November 6, 1978, by (or on behalf of) a State or local governmental unit which is issued as part of an issue substantially all of the proceeds of which are to be used to provide facilities for the furnishing of water for any purpose if certain requirements are met. In order to qualify under section 103(b)(4)(G) and this paragraph as an exempt facility, the facility must satisfy the requirements established by subparagraph (3) of this paragraph.

(2) *Facilities for the furnishing of water defined.* For purposes of section 103(b)(4)(G) and this paragraph, the term "facilities for the furnishing of water" means those components of a system for the distribution of water to customers that are necessary for the collection, treatment, and distribution of water to a service area, and other functionally related and subordinate components as defined in § 1.103–8(a)(3). For a component to come within this definition, it must be part of a system which, when viewed as a whole, is for the distribution of water to customers. A system or component does not come within this definition if it is a production facility that merely uses water in the production process (*e.g.*, a cooling pond, or equipment using water internally within a manufacturing plant). For exemple, an extension of a pipeline to carry water to a single industrial user from a qualified system is a qualified component because the system as a whole quantifies, but the internal water facilities of a private plant would not be a quantified component. In general a series of dams will not constitute a single system but each will constitute a separate system. Components of a dam or reservoir used to generate electric energy, such as generators and turbines, will not qualify as facilities for the furnishing of water (of course they may qualify as components for the local furnishing of electric energy under section 103(b)(4)(E) or as components used in hydroelectric generating facilities qualifying under section 103(b)(4)(H)). However, a reservoir or dam does not necessarily fail to qualify as facilities for the furnishing of water solely because one use of the water is to produce electricity if at least 90 percent of the water is available for other purposes, such as irrigation and domestic consumption, in addition to producing electricity.

(3) *Additional requirements.* (i) The facility must make its water available to members of the general public. For this purpose, the general public includes electric utility, industrial, agricultural, and commercial users. In order to make its water available to the general public, a facility must make available to residential users within its service area, municipal water districts within its service area, or any combination thereof, at least 25 percent of its capacity (which must be a considerable quantity in absolute terms). Except with respect to residential users and municipal water districts, a water facility is not required to make available water to all segments of the general public in order to qualify under this subdivision (i). For example, if an industrial user agrees to "take or pay for" the entrie capacity of a reservoir (but is guaranteed only 25 to 75 percent of the capacity), the facility will comply with this subdivision (i), provided the

remainder of the water will be made available to residential users or municipal water districts within the service area. However, a facility is not considered to make water available to the general public merely because it is available for swimming, water skiing, and other recreational activities. A water facility is not required to make its water available to the general public immediately after its construction in order to qualify under this subdivision (i); it is sufficient that the facility is available to serve the general public. For example, if a pipeline is built to serve a sparsely inhabited region which lacks water, the pipeline meets the requirements of this subdivision (i) if it will serve the general public that the new source of water reasonably may be expected to cause to move into the region.

(ii) The facility must be operated either by—

(A) A governmental unit, within the meaning of § 1.103–7(b)(2), or the United States government or an agency or instrumentality thereof, or

(B) A regulated public water utility whose rates for the furnishing or sale of the water are required to be established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.

A governmental unit or a regulated public water utility is considered to operate a facility only if it has responsibility and control over the repairs and maintenance of the facility. For example, if an industrial user leases the facility on a long-term basis, and it either controls the maintenance and repair of the facility, or bears these costs, then the facility fails to meet the requirement that it be operated by a governmental unit or a regulated public water utility.

* * * * *

These amendments are proposed to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–22325 Filed 8–21–84; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 46

[LR–9–83]

Tax on Issuer of Registration Required Obligation Not in Registered Form; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the excise tax imposed on the issuer of registration-required obligations which are not issued in registered form. Changes to the applicable law were made by the Tax Equity and Fiscal Responsibility Act of 1982. The regulations affect issuers of obligations and would provide them with the guidance needed to comply with the law.

DATES: Written comments and requests for a public hearing must be delivered or mailed by October 22, 1984. The regulations would apply to issuers of registration-required obligations which are not in registered form and generally are proposed to be effective after December 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue, N.W., Attention: CC:LR:T (LR–9–83) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Ada S. Rousso of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–4336), not a toll free call.

SUPPLEMENTARY INFORMATION: .

Background

This document contains proposed amendments to the Excise Tax Regulations (26 CFR Part 46) under section 4701 of the Internal Revenue Code of 1954 (Code). These amendments are proposed to conform the regulations to section 310(b)(4) of the Tax Equity and Fiscal Responsibility Act of 1982 (Act) (Pub. L. 97–248, 96 Stat. 597) and are to be issued under the authority contained in sections 6011 (68A Stat. 732; 26 U.S.C. 6011) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Code.

In General

Section 4701(a) of chapter 39, provides that a tax is imposed on any person who issues a registration-required obligation which is not in registered form. The amount of the tax is one percent of the principal amount multiplied by the number of years (including portions thereof) from the date of issuance to the date of maturity. The terms "registration-required obligation" and "registered form" are defined in section 4701(b) as having the same meaning as when used in section 163(f) relating to denial of interest deduction for interest on certain obligations not in registered form. However, a registration-required obligation does not include any obligation required to be registered under section 103(j). Thus, the tax does not apply to those obligations which would otherwise be exempt from Federal income tax under section 103(a) or any other provision of law. While section 4701 applies generally to obligations issued after December 31, 1982, section 310(d)(3) of the Act also provides that section 4701 does not apply to any obligation issued after December 31, 1982, pursuant to the exercise of a warrant or the conversion of convertible obligation if the warrant or convertible obligation was issued before August 10, 1982 and offered or sold outside the United States without registration under the Securities Act of 1933.

Proposed regulations relating to registration-required obligations with respect to obligations issued to certain foreign persons and the imposition of sanctions on persons holding registration-required obligations in bearer form are provided by another regulations project (LR–151–83). Proposed regulations relating to the denial of an interest deduction on certain obligations not issued in registered form are provided by regulations project LR–255–82.

In addition, § 46.6011(a)–(1)(a) relating to the general requirement of making a return, statement or list by a person made liable for any tax imposed by this title, is amended to provide for the filing of Form 720 (Quarterly Federal Excise Tax Return) by those persons liable for the tax under section 4701.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably 8 copies) to the Commissioner of Internal Revenue. All comments will be available for inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

The collection of information requirements contained in this notice of

proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. The Internal Revenue Service has concluded that although this document is a notice of proposed rulemaking that solicits public comment, the regulations herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these proposed regulations is Ada S. Rousso of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 46

Banks, Banking, Insurance, Sugar, Registration-required obligations.

PART 46—[AMENDED]

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 46 are as follows:

Paragraph 1. Section 46.0–1 is amended as follows.

a. Paragraphs (a)(3) and (a)(4) are redesignated as paragraphs (a)(4) and (a)(5), respectively, and a new paragraph (a)(3) is inserted immediately after paragraph (a)(2) to read as set forth below.

b. Paragraph (b) is amended by removing the phrase "Subpart C of this part is reserved." and adding in its place "Subpart C of this part relates to the excise tax imposed by section 4701 on issuers of registration-required obligations not issued in registered form."

§ 46.0–1 Introduction.

(a) * * *

(3) the tax on the issuer of registration-required obligations not issued in registered form imposed by chapter 39 of the Internal Revenue Code of 1954, and * * *

* * * * *

Par. 2. A new Subpart C consisting of § 46.4701–1 is added immediately after § 46.4504–1 to read as set forth below.

Subpart C—Excise Tax on Obligations Not in Registered Form

§ 46.4701–1 Tax on issuer of registration-required obligation not in registered form.

(a) *In general.* Section 4701 imposes a tax (determined under paragraph (c) of this section) on any person (referred to as the issuer) who issues an obligation that—

(1) Is a registration-required obligation, and

(2) Is not issued in registered form.

(b) *Definitions*—(1) *Person.* The term "person" includes all governmental entities.

(2) *Obligation.* The term "obligation" includes bonds, debentures, notes, certificates and other evidences of indebtedness regardless of how denominated.

(3) *Registration-required obligation.* The term "registration-required obligation" has the same meaning as when used in section 163(f) (and the regulations thereunder) which relates to the denial of a deduction for interest on certain obligations not in registered form. However, the term "registration-required obligation" does not include any obligation which would otherwise be exempt from Federal income tax under section 103(a) or any other provision of law.

(4) *Registered form.* The term "registered form" has the same meaning as when used in section 103(j) (and the regulations thereunder) which relates to obligations which must be in registered form to be tax-exempt.

(5) *Issuer.* The "issuer" is the person whose interest deduction would be disallowed solely by reason of section 163(f)(1).

(6) *Date of Issuance.* (i) For obligations intended to be offered to the public, the term "date of issuance" means the date the obligation is first sold to the public at the issue price.

(ii) For an obligation which is privately placed, the term "date of issuance" is the date the obligation is first sold by the issuer.

(c) *Rate and computation of tax.* The tax under section 4701(a) is imposed in an amount equal to the product of—

(1) 1 percent of the principal amount of the obligation, multiplied by

(2) The number of calendar years (or portions thereof) during the period beginning on the date of issuance of the obligation and ending on the date of maturity.

For purposes of this paragraph, the term "principal amount" for a discounted obligation is the issue price, and for all other obligations, including obligations sold at a premium, the term "principal amount" is the stated redemption price at maturity.

(d) *Payment of tax.* Every person who incurs liability for the tax imposed by section 4701 is required to file a return in accordance with section 6011 and § 46.6011(a)–1 relating to the general requirement of a return, statement or list.

(e) *Effective date.* The provisions of this section shall apply to obligations issued after December 31, 1982, unless issued on the exercise of a warrant or the conversion of a convertible obligation if the warrant or obligation was offered or sold outside the United States without registration under the Securities Act of 1933 and was issued before August 10, 1982. See section 310(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982.

§ 46.6011 [Amended]

Par. 3. Section 46.6011(a)–1(a) is amended by removing the phrase "4371 and 4501(a)" from paragraph (a) wherever it appears and replacing it with the phrase "4371, 4501(a) and 4701".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–22322 Filed 8–21–84; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Regional II Docket No. 36; A–2–FRL–2658–1]

Approval and Promulgation of State Implementation Plans; Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposal announces the receipt of a request from the State of New York to revise its State

Implementation Plan. If approved by the Environmental Protection Agency, this revision will allow the Long Island Lighting Company to continue using fuel oil with a maximum sulfur content of 2.8 percent, by weight, in units 1, 2, and 3 of its Northport generating facility and in units 3 and 4 of its Port Jefferson generating facility, all located in Suffolk County, New York. The current fuel oil sulfur content regulatory limitation is 1.0 percent, by weight. The State's submittal, extending a current "special limitation," limits the use of the higher sulfur content fuel oil to a maximum of three years from the date that a final rulemaking notice is published on this request.

A public hearing on this proposal was held by the New York State Department of Environmental Conservation of June 13, 1984. Concurrently, EPA is proposing to approve the New York request contingent upon final adoption by New York of its proposal in a substantially unchanged form. This concurrent review, which EPA refers to as "parallel processing," is designed to expedite EPA action.

DATE: Comments must be received on or before September 21, 1984.

ADDRESSES: All comments should be addressed to: Richard T. Dewling, Acting Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the proposal are available for public inspection during normal business hours at:

Environmental Protection Agency, Air Programs Branch, Region II Office, 26 Federal Plaza, Room 980, New York, New York 10278

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233

New York State Department of Environmental Conservation, Region I, Building 40, State University of New York, Stony Brook, New York 11794.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION: On May 3, 1984, New York State submitted to the Environmental Protection Agency (EPA) a proposed revision to its State Implementation Plan (SIP). The submittal is a request to extend a State "special limitation" which, if approved by EPA would allow the Long Island Lighting Company (LILCO) to continue using fuel oil with a higher sulfur content than is currently permitted by State regulation (1.0 percent, by weight). The "special limitation," authorized by § 225.2 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, applies to units 1, 2, and 3 of the Northport generating station, and to units 3 and 4 of the Port Jefferson generating station, all located in Suffolk County, New York. It allows the use of fuel oil with a maximum sulfur content of 2.8 percent, by weight, for a period of three years from the date that a final rulemaking notice is published by EPA. The request extends a "special limitation" already in effect which would expire on September 24, 1984.

The State's submittal consists of a letter requesting "parallel processing" by EPA and indicating New York's intention to approve a renewal of the "special limitation," a notice of a State public hearing held on June 13, 1984 and a technical report, "Review of the Air Quality Impact Analysis of LILCO's Special Fuel Limitation for Northport Units 1–3 (Town of Huntington) and Port Jefferson Units 3 and 4 (Town of Brookhaven) Suffolk County, New York," prepared by the New York State Department of Environmental Conservation (NYSDEC), March 19, 1983 in support of the "special limitation."

The SIP revision was submitted in accordance with all EPA requirements under 40 CFR Part 51.

In order for EPA to be able to find the State's "special limitation" approvable as a revision to the New York SIP, it must be demonstrated that the use of 2.8 percent sulfur content fuel oil will not result in a contravention of any health or welfare related national ambient air quality standard in New York or elsewhere, or in a violation of any applicable Prevention of Significant Deterioration (PSD) increment.

The objective of the PSD program, as discussed in part C, sections 160–169, of the Clean Air Act, as amended in 1977, is to protect areas with air quality cleaner than the national ambient air quality standards. The program is designed to insure that growth can occur in a manner consistent with the preservation of existing clean air resources. To implement the program Congress established maximum allowable amounts of air quality degradation known as PSD increments.

Since the emission levels proposed by this action were included in the baseline as defined in the PSD regulations, no increment in New York or any other State will be consumed as a result of its approval. Also, EPA has reviewed the technical material submitted by NYSDEC and concurs with the State's determination that no violation of national ambient air quality standards will occur, in New York or any other state if the New York SIP revision is approved.

Portions of the stack height regulations promulgated on February 8, 1982 (47 FR 5864), have been overturned by a panel of the U.S. Court of Appeals for the D.C. Circuit. Sierra Club v. EPA 719 F.2d 436 (D.C. Cir., 1983). While EPA believes the actions taken today to be consistent with the court decision, these actions may be subject to modification when revised regulations are promulgated in response to the decision. This may result in revised emission limitations or may affect other actions taken by States and source owners or operators.

EPA's review of the material submitted by New York indicates that this revision will be approvable if it is not substantially changed from its presently proposed form. In the interest of expediting federal review, EPA is proposing approval of this SIP revision now, before final submittal of the revision to EPA by New York. EPA refers to this procedure as "parallel processing." If the revision currently proposed by New York is substantially altered as a result of the State public review process, EPA will evaluate the approvability of the altered proposal and publish a revised notice of proposed rulemaking in the **Federal Register.** Alternatively, if it is determined based on public comment that substantial revision is not required, EPA will take final rulemaking action on today's proposal. While EPA encourages the public to participate in the New York public review process, direct comment to EPA on today's proposal is also invited.

This notice is issued as required by section 110 of the Clean Air Act, as amended, to advise the public that such comments may be submitted on or before September 21, 1984, on whether the proposed implementation plan revision should be approved or disapproved.

The Administrator's decision regarding approval or disapproval of this proposed implementation plan revision will be based on whether it meets the requirements of section 110 of the Clean Air Act and EPA regulations at 40 CFR Part 51.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities.

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

List of Subjects in 40 CFR Part 52

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

(Secs. 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7610 and 7601))

Dated July 13, 1984

Richard M. Dewling,

Acting Regional Administrator, Environmental Protection Agency.

[FR Doc. 84-22246 Filed 8-21-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[A-3-FRL-2658-5]

Clean Air; State and Federal Administrative Orders Permitting Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued By Pennsylvania Department of Environmental Resources To Allied Paper, Division of SCM Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking; invitation for public comment.

SUMMARY: EPA has proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources to Allied Paper, Division of SCM Corporation. The Order requires the company to bring air emissions from its copy paper manufacturing facility in Phoenixville, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by April 9, 1985. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as Delayed Compliance Order.

DATE: Written comments must be received on or before September 21, 1984.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joseph S. Arena, Environmental Scientist, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597-6533.

SUPPLEMENTARY INFORMATION: Allied Paper, Division of SCM Corporation operates a copy paper manufacturing facility at Phoenixville, Pennsylvania. The Order under consideration addresses emissions from the surface coating processes, which are subject to § 129.52 of Title 25 of the Pennsylvania Code. The regulation limits the emissions of Volatile Organic Compounds (VOC), and is part of the federally approved Pennsylvania State Implementation Plan. The Order requires final compliance with the regulation by April 9, 1985 through the use of low solvent coatings and/or control equipment.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection.

EPA's review indicates that the Allied Paper facility is a major source of VOC emissions. The facility is unable to comply with regulations limiting emissions of VOCs codified at § 129.52 of Title 25 of the Pennsylvania Code, part of the federally approved State Implementation Plan, because they have been unable to complete the installation of new control equipment and low solvent coatings are still being developed. The Order requires compliance with the regulation by April 9, 1985, three years after April 9, 1982, the date by which compliance is otherwise required. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. The Order contains expeditious increments of progress towards compliance and emissions monitoring and reporting requirements and provides for interim emission reduction requirements to avoid an imminent and substantial endangerment to health. Pennsylvania has determined that the Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so. The Order notifies Allied Paper of its liability for noncompliance penalties under section 120 of the Clean Air Act, 42 U.S.C. 7420.

If the Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any noncompliance penalties under Section 120 of the Act, unless the source is otherwise entitled to an exemption under Section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

List of Subjects in 40 CFR Part 65

Air pollution control.

(42 U.S.C. 7413, 7601)

Dated: August 15, 1984.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 84-22261 Filed 8-21-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[A-3-FRL-2658-8]

Clean Air; State and Federal Administrative Orders Permitting Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of Administrative Order Issued by Pennsylvania Department of Environmental Resources to Apollo Metals Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking; invitation for public comment.

SUMMARY: EPA has proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources to Apollo Metals Incorporated. The Order requires the company to bring air emissions from its coil coating facility in Bethlehem, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by April 9, 1985. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If aproved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. the purpose of this notice is to invite public comment on EOA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before September 21, 1984.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joseph S. Arena, Environmental Scientist, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597–6553.

SUPPLEMENTARY INFORMATION: Apollo Metals Incorporated operates a coil coating facility at Bethlehem, Pennsylvania. The Order under consideration addresses emissions from the surface coating processes, which are subject to § 129.52 of Title 25 of the Pennsylvania Code. The regulations limit the emissions of Volatile Organic Compounds (VOC), and is part of the federally approved Pennsylvania State Implementation Plan. The Order requires final compliance with the regulation by April 9, 1985 through the use of low solvent coatings.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection.

EPA's review indicates that the Apollo Metals facility is a major source of VOC emissions. The facility is unable to comply with regulations limiting emission of VOCs codified at § 129.52 of Title 25 of the Pennsylvania Code, part of the federally approved State Implementation Plan, because low solvent coatings are still being developed. The Order requires compliance with the regulation by April 9, 1985, three years after April 9, 1982, the date by which compliance is otherwise required. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. The Order contains expeditious increments of progress towards compliance and emission monitoring and reporting requirements and provides for interim emission reduction requirements to avoid an imminent and substantial endangerment to health. Pennsylvania has determined that the Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so. The Order notifies Apollo Metals of its liability for noncompliance penalties under Section 120 of the Clean Air Act, 42 U.S.C. 7420.

If the Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any noncompliance penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2) (B) or (C).

All intersted persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

List of Subjects in 40 CFR Part 65

Air pollution control.

(42 U.S.C. 7413, 7601)

Dated: August 15, 1984.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 84–22236 Filed 8–21–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 65

[A–3–FRL–2658–4]

Clean Air; State and Federal Administrative Orders Permitting a Delay in Compliance with State Implementation Plan Requirements; Proposed Approval of Administrative Order Issued By Pennsylvania Department of Environmental Resources To Cole Division, Joyce International

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking; invitation for public comment.

SUMMARY: EPA has proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources to Cole Division Joyce International, (formerly Cole Division, Litton Business System Inc.). The Order requires the company to bring air emissions from its two metal furniture manufacturing facilities in Spring Garden Township and Springettsbury, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by April 9, 1985. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before September 21, 1984.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. The State Order, supporting material, and public comments received

in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joseph S. Arena, Environmental Scientist, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597–6553.

SUPPLEMENTARY INFORMATION: Cole Division, Joyce International, (formerly Cole Division, Litton Business Systems Inc.) operates two metal furniture manufacturing facilities at Spring Garden Township and Springettsbury, Pennsylvania. The Order under consideration addresses emissions from the surface coating processes, which are subject to § 129.52 of Title 25 of the Pennsylvania Code. The regulation limits the emissions of Volatile Organic Compounds (VOC), and is part of the federally approved Pennsylvania State Implementation Plan. The Order requires final compliance with the regulation by April 9, 1985 through the use of low solvent coatings.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection.

EPA's review indicates that the Cole Division facility is a major source of VOC emissions. The facility is unable to comply with regulations limiting emissions of VOCs codified at § 129.52 of Title 25 of the Pennsylvania Code, part of the federally approved State Implementation Plan, because low solvent coatings are still being developed. The Order requires compliance with the regulation by April 9, 1985, three years after April 9, 1982, the date by which compliance is otherwise required. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. The Order contains expeditious increments of progress towards compliance and emission monitoring and reporting requirements and provides for interim emission reduction requirements to avoid an imminent and substantial endangerment to health. Pennsylvania has determined that the Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so. The Order notifies Cole Division of its liability for noncompliance penalties under Section 120 of the Clean Air Act, 42 U.S.C. 7420.

If the Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the sources for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any noncompliance penalties under Section 120 to the Act, unless the source is otherwise entitled to an exemption under Section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

List of Subjects in 40 CFR Part 65

Air pollution control.

(42 U.S.C. 7413, 7601)

Dated: August 15, 1984.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 84–22235 Filed 8–21–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 65

[A–3–FRL–2658–3]

Clean Air; State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued By the Pennsylvania Department of Environmental Resources To Franklin Steel Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking; invitation for public comment.

SUMMARY: EPA has proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources to Franklin Steel Company. The Order requires the company to bring air emissions from its sign post manufacturing facility in Franklin, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by June 30, 1985. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before September 21, 1984.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joseph S. Arena, Environmental Scientist, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597–6553.

SUPPLEMENTARY INFORMATION: Franklin Steel Company operates a sign post manufacturing facility at Franklin, Pennsylvania. The Order under consideration addresses emissions from the surface coating processes, which are subject to § 129.52 of Title 25 of the Pennsylvania Code. The regulation limits the emissions of Volatile Organic Compounds (VOC), and is part of the federally approved Pennsylvania State Implementation Plan. The Order requires final compliance with the regulation by June 30, 1985 through the use of exempt solvent coatings.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order

does satisfy the requirements of this subsection.

EPA's review indicates that the Franklin Steel facility is a major source of VOC emissions. The facility is unable to comply with regulations limiting emissions of VOCs codified at § 129.52 of Title 25 of the Pennsylvania Code, part of the federally approved State Implementation Plan, because exempt solvent coatings are still being developed. The Order requires compliance with the regulation by June 30, 1985, approximately 14 months after April 21, 1984, the date by which compliance is otherwise required. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. The Order contains expenditious increments of progress towards compliance and emission monitoring and reporting requirements and provides for interim emission reduction requirements to avoid an imminent and substantial endangerment to health. Pennsylvania has determined that the Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so. The Order notifies Franklin Steel of its liability for noncompliance penalties under section 120 of the Clean Air Act, 42 U.S.C. 7420.

If the Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any noncompliance penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

List of Subjects in 40 CFR Part 65

Air pollution control.

(42 U.S.C. 7413, 7601)

Dated: August 15, 1984.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 84-22249 Filed 8-21-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[A-3-FRL-2658-2]

Clean Air; State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Pennsylvania Department of Environmental Resources to Keystone Lamp, Subsidiary of Kidde, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking; invitation for public comment.

SUMMARY: EPA proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources to Keystone Lamp, Subsidiary of Kidde, Inc. The Order requires the company to bring air emissions from its funiture coating facility in Washington Township, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by April 9, 1985. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delay Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before September 21, 1984.

ADDRESSES: Comments should be submitted to Director, Air Management Division, Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joseph S. Arena, Environmental Scientist, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597-6553.

SUPPLEMENTARY INFORMATION: Keystone Lamp, Subsidiary of Kidde, Inc. operates a funiture coating facility at Wilson Borough, Pennsylvania. The Order under consideration addresses emissions from the surface coating processes, which are subject to § 129.52 of Title 25 of the Pennsylvania Code. The regulations limit the emissions of Volatile Organic Compounds (VOC), and is par of the federally approved Pennsylvania State Implementation Plan. The Order requires final compliance with the regulation by April 9, 1985 through the use of low solvent coatings.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection.

EPA's review indicates that the Keystone Lamp facility is a major source of VOC emissions. The facility is unable to comply with regulations limiting emissions of VOCs codified at § 129.52 of Title 25 of the Pennsylvania Code, part of the federally approved State Implementation Plan, because low solvent coatings are still being developed. The Order requires compliance with the regulations by April 9, 1985, three years after April 9, 1982, the date by which compliance is otherwise required. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. The Order contains expeditious increments of progress toward compliance and emission monitoring and reporting requirements and provides for interim emission reduction requirements to avoid an imminent and substantial endangerment to health. Pennsylvania has determined that the Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so. The Order notifies Keystone Lamp of its liability for noncompliance penalties under Section 120 of the Clean Air Act, 42 U.S.C. 7420.

If the Order is approved by EPA, source compliance with its terms would preclude federal enforcement action

under section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the Order would also constitute and addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any noncompliance penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2) (B) or (C).

All interested person are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

List of Subjects in 40 CFR Part 65

Air pollution control.

(42 U.S.C. 7413, 7601)

Dated: August 15, 1984.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 84-22232 Filed 8-21-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[A-3-FRL-2658-6]

Clean Air; State and Federal Administrative Orders Permitting Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of Administrative Order Issued by Pennsylvania Department of Environmental Resources to Superpac Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking; invitation for public comment.

SUMMARY: EPA has proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources to Superpac Incorporated. The Order requires the company to bring air emissions from its flexible packaging facility in Southampton, Pennsylvania into compliance with certain regulations contained in the federal approved Pennsylvania State Implementation Plan (SIP) by June 30, 1985. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before September 21, 1984.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joseph S. Arena, Environmental Scientist, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597-6553.

SUPPLEMENTARY INFORMATION: Superpac Incorporated operates a flexible packaging manufacturing facility at Southampton, Pennsylvania. The Order under consideration addresses emissions from the flexographic printing processes, which are subject to § 129.67 of Title 25 of the Pennsylvania Code. The regulation limits the emissions of Volatile Organic Compounds (VOC), and is part of the federally approved Pennsylvania State Implementation Plan. The Order requires final compliance with the regulation by June 30, 1985 through the use of low solvent coatings.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection.

EPA's review indicates that the Superpac facility is a major source of VOC emissions. The facility is unable to comply with regulations limiting emissions of VOCs codified at § 129.67 of Title 25 of the Pennsylvania Code, part of the federally approved State Implementation Plan, because low solvent coatings are still being developed. The Order requires compliance with the regulation by June 30, 1985, approximately 14 months after April 21, 1984, the date by which compliance is otherwise required. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. The Order contains expeditious increments of progress towards compliance and emission monitoring and reporting requirements and provides for interim emission reduction requirements to avoid an imminent and substantial endangerment to health. Pennsylvania has determined that the Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so. The Order notifies Superpact of its liability for noncompliance penalties under section 120 of the Clean Air Act, 42 U.S.C. 7420.

If the Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any noncompliance penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

List of Subjects in 40 CFR Part 65

Air pollution control.

(42 U.S.C. 7413, 7601)

Dated: August 15, 1984.

Stanely L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 84-22262 Filed 8-21-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 65

[A-3-FRL-2658-7]

Clean Air; State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Pennsylvania Department of Environmental Resources to Victor Balata Belting Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking; invitation for public comment.

SUMMARY: EPA has proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources to Victor Balata Belting Company. The Order requires the company to bring air emissions from its fabric coating facility in Wison Borough, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) by April 9, 1985. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before September 21, 1984.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Joseph S. Arena, Environmental Scientist, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597-6553.

SUPPLEMENTARY INFORMATION: Victor Balata Belting Company operates a fabric coating facility at Wilson Borough, Pennsylvania. The Order under consideration addresses emissions from the surface coating processes, which are subject to § 129.52 of Title 25 of the Pennsylvania Code. The regulations limit the emissions of Volatile Organic Compounds (VOC), and is part of the federally approved Pennsylvania State Implementation Plan. The Order requires final compliance with the regulation by April 9, 1985 through the use of low solvent coatings.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection.

EPA's review indicates that the Victor Balata Belting facility is a major source of VOC emissions. The facility is unable to comply with regulations limiting emissions of VOCs codified at § 129.52 of Title 25 of the Pennsylvania Code, part of the federally approved State Implementation Plan, because low solvent coatings are still being developed. The Order requires compliance with the regulation by April 9, 1985, three years after April 9, 1982, the date by which compliance is otherwise required. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. The Order contains expeditious increments of progress towards compliance and emission monitoring and reporting requirements and provides for interim emission reduction requirements to avoid an imminent and substantial endangement to health. Pennsylvania has determined that the Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so. The Order notifies Victor Balata Belting of its liability for noncompliance penalties under section 120 of the Clean Air Act, 42 U.S.C. 7420.

If the Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any noncompliance penalties under Section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2)(B) or (C).

All interested persons are invited to submit written comments of the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

List of Subjects in 40 CFR Part 65

Air pollution control.

(42 U.S.C. 7413, 7601)

Dated: August 15, 1984.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 84-22237 Filed 8-21-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 162

[OPP-250051; FRL-2656-2]

Pesticide Programs; Notification to the Secretary of Agriculture of a Final Regulation on Pesticide Use Restrictions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Transmittal of final rule.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a final regulation which adds the grain fumigant uses of five active ingredients, carbon disulfide, carbon tetrachloride, chloroform, ethylene dichloride, and sulfur dioxide, to the list of uses which the Agency has classified for restricted use. The current list is contained in 40 CFR 162.31. This action is required by section 25(a)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Walter I. Waldrop, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711C, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7400).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the

Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days prior to signing it for publication in the Federal Register. If the Secretary comments in writing regarding the final regulation within 15 days after receiving it, the Administrator shall issue for publication in the Federal Register, with the final regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the secretary's comments. If the Secretary does not comment in writing within 15 days after receiving the final regulation, the Administrator may sign the regulation for publication in the Federal Register anytime after the 15-day period.

As required by FIFRA section 25(a)(3), a copy of this final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(Sec. 25, Pub. L. 92-516, 86 State. 973 as amended; (7 U.S.C. 136 et seq.))

Dated: June 18, 1984.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 84-22033 Filed 8-21-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 7

[CGD 81-058]

Boundary Lines

Correction

In FR Doc. 84-21386 beginning on page 32229 in the issue of Monday, August 13, 1984, make the following correction on page 32233:

On that page, in the middle column in § 7.10(b), in the third line, "66°56.43' W." should read "66°56.4' W.".

BILLING CODE 1501-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 79-270; FCC 84-303]

Providing Optimum Conditions for Utilization of New Jersey Television Channel Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal and termination of proceeding.

SUMMARY: By this action the Commission decline to adopt rules concerning the network affiliation process, subscription television and low power television service as they relate to the development of television broadcast service to the State of New Jersey. The reason for this action is to remove any impediments to the development of television broadcast service to the State of New Jersey.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

Report and Order (Proceeding Terminated)

In the Matter of Providing Optimum Conditions for Utilization of New Jersey Television Channel Assignments; BC Docket No. 79-270.

Adopted: June 27, 1984.
Released: July 6, 1984.

By the Commission.

1. The *Notice of Proposed Rule Making and Notice of Inquiry* in this proceeding, 45 FR 16222, published March 13, 1980, invited comments on methods by which the most favorable conditions for the effective use of existing and proposed New Jersey television assignments could be created. In the *Notice*, we stated that our intention was not to guarantee the financial security of existing or future stations, since the Commission does not bear the responsibility of assuring the financial viability of broadcast licensees. However, with reference to the State of New Jersey, we stated that our intention was to work toward removing artificial impediments that could have particular implications for New Jersey stations. Limitations on low power operations, subscription television (STV) and network affiliation practices were discussed as areas which may have an adverse impact on entrepreneurs who are willing to risk substantial personal and economic assets on a venture which could supply local television programming to New Jersey. In a related proceeding, we have under consideration the addition of six new UHF TV channels to the following New Jersey communities: Asbury Park; Atlantic City; Newton; Vineland; West Milford; and Wildwood, (Docket No. 79-269), *Notice of Proposed Rule Making* 45 FR 16219, published March 13, 1980.

2. Comments were filed by: The Citizens Committee for the Expansion of Commercial Television to the State of Delaware (CCETD); the New Jersey Coalition for Fair Broadcasting (Coalition); Finn M. W. Caspersen (Caspersen); Community Television (Community); William E. Mattis, Jr. (Mattis); WWHT, Inc. (WWHT), licensee of UHF television Station WWHT, Newark, New Jersey; Capital Cities Communications, Inc. (Capital), licensee of television Stations WPVI-TV, Channel 6, Philadelphia and WTNH-TV, Channel 8, New Haven, Connecticut; American Broadcast Companies, Inc. (ABC), National Association of Broadcasters (NAB), CBS, Inc. (CBS); and National Broadcasting Company, Inc. (NBC). Reply comments were filed by Renaissance Broadcasting Corp. (Renaissance), permittee of WRBV-TV, Channel 65, Vineland, New Jersey; and Caspersen.

Network Affiliation

3. In the *Notice*, we stated that while the networks have expressed some interest in establishing an affiliation in the Atlantic City area it appears that they might be disinclined to affiliate with the stations proposed for Newton and Asbury Park, because the audience reached by those stations would be overshadowed by the service areas of existing network owned or affiliated stations in New York and Philadelphia. In our opinion, this situation raised a question as to whether the networks' decision to affiliate with the proposed station in Newton and Asbury Park would be normal affiliation decisions or would be affected by the networks' ownership of stations.

4. Generally, most of the comments opposed any type of intervention by the Commission in the affiliation process. The New Jersey Coalition contends that the Commission cannot compel the networks to affiliate with the proposed UHF stations, and any benefits derived would be questionable, in view of the service overlap with New York City or Philadelphia affiliates. Community contends that forcing the marketplace to provide ease of access to standard network programming or STV programming would interfere with the development of local New Jersey oriented programming. Community further contends that under the instant circumstances mandated affiliation will cause an unnecessary duplication of network programming. WWHT questions whether the Commission can lawfully compel the networks to grant an affilitation agreement.

5. ABC, NBC and CBS (Networks) oppose any attempt by the Commission to intervene into network affiliation decisions. The Networks generally agree

that forced affiliation would cause duplication of existing services. CBS contends that affirmative Commission action is not necessary to assure the operation of stations on the proposed new allocations in New Jersey. NBC submits that New Jersey programming needs can be met by potential local broadcasters and by an increased commitment by New York and Philadelphia stations to improve their New Jersey coverage. NBC suggests that the best chance for financial survival for the proposed stations would be to provide alternative program service rather than to attempt to compete for audiences with the very same programming as their established competitors.

6. On the other hand, Caspersen argues that the Commission should adopt a rule to control the process of network affiliation with stations on the proposed New Jersey channels. Caspersen argues that the renewal of a network owned or affiliated station license should be conditioned on a showing that the network has not refused to affiliate with a New Jersey station. Caspersen further argues that the rule would be within the Commission's jurisdiction under *National Broadcasting Co.* v. *FCC*, 319 U.S. 190 (1943).

7. The award of network affiliation agreements or the competition for them, is ordinarily a matter in which we play no role. *Channel 41, Inc.* 27 F.C.C. 2d 595 (1970), *recons. denied*, 30 F.C.C. 2d 6 (1971). While the Commission has enacted a number of rules governing the relations between television networks and their affiliates,[1] generally we consider network affiliation contracts properly to be a private agreement between the licensees and the networks. In light of the record compiled in this proceeding, we cannot conclude that present network practices have or will have the effect of unduly discriminating against any potential New Jersey affiliate or interfere with the development of meaningful television service to New Jersey. Accordingly, this portion of the proceeding will be terminated without further action.

Subscription Television (STV)

8. In the *Notice*, we recognized that STV was a possible vehicle for establishing viable television facilities in the state. In adopting the *Notice*, we proposed to consider whether the existing STV rules adversely affect the viability of existing or proposed UHF television channels in New Jersey and whether waiver of STV rules may be appropriate. We specifically sought comments on whether a liberal waiver policy should be adopted regarding the "complement of four rule." However, on June 17, 1982, the Commission adopted the *Third Report and Order*[2] which deleted the "complement of four rule" the "28 hour rule," the "lease only limitation" and the "STV ascertainment requirement." Therefore in light of our actions in the *Third Report*, no action is necessary and further discussion of the above rules is not warranted.[3]

Low Power

9. The *Notice* also considered the selective use of low power and television translator stations to provide additional service possibilities, including provision of television service coverage throughout the State of New Jersey. However, this proceeding was instituted prior to the adoption of the *Notice of Proposed Rule Making* in low power television. *Low Power Television and Television Translator Service*, 49 FR 9061, published January 6, 1984. The Commission's current policy on the low power service is set out in the *Future Role of Low Power Television Broadcasting* (Dkt. 78–253), 51 RR 2d 476 (1982).

10. The low power alternative elicited little response from commenters. WWHT agrees that the Commission should change its policy on translators to foster greater protection and permit existing New Jersey television stations to establish translator stations both within and beyond the main station's service area. Capital Cities is concerned that the Commission's proposals regarding television translators may impair rather than improve New Jersey television service. Capital argues that because of interference to and from existing stations, almost any VHF translator located in New Jersey is likely to cause a significant net loss in service and possibly impair the development of UHF stations. Therefore, Capital contends that the Commission should examine each waiver application for New Jersey translator service on its own merits. ABC supports the use of translators to provide over the air service to areas which may be underserved. ABC agrees that the use of translators, on a non-interfering basis, is an appropriate vehicle to enhance the potential viability of New Jersey UHF assignments.

11. Mattis states that there are sections of the state with no local commercial AM, FM or TV service of any kind, and even the UHF assignments proposed in Docket 79–269 would not provide service to such areas, including Gloucester County. To meet the needs of such places, Mattis proposes that local service be provided by a low power UHF television station.

12. Since the conclusion of the low power television proceeding, the Commission has received numerous applications for low power stations in New Jersey. Such low power television stations can provide an alternative local service. In this regard, we believe that the decision as to whether to provide expansion of the servcie area of a full service station or LPTV service to New Jersey is one best left to the individual entreprenuers that have already filed applications or will file them in the future. Accordingly, no further action on the low power aspects of this proceeding is warranted at this time. It should also be noted that there is presently pending before the Commission several proposals for changes in the processing procedures for low power television and television translator applications. See, Docket No. 83–1350, *Notice of Proposed Rule Making*, 49 FR 908, published January 6, 1984. The adoption of some of these proposed changes may expedite the inception of low power service in New Jersey.

Conclusion

13. We believe that our current policies and recent changes in the rules concerning subscription television and low power operations will effectively eliminate potential impediments to the development and growth of UHF television service to New Jersey. By the removal of unnecessary constraints, those actions will allow and encourage a significant expansion of broadcast services in the State of New Jersey. The allotments granted in the companion proceeding (Dkt. 79–269) will enable stations to provide program alternatives for the residents of New Jersey in a way that increases competition in the marketplace and enhances the telecommunications service available to the general public. Therefore, we have not adopted any of the proposals discussed herein.

14. Accordingly, it is ordered, That this proceeding is terminated.

15. For further information concerning this proceeding, contact Arthur D.

[1] See §§ 73.658 and 73.3613 of the Commission's Rules.

[2] 51 R.R. 2d 1173 (1982).

[3] In comments on the STV issue, WWHT proposed rules that would give New Jersey STV stations "must carry" status on cable systems where the stations would enjoy such status if they operated in a conventional mode. However, the *Notice* in this proceeding did not indicate the Commission was considering such changes in the cable rules. Therefore, such proposed rule changes are beyond the scope of this proceeding.

Scrutchins, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–22189 Filed 8–21–84; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Public Hearing and Reopening of Comment Period on Proposed Endangered Status for the Interior Least Tern

AGENCY: Fish and Widlife Service, Interior.

ACTION: Proposed rule; notice of public hearing, and reopening of comment period.

SUMMARY: The Service gives notice that a public hearing will be held in Omaha, Nebraska, on the proposed determination of endangered status for the interior least tern and that the comment period on the proposal will be reopened. This bird is found in much of the central United States.

DATES: The comment period is reopened August 22, 1984. The public hearing will be held on September 11, 1984, from 6:30 p.m. to 10:00 p.m. in Omaha, Nebraska. Comments on the proposal must be received by September 25, 1984.

ADDRESSES: The public hearing will be held at the Peter Kiewit Conference Center Room 102, 1313 Farnam on the Mall, Omaha, Nebraska. Written comments and materials should be sent to the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Regional Endangered Species Division at the above Regional Office address.

FOR FURTHER INFORMATION CONTACT: For information on the public hearing, contact Dr. James Miller, Staff Biologist, Endangered Species Division, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/234–2496). For other information regarding the proposed rule, contact Mr. James M. Engel, Endangered Species Specialist, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725–3276 or FTS 725–3276).

SUPPLEMENTARY INFORMATION:

Background

The interior least tern (*Sterna antillarum athalassos* is a smalll bird that nests on sandbars in the Mississippi and Missouri Rivers and their tributaries. The species is jeopardized by habitat destruction, alteration of natural river dynamics, unfavorable plant succession, and human disturbance. In the Federal Register of May, 29, 1984 (49 FR 22444–22447), the Service proposed determination of endangered status for the interior least tern. The period for submission of public comments on the proposal was originally scheduled to last until July 30, 1984.

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended, requires that public hearing be held, if requested within 45 days of the publication of a proposed rule. On July 11, 1984, the Service received a letter from Cook and Kopf, P. C., Lexington, Nebraska, requesting a hearing on the proposal to determine endangered status for the interior least tern. The Service has scheduled this hearing for September 11, 1984, from 6:30 p.m. to 10:00 p.m., at the Omaha Douglas Civic Center in the Legislative Chambers, 1819 Farnam Street, Omaha, Nebraska. Those parties wishing to make statements for the record should have available a copy of their statements to be presented to the Service at the start of the hearing. Oral statements may be limited to 5 or 10 minutes, if the number or parties present the evening necessitate some limitation. There are no limits to the length of written comments presented at this hearing or mailed to the Service.

In order to accomodate the hearing, the Service also reopens the public comment period on the proposal. Written comments may now be submitted until September 21, 1984, to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Dr. James Miller, U.S. Fish and Wildlife Service, Box 25486, Denver, Colorado 80225.

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.;* Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411)

List of Subjects in 50 CFR Part 17

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

Dated: August 14, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–22269 Filed 8–21–84; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 49, No. 164
Wednesday, August 22, 1984

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 84-012N]

National Advisory Committee on Meat and Poultry Inspection; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Advisory Committee on Meat and Poultry Inspection will be held on Tuesday, September 18, 1984, (beginning at 12:30 p.m.) and on Wednesday, September 19, 1984, (beginning at 9:00 a.m.) in the New Orleans Hilton, Poydras Street, New Orleans, Louisiana 70140.

The purpose of the Committee is to advise the Secretary of Agriculture regarding certain issues pertaining to the meat and poultry inspection program, pursuant to sections 7(c), 24, 205, and 301(a)(4) of the Federal Meat Inspection Act (21 U.S.C. 607(c), 624, 645, and 661(a)(4)) and sections 5(a)(4), 8(b), and 11(e) of the Poultry Products Inspection Act (21 U.S.C. 454(a)(4), 457(b), and 460(e)). The meeting will include a discussion of the following topics:

1. Intensified Regulatory Enforcement Program (IRE).
2. Legislative Package.
3. Recent Labeling Policy Statements.
4. Consumer Awareness Activities.
5. New Union Contract.
6. Rapid Tests.
7. Calf Antibiotic Sulfonamide Test (CAST) Program.

The meeting is open to the public on a space available basis. Comments of interested persons may be filed with the Committee before or after the meeting, and should be sent to Catherine DeRoever, Director, Executive Secretariate, Room 335-E, Administration Building, U.S. Department of Agriculture, 14th Street and Independance Avenue, SW., Washington, DC 20250, (202) 447-3002.

Done at Washington, DC, on: August 16, 1984.

Donald L. Houston,

Vice Chairman.

[FR Doc. 84-22216 Filed 8-21-84; 8:45 am]

BILLING CODE 3410-DM-M

Agricultural Marketing Service

Advisory Committee on Instrument Standards for Cotton; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting.

Name: Advisory Committee on Instrument Standards for Cotton.

Date: September 6, 1984.

Place: Holiday Inn, 9000 West Airport Drive, Visalia, California.

Time: 8:00 a.m.

Purpose: The agenda will be devoted primarily to finalizing the Committee's recommendations to the Secretary of Agriculture at the conclusion of its 2-year term.

The meeting is open to the public. Public participation will be limited to written statements received prior to the meeting. Written statements should be addressed to Jesse F. Moore, Director, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Annex Building, Room 302, Washington, D.C. 20250, (202) 447-3193.

Dated: August 15, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-22280 Filed 8-21-84; 8:45 am]

BILLING CODE 3410-D2-M

CIVIL AERONAUTICS BOARD

[Docket 42194]

Air Via Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, DC, August 15, 1984.

William A. Kane, Jr.,

Chief Administrative Law Judge.

[FR Doc. 84-22329 Filed 8-21-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41968]

Indian International Air Lines, Inc. Fitness Investigation; Hearing

Notice is hereby given that the hearing in the above-titled matter will be held on August 24, 1984, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, DC, before the undersigned administrative law judge.

Dated at Washington, D.C., August 15, 1984.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 84-22328 Filed 8-21-84; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Arkansas Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Arkansas Advisory Committee to the Commission will convene at 9:30 a.m. and will end at 5:00 p.m., on September 11, 1984, at the Riverfront Hilton Inn, Bearing Cross Room, Two Riverfront Place, North Little Rock, Arkansas 72114. The purpose of the meeting is to discuss plans for a school desegregation project in Arkansas.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Southwestern Regional Office at (512) 229-5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 16, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-22181 Filed 8-21-84; 8:45 am]

BILLING CODE 6335-01-M

Vermont Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will

convene at 7:00 p.m. and will end at 9:00 p.m., on September 17, 1984, at the National Life Insurance Company, Fifth Floor Classroom, National Life Drive, Montpelier, Vermont 95602. The purpose of the meeting is to discuss the state educational standards concerning discrimination and stereotyping and plans for a state-wide civil rights meeting. The Committee will also hear reports on the Regional Advisory Committee Conference and the National Advisory Committee Chairs Conference.

Persons desiring additional information, or planning a presentation to the Committee, should contact the New England Regional Office at (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 16, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-22181 Filed 8-21-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-011]

Carbon Steel Plate from the Republic of Korea; Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Antidumping Duty Order.

SUMMARY: In separate investigations, the United States Department of Commerce and the United States International Trade Commission (ITC) have determined that carbon steel plate from the Republic of Korea is being sold at less than fair value and that sales of carbon steel plate from the Republic of Korea are materially injuring a United States industry. Therefore, all entries, or warehouse withdrawals, for consumption of carbon steel plate from the Republic of Korea made on or after April 9, 1984, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries of carbon steel plate, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: August 22, 1984.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377-5288.

SUPPLEMENTARY INFORMATION: The merchandise covered by this investigation is carbon steel plate. The term "carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad, 0.1875 inch or more in thickness and over 8 inches in width; as currently provided for in items 607.6620 and 607.6625 of the *Tariff Schedules of the United States Annotated*. Semi-finished products of solid rectangular cross-sections with a width at least four times the thickness in the cast condition or processed only through primary mill hot-rolling are not included.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on April 9, 1984, the Department published its preliminary determination that there was reason to believe or suspect that carbon steel plate from the Republic of Korea was being sold at less than fair value (49 FR 14779). On June 29, 1984, the Department published its final determination that these imports were being sold at less than fair value (49 FR 26774).

On August 9, 1984, in accordance with section 735(d) of the Act (19 U.S.C. 1673d), the ITC notified the Department that imports of carbon steel plate from the Republic of Korea are materially injuring a United States industry.

Therefore, in accordance with sections 735 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of carbon steel plate from the Republic of Korea. The antidumping duties will be assessed on all carbon steel plate entered, or withdrawn from warehouse, for consumption on or after April 9, 1984, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**.

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated Customs duties on carbon steel plate, a cash deposit equal to the estimated weighted-average antidumping duty margins set forth below:

Manufacturers/Producers/Exporters	Weighted-average margin (percent)
Pohang Iron and Steel Co., Ltd. (POSCO)	5.0
All other manufacturers/producers/exporters	5.0

This determination constitutes an antidumping order with respect to carbon steel plate from the Republic of Korea, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), we hereby give notice that we are commencing an administrative review of this order on August 22, 1984. For further information regarding this review, contact Bill Matthews at (202) 377-3601.

We have deleted from the Commerce Regulations, Annex 1 to 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Department of Commerce Regulations (19 CFR 353.48).

Dated: August 14, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-22275 Filed 8-21-84; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

[Docket No. 40784-4084]

MBDA Policy Statement on Funding Minority Business and Industry Associations and Minority Chambers of Commerce

AGENCY: Minority Business Development Agency (MBDA), Department of Commerce (DOC).

ACTION: Policy Statement.

SUMMARY: MBDA is primarily concerned with facilitating the participation of minority businesses in the free enterprise system. MBDA can achieve this goal, in part, by funding Minority

Business and Industry Associations and Minority Chambers of Commerce.

The purpose of this notice is to provide information about MBDA policy and procedures concerning funding available for trade associations.

EFFECTIVE DATE: This policy statement is effective October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph N. Cooper, Acting Assistant Director, Office of Resource Development, Minority Business Development Agency, Department of Commerce, Washington, DC 20230, (202) 377-5770.

SUPPLEMENTARY INFORMATION: Under Executive Order 11625, MBDA provides program funds to recipients who then provide management and technical assistance to persons determined to be socially or economically disadvantaged. The primary purpose of all MBDA programs is to foster the growth and development of minority businesses. Because Minority Business and Industry Associations and Minority Chambers of Commerce serve as critical contacts for minority businesses and because they provide assistance to individual minority businesses, MBDA can further its primary objective by funding these organizations.

MBDA has been funding Minority Business and Industry Associations and Minority Chambers of Commerce for a number of years. During this period there have been a number of changes in policies regarding the funding of these organizations. The purpose of this notice is to clarify Agency policy with respect to the funding of these trade associations and to provide this information to potential applicants.

This notice provides basic information about the Agency's policy on the funding of trade associations. First, it states that MBDA will use a portion of its program funds to assist those trade associations which have the greatest potential for becoming self-sustaining within a two- or three-year period. Second, it sets forth the selection criteria to be used by the Agency in making funding decisions. Finally, it lists the functions which the Agency expects funded organizations to perform during the funding period. The Agency's Office of Resource Development will be responsible for coordination of this program.

Executive Order 12291

The Minority Business Development Agency has determined that this policy statement pertaining to a grant program is not a "major rule" within the meaning of section 1(b) of Executive Order 12291.

Regulatory Flexibility Act

This policy statement pertaining to a grant program is exempt from the notice and comment requirements of the Administrative Procedure Act under 5 U.S.C. 553(a)(2). Therefore, the requirements of the Regulatory Flexibility Act do not apply.

Paperwork Reduction Act Statement

In compliance with section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) the Department of Commerce has received clearance from the Office of Management and Budget (OMB) for the information collection provisions of this notice, (OMB # 0640-0006).

Authority: 15 U.S.C. 1512; Executive Order 11625, 3 CFR Parts 616-20 (1971-75), 36 FR 19967 (1971); and Executive Order 12432, 3 CFR Parts 196-99 (1983), 48 FR 32551 (1983).

The MBDA policy statement on funding minority business and industry associations and minority chambers of commerce follows.

A. MBDA Policy Statement on Funding Minority Business and Industry Associations and Minority Chambers of Commerce.

The Minority Business Development Agency (MBDA) is charged under Executive Order 11625 with fostering new minority business enterprises and maintaining and strengthening existing firms to increase their opportunities to participate in and receive the benefits of our economic system. An important element in achieving this objective is the support and development of Minority Business and Industry Associations (MBIA) and Minority Chambers of Commerce (C of C). These organizations serve as critical contacts for minority business enterprises on important issues and provide assistance to individual minority businesses. MBDA will use a portion of its program funds to award grants and cooperative agreements to minority MBIAs and C of Cs which best demonstrate ability to carry out MBDA goals and objectives. It is the policy of MBDA that such financial assistance under this program is to be targeted toward organizations which have the greatest potential for becoming self-sustaining within a two or three-year period (depending on their funding status) and which can clearly demonstrate contributions to be made to MBDA's goals and objectives. For purposes of this policy statement, "self-sustaining" refers to an MBIA/C of C which can demonstrate an ability to continue to sustain its membership and achieve its objectives without Federal funding. The three-year limitation is not a guarantee that funds will be automatically available for each of the three years.

The performance of individually funded MBIAs and C of Cs will be evaluated each year. The results of this evaluation will be critical in determining whether the organization will receive a new award. For FY 1985, MBDA shall allocate one million two hundred thousand dollars ($1,200,000) of its appropriated program funds for the purpose of providing financial assistance to these MBIAs and C of Cs to perform functions listed in Section C. The awards shall be made according to MBDA selection criteria set forth in Section D of this policy statement. MBDA shall decide the level of funds to be allocated to this program in fiscal years 1986 and 1987 after enactment of appropriations for those years.

This policy will be in effect October 1, 1984. MBDA, in conjunction with the Office of the Secretary's Office of Planning, Budget and Evaluation, shall reevaluate this policy during the fourth quarter of FY 1985 and make revisions as determined to be necessary in light of this program's contributions toward MBDA objectives.

This policy statement applies only to funding MBIA/C of Cs for the performance of functions listed in Section C. MBIA/C of Cs are eligible to compete for funding provided under other MBDA programs and must submit separate proposals for any other programs under which they wish to compete for funds.

B. Objectives of Program

1. The purpose of the MBIA/C of C program is to enable these organizations to build upon the foundations which have been established by and through Minority Business Development Centers (MBDCs). The objectives of this program contribute to the MBDA Strategic Planning Objective (SPO) "to increase minority participation in private sector programs and markets."

MBDA shall implement an Integrated Management Plan (IMP) 30 days from issuance of this policy. If no IMP is implemented in 30 days for MBDA the plan in Attachment A shall go into effect. The IMP describe in detail the measures to be used in assessing the effectiveness of this program. MBDA shall establish milestone target dates for the IMP in conjunction with the Office of Planning, Budget, and Evaluation (see Section H).

2. Long Term Objective. MBDA's ultimate objective with respect to its MBIA/C of C program is to promote the funded organizations' growth, self-

sustenance, and stability to be achieved through the active recruitment of new members and the promotion of membership, financial growth, and economic stability through the performance of functions listed in Section C.

3. Short Term Objective. MBDA's short term objective with respect to its MBIA/C of C program is to limit levels and proportionate funding to individual MBIA/C of Cs for each fiscal year while continuing to provide financial assistance to those organizations which demonstrate that they can best contribute to MBDA's stated objectives by performing the functions listed in Section C. Assistance shall be targeted to those groups which have the greatest potential to become largely self-sustaining within two or three years of the initial financial award under this policy. Organizations not currently receiving MBDA funds will be given three years to achieve self-sufficiency. MBIA/C of Cs which are receiving MBDA funds at the time this policy goes into effect are presumed to be moving toward self-sufficiency. Therefore, a two year timetable is approrpiate for them.

C. Functions

Functions to be performed by funded MBIA/C of Cs shall complement and supplement the activities performed by MBDCs. MBDA shall not fund MBIA/C of C activities which duplicate any work currently being performed by MBDCs or the MBDC network. To this end, MBIA/C of Cs should coordinate their funded activities closely with the MBDCs and the MBDC and MBDA networks. MBIA/C of Cs may be funded to perform functions as follows:

1. Develop and Expand Membership. Conduct membership expansion drives, solicit the assistance of volunteers from private sector organizations and MBIA/C of C membership, and develop membership benefit packages.

2. Disseminate Information. Provide members with information which will assist in development of their business capabilities, including but not limited to industry market issues and management resources. Disseminate information to MBDA-sponsored Minority Business Development Centers and other MBDA-funded programs. MBIA/C of Cs shall use the existing BDC network by referring members with specific technical problems or needs to the appropriate BDC for technical assistance.

3. Educational Program. Provide education and information on business development and identify and discuss issues of concern to the membership. Conferences and seminars, if held, should be coordinated with the BDC network to avoid duplication of purpose and appropriate BDC and MBDA representatives should be invited to attend these scheduled events.

4. Advocate Minority Business Development. Advocate the interests of minority business development and identify issues pertaining to the organization's business or industry discipline.

5. Develop Resources. Develop working relationships with majority, other minority, and MBDA funded programs and projects through on-site visits, meetings and joint projects which complement MBDA.

6. Identify Membership. Develop procurement referral listings of qualified member firms by entering firms in MBDA's PROFILE system and updating referral listings on a periodic basis for the purpose of promoting member firms to private and public sector procurement officials.

D. Selection Criteria.

Application for funding (Paperwork Reduction Act clearance, OMB# 0640-0006) submitted by MBIA/C of Cs should address and will be evaluated against the following criteria. Each of the following lettered subcategories have been assigned points to be awarded on a scale of 1 to 10, 10 being the highest possible rating. Points for main categories 1, 2, 3, and 4 will be calculated by taking the average of points awarded in respective subcategories.

1. Potential for organization to become completely self-sustaining within two or three years of the initial financial award under this policy. This capability is significant evidence of the acceptance by the minority business community which the MBIA/C of C represents.

(Point Score for #1=Average of Points Awarded for Subcategories a, b, c, and d) ———

Points

a. Previous MBDA and other Federal funding history and trend toward self-sustenance (i.e., has Federal funding increased while membership decreased or has Federal funding gradually decreased while membership and organization activity has expanded.) ———

b. Describe all other sources of funding for the organization, i.e., private, public, etc., (show percentage of Federal compared to non-Federal.) ———

c. Number of years organization has existed without Federal funding (identify examples of activities performed during years the organization received no Federal funds.) ———

d. Organization's plan for achieving self-sufficiency over the next one, two, and/or three years. Plan should show: ———

(1) How organization will continue to perform functions listed in Section C if MBDA funds were not forthcoming in FY 1986, 1987, and/or 1988.

• If organization needs MBDA funds for only one year, and can continue to perform these functions without MBDA funding in the next year, this element is worth a greater number of points than a plan reflecting the need for Federal funding for two or three years.

Total Subcategories: ———.

2. Accomplishments/past performance (with or without Federal funds) and capabilities of organization to perform.

(Point Score for #2=Average of Points Awarded for Subcategories a, b, and c) ———

a. Describe major accomplishments since establishment of the organization.———

b. Describe networking capabilities based on size, membership, locations throughout the country, etc. ———

c. Staff available for this project and staff qualifications. ———

Total Subcategories: ———.

3. Cost sharing and proposed budget.

(Point Score for #3=Average of Points Awarded for Subcategories a, b, and c)

a. Cash and in-kind contributions to this project by membership, private sector firms, and other sources. ———

b. Budget plan to delineate staff time allocated to specific functions to be performed and shall be broken down according to functions defined in Section C. Applicants shall include in their proposals specific activities planned and dollar amounts requested for "advocacy". Budgets for "advocacy" activities shall be broken down by line item. ———

Total Subcategories: ———.

4. Program narrative describing how proposed program activities will contribute to 1) MBDA's mission and 2) MBDA's SPO of increasing minority business participation in private sector programs and markets.

(Point Score for #4=Average of Points Awarded for Subcategories a) ———

a. Describe how MBIA/C of C network "proposed program" will interrelate with BDC and MBDA network.

• Outreach and/or joint venture activities planned in coordination with private sector firms and description of

how outreach efforts will meet goals of increasing market shares and penetrating new markets.

• Creativity, originality, and innovation in planned approach.

• Description of need for MBDA funds to assist in accomplishing project objectives. ———

• Description of specific services to be provided to minority business, numbers and types of businesses which services will assist, and why these services are important, necessary, and non-duplicative.

Total Subcategories: ———.

E. Competition for Awards

1. MBDA shall publish in the Federal Register at least annually a request for Applications (OMB# 0640–0006) from MBIA/C of Cs for funding.

2. Awards shall be made on a competitive basis. Recipients shall not be chosen based on direct competition with proposals submitted by competitors; rather, they shall be chosen on an individual basis based on the applicant's ability to link the goals and objectives of its specific project to those of MBDA.

3. Selections shall be made by a panel of at least three MBDA officials convened by the Director. This panel is responsible for the fair and equitable application of the Selection Criteria listed in Section D against proposals received.

F. Project Funding Levels

1. MBDA has the authority to use its allocated MBIA/C of C budget to make any number of awards at any funding levels.

G. Project Period

MBDA will provide financial assistance to MBIA/C of Cs to perform functions listed in Section C for a period not to exceed three operational years. However, proposals are to be submitted for one year periods and shall be competed in FY 1985 and FY 1986.

H. MBDA Program Development and Guidance

1. The Office of Resource Development will be responsible for the coordination of the MBIA/C of C program; provision of guidance and direction to MBIA/C of Cs in resource development activities; provision of information to and solicitation of input from appropriate MBDA staff.

2. The Office of Resource Development shall implement an Integrated Management Plan, for the MBIA/C of C program within 30 days after issuance of this policy. The IMP must delineate performance measures to be used in measuring the contribution of the MBIA/C of C program toward the accomplishment of the MBDA SPO to increase minority business participation in private sector programs and markets. MBDA shall establish target dates for achieving milestones in conjunction with the Office of Budget, Planning, and Evaluation. Any revisions to the IMP must be cleared by the Office of Budget, Planning and Evaluation.

3. The Office of Resource Development shall develop and establish within 60 days of the effective date of this policy statement monitoring and evaluation guidelines to be used in assessing performance of individual MBIA/C of Cs. (See Attachment A, Milestone #3.) These guidelines shall be specific to the MBIA/C of C program and shall incorporate performance measures which will indicate individual organizational performance against plans.

I. Exceptions

Exceptions to this policy require review by the Department's Financial Assistance Review Board (FARB) and the Director of MBDA. Exceptions will be considered by the FARB only upon a written justification from the MBDA Director.

J. References

Executive Order 11625.

K. Effective Date

This program policy is effective October 1, 1984 and shall remain in effect until cancelled or superseded. Any modifications to or cancellation of this policy must be cleared by the Deputy Secretary.

L. Cancellation

MBDA Program Policies 421 and 422, effective 10–11–83.

M. Inquiries

Further information regarding this policy may be obtained by writing the Assistant Director, Office of Resource Development, MBDA, or by telephone, 202/377–5770.

Dated: July 19, 1984.

James H. Richardson Gonzales,

Director, Minority Business Development Agency.

Minority Business Development Agency

Management Planning System

Work Plan

Objective: Promote the establishment of minority trade associations and chambers of commerce that provide services to help minority firms increase their participation in public and private sector markets; encourage the development of these funded organizations as self-sustaining groups independent of federal funding.

Resources

	Fiscal year	
	1984	1985
Staff Years		
Obligations		

Significance: This program provides financial assistance for minority trade associations and chambers of commerce which act as advocates for their members and the minority business community.

These funded groups promote programs and provide services to improve the business capabilities of their members and the minority business community in general. Through the provision of technical services, managerial and business training programs, and commercial information, business and marketing opportunities for minority firms are expanded and improved. These private sector organizations also provide an important liaison function between the Federal Government and the minority business community. In addition, they function as part of MBDA's service network and supplement the Minority Business Development Center program in responding to minority business needs. Minority trade associations and chambers of commerce play an important role in supporting MBDA goals, expanding business opportunities for minority firms, and increasing the contribution of minority business enterprise to the national economy.

Method of Accomplishment: MBDA will provide financial assistance for minority trade associations and chambers of commerce so that these groups can provide a broader range of more effective services to their members and to the general minority business community. These servicesinclude but are not necessarily limited to:

1. Collection and dissemination of data and information and the provision of services relating to improving business operations of members and other minority firms;

2. provision of technical services, managerial training, and educational programs both on and off-site;

3. Provision of cooperative advertising;

4. Negotiation of trade discounts and other group benefits; and

5. Liaison with majority business and trade association counterparts and with Federal, State and local bodies in order to improve the operating environment and broaden market opportunities for minority business.

MBDA funding is provided to minority trade associations and chambers of commerce under this program for organizational or program development purposes and is generally not available to individual groups for more than three (3) years. Notice of available funding, application procedures, and eligibility criteria are published annually in the **Federal Register.** Grant awards are made to applicants based on MBDA's evaluation and FARB clearance. Groups that no longer receive MBDA developmental funding under this program may compete for funding other MBDA programs (e.g., Business Development Center Program).

Objective: Promote the establishment and encourage the ultimate self-reliance of minority trade associations and chambers of commerce that provide services to help minority firms increase their business participation in private and public markets.

	1984				1985			
	OND	JFM	AMJ	JAS	OND	JFM	AMJ	JAS
Milestones								
1. Establish new written policy governing MBDA funding for minority business and industry associations and chambers of commerce								
2. Complete integrated management plan for the implementation of new trade association policy								
3. Establish monitoring and evaluation guidelines and criteria to be used in assessing individual trade association performance								
4. Public request for applications in the **Federal Register**								
5. Evaluate applications and develop recommendations for funding applicants that meet funding criteria established in policy guidelines								
6. Submit funding recommendations to the OFA/FARB								
7. Award grants/cooperative agreements								
8. Initiate quarterly data collection to assess performance against performance standards								
9. Complete individual performance evaluations based on established performance criteria, including recommendations regarding continued funding								
10. Complete written evaluation of overall program performance under new policy and recommend refinements, as needed								
11. Revise policy, evaluation criteria, implementation procedures, as needed, based on year of experience								
12. Public request for applications in the **Federal Register**								
Performance Measures								
1. Number of associations funded								
2. Number funded for first time								
3. Number previously funded; now self-sufficient								
4. Increase in membership (percent)								
5. Number of conferences/seminars held								
6. Number of additions to profile system								
7. MBDA funds as a percent of total funding								
8. Number of business opportunity matches								
9. Dollar value of business opportunity matches								
10. Total number of members as compared to universe of potential members								

[FR Doc. 84-22230 Filed 8-21-84; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council and its Administrative Subcommittee, will hold separate meetings. The Council will hold its 51st regular public meeting to consider fishery management plans (FMPs) under development, and to discuss other Council matters. The Administrative Subcommittee will meet to discuss issues related to its regular administrative operations.

The Council's public meeting will convene September 4, 1984 at approximately 3:30 p.m., adjourn at approximately 5:00 p.m.; reconvene September 5, at approximately 9:00 a.m., and adjourn at 5:00 p.m. On September 6, the meeting will reconvene at approximately 9:00 a.m., and adjourn at approximately 12:00 noon. The Council's Administrative Subcommittee meeting will convene September 4, at approximately 1:30 p.m., and ajourn at approximately 3:00 p.m. All meetings will be held at the Conference Room of Fort Christian, Christiansted, St. Croix, U.S. Virgin Islands. For further information contact, Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, telephone: (809) 753-4926.

Dated: August 16, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 84-22246 Filed 8-21-84; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

A workgroup organized to develop recommendations for halibut bycatch limits for U.S. trawlers in the Gulf of Alaska will meet on September 6-7, 1984 at the Fishermen's Hall in Kodiak, Alaska, at 9:00 a.m. The workgroup will review material on the extent and nature of the halibut bycatch in the Gulf of Alaska and develop recommendations on halibut bycatch limits to be implemented for the 1985 winter domestic trawl fisheries. The Council is scheduled to take action on the recommendations at its September 25-28 meeting in Anchorage. Council workgroup meetings are open to the public and may be shortened or lengthened as necessary. For further information contact, Jeffrey Povolny, North Pacific Fishery Management Council. P.O. Box 103136, Anchorage, AK 99510, telephone: (907) 274-4536.

Dated: August 16, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 84-22247 Filed 8-21-84; 8:45]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Groundfish Management Team of the Pacific Fishery Management Council will hold a public meeting in Seattle, Washington on August 29-31, 1984 to discuss current the status of the 1984 fishery; preliminary 1985 specification of acceptable the biological catch, optimum yield, and harvest guidelines

for several groundfish species; retention of prohibited species in an experimental fishery for thresher shark; and Team operating policies and procedures. The meeting is open to the public. For furhter information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S. W. Mill Street, Portland, Oregon, 97201, (503) 221–6352.

Dated: August 16, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 84–22245 Filed 8–21–84; 8:45]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council, its Scientific and Statistical Committee (SSC), and its Advisory Panel (AP), will hold public meetings. All meetings will be held at the Kona Hilton Hotel, Kailua-Kona, Hawaii.

The Council will discuss final draft crustaceans assessment; draft bottomfish framework Fishery Management Plan (FMP); mercury levels in Pacific billfish; and other Council matters. The meetings will convene August 20, 1984, 1 p.m., and will adjourn 3 p.m., August 21.

The SSC will meet to discuss final draft of crustaceans assessments; draft bottomfish framework FMP; setting priorities of data research needs; and other Committee business. The meeting will convene, August 16, 1984, 8:30 a.m., and will adjourn August 17, 12 noon.

The AP will meet to discuss problems of fisheries in the island areas; FMPs, Preliminary Management Plan (PMPs), and assessments and limited entry workshop of the Northwestern Hawaiian Islands. The meeting will convene 1:00 p.m., August 17, 1984, and will adjourn 4:30 p.m., August 18. For further information contact Kitty Simonds, Executive Director, 1164 Bishop Street, Suite 1405, Honolulu, Hawaii 96813, telephone: (808) 523–1368.

Dated: August 16, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 84–22244 Filed 8–21–84; 8:45]

BILLING CODE 3510–22–M

Coastal Zone Management, Federal Consistency Appeal by the City of Hudson, New York, From Objection of the New York State Department of State

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of appeal and extension to submit supporting information.

SUMMARY: on August 6, 1984, the Secretary of Commerce (Secretary) received an appeal by the City of Hudson, New York (Appellant), from an objection by the New York State Department of State (Department) that the Appellant's application for Federal financial assistance in the form of a Department of Housing and Urban Development Urban Development Action Grant to construct an octane petroleum recovery and finishing facility, to be operated by Octane Petroleum Company, in the South Bay waterfront area of the City of Hudson, is inconsistent with the New York State Coastal Zone Management Program (CZMP). The Appellant requested and was granted an extension to August 21, 1984, to submit information supporting its appeal. This appeal has been filed pursuant to Section 307(d) of the Coastal Zone Management Act of 1972, as amended (CZMA), and implementing regulations of 15 CFR Part 930 Subpart H.

Interested persons are advised that they may submit comments to the Secretary on issues raised in this appeal within 30 days from the date of publication of this notice. Comments should be sent to: Robert J. McManus, General Counsel, National Oceanic and Atmospheric Administration, Department of Commerce, 14th and Constitution Ave. NW., Room 5814, Washington, D.C. 20230.

Copies of comments also should be sent to the following persons:

1. Honorable Michael Yusko, Jr., Mayor, City Hall, City of Hudson, 520 Warren Street, Hudson, New York 12534
2. George Stafford, New York Department of State, 162 Washington Avenue, Albany, New York 12231
3. Joseph Lynch, Office Manager, United States Department of Housing and Urban Development, Buffalo Office, Attn: Russell Morgan, Statler Towers, 107 Delaware Avenue, Buffalo, New York 14202

Comments should address whether the Appellant's application for a Department of Housing and Urban Development Urban Development Action Grant to construct an octane petroleum recovery and finishing facility in the South Bay waterfront area of the City of Hudson on the Hudson River complies with the regulatory criteria as set forth in 15 CFR 930.121, to be considered by the Secretary in deciding whether the project may be Federally-assisted, notwithstanding the objection by the Department.

Access to the Appellant's Notice of Appeal and accompanying supporting information, and to public information contained in comments submitted by Federal and State agencies will be available to the public at the following State and Federal offices during normal working hours:

1. New York State Department of State, 162 Washington Avenue, Albany, New York 12231
2. United States Department of Housing and Urban Development, Buffalo Office, Statler Towers, 107 Delaware Avenue, Buffalo, New York 14202
3. Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, Department of Commerce, Room 270, Page 1 Building, 2001 Wisconsin Ave. NW., Washington, D.C. 20235

FOR FURTHER INFORMATION CONTACT: Bernard Cody, Attorney Advisor, Office of the Assistant General Counsel for Ocean Services (202/254–7512).

SUPPLEMENTARY INFORMATION: The City of Hudson, New York (Appellant) applied to the Department of Housing and Urban Development for financial assistance in the form of an Urban Development Action Grant to construct an octane petroleum recovery and finishing facility, to be operated by Octane Petroleum Company, in the South Bay waterfront area of the Hudson River.

On July 6, 1984, the New York Department of State (Department) notified the Appellant that it had determined that its application for Federal financial assistance to construct the proposed petroleum facility was inconsistent with its CZMP. The Department's objection was based primarily upon its findings that: (1) The proposed project, in the event of an oil spill, could result in significant sublethal and lethal effects on commercial fishing and other wildlife resources in the coastal zone; (2) damage from flooding would not be minimized by construction of the facility as proposed; and (3) the structural characteristics of the proposed facility would conflict with the architectural style, scale, proportions and composition of nearby historic resources listed and eligible to be listed on the National Register of Historic Places.

The Appellant appealed the Department's objection to the Secretary, alleging that the project is consistent with the objectives and purposes of the CZMA and meets the criteria of 15 CFR 930.121. NOAA regulations, at 15 CFR Part 930 Subpart H, authorize the Secretary to find that an acitivity requiring Federal assistance, which has been found by a State to be inconsistent with its Federally-approved coastal zone management program, may nevertheless be permitted if the activity satisfies one of two grounds: (1) The activity is consistent with the objectives or purposes of the CZMA, or (2) the activity is necessary in the interest of national security. The Appellant alleges that the proposed activity should be allowed on the first ground only. To satisfy the first ground, four criteria must be satisfied: (a) The activity furthers one or more of the competing national objectives or purposes contained in sections 302 or 303 of the CZMA; (b) when performed separately or when its cumulative effects are considered, the activity will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweight its contribution to the national interest; (c) the activity will not violate any requirements of the Clean Air Act, as amended, or the Clean Water Act, as amended; and (d) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the State management program.

If the Secretary does not find that the activity satisfies all four of these criteria, the Federal agency may not provide funding assistance for the activity.

Dated: August 20, 1984.

(Federal Domestic Assistance Catalog No. 11.419, Coastal Zone Management Program Administration)

Timothy R. Keeney,

Acting General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 84-22435 Filed 8-21-84; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Specific Limits for Certain Cotton Textile Products Produced or Manufactured in Sri Lanka

August 17, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on August 23, 1984. For further information contact Kyle Poole, Trade Reference Assistant (202) 377-4212.

Background

On May 10, 1984 a notice was published in the **Federal Register** (49 FR 19886) which established import restraint limits for cotton dresses in Category 336 and women's, girls' and infants' knit shirts and blouses in Category 339, produced or manufactured in Sri Lanka and exported during the ninety-day period which began on April 30, 1984 and extended through July 28, 1984. This notice also stated that the Government of Sri Lanka is obligated under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, if no mutually satisfactory solution is reached on levels for these categories during consultations, to limit its exports during the twelve-month period which began on June 1, 1984 to the following:

Category	12-mo restraint limit (June 1, 1984-May 31, 1985)
336	35,954 dozen.
339	335,508 dozen.

Consultations are continuing concerning these categories, but no solution has been reached on mutually satisfactory limits. The United States Government has decided, therefore, to control imports of cotton textile products in Categories 336 and 339 exported during the twelve-month period which began on June 1, 1984, under the terms of the bilateral agreement.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of Sri Lanka, further notice will be published in the **Federal Register.**

In the event the limits established for the period which began on April 30, 1984 and extended through May 31, 1984 have been exceeded, the excess amounts will be charged to the limits established for the twelve-month period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

August 17, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directive of May 4, 1984.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, between the Governments of the United States and Sri Lanka; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 23, 1984, entry into the United States for consumption and withdrawals from warehouse for consumption of the cotton textile products in Categories 336 and 339, produced or manufactured in Sri Lanka and exported during the period which began on June 1, 1984 and extends through May 31, 1985, in excess of the following limits:

Category	12-mo. restraint limit (June 1, 1984-May 31, 1985) [1]
336	35,954 dozen.
339	335,508 dozen.

[1] The levels have not been adjusted to account for any imports exported after May 31, 1984.

Textile products in Categories 336 and 339 which are in excess of the limits established for goods in these categories exported to the United States during the period which began April 30, 1984 and extended through May 31, 1984 shall be subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Sri Lanka and with respect to imports of cotton textile products from Sri Lanka have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore,

these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-22222 Filed 8-21-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of the Republic of Indonesia To Review Trade in Category 317pt. (Twill)

August 17, 1984.

On July 31, 1984, the Government of the United States requested consultations with the Government of the Republic of Indonesia with respect to cotton twill in Category 317pt. (only T.S.U.S.A. numbers 320.—01 through 331.—98 with statistical suffixes 58 and 64). This request was made on the basis of the agreement, as amended, between the Governments of the United States and Republic of Indonesia relating to trade in Cotton, Wool and Man-Made Fiber Textiles and Textile Products of October 13 and November 9, 1982.

The purpose of this notice is to advice the public that, if no solution is agreed upon in consultations between the governments, CITA, pursuant to the agreement, as amended, may establish a prorated specific limit of 3,558,502 square yards for the entry and withdrawal from warehouse for consumption of textile products in Category 317pt., produced or manufactured in Indonesia and exported to the United States during the period which began on July 31, 1984 and extends through the end of the agreement year, June 30, 1985. The limit may be adjusted to include prorated swing and carryforward.

The Government of the United States had decided, pending agreement on a mutually satisfactory solution, to control imports in this category during the 90-day consultation period (July 31–October 28, 1984) at a level of 1,130,606 sqaure yards. In the event the limit established for the ninety-day period is exceeded, such excess amount, if allowed to enter, may be charged to the level established during the period which began on July 31, 1984 and extends through June 30, 1985.

A summary market statement for this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

Anyone wishing to comment or provide data or information regarding the treatment of Category 317pt. under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of the Republic of Indonesia, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Effective date: August 23, 1984.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

INDONESIA—MARKET STATEMENT

Category 317pt.—Cotton Twills

July 1984.

U.S. imports of Category 317pt.—cotton twills—from Indonesia during the year ending May 1984 were 4.2 million square yards, 17 times the 243,000 square yards imported a year earlier. Imports for the first five months of 1984 alone reached 3.3 million square yards or 174.7 percent higher than the total quantity imported from Indonesia in 1983. This is a sharp and substantial increase of imports in a sector already adversely affected by imports. These imports from Indonesia are entered at duty-paid landed values which are below the U.S. producer price for comparable fabrics. This and other factors lead the United States Government to conclude that imports from Indonesia are creating a real risk of market disruption in the United States for such fabrics.

U.S. production of cotton twills declined by 7 percent from 137 million square yards in 1982 to 127 million in 1983. Production for the first quarter of 1984 was 33 million square yards, down 4 percent from January–March 1983. Imports of cotton twills increased by 53 percent from 51 million square yards in 1982 to 78 million in 1983. The ratio of imports to domestic production increased from 37.5 percent in 1982 to 61.9 percent in 1983. The ratio for the first quarter of 1984 was 76.5 percent.

August 17, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 13 and November 9, 1982, as amended, between the Governments of the United States and the Republic of Indonesia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 23, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 317pt.,[1] produced on manufactured in Indonesia, and exported during the ninety-day period which began on July 31, 1984 and extends through October 28, 1984, in excess of 1,130,606 square yards.[2]

Textile products in Category 317pt. which have been exported to the United States prior to July 31, 1984 shall not be subject to this directive.

Textile products in Category 317pt.[1] which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), and July 16, 1984 (49 FR 28754).

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[1] In Category 317 only T.S.U.S.A. numbers 320.—58, 321.—58, 322.—58, 323.—58, 324.—58, 325.—58, 326.—58, 327.—58, 328.—58, 329.—58, 330.—58, 331.—58, 320.—64, 321.—64, 322.—64, 323.—64, 324.—64, 325.—64, 326.—64, 327.—64, 328.—64, 329.—64, 330.—64, and 331.—64.

[2] The level has not been adjusted to reflect any imports exported after July 30, 1984.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Republic of Indonesia and with respect to imports of cotton textile products from Indonesia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Implementation of Textile Agreements.

[FR Doc. 84-22283 Filed 8-21-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Thursday, 13 September 1984, DIAAC, Bolling AFB, Washington, DC. The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Arms Control Verification.

Dated: August 16, 1984.

Darlene C. Scott,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-22281 Filed 8-21-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Military Traffic Management Command, Military Personal Property Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Symposium. This meeting will be held on 20 September 1984 at the Hyatt Regency Hotel, Crystal City, Arlington, Virginia, and will convene at 0930 hours and adjourn at approximately 1500 hours.

Proposed Agenda

The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation (DOD 4500.34-R), and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MT-PPM, at telephone Number 756-1600, between 0700-1530 hours. Topics to be discussed should be received on or before 12 September 1984.

Robert F. Waldman,

Deputy Director, Directorate of Personal Property.

[FR Doc. 84-22258 Filed 8-21-84; 8:45 am]

BILLING CODE 3710-92-M

DEPARTMENT OF EDUCATION

Intergovernmental Advisory Council on Education; Hearing and Meeting

AGENCY: Intergovernmental Advisory Council on Education, Education.

ACTION: Notice of Hearing and Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a hearing and meeting of the Intergovernmental Advisory Council on Education. Notice of this hearing and meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: September 20-21, 1984.

ADDRESS: Kalamazoo Center Hilton Inn, 100 West Michigan Avenue, Room A, Kalamazoo, Michigan 49007.

FOR FURTHER INFORMATION CONTACT: Laverne Johnson, Intergovenmental Advisory Council on Education, Department of Education, 300 7th Street SW., Room 513, Washington, D.C. 20202 (202) 472-6464.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education is established under section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council was established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education

The Intergovernmental Advisory Council on Education will conduct a Public Hearing on September 20, 1984. The hearing will focus on:

9:30 a.m.—Educational Partnerships

11:00 a.m.—Student Achievement and Discipline

2:00 p.m.—Higher Education Reauthorization Proposals

3:30 p.m.—Press Availability

Individuals, organizations, and associations need to register for the September 20 hearing. To register due to limited space and time, write or call Ms. Laverne Johnson, Intergovernmental Advisory Council on Education, 300 7th Street SW., Room 513, Washington, D.C. 20202, (202) 472-6464. (Testifiers will be limited to five (5) minutes. Each testifier must provide written comments. Those wishing to submit comments only may do so my mailing them to Ms. Johnson.)

The Intergovernmental Advisory Council will meet on September 21. The meeting is open to the public and is scheduled from 9 a.m. to 2 p.m.

The proposed agenda includes:

—Critique of September 20 Hearing
—Discussion on Upcoming Hearings
—Executive Director's Position

Records are kept of all Council proceedings and are available for public inspection at the Office of the Intergovernmental Advisory Council on Education, 300 7th Street SW., Room 513, Washington, D.C.

Signed at Washington, D.C., on Tuesday, August 14, 1984.

Nancy L. Harris,

Acting Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 84-2283 Filed 8-21-84; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

College Housing Program

AGENCY: Department of Education.

ACTION: Extension of closing date and clarification for transmittal of proposals for prepayment discount under the College Housing Program.

SUMMARY: This notice extends the closing date of August 16, 1984 to August 31, 1984 for the transmittal of proposals under the College Housing Program—Discount Program (84.142). The application notice was published in the **Federal Register** on July 17, 1984 (49 FR 29023). This application notice contained detailed information concerning the College Housing Program and instructions for transmittal of proposals.

Clarification of prepayment submission: There has apparently been some misunderstanding over when a discounted prepayment of a loan may be submitted under this program. This notice clarifies that prepayments based on the final regulations published on

July 17, 1984 (49 FR 29018), are acceptable based upon the August 1984 Treasury interest rates, provided these payments are made prior to August 31, 1984. If prepayments are to be made based upon September rates, these payments must be made prior to October 1, 1984. In order to provide institutions with an opportunity to revise proposals, or to submit new proposals, the deadline announced on July 17, 1984 is being extended to August 31, 1984.

Institutions which have previously submitted proposals and which only wish to revise their projected date for submitting prepayments may do so by submitting a letter to John K. Uchima, Chief, Loan Management Branch, P.O. Box 23471, Washington, D.C. 20024, on or before August 31, 1984.

Program Information: This invitation is solely for prepayment of outstanding college housing loans. The applicable regulations specify requirements for prepayment of outstanding loans and for determining the actual amount that must be prepaid under a formula. The Secretary determines whether to award a discount based on these requirements, including the requirement that the discount be in the best financial interests of the Government.

FOR FURTHER INFORMATION CONTACT: For inquiries concerning this extension date and clarification, contact John K. Uchima, Chief, Loan Management Branch, Division of Grants and Loan Management, Department of Education, P.O. Box 23471, Washington, D.C. 20024. Telephone: (202) 472-9300.

(20 U.S.C. 1749a(c))

(Catalog of Federal Domestic Assistance No. 84.142, College Housing Program)

Dated: August 20, 1984.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 84-22412 Filed 8-21-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, SPR Facilities Task Group of the Committee on the Strategic Petroleum Reserve; Meeting

Notice is hereby given that the SPR Facilities Task Group of the Committee on the Strategic Petroleum Reserve will meet in September 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on the Strategic Petroleum Reserve will address various aspects of the Strategic Petroleum Reserve and the long-term availability and movement patterns of tankers worldwide. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The SPR Facilities Task Group will hold its fifth meeting on Friday, September 14, 1984, starting at 9:30 a.m., in the Gatsby II Room of the Winchester Plaza Hotel, 2201 Winchester Road, Memphis, Tennessee.

The tentative agenda for the SPR Facilities Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review the Coordinating Subcommittee draft report.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the SPR Facilities Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the SPR Facilities Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Gerald J. Parker, Office of Oil, and Gas and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on August 15, 1984.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 84-22242 Filed 8-21-84; 8:45 am]

BILLING CODE 6450-01-M

[Solicitation No. DE-PSOI-84CE26508]

Procurement and Assistance Management Directorate

AGENCY: Department of Energy.

ACTION: Notice of Solicitation Number DE-PSOI-84CE26508.

SUMMARY: DOE announces that it is soliciting grant applications for the purpose of assessing the potential for using District Heating and Cooling (DHC) systems in communities where such systems could substantially increase the efficiency of energy delivery and/or substitute abundant and renewable resources for the use of scarce premium fuels while enhancing the economic liability of the community. Where DHC systems can be cost-effectively applied, the DOE recognizes their contribution to the national strategy of promoting a balanced and mixed energy resource that decreases reliance on imported fuels.

Project Scope: The purpose of this solicitation is to advance the DHC concept. Under this solicitation, several proposals will be selected. Each proposal will: Identify and characterize potential DHC service areas, heat supply options, and distribution networks; specify potential DHC projects and assess their technical, economic, market and institutional and financial feasibility; develop community consensus on whether to proceed with such projects; and develop plans of action of those DHC projects on which consensus has been achieved. This assessment work is considered to be the first phase of a three-phase process leading to the construction and operation of a DHC system. Phase II, preliminary design and financing, and Phase III, final design and construction are *not* part of this solicitation. Any public or private entity may respond to this solicitation.

Solicitation Number: DE-PSOI-84CE26508.

Solicitations are available upon written request to: U.S. Department of Energy, Office of Procurement Operations, Forrestal Building, Room 1J005, 1000 Independence Avenue, S.W., Washington, D.C. 20585, ATTN: Document Control Specialist, MA-451.1.

Point of Contact: Pat Wyatt, telephone number (202) 252-1236.

Issued in Washington, D.C., on August 15, 1984.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 84-22239 Filed 8-21-84; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Marion Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Marion Corporation (Marion). This

Proposed Remedial Order charges Marion with entitlements violations in the amount of $57,995,152.00, plus interest, in connection with Marion's reporting of its crude oil receipts under the Entitlements program during the reporting period, September 1979 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James Solit, Office of Sepcial Counsel, ERA, Washington, D.C., (202) 252–6500. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 6E–055, Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 24th day of May 1984.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 84–22241 Filed 8–21–84; 8:45 am]

BILLING CODE 6450–01–M

Proposed Remedial Order

AGENCY: U.S. Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Proposed Remedial Order to Houston Oil and Refining, Inc.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Houston Oil and Refining, Inc. (HOR), 11221 Katy Freeway, Houston, Texas 77079. This Proposed Remedial Order alleges that HOR charged prices in excess of its actual purchase prices in violation of 10 CFR 212.186, 210.62(c) and 205.202 during the period June 1979 through August 1980 in the amount of $182,995,799.90. In addition, the Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.183 during the period June 1979 through August 1980 in the amount of $68,581,401.23.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Houston, Texas, on the 26th day of July 1984.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 84–22240 Filed 8–21–84 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Energy Research Advisory Board, International R&D Panel; Meeting

Notice if hereby given of the following meeting:

Name: International R&D Panel of the Energy Research Advisory Board (ERAB).

Date & Time: September 13, 1984—10:00 a.m.–6:00 p.m.

Place: U.S. Department of Energy, 1000 Independence Avenue, SW., Room 4A–110, Washington, DC 20585.

Contact: William L. Woodard, U.S. Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–5444.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda:

- Review of Charge Letter
- Overview of Existing International Energy R&D programs
- Future meeting plans
- Public Comment (10 minute rule)

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles Cathey at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 15, 1984.

Charles E. Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 84–22243 Filed 8–21–84; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Objection to Proposed Remedial Orders Filed; Week of June 25 Through June 29, 1984

During the week of June 25 through June 29, 1984, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Date: August 15, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

A. V. Wright & Associates, Inc., et al., Newport Beach, California; HRO–0236, Crude Oil

On June 25, 1984, A. V. Wright & Associates, Inc. (Associates), Petroex Energy Corporation (Petroex), and A. V. Wright (Wright), filed a joint Notice of Objection to a Proposed Remedial Order (PRO) which the Tulsa, Oklahoma Office of the Economic Regulatory Administration (ERA) issued to the above-named parties on May 18, 1984. In the PRO, the ERA alleged that from January 1978 to July 1980, Associates and Petroex violated certain pricing regulations which governed the resale of crude oil. Specifically, the ERA alleged that Associates and Petroex resold volumes of crude oil at prices which exceeded the actual purchase price of the crude oil without providing any services or functions traditionally and historically associated with the resale of crude oil in violation of 10 CFR 205.202, 205.62(c), and 212.186. The ERA also alleged that both parties resold crude oil in particular months at prices which included markups in excess of their permissible average markup in violation of 10 CFR 212.183. Additionally, the ERA alleged that Wright should be held individually liable for the regulatory violations because he controlled both entities and caused them to engage in the alleged regulatory violations. According to the PRO, the pricing violations resulted in $3,111,381.29 of overcharges.

Patton Oil Co., Englewood, Colorado; HRO–0237, crude oil

On June 25, 1984, Patton Oil Company (Patton) of Greenwood Plaza North, Suite 200, 5660 South Syracuse Circle, Englewood, Colorado 80110, filed a Notice of Objection to a Proposed Remedial Order (PRO) which the Dallas Field Office of the Economic Regulatory Administration (ERA) issued to the firm on May 25, 1984. In the PRO, the ERA found that during the period June 1, 1979 through April 30, 1980, Patton incorrectly treated crude oil production for several of its wells as newly discovered crude oil, in violation of 10 CFR 212.79 and 212.72. The ERA claims that Patton then sold the crude oil at free market prices, in violation of 10 CFR 212.74 and 212.73. According to the PRO, the pricing violation resulted in $982,956.41 of overcharges.

Paul L. Heatley Co., Tulsa, Oklahoma; HRO–0238, crude oil

On June 26, 1984, the State of Texas filed a Notice of Objection to a Proposed Remedial Order which the DOE Tulsa, Oklahoma District Office of Enforcement issued to the firm on May 29, 1984. In the PRO, the Tulsa, Oklahoma District Office found that during the period December 1, 1977 through July 30, 1979, the Paul L. Heatley Company violated certain pricing regulations which governed the sale of crude oil. The total violation alleged is $4,076,443.95.

[FR Doc. 84–22238 Filed 8–21–84 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project Nos. 8316–000, et al.]

Hydroelectric Applications (Guilford Industries, Inc., et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Preliminary Permit.

b. Project No: 8316–000.

c. Date Filed: May 21, 1984.

d. Applicant: Guilford Industries, Inc.

e. Name of Project: Guilford.

f. Location: Piscataquis River in Piscataquis County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Maurice Yonkin, Guilford Industries, Inc., Guilford, Maine 04443.

i. Comment Date: September 28, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 13-foot-high, 163-foot-long concrete dam owned by the Applicant; (2) an existing 17-acre reservoir at an elevation of 385.3 feet M.S.L.; (3) a proposed powerhouse containing two turbine/generators with a total installed capacity of 475 kW, operating under a head of 13 feet; (4) a proposed 200-foot-long, 480-volt transmission line; and (5) appurtenant facilities. The estimated average annual generation is 1,600 MWh.

k. Purpose of Project: Project power would be used in the Applicant's mill.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $43,000.

2a. Type of Application: Preliminary Permit.

b. Project No: 8317–000.

c. Date Filed: May 21, 1984.

d. Applicant: Coldwater Power Project Inc.

e. Name of Project: Coldwater Power Project.

f. Location: On Roaring Creek, near town of Montgomery Creek, in Shasta County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred G. Castagna, President, Coldwater Power Project, Inc., 2576 Hartnell Avenue, Redding, California 96002–2319.

i. Comment Date: September 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 50-foot-long diversion dam on Roaring Creek at elevation of 2,450 feet; (2) a 42-inch-diameter, 1,800-foot-long diversion conduit; (3) a 42-inch-diameter, 6,850-foot-long penstock; (4) a powerhouse with a total installed capacity of 36,000 kW operating under a head of 760 feet; and (5) a 1-mile-long, 230-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 15.98 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $186,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

3a. Type of Application: Preliminary Permit.

b. Project No.: 8318–000.

c. Date Filed: May 21, 1984.

d. Applicant: Guilford Industries, Inc.

e. Name of Project: Newport.

f. Location: East Branch of the Sebasticook River in Penobscot County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Maurice Yonkin, Guilford Industries, Inc., Guilford, Maine 04443.

i. Comment Date: September 21, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 162-foot-long, 12-foot-high concrete dam owned by the Applicant; (2) an existing 11.5-acre reservoir with negligible storage capacity; (3) an existing 300-foot-long, 35-foot-wide canal forebay; (4) a proposed powerhouse containing two turbine/generator units with a total installed capacity of 230 kW; (5) a proposed tailrace; (6) a proposed 200-foot-long, 480-volt transmission line; and (7) appurtenant facilities. The estimated average annual generation would be 717 MWh.

k. Purpose of Project: Project power would either be sold to Central Maine Power Company or used by the Applicant in their mill.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $48,000.

4a. Type of Application: Preliminary Permit.

b. Project No.: 8323–000.

c. Date Filed: May 25, 1984.

d. Applicant: City of Leesburg, Florida.

e. Name of Project: Moss Bluff Hydro.

f. Location: On the Oklawaha River, Marion County, Florida.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Rex Taylor, City Manager, P.O. Box 630, Leesburg, Florida 32748.

i. Comment Date: September 24, 1984.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Moss Bluff Dam and Reservoir and would consist of: (1) Proposed intake works; (2) proposed powerhouse, approximately 100-feet by 50-feet, housing two generating units with a total installed capacity of 1,300 kW; (3) a proposed tailrace channel; (4) a proposed step-up transformer; (5) a proposed 7.2 kW transmission line approximately 1000 feet in length; and (6) appurtenant facilities. The applicant estimates that the average annual energy generation would be 4,300 MWh.

k. Purpose of Project: The Applicant anticipates that project energy will be utilized in its existing distribution system to reduce power purchases and accommodate projected load growth.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending upon the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates that the cost of the studies under permit would be $75,000.

5a. Type of Application: Preliminary Permit.

b. Project No.: 8327–000.

c. Date Filed: May 29, 1984.

d. Applicant: Live Oak Power Project, Inc.

e. Name of Project: Live Oak Power Project.

f. Location: On Dobbyn Creek, near town of Fort Seward, Humboldt County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred G. Castagna, President, Live Oak Power Project, Inc., 2576 Hartnell Avenue, Redding, California 96002–2319.

i. Comment Date: September 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 40-foot-long diversion structure at elevation 1,600 feet; (2) a 30-inch-diameter, 6,420-foot-long diversion conduit; (3) a 30-inch-diameter, 8,712-foot-long penstock; (4) a powerhouse with a total installed capacity of 2,000 kW operating under a head of 1,055 feet, and (5) a 0.33-mile-long, 60-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 5.6 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a 36-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $93,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

6a. Type of Application: Preliminary Permit.

b. Project No: 8334–000.

c. Date Filed: June 1, 1984.

d. Applicant: James River Associates II.

e. Name of Project: Richard W. James II Hydroelectric (Manchester Dam).

f. Location: On the James River, Richmond, Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: J. Kirk Rector, CFS Financial Corporation, 324 South State Street, #500, Salt Lake City, Utah 84111.

i. Comment Date: September 24, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing stone masonary dam, approximately 2,300 feet in length and 6 feet high; (2) an existing reservior with water storage capacity of about 24 acre-feet at normal maximum water surface elevation of 30 feet m.s.l.; (3) an existing power canal about 5,000 feet long, proposed to be renovated; (4) an existing powerhouse, approximately 100 feet by 200 feet, which will house one renovated turbine/generator unit with an installed capacity of 1,300 kW; (5) an existing outlet canal, about 3,000 feet long, proposed to be renovated; (6) an existing 34.5-kV primary transmission line immediately adjacent to the powerhouse; and (7) appurtenant facilities. Applicant estimates that the average annual energy generation would be 6,000,000 kWh. Owner of the dam and other facilities is Virginia Electric and Power Company.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to local municipalities, or the local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $125.000.

7a. Type of Application: Preliminary Permit.

b. Project No.: 8335–000.

c. Date Filed: June 1, 1984.

d. Applicant: Easton Associates.

e. Name of Project: Keechelus.

f. Location: On the Yakima River, near the town of Easton, in Kittitas County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Joel Kirk Rector, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: September 26, 1984.

j. Description of Project: The proposed project would utilize the U.S. Bureau of Reclamation's Keechelus Dam and Reservoir and would consist of: (1) A 375-foot-long, 10-foot-diameter steel penstock, lining the existing outlet tunnel; (2) a powerhouse at the toe of the dam at the end of the outlet tunnel; (2) a powerhouse at the toe of the dam at the end of the outlet tunnel, housing a single generating unit with a capacity of 4,400 kW with an average annual generation of 16,200 MWh; and (3) the existing 12.5-kV, 1-phase power line would be reconductored to carry 12.5-kV, 3-phase current.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at cost of $125,000. No new roads would be constructed during the feasibility study. Soil borings would be conducted as part of the site investigation.

k. Purpose of Project: The project power would be sold to local municipalities or to a local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C.

8a. Type of Application: Preliminary Permit.

b. Project No.: 8337–000.

c. Date Filed: June 1, 1984.

d. Applicant: Easton Associates.

e. Name of Project: Kachess.

f. Location: On the Kachess River, near the towns of Easton and Cle-Elum in Kittitas County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Joel Kirk Rector, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: September 24, 1984.

j. Description of Project: The proposed project would utilize the Bureau of Reclamation's Kachess Dam and Reservoir and would consist of: (1) A 350-foot-long, 10-foot-diameter steel penstock, lining the existing outlet pipe; (2) a powerhouse at the toe of the dam at the end of the outlet pipe, housing a single generating unit with a capacity of 3,200 kW, and an average annual generation of 10,750 MWh; (3) the existing power line would be reconductored to carry 12.5-kV, 3-phase power; and (4) a 1,000-foot-long transmission line would be built to reach the existing power line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $125,000. No new roads would be constructed during the feasibility study. Soil borings would be included as part of the site investigation.

k. Purpose of Project: The project power would be sold to the local municipalities or the local utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C.

a. Type of Application: Preliminary Permit.

b. Project No. 8353–000.

c. Date Filed: June 8, 1984.

d. Applicant: Jack A. Shaffer.

e. Name of Project: Madden Creek Power Project.

f. Location: On Madden Creek, near town of Willow Creek, Humboldt County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Jack A. Shaffer, 1629 Fickle Hill Road, Arcata, California 95521.

i. Comment Date: September 28, 1984.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 40-foot-long diversion structure on Madden Creek at elevation 1,160.00 feet; (2) a 42-inch-diameter, 5,200-foot-long diversion conduit; (3) a 30-inch-diameter, 1,200-foot-long penstock; (4) a powerhouse with a total installed capacity of 1,400 kW operating under a head of 500 feet; and (5) a 1-mile-long, 12.5-kV transmission line connecting to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant's estimated average annual energy generation of 12.5 million kWh will be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of an 18-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $15,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

a. Type of Application: Preliminary Permit.

b. Project No. 8355–000.

c. Date Filed: June 8, 1984.

d. Applicant: Carol Agnes Jacks.

e. Name of Project: Willow Creek Power Project.

f. Location: On Willow Creek, near town of Willow Creek, in Humboldt County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Carol Agnes Jacks, Holmes Ranch, P.O. Box 4524, Arcata, California 95521.

i. Comment Date: September 28, 1984.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 40-foot-long diversion Structure on Willow Creek at elevation 780.00 feet; (2) a 5-foot-diameter, 1,000-foot-long diversion conduit; (3) a 5-foot-diameter, 300-foot-long penstock; (4) a powerhouse with a total installed capacity of 1,000 kW operating under a head of 100 feet; and (5) a 500-foot-long, 12.5-kV transmission line connected to an existing Pacific Gas and Electric Company (PG&E) transmission line. The Applicant estimates the average annual energy generation at 8.4 million kWh to be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of an 18-month preliminary permit to conduct technical, environmental and economic studies, and also prepare an FERC license application at an estimated cost of $15,000.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

a. Type of Application: Preliminary Permit.

b. Project No. 8358–000.

c. Date Filed: June 11, 1984.

d. Applicant: State of Louisiana, Dept. of Transportation and Development, Office of Public Works.

e. Name of Project: Darlington Reservoir Water Power.

f. Location: On the Amite River, in East Feliciana and St. Helena Parishes, Louisiana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Robert G. Graves, Secretary, State of Louisiana/Dept. of Transportation and Development, Office of Public Works, P.O. Box 44245/Baton Rouge, Louisiana 70804.

i. Comment Date: September 28, 1984.

j. Description of Project: The proposed project would consist of entirely new facilities which would include: (1) A proposed earthfill dam approximately 19,500 feet long and maximum height of about 80 feet; (2) a proposed spillway with a total length of 90 feet, containing three bays of tainter gates; (3) a proposed reservoir with a maximum water storage capacity of 559,000 acre-feet at probable maximum flood elevation of 190.9 feet, m.s.l.; (4) a proposed outlet works consisting of a 100 feet wide by 10 feet high concrete box culvert 540 feet in length and containing a slide gate; (5) a proposed concrete powerhouse, about 65 feet by 40 feet, housing one turbine/generator unit with a rated capacity of 6,000 kW; (6) a proposed 69 kV transmission line between one to two miles in length; and (7) appurtenant facilities. Applicant estimates that the average annual energy generation would be 21.5 KWh.

k. Purpose of Project: The Applicant anticipates that potential purchasers of project energy are: (a) Cajun Electric Cooperative, (b) Louisiana Power and Light Copany, and (c) Gulf States Utility Company.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

12a. Type of Application: Preliminary Permit.

b. Project No: 8362–000.

c. Date Filed: June 12, 1984.

d. Applicant: Glen Elder Associates.

e. Name of Project: Glen Elder Hydro Project.

f. Location: On the Solomon River near Glen Elder, in Mitchell County, Kansas.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: J. Kirk Rector, 324 South State Street, #500, Salt Lake City, Utah 84111.

i. Comment Date: September 27, 1984.

j. Description of Project: The proposed project would utilize a U.S. Bureau of Reclamation dam and reservoir and would consist of: (1) A proposed powerhouse located adjacent to and on the north side of an existing stilling basin, with an installed capacity of 3,500 kW; (2) a proposed steel penstock

approximately 90 feet long; (3) a proposed transmission line approximately 800 feet long; and (4) appurtenant facilities. Applicant estimates the average annual energy to be 4,800 MWh. Energy produced would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time the applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $125,000.

13a. Type of Application: Preliminary Permit.

b. Project No: 8382–000

c. Dated Filed: June 22, 1984.

d. Applicant: Gemini Hydro Corporation, Gemini Hydro Partnership, and Northern Hydro Developers.

e. Name of Project: Gemini.

f. Location: On Butte Creek, near Stirling City, in Butte County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Keith S. Dunbar, Big Trees Engineering, P.O. Box 1053, Arnold, California 95223.

i. Comment Date: September 26, 1984.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 12-foot-high, 60-foot-long concrete diversion dam at elevation 4,260 feet msl; (2) a 66–inch-diameter, 38,400-foot-long buried steel pipeline; (3) a 48-inch-diameter, 2,100-foot-long penstock; (4) a powerhouse at elevation 2,960 feet msl containing two turbine-generator units with a total installed capacity of 12,440-kW and producing an estimated average annual generation of 48.0 GWh; and (5) a 10-mile-long, 60-kV transmission line connecting the project to the Forks of Butte Project No. 6896–001. The proposed project would be located on Lassen National Forest and Diamond International Corporation lands. Project power would be sold to Pacific Gas and Electric Company.

A preliminary permit, is issued, does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of construction and operating the project and estimates the cost of the studies at $95,000

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

14a. Type of Application: Small Conduit Exemption.

b. Project No: 8150–000

c. Dated Filed: March 2, 1984.

d. Applicant: Burr Courtright.

e. Name of Project: Chamberlin Ditch Pipeline Company.

f. Location: Near the discharge of the pipeline between Chamberlin Ditch and Bear Creek, near Wallowa, in Wallowa County, Oregon 97850.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Burr Courtright, Rt. 4, Box 4078, La Grande, Oregon.

i. Comment Date: September 17, 1984.

j. Description of Project: The proposed project would consist of: (1) Three short penstocks connected to the existing pipe; and (2) a powerhouse containing three turbine/generators with a combined capacity of 64 kW and an annual energy production of 460.8 MWh. Flows would be returned to the existing pipe.

Purpose of Exemption—An exemption, if issued, gives an Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

15a. Type of Application: Small Conduit Exemption.

b. Project No: 8151–000

c. Dated Filed: March 5, 1984.

d. Applicant: Burr Coutrrights.

e. Name of Project: Clearwater Ditch and Chamberlin Pipeline Project.

f. Location: Near the discharge of the pipeline between Clearwater Ditch and Bear Creek, near Wallows, in Wallowa County, Oregon.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Burr Courtright, Rt. 4, Box 4078, La Grande, Oregon 97850.

i. Comment Date: September 17, 1984.

j. Description of Project: The proposed project would consist of: (1) Two short penstocks connected to the existing pipe; and (2) a powerhouse containing two turbine/generators with a combined capacity of 57 kW and an annual energy production of 460.8 MWh. Flows would be returned to the existing pipe.

Purpose of Exemption—An exemption, if issued, gives an Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3b.

16a. Type of Application: Preliminary Permit.

b. Project No: 8216–000.

c. Date Filed: April 2, 1984.

d. Applicant: Upper San Joaquin River Water and Power Authority.

e. Name of Project: Jackass-Chiquito or Granite Creek.

f. Location: On North Fork of the San Joaquin River, Granite Creek, Jackass Creek and Chiquito Creek; in Madera County California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John Boudreau, Manager, Upper San Joaquin River Water and Power Authority, 24790 Avenue 95, Terra Bella, California 93270.

i. Comment Date: October 4, 1984.

j. Description of Project: The Applicant proposes to study two alternatives for the development of the water resources of the west side of San Joaquin River drainage area upstream of Southern California Edison Company's (SCE) existing Mammoth Pool Project No. 2085. Neither proposal would encroach upon the boundaries of the licensed Project No. 2085 or adversely impact its operations.

Alternative No. 1

The proposed Jackass-Chiquito Project would consist of: (1) A concrete overflow dam diverting flow from the North Fork San Joaquin River through a 19,600-foot long, 9-foot diameter tunnel to Cora Creek; (2) a concrete overflow dam diverting flow from Cora Creek, through a 24-inch diameter vertical bore and into the 9-foot diameter tunnel which would continue for approximately 11,300 feet to East Fork Granite Creek; (3) a concrete overflow dam diverting flow from the East Fork Granite Creek through a 9,300-foot long, 11-foot diameter tunnel to West Fork Granite Creek Reservoir; (4) a concrete overflow dam diverting flow from the Middle Fork Granite Creek through 12-inch pipeline connecting to a bore hole into the 11-foot diameter tunnel; (5) West Fork Granite Creek Reservoir (6 acre surface area) to be created by a concrete overflow diversion dam; (6) a 14-foot diameter tunnel approximately 10,300 feet long, carrying water from West Fork Granite Creek Reservoir to; (7) the Jackass Reservoir which would have a storage capacity of 100,000 acre-feet, a

maximum surface area of about 1,430 acres, and to be formed by a homogeneous rolled earthfill structure designated Jackass Dam; (8) a horseshoe tunnel 9 feet 6 inches in diameter and approximately 10,900 feet long, leading to an above-ground penstock approximately 6,700 feet long, varying in diameter from 6 feet 6 inches to 6 feet, connected to an underground 6-foot diameter steel-line penstock serving; (9) the underground Jackass powerhouse to contain two impulse-type turbine-generating units, having a total rated capacity of 80 megawatts; (10) a tailrace tunnel about 4,100 feet long leading to; (11) Chiquito Reservoir having a surface area of 1,030 acres and storage capacity of 80,000 acre-feet, to be formed by a zone-type composite earth and rockfill structure designated Chiquito Dam; (12) a horseshoe tunnel 13 feet in diameter and about 22,590 feet long, to be connected to an approximately 4,195 foot long, above-ground penstock varying in diameter from 7 feet 6 inches to 8 feet 6 inches leading to; (13) Chiquito Powerhouse to contain two impulse-type turbine-generating units, having a total rated capacity of 120 megawatts, and located at the headwaters of Mammouth Pool near the junction of Jackass Creek; and (14) a 21-mile-long transmission line connecting with Southern California Edison's Big Creek Three Substation. The project would have a total rated capacity of 200 megawatts.

Alternative No. 2

The proposed alternate Granite Creek Project would consist of: (1) A 10-foot high concrete overflow diversion dam diverting flow from Iron Creek, through a 3,000-foot long, 36-inch diameter tunnel, to; (2) the proposed North Fork Reservoir created by; (3) a 25-foot high concrete overflow dam; (4) a 32,000-foot long, 11-foot diameter tunnel, to which diversions from Cora and Chestwood Creeks would be added through two vertical bore holes, diverting water to; (5) Granite Creek Reservoir, with a gross storage capacity of 100,000 acre-feet and maximum surface area of about 1,400 acres formed by; (6) Granite Creek Dam, a 350-foot high rockfilled structure; (7) a 22,000-foot long, 10-foot diameter concrete tunnel, to which diversion from Jackass Creek would be added through a 12,000-foot long, 24-inch diameter concrete pipe, diverting flows to; (8) the Graveyard Meadow Reservoir, having a gross storage capacity of 9,000 acre-feet and maximum surface area of 200 acres and formed by; (9) Graveyard Meadow Dam, a 250-foot high rockfilled structure; (10) a 16,000-foot long, 14-foot diameter concrete tunnel; (11) a 3,300-foot long penstock, varying in diameter from 9 feet 8 inches to 8 feet 3 inches, serving; (12) the Jackass No. 2 Powerhouse to contain two impulse-type, turbine-generating units having a total rated capacity of 150 MW; (13) a forebay reservoir formed by a 50-foot high dam, and having a storage capacity of 300 acre-feet; (14) a 9,800-foot long penstock, varying in diameter from 14 feet 3 inches to 8 feet 3 inches, serving; (15) the Jackass No. 1 Powerhouse to contain two impulse-type, turbine-generating units having a total rated capacity of 150 MW; and 16) a 17-mile-long transmission line connecting with SCE's Big Creek Three Substation. The project would have a total rated capacity of 300 MW.

The proposed project would affect U.S. lands within Sierra National Forest. A preliminary permit does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. No new roads will be constructed for conducting these studies which are estimated to cost $1,000,000.

k. Purpose of Project: The estimated 500 million kWh generated annually, in either alternative, would be sold to either Pacific Gas and Electric Company (PG&E) or SCE.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

17a. Type of Application: Preliminary Permit.

b. Project No: 8291–000.

c. Date Filed: May 7, 1984.

d. Applicant: North Star Hydro Ltd.

e. Name of Project: North Star.

f. Location: On Little Walker River, within Toiyabe National Forest in Mono County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Dr. Roy McDonald, Groves Energy Company, 1121 L St., Ste. 1000, Sacramento, CA 95814.

i. Comment Date: October 1, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 20-foot-long diversion structure at elevation 6,805 feet; (2) an 8,500-foot-long channel; (3) a 42-inch-diameter, 500-foot-long penstock; (4) a powerhouse at elevation 6,605 feet, containing a generating unit with a rated capacity of 1,500 kW; and (5) a short length of 16-kV Transmission line tying into Southern California Edison Company's line. The water used would be discharged back into Little Walker River. The Applicant estimates a 9.2 million kWh average annual energy production.

A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to conduct feasibility studies and prepare a license application at a cost of $70,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

18a. Type of application: Preliminary Permit.

b. Project No. 8244–000.

c. Date Filed: April 13, 1984.

d. Applicant: Hydro Pool.

e. Name of Project: White River.

f. Location: On White River in Rio Blanco County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ivan L. Gold or Mr. Douglas W. Wagoner, 2539 Larkin Street, San Francisco, California 94109.

i. Comment Date: October 1, 1984.

j. Description of Project: The proposed project would consist of: (1) The existing 8-foot-high, 50-foot-long Highland Ditch Association diversion dam; (2) the existing Highland Ditch, which will be enlarged a distance of 5.2 miles; (3) a new 54-inch-diameter, 1,900-foot-long steel penstock; (4) a new powerhouse containing a single generating unit having a total rated capacity of 2.0 MW; (5) one-half mile of new 12.47-kV transmission line to interconnect with the existing White River Electric Association transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 15,800 MW.

k. Purpose of Project: The most likely markets for the energy derived at the proposed project would be either the Public Service Company of Colorado, or Colorado-Ute Electric Association, Inc.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $135,000.

19a. Type of application: Preliminary Permit.

b. Project No. 8251–000.

c. Date Filed: April 19, 1984.

d. Applicant: Mr. Dale W. Van Stone.
e. Name of Project: Riser Creek.
f. Location: On Riser Creek, a tributary of Lake Pend Oreille, in Kaniksu National Forest, Bonner County, Idaho.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Randall D. Buck, Northwest Environmental Services, 301½ N. First Avenue, P.O. Box 492, Sandpoint, Idaho 83864.
i. Comment Date: October 1, 1984.
j. Description of Project: The proposed project would consist of: (1) A 2-foot-high diversion at elevation 3,000 feet; (2) a 6,000-foot-long, 18-inch-diameter penstock: (3) a powerhouse with two generating units and a total capacity of 500 kW with an average annual generation of 1,970 MWh; and (4) a 100-foot-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $50,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.
20a. Type of application: Preliminary Permit.
b. Project No. 8267–000.
c. Date Filed: April 26, 1984.
d. Applicant: Label Art, Inc.
e. Name of Project: Wilton Project.
f. Location: Town of Wilton on the Souhegan River in Hillsborough County, New Hampshire.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Robert A. Olson, ELI Corporation, 21 Green Street, Concord, New Hampshire 03301.
i. Comment Date: September 28, 1984.
j. Description of Project: The proposed project would consist of: (1) An existing 240-foot-long, 10.7-foot-high concrete dam owned by the Applicant; (2) an existing reservoir with negligible surface area; (3) an existing 862-foot-long, 12-foot-wide canal; (4) an existing 100-foot-long, 5-foot by 5-foot box culvert; (5) an existing 500-foot-long, 6-foot-high dam owned by the Applicant; (6) an existing reservoir with a surface area of 2 acres at 357 M.S.L.; (7) an existing 12.5-foot-long, 6-foot by 6-foot underground penstock; (8) a proposed powerhouse containing one turbine/generator unit with an installed capacity of 120 kW; (9) an existing 170-foot-long tailrace; and (10) appurtenant facilities. The estimated average annual generation would be 474 MWh.
k. Purpose of Project: Project power would either be sold to the Public Service Company of New Hampshire or industrial complexes adjacent to the site.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.
m. Proposed Scope of Studies Under Permit: A preliminary permit if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $39,000.
21a. Type of application: Preliminary Permit.
b. Project No. 8284–000.
c. Date Filed: May 4, 1984.
d. Applicant: Geoffrey Shadroui.
e. Name of Project: Stevens #1.
f. Location: On the Stevens Branch near Barre City, in Washington County, Vermont.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Geoffrey Shadroui, 121 Maple Avenue, Barre, Vermont 05641.
i. Comment Date: September 24, 1984.
j. Description of Project: The project would consist of: (1) An existing 55-foot-long, 11-foot-high, concrete gravity dam owned by the City of Barre, Vt; (2) an existing 0.24-acre reservoir with a storage capacity of 0.7 acre-feet at the normal maximum surface elevation of 655 feet M.S.L.; (3) a proposed 300-foot-long, 480 volt transmission line; (4) the existing powerhouse, to be modified to contain an installed generating capacity at 30 kW; and (5) appurtenant facilities.

The Applicant estimates that the average annual energy generation will be 100 MWh. The Applicant proposes to sell the power generated to the Green Mountain Power Corporation.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.
l. Proposed Scope of Studies Under Permit: A preliminary permit if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $3,000.
22a. Type of Application: Preliminary Permit.
b. Project No.: 8287–000.
c. Date Filed: May 7, 1984.
d. Applicant: Western Power, Inc.
e. Name of Project: Frog Mountain Power Project.
f. Location: In the Mt. Baker-Snoqualmie National Forest, on West Cady Creek, near Index, in Snohomish County, Washington.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. Neil H. Macdonald, Western Power, Inc., 1914 N. 34th Street, Suite 200, P.O. Box 31359, Seattle, Washington 98103–1359.
i. Comment Date: September 24, 1984.
j. Description of Project: The proposed project would consist of (1) A 25-foot-high concrete dam at elevation 2,180 feet; (2) a powerhouse at the base of the dam containing generating equipment with an installed capacity of 400 kW and an annual energy production of 1.5 GWh; (3) a switchyard; and (4) a 6,500-foot-long, 115-kV transmission line to the proposed 115-kV Storm Ridge Power Project line (FERC Project No. 5305).

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary. The Applicant may do test borings at the proposed dam site, and has stated that each boring site will be restored. The estimated cost of permit activities is $150,000.

k. Purpose of Project: Power may be marketed to the Puget Sound Power and Light Company.
l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.
23a. Type of Application: Preliminary Permit.
b. Project No.: 8289–000.
c. Dated Filed: May 7, 1984.
d. Applicant: Charles R. Pepe.
e. Name of Project: Tuxedo Falls Project.
f. Location: On the Ramapo River, in Orange County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Charles R. Pepe, Old Quarry Road, Alphine, NJ 07620.

i. Comment Date: September 28, 1984.

j. Description of Projects: The proposed project would consist of: (1) An existing 2-foot-high, 200-foot-long concrete dam; (2) a reservoir with negligible storage, a surface area of 4.5 acres, and a normal water surface elevation of 440 feet m.s.l.; (3) a proposed 5-foot-diameter, 500-foot-long steel penstock; (4) a proposed powerhouse containing one generating unit having an installed capacity of 300 kW; (5) a proposed 75-foot-long transmission line; and (6) appurtenant facilities. The Applicant estimates the annual generation would be 1,000,000 kWh. The existing dam and project facilities are owned by the Town of Tuxedo.

k. Purpose of Project: All project power produced would be sold to the Orange and Rockland Utilties, Inc.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $15,000.

24a. Type of Application: Exemption (5 MW or less).

b. Project No: 8286–000.

c. Date Filed: May 4, 1984.

d. Applicant: Northern States Power Company and the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

e. Name of Project: Chippewa Reservoir.

f. Location: Chippewa River, Sawyer County, Wisconsin.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Roland Jensen, Vice President, Northern States Power Company, 100 Barstow Street, P.O. Box 8, Eau Claire, Wisconsin 54720; or Mr. Douglas B. L. Endreson, Esquire, Sonosky, Chambers, Sachse and Guido, 1050 31st Street, NW., Washington, DC 20007.

i. Comment Date: September 4, 1984.

j. Description of Project: The Chippewa Reservoir project would consist of: (1) The existing Chippewa Reservoir dam, a reinforced concrete gravity control section 78 feet long and abutting earthfill sections 234 feet long and 978 feet long, respectively; (2) the existing Chippewa Reservoir which is approximately 14 miles long and 9 miles wide with a surface area of about 15,800 acres and a gross storage capacity of about 230,000 acre-feet; (3) a proposed reinforced concrete powerhouse to contain three generating units, one rated at 200 kilowatts, and two rated at 1,450 kilowatts each; (4) a short, 23,000 volt transmission line to connect with Northern States Power Company's 23,000 volt distribution circuit, and (5) appurtenant facilities. The estimated averge annual generation for the project is 11,500,000 kilowatt hours.

k. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take over or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license. conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the intial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a

proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commisson on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must comform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications, on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary prmit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Application specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22179 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-586-000]

Electric Energy, Inc.; Filing

August 16, 1984.

Take notice that on August 8, 1984, Electric Energy, Inc. (EEI) tendered for filing a Letter Agreement dated June 12, 1984 revising Amendment No. 5 to the Interim, Supplemental and Surplus Power Agreement (IS&S Agreement) (FERC Rate Schedule No. 8) between EEI and its Sponsoring Companies (Central Illinois Public Service Company, Illinois Power Company, Kentucky Utilities Company and Union Electric Company) and two Letter Agreements dated December 28, 1983 and May 23, 1984, respectively, between EEI and the United States Department of Energy (DOE), as successor to the Energy Research and Development Administration, modifying Power Contract No. DE-AC05-760R01312 (formerly designated Contract No. AT-(40-1)-1312) between EEI and DOE (FERC Rate Schedule No. 7).

EEI asks an effective date of December 28, 1983 for the December 28 Letter Agreement and an effective date of September 15, 1984 for the other two Letter Agreements. EEI consequently seeks waiver of the Commission's notice requirements. Copies of the filing have been sent to the Sponsoring Companies and DOE.

The June 12, 1984 and December 28, 1983 Letter Agreements reduced the capacity of EEI's Joppa, Illinois electric generating station available to DOE and correspondingly increased the capacity of such station available to certain of the Sponsoring Companies for the period December 28, 1983–January 7, 1984. The parties negotiated the December 28, 1983 letter agreement and completed transactions thereunder in response to emergency conditions on the systems of two of the Sponsoring Companies occasioned by the severe cold weather of late 1983 and early 1984.

The June 12, 1984 Letter Agreement between EEI and its Sponsoring Companies also provides for a revised Service Schedule C, under which the Sponsoring Companies may from time to time provide economy energy to EEI for delivery to DOE, and for a new Service Schedule G, under which from time to time DOE may release, and the Sponsoring Companies may purchase, contract capacity from EEI's Joppa, Illinois power plant.

The May 23, 1984 Letter Agreement between EEI and DOE extends until June 1, 1986 the period in which DOE may elect to extend the contract between EEI and DOE, now scheduled to terminate January 1, 1990, to May 31, 1993. The Agreement also provides for revised terms and conditions for economy energy transactions, provides for released capacity transactions, grants EEI the right to purchase or lease the DOE facilities which tie EEI to the Tennessee Valley Authority in the event DOE shall cease to operate its gaseous diffusion project at Paducah, Kentucky, and incorporates various equal economic opportunity, environmental and other similar terms and conditions incidental to contracts with a federal agency.

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 August 31, 1984. 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. 84-22307 Filed 8-21-84 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-587-000]

Indiana & Michigan Electric Co.; Filing

August 16, 1984.

Take notice that Indiana & Michigan Electric Company (I&M), on August 9, 1984, tendered for filing proposed changes in its FERC Electric Tariff No. 25 for service to Michigan Power Company, Original Volume No. 1. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately $3,367,655 in the first step and an additional increase in the amount of approximately $4,456,020 in the second step or a total increase of approximately $7,823,675 based on the 12-month period ending December 31, 1985. The principal reason that I&M is

seeking rate relief is the need to reflect in rates and charges the costs associated with a new generating unit, Rockport Plant Unit No. 1, when that unit is placed in commercial operation on or about December 1, 1984. I&M proposed that the first step of its proposed rate increase become effective upon 60-days notice and the second step of its proposed rate increase become effective on or about December 1, 1984 coincident with the commerical operation of Rockport 1.

Copies of the filing were served upon Michigan Power Company and the Michigan Public Service Commission.

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. 20425, 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 August 31, 1984. 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. 84-22309 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-588-000]

Indiana & Michigan Electric Co.; Filing

August 16, 1984.

Take notice that Indiana & Michigan Electric Company (I&M), on August 9, 1984, tendered for filing proposed changes in its FERC Electric Tariff No. 22 for service to Northern Indiana Public Service Company, Original Volume No. 1. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately $12,943,015 in the first step and an additional increase in the amount of approximately $15,134,386 in the second step or a total increase of approximately $28,077,401 based on the 12-month period ending December 31, 1985. The principal reason that I&M is seeking rate relief is the need to reflect in rates and charges the costs associated with a new generating unit, Rockport Plant Unit No. 1, when that unit is placed in commercial operation on or about December 1, 1984. I&M proposed that the first step of its proposed rate increase become effective upon 60-days' notice and the second step of its proposed rate increase become effective on or about December 1, 1984 coincident with the commercial operation of Rockport 1.

Copies of the filing were served upon Northern Indiana Public Service Company and, the Public Service Commission of Indiana.

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 and 385.214). All such motions or protests should be filed on or before August 31, 1984. 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. 84-22310 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-589-000]

Indiana & Michigan Electric Co.; Filing

August 16, 1984.

Take notice that Indiana & Michigan Electric Company (I&M), on August 9, 1984, tendered for filing proposed changes in Schedule A—Firm Power which is part of the Interconnection Agreement between I&M and the City of Richmond, Indiana. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately $650,548 in the first step and an additional increase in the amount of approximately $807,022 in the second step or a total increase of approximately $1,457,570 based on the 12-month period ending December 31, 1985. The principal reason that I&M is seeking rate relief is the need to reflect in rates and charges the costs associated with a new generating unit, Rockport Plant Unit No. 1, when that unit is placed in commercial operation on or about December 1, 1984. I&M proposed that the first step of its proposed rate increase become effective upon 60 days' notice and the second step of its proposed rate increase become effective on or about December 1, 1984 coincident with the commercial operation of Rockport 1.

Copies of the filing were served upon the City of Richmond and the Public Service Commission of Indiana.

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 and 385.214). All such motions or protests should be filed on or before August 31, 1984. 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. 84-22311 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-590-000]

Indiana & Michigan Electric Co.; Filing

August 16, 1984.

Take notice that Indiana & Michigan Electric Company (I&M), on August 9, 1984, tendered for filing proposed changes in its FERC Electric Rate Schedule No. 74 for service to Indiana Municipal Power Agency (IMPA), Original Volume No. 1. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately $4,824,082 in the first step and an additional increase in the amount of approximately $3,856,881 in the second step or a total increase of approximately $8,680,963 based on the 12-month period ending December 31, 1985. The principal reason that I&M is seeking rate relief is the need to reflect in rates and charges the costs associated with a new generating unit, Rockport Plant Unit No. 1, when that unit is placed in commercial operation on or about December 1, 1984. I&M proposed that the first step of its proposed rate increase become effective upon 60-days' notice and the second step of its proposed rate increase become effective on or about December 1, 1984 coincident with the commercial operation of Rockport 1.

Copies of the filing were served upon IMPA, the affected municipal customers,

and the Public Service Commission of Indiana.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 31, 1984. 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. 84-22312 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-591-000]

Indiana & Michigan Electric Co.; Filing

August 16, 1984.

Take notice that Indiana & Michigan Electric Company (I&M), on August 9, 1984, tendered for filing proposed changes in its FERC Electric Tariffs MRS and WS For Municipal Resale Electric Service, Original Volume No. 1. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately $4,717,319 in the first step and an additional increase in the amount of approximately $6,267,922 in the second step or a total increase of approximately $10,985,241 based on the 12-month period ending December 31, 1985. The principal reason that I&M is seeking rate relief is the need to reflect in rates and charges the costs associated with a new generating unit, Rockport Plant Unit No. 1, when that unit is placed in commercial operation on or about December 1, 1984. I&M proposed that the first step of its proposed rate increase become effective upon 60-days' notice and the second step of its proposed rate increase become effective on or about December 1, 1984 coincident with the commercial operation of Rockport 1.

Copies of the filing were served upon the affected municipal customers, the Public Service Commission of Indiana and the Michigan Public Service Commission.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 31, 1984. 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. 84-22313 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-592-000]

Indiana & Michigan Electric Co.; Filing

August 16, 1984.

Take notice that Indiana & Michigan Electric Company (I&M), on August 9, 1984, tendered for filing proposed changes in its FERC Electric Tariffs REC-1 For Cooperative Reseale Electric Service, Original Volume No. 1. The proposed changes would increase annual revenues from jurisdictional sales and service in two steps or by approximately $3,501,063, in the first step and an additional increase in the amount of approximately $4,422,204 in the second step or a total increase of approximately $7,923,267 based on the 12-month period ending December 31, 1985. The principal reason that I&M is seeking rate relief is the need to reflect in rates and charges the costs associated with a new generating Unit, Rockport Plant unit No. 1, when that unit is placed in commercial operation on or about December 1, 1984. I&M proposed that the first step of its proposed rate increase become effective upon 60-days notice and the second step of its proposed rate increase become effective on or about December 1, 1984 coincident with the commercial operation of Rockport 1.

Copies of the filing were served upon the affected cooperative customers, the Public Service Commission of Indiana and the Michigan Public Service Commission.

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 Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 31, 1984. 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. 84-22314 Filed 8-21-84; 8:45]

BILLING CODE 6717-01-M

[Docket No. ID-1939-003]

John F. Kaslow; Application

August 16, 1984.

Take notice that on August 9, 1984, John F. Kaslow filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director, Connecticut Yankee Atomic Power Company
Director, Maine Yankee Atomic Power Company
Director, New England Electric Transmission Corporation
President and Director, New England Power Company
Director, Vermont Yankee Nuclear Power Corporation
Director, Yankee Atomic Electric Company

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 Capital 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 and 385.214). All such motions or protest should be filed on or before August 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22315 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-594-000]

Kansas Power & Light Co.; Filing

August 16, 1984.

Take notice that on August 10, 1984, Kansas Power & Light Company (KCPL) tenedred for filing proposed changes in the Fuel Adjustment Clauses in Service Schedules for Firm Power Service to supersede and replace Service Schedules for Firm Power Service in contracts and agreements with the following wholesale customers:

1. City of Marshall, Missouri (Marshall), FPC No. 83
2. Missouri Public Service Company (MPS), No. 74
3. City of Gardner, Kansas (Gardner) FPC No. 79
4. City of Higginsville, Missouri (Higginsville), FERC No. 91
5. City of Pomona, Kansas (Pomona), FPC NO. 82
6. City of Prescott, Kansas (Prescott), FPC No. 76
7. City of Salisbury, Missouri (Salisbury), FERC No. 87
8. City of Slater, Missouri (Slater), FERC No. 97
9. City of Baldwin City, Kansas, FERC No. 85
10. City of Carrollton, Missouri (Carrollton), FERC No. 86
11. City of Garnett, Kansas (Garrnett), FPC No. 78
12. City of Osawatomie, Kansas (Osawatomie), FPC No. 77
13. City of Ottawa, Kansas (Ottawa), FERC No. 90
14. Kansas Electric Power Cooperative, Inc.—Coffey County (KEPCo-Coffey), FPC No. 69
15. Kansas Electric Power Cooperative, Inc.—United (KEPCo-United), FPC No. 84

KCPL states that the proposed changes would modify the Fuel Adjustment Clauses so that the fuel adjustment charges will not be affected by energy produced by facilities undergoing test operation. The changes are required to ensure that the value of test energy produced by KCPL's nuclear fueled Wolf Creek Generating Station during its test operation in late 1984 and early 1985 will be accounted for properly.

KCPL proposes an effective date of October 9, 1984.

Copies of this filing were served upon KCPL's jurisdictional customers, as well as the Missouri Public Service Commission and the State Corporation Commission of the State of Kansas.

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 Capital 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 and 385.214). All such motions or protest should be filed on or before September 4, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22316 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-2-14-002]

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

August 16, 1984.

Take notice that on August 10, 1984 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two (2) substitute revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, dated as issued on August 7, 1984 proposed to become effective August 1, 1984, and identified as follows:

Second Substitute Thirty-third Revised Sheet No. 4
Substitute Thirtieth Revised Sheet No. 18

Lawrenceburg states that its substitute tariff sheets were filed under its Purchased Gas Adjustment (PGA) Provision and in substitution for its previously proposed August 1, 1984 PGA. Lawrenceburg states that this substitute filing wa required because of the filing by Texas Gas Transmission Corporation (Lawrenceburg's supplier) to lower its previously filed August 1, 1984 PGA.

Copies of this filing were served upon Lawrenceburg'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 Capital Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procudure. All such petitions or protest should be filed on or before August 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22317 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-47-000]

MIGC, Inc.; Motion to Reopen Record and for Consolidation

August 16, 1984.

Take notice that on July 24, 1984, Colorado Interstate Gas Company (CIG) tendered for filing a motion to reopen the record in the above-captioned proceeding and to consolidate the questions raised in this motion with the pending proceedings in Docket Nos. RP84-15, *et al.* CIG believes that good cause exists for the requested reopening and consolidation since materials discovered in the proceedings in Docket Nos. RP84-15, *et al.*, raise doubts about the material representations made by MIGC in Docket No. TA83-2-47 which ultimately led to a settlement of that case.

CIG argues that instead of presenting the Commission and CIG with the full contract history of MGPC's entitlement to collect Order No. 94-A fees from MIGC in May of 1983, MIGC submitted sanitized excerpts from the 1970 Sales Agreement and the June 1, 1982 amendment thereto as if they were part of one document. CIG believes that this failure on the part of MIGC to present the full text of the June 1, 1982 amendment amounts to a material misrepresentation warranting reopening of the record in this case and a full examination of MGPC's claimed right to collect Order No. 94-A costs. CIG asserts that this examination should most appropriate be held in the consolidated proceeding in Docket Nos. RP84-15, *et al.* which is concerned with MIGC's 36-month PGA restatement, a proposed rate increase, MIGC's minimum bill dispute with CIG, and three subsequent PGA filings by MIGC. CIG states that this examination should include whether any retroactive collection or Order No. 94-A costs prior to June 1, 1982 is warranted and whether MIGC was prdudent in agreeing to pay such costs to its corporate affiliate from and after that date. CIG contends that "reopening and consolidation" will serve the public interest since the substantial Order No. 94-A costs at issue are being and will ultimately be borne by end-users of gas in the market

areas of MIGC's customers, CIG and MGTC.

CIG states that it has served a copy of this filing upon each person designated on the official service list.

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, 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 and 385.214). All such petitions or protests should be filed on or before August 23, 1984. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22318 Filed 8-21-84; 8:45]

BILLING CODE 6717-01-M

[Docket No. EC84-17-000]

PacificCorp, Doing Business as Pacific Power & Light Co.; Application

August 16, 1984.

Take notice that on August 6, 1984, PacificCorp, doing business as Pacific Power & Light Company (Pacific), submitted for filing an application seeking an order authorizing it to sell to the Bonneville Power Administration, a portion of Pacific's Pilot Butte—Prineville 69/115 kV transmission line in the vicinity of Bend, Oregon, pursuant to section 203 of the Federal Power Act.

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 and 385.214). All such motions or protests should be filed on or before September 8, 1984. 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. 84-22333 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-472-001]

Public Service Company of Colorado; Compliance Filing

August 16, 1984.

Take notice that on August 8, 1984, the Public Service Company of Colorado (PSCC) submitted for filing its compliance report pursuant to the Commission's order dated July 26, 1984. PSCC submitted revised rates and supporting cost statements conforming to § 35.26 of the Commission's regulations.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before September 4, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22334 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-593-000]

San Diego Gas & Electric Co.; Filing

August 16, 1984.

The filing Company submits the following:

Take notice that on August 9, 1984 San Diego Gas & Electric Company ("SDG&E") tendered for filing the 1985 APS Capacity Sale Agreement between San Diego Gas & Electric Company and Arizona Public Service Company (APS).

Under the terms and conditions of the agreement, SDG&E will make available to APS 100 MW of capacity during the period from June 1, 1985 through October 31, 1985.

SDG&E requests an effective date of June 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and APS.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 211 and § 214 of the Commission's Rules of Practice and Procedure (18 CFR 85.211 and 385.214). All such motions or protests should be filed on or before August 31, 1984. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22336 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-110-000]

Superior Offshore Pipeline Co.; Petition for Waiver of Reporting Requirements

August 16, 1984.

Take notice that on July 9, 1984, Superior Offshore Pipeline Company (SOPCO) tendered for filing a "Petition For Waiver Of Reporting Requirements." SOPCO requests a waiver which will: (1) permit SOPCO to be categorized as a "Class C" or "Nonmajor" pipeline; and (2) remove any doubt that SOPCO is exempt from the obligation to file FERC Form No. 11.

SOPCO states that it now transports gas on behalf of both interstate and intrastate pipelines and charges one cent per Mcf for all transportation. SOPCO asserts that it does not make any sales of natural gas, and therefore does not have an Account No. 191. For this reason, the Commission waived the requirements of §§ 284.013 and 284.221 of its regulations. The Commission also waived SOPCO's compliance with the Uniform System of Accounts "until such time, if ever, that SOPCO seeks to implement a cost-based rate under section 4 of the Natural Gas Act.

SOPCO, at present, files FERC Form No. 2-A because until now it has qualified as a Class C pipeline, but revenues have crept above the maximum revenue allowable for a Class C classification, even though SOPCO has not increased its transportation rate. However, SOPCO claims that if it is classified as a Class B pipeline, additional burdens would be imposed on SOPCO because it would be required to file FERC Form No. 2.

In the Notice of Proposed Rulemaking in Docket No. RM83-66-000, the Commission has proposed to reclassify

regulated companies as Major, if detailed information is required, or Nonmajor, if less detailed information is required. Natural gas companies would be classified as "Major" if combined gas sold for resale and gas transported or stored for a fee was in excess of 50 million Mcf at 14.73 psia (60 °F). If this classification is adopted, SOPCO would be classified as a Major natural gas company. However, because of the limited nature of SOPCO's operations, SOPCO requests that the Commission grant a waiver allowing it to be classified as a "Nonmajor" natural gas company if the Commission adopts this scheme.

SOPCO submits that the less burdensome reporting requirements imposed upon Nonmajor natural gas companies are appropriate in this case, because its pipeline system is relatively small so that collection of the more detailed data is not warranted. Furthermore, SOPCO's rates are not cost-based; rather, SOPCO charges a set rate of 1 cent per Mcf pursuant to the Commission regulations. SOPCO states that it appears that the Commission recognized that it didn't need the detailed information required of Major natural gas companies when it waived SOPCO's compliance with the Uniform System of Accounts.

Similarly, SOPCO requests that the Commission waive the requirement that SOPCO file FERC Form No. 11. Although SOPCO transports slightly more than 50 Mcf per year, the need for monthly information on revenues and expenses is unnecessary. Since SOPCO neither purchases nor sells any natural gas, and is exempt from compliance with the Uniform System of Accounts, it feels it is necessary to file FERC Form No. 11.

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, 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 and 385.214). All such petitions or protests should be filed on or before August 28, 1984. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22337 Filed 8-21-84; 8:45]

BILLING CODE 6717-01-M

[Docket No. QF84-435-000]

AES Sims Bayou, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 16, 1984.

On July 26, 1984, Jeffrey R. Hamburg, Director of Projects of AES Sims Bayou, Inc., a wholly owned subsidiary of Applied Energy Services, Inc., located at 1925 N. Lynn Street, Suite 1200, Arlington, Virginia 22209, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located adjacent to a refinery in Houston, Texas. The facility will consist of petroleum coke-fired circulating fluidized bed combustion boilers and an extraction steam turbine-generator system. Steam will be extracted for use in the refinery. The electric power production capacity of the facility will be 165,100 kW. Construction of the facility will begin in March 1985. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22304 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-438-000]

AES Sims Bayou, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 16, 1984.

On July 31, 1984, Jeffrey R. Hamburg, Director of Projects of AES Sims Bayou, Inc., a wholly owned subsidiary of Applied Energy Services, Inc., located at 1925 N. Lynn Street, Suite 1200, Arlington, Virginia 22209, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Harris County, Texas. The facility consist of petroleum coke-fired circulating fluidized bed combustion steam boilers and an extraction steam turbine-generator system. Steam will be extracted for use in an adjacent chemical plant. The electric power production capacity of the facility will be 165,100 kW. Construction of the facility will begin on or about June 1985. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22305 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-430-000]

Cogenic Energy Systems, Inc. Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 16, 1984.

On July 26, 1984, Cogenic Energy Systems, Inc., (Applicant) of 9353 Activity Road, Suite D, San Diego, California 92126 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the Ramada International Hotel Resort, 1800 E. Palm Canyon Drive, Palm Springs, California 92262. The primary energy source will be natural gas. The electric power production capacity will be 316 kilowatts. The facility will consist of an internal combustion engine with waste heat recovery from both jacket and exhaust gases. Recovered heat will be used for absorption chilling and domestic hot water. The model contains an induction generator which will be operated in parallel with the local utility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22306 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-423-000]

Hemphill Power & Light Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 16, 1984.

On July 20, 1984, Hemphill Power & Light Company (Applicant), of RR 1, Box 800, New London, New Hampshire 03257, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle biomass cogeneration facility will be located in Springfield, New Hampshire. The facility will utilize a 12 MW turbine generator and the necessary systems and appurtenances required to produce electrical energy for sale to a local public utility, and steam for use in kilns to dry lumber products. The facility will utilize a 125,000 lbs/hr, 600 psig, 825 degree Farenheit wood fired boiler. All of the steam is passed into a turbine generator set. Ten thousand lbs/hr of 40 psig steam is extracted at an intermediate point in the turbine and used in a kiln lumber drying operation. The remaining steam, 115,000 lbs/hr., is utilized to generate power.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22308 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-426-000]

Turbo Gas & Electric, Ltd., Incinerator for Heating; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 16, 1984.

On July 23, 1984, Turbo Gas & Electric, Ltd. (Applicant) of 91 Newbury St., Third Floor, Boston, Massachusetts 02116, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

Applicant proposes to construct a 600 kilowatt turbo expander facility, located at the Com Gas Plant, in New Bedford, Massachusetts. The facility would use as its primary energy source the energy made available by depressurization of high pressure transmission gas to low pressure distribution gas. The high pressure gas will be expanded in a turbine driving an induction generator. Applicant characterizes the energy source as "waste". Low pressure steam from a nearby municipal incinerator will be used in a heat exchanger to preheat the gas. The facility will burn some natural gas to provide a small amount of heat input to the system. The total amount of energy input to the facility from the natural gas burned represents no more than 25% of the total energy input into the system.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22338 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-578-000]

Union Electric Co.; Filing

August 16, 1984.

The filing Company submits the following:

Take notice that on August 1, 1984, Union Electric Company (Union) tendered for filing Second Amendment and ancillary letter agreements, to the Interchange Agreement of April 11, 1977 between Arkansas Power & Light Company, Associated Electric Cooperative, Inc. and Union.

Union states that the Amendment revises the Basis of Settlement section of Service Schedule D, Replacement Power, and the letter agreements provide for purchases and sales of energy by the parties.

Union requests an effective date of June 15, 1984, and therefore requests waiver of the Commission's notice requirements.

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 Capital 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 and 385.214). All such motions or protests should be filed on or before September 4, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22339 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-572-000]

Utah Power & Light Co.; Filing

August 16, 1984.

Take notice that on July 31, 1984, Utah Power & Light Company (Utah) tendered for filing a proposed change in its FERC Electric Tariff, which would increase rates and charges to firm interstate resale customers in Utah, Idaho and Wyoming in two phases based on estimated sales for the year 1984. Phase 1 rates, proposed to become effective September 29, 1984, would increase revenues by $1,864,940; Phase 2 rates, proposed to become effective September 30, 1984, would increase annual revenues by an additional $4,242,227.

An additional rate schedule RS-RP (Replacement Power) is being introduced for the first time, and is designed to give the purchaser an opportunity to buy power and energy in excess of the hourly amounts scheduled by the customer. No sales have been estimated for the test year 1984.

Copies of the filing were served upon Utah's jurisdictional customers and upon the state regulatory commissions of Utah, Idaho and Wyoming.

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 and 385.214). All such motions or protests should be filed on or before August 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22340 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-433-000]

Western Power Group, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 16, 1984.

On July 26, 1984, Western Power Group, Incorporated (Applicant), of 19762 MacArthur Blvd., John Valentine Building, Third Floor, Irvine, California 92715, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Applicant will operate the small power production facility in Imperial Valley, California. The facility will have a power production capacity of approximately 11 megawatts. The primary energy source to be used by the facility will be biomass in the form of agricultural waste products.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protest must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22342 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF-84-250-000]

Mitchell Energy Corp.; Errata Notice to Notice of Application for Commission Certification of Qualifying Status of Small Power Production Facility

August 16, 1984.

On April 4, 1984, Mitchell Energy Corporation, (Applicant) of P.O. Box 4000, The Woodlands, Texas 77380 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. On May 21, 1984, supplemental information was filed regarding the facility. On June 21, 1984, the Applicant filed an amendment to the application requesting certification of the facility as a qualifying small power production facility instead of a cogeneration facility.

Notice of the application was published in the **Federal Register** on July 24, 1984. The last sentence of paragraph 2, column 2, page 29844 contained a typographical error. The sentence should read: "The electric power production capacity of the facility is 3000 kilowatts."

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 10 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22330 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF-84-412-000]

New Hanover County, North Carolina; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 16, 1984.

On July 11, 1984, New Hanover County, North Carolina (Applicant), Room 601, 320 Chestnut Street, Wilmington, North Carolina 28401 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located near the W.R. Grace Company in Wilmington, North Carolina. The primary energy source will be municipal solid waste. The facility will consist of two 26,144 lb/hr steam boilers, steam turbines and electrical generators. Exhaust steam from one turbine at an annual average rate of 16,000 lb/hr and at 275 psig is used in the industrial processes of the W.R. Grace Company. The electric power production capacity of facility will be 4,000 kW. No electric utility or electric utility holding company has an ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22331 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-429-000]

Pacific Thermonetics, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 16, 1984.

On July 23, 1984, Pacific Thermonetics, Inc. (applicant), 1000 El Camino Real, Suite 220, Menlo Park, California 94025, submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the C & H Sugar Refinery in Crockett, California. The facility will consist of a combustion turbine generator, a waste heat recovery boiler (WHRB) and a steam turbine generator. High pressure steam from the WHRB will drive an extraction steam turbine generator. Extracted steam will be used to melt and further refine sugar at the C & H Sugar Refinery. The net electric power production capacity of the facility will be 195,781 kW. The primary energy source will be natural gas. Operation of the facility will begin in September 1986. No electric utility or electric utility holding company has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22332 Filed 8-21-84; 8:45]

BILLING CODE 6717-01-M

[Docket No. QF84-417-000]

Rohr Industries, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 16, 1984.

On July 13, 1984, Rohr Industries, Incorporated (Applicant), located at 8200 Arlington Avenue, Riverside California 92503, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed 3.3 MW topping-cycle cogneration facility will be located at the Rohr Industries' production plant at 8200 Arlington Avenue, Riverside, California. The facility will be on the southern boundary of Rohr's property on the northeast corner of Cypress Avenue and Picker Street. Hot flue gas from a gas turbine generator will be ducted to a waste heat boiler where the heat from the flue gas stream will be used to raise steam for various production applications. The primary energy source will be natural gas.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22335 Filed 8-21-84; 8:45]

BILLING CODE 6717-01-M

[Docket No. QF84-431-000]

Valley Power Associates; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

August 16, 1984.

On July 26, 1984, Valley Power Associates (Applicant), of 6415 Katella Avenue, Cypress, California 90630

submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is located near Cottonwood, California in Shasta County. The primary energy source will be biomass in the form of wood waste. The electric power production capacity will be 49.9 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22341 Filed 8-21-84; 8:45 am]

BILLING CODE 6717-01-M

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 September 1, 1984. 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	Per million Btu's
Alabama	$4.38
Arizona [1]	4.08
Arkansas [1]	3.98
California	3.99
Colorado [2]	4.03
Connecticut [1]	4.43
Delaware [1]	4.27
Florida	4.27
Georgia [1]	4.38
Idaho [2]	4.03
Illinois [1]	4.33
Indiana	4.22
Iowa [1]	3.95
Kansas [1]	3.95
Kentucky [1]	4.33
Louisiana [1]	3.98
Maine [1]	4.43
Maryland [1]	4.27
Massachusetts	4.33
Michigan [1]	4.33
Minnesota	3.80
Mississippi [1]	4.38
Missouri [1]	3.95
Montana [2]	4.03
Nebraska [1]	3.95
Nevada [1]	4.08
New Hampshire [1]	4.43
New Jersey [1]	4.27
New Mexico	3.72
New York	4.23
North Carolina [1]	4.38
North Dakota [1]	3.95
Ohio	4.15
Oklahoma [1]	3.98
Oregon [1]	4.08
Pennsylvania	4.24
Rhode Island [1]	4.43
South Carolina [1]	4.38
South Dakota [1]	3.95
Tennessee [1]	4.38
Texas	3.79
Utah [2]	4.03
Vermont [1]	4.43
Virginia [1]	4.38
Washington [1]	4.08
West Virginia [1]	4.33
Wisconsin [1]	4.33
Wyoming [2]	4.03

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM-79-21.

[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

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 June 1984 was $34.12 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 September 1, 1984, is $7.65 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 April 1984, May 1984, and June 1984.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

[1] 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.

B. Method Used to Determine Alternative Price Ceilings

(1) Calculation of Volume-Weighted Average Price

The prices which will become effective September 1, 1984, (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, April 1984, May 1984, and June 1984. Reported prices for sales in April 1984 were adjusted by the percent change in the nationwide volume-weighted average price from April 1984 to June 1984. Prices for May 1984 were similarly adjusted by the percent change in the nationwide volume-weighted average price from May 1984 to June 1984. The volume-weighted 3-month average of the adjusted April 1984 and May 1984, and the reported June 1984 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 no 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 April 1984, May 1984, and June 1984. 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 a 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 August 14, 1984, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of June 1984. 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	*Region B*
Connecticut	Delaware
Maine	Maryland
Massachusetts	New Jersey
New Hampshire	New York
Rhode Island	Pennsylvania
Vermont	
Region C	*Region D*
Alabama	Illinois
Florida	Indiana
Georgia	Kentucky
Mississippi	Michigan
North Carolina	Ohio
South Carolina	West Virginia
Tennessee	Wisconsin
Virginia	
Region E	*Region F*
Iowa	Arkansas
Kansas	Louisiana
Missouri	New Mexico
Minnesota	Oklahoma
Nebraska	Texas
North Dakota	
South Dakota	
Region G	*Region H*
Colorado	Arizona
Idaho	California
Montana	Nevada
Utah	Oregon
Wyoming	Washington

Issued in Washington, D.C., August 17, 1984.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 84-22357 Filed 8-21-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OOP-30244; FRL-2653-8]

Certain Companies; Applications To Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by September 21, 1984.

ADDRESS: By mail submit comments identified by the document control number [OPP-30244] and the file number, attention Product Manager (PM) named in each application at the following address: Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for the public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS–767C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St. SW., Washington, D.C. 20460

In person: Contact the PM named in each registration at the following office location/telephone number:

Product manager	Office location and telephone No.	Address
PM 15—George LaRocca.	Rm. 204, CM#2, (703–557–2400).	EPA, 1921 Jefferson Davis Hwy., Arlington, VA 22202.
PM 16—William Miller.	Rm. 211, CM#2, (703–557–2600).	Do.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included in any Previously Registered Products

1. File Symbol: 2823–GN. Applicant: Hilton-Davis a Subsidiary of Sterling Drug Inc., 2235 Langdon Farm Road, Cincinnati, OH 45237. Product name: Synerid 100™. Insecticide. Active ingredients: Erythrosine B [9(o-carboxyphenyl)-6-hydroxy-2,4,5,7-tetraiodo-3*H*-xanthen-3-one, disodium salt includes lower iodinated fluoresceins] 61.3% and uranine [9(o-carboxyphenyl)-6-hydroxy-3*H*-xanthen-3-one, disodium salt] 25.7%. Proposed classification/Use: General. For the control of housefly larvae when applied to manure surfaces in confined animal facilities. (PM 15)

2. File Symbol: 4758–RLN. Applicant: Pet Chemicals Inc., 7781 NW. 73 CT, PO Box 660656, Miami Springs, FL 33166. Product name: Linalool Technical. Insecticide. Active ingredient: Linalool 92.5%. Proposed classfiication/Use: General. For manufacturing use only. Type registration: Conditional. (PM 16)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703–557–3262), to ensure that the file is available on the date of intended visit.

Sec. 3(c)(4) of FIFRA, as amended.

Dated: August 7, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–21790 Filed 8–21–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30082; FRL–2656–1]

Spray Drift; Nonregulatory Pesticide Registration Guideline; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: EPA is making a nonregulatory pesticide registration guideline on spray drift evaluation available to the public which can be purchased through the National Technical Information Service (NTIS). The NTIS order number and price for the guideline document is provided.

ADDRESS: Address orders to: National Technical Information Service, Attention: Order Desk, 5285 Port Royal Rd., Springfield, VA 22161.

FOR FURTHER INFORMATION CONTACT: By Mail: Robert W. Holst, Hazard Evaluation Division (TS–769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 815, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–7347)

SUPPLEMENTARY INFORMATION: The nonregulatory pesticide registration guideline contains the standards for conducting acceptable tests, guidance on evaluation and reporting of data, detailed guidance on when data are required, and examples or acceptable protocols. The guideline on spray drift evaluation (Subdivision R) is available to the public and can be purchased through NTIS.

Orders for the guideline document may be placed by telephone (703–487–4650), to the NTIS order desk and charged against a deposit account, American Express, VISA, or Mastercard or sent by mail with check, money order, or account number to the address listed above, under **"ADDRESS."**

The order should specify the title of the guideline document, the corresponding NTIS order number, and whether hard copy or microfiche is desired. The NTIS order number is the same for both microfiche and hard copy, but the price differs in hard copy.

Document title, order number, and price are as follows:

Document title	NTIS order No.	Price (hard copy)	Price (microfiche)
Subdivision R-Spray Drift Evaluation	PB84–189216	$7.00	$4.50

A copy of the guideline is available for review in the OTS Public Reading Room from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The OTS Reading Room is located in Rm. E–107, 401 M St., SW., Washington, D.C.

Dated: August 7, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84–22010 Filed 8–21–84; 8:45 am]

BILLING CODE 6560–01–M

[OPP–30000/28G; FRL–265–77]

Pesticide Products; Coal Tar, Creosote, Coal Tar Neutral Oil; Preliminary Notice of Determination Concluding Rebuttable Presumption Against Registration for Non-Wood Preservative Uses; Proposed Intent To Cancel Such Registrations, and Availability of Position Document 2/3

AGENCY: Environmental Protection Agency (EPA).

ACTION: Preliminary Notice of Determination; Proposed Notice of

Intent to Cancel; Notice of Availability of Position Document.

SUMMARY: This Notice describes EPA's preliminary determination regarding the risks and benefits associated with the non-wood preservative uses of creosote, coal tar and car tar neutral oil. On October 18, 1978, EPA issued Notices of Rebuttable Presumption Against Registration (RPAR) of pesticide products containing coal tar, creosote and coal tar neutral oils for non-wood preservative uses. This Notice announces the Agency's proposed decision to cancel registrations for all of these uses.

DATE: Written comments must be received on or before October 22, 1984.

ADDRESS: Comments should be sent to and are available for review at: Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

In order to facilitate the work of the Agency and of others inspecting the comments, registrants and other interested persons should submit three copies of their comments. The comments should bear the identifying notation OPP–30000/28G. All comments are available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter.

FOR FURTHER INFORMATION CONTACT: By mail: Lois Rossi, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–7452).

Copies of the Position Document are available from contact person at the address given above.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Environmental Protection Agency issued a notice of rebuttable presumption against registration (RPAR) for the uses of pesticide products containing coal tar, creosote and coal tar neutral oil (these three products are hereinafter referred to as "creosote") which was published in the **Federal Register** of October 18, 1978 (48 FR 48154). Issuance of the Notice initiated the Agency's public review of the risks and benefits of these products. The rebuttable presumption was issued on the bases of oncogenicity and mutagenicity. The Position Document 1 (PD 1) issued with the Notice of Rebuttable Presumption describes in detail the studies that form the basis for the presumption.

This Notice sets forth EPA's preliminary determination regarding the risks and benefits of the non-wood uses of creosote. EPA has also prepared a Position Document 2/3 on these uses which describes in detail the reasons for the regulatory actions being proposed here. Copies of this preliminary Notice of Determination and the Position Document are being transmitted to the Secretary of Agriculture, members of the Scientific Advisory Panel, and the registrants of these products. Other interested persons may obtain a copy of the Position Document from the contact person at the address given above. Comments from these groups, as well as from other interested members of the public, are welcome. The Agency will review any comments received in reaching its final regulatory determination.

In broad summary, the Agency has determined that current non-wood preservative uses of creosote meet or exceed the risk criteria outlined in 40 CFR 162.11. The Agency has also analyzed the economic, social, and environmental benefits of these uses. In balancing risks and benefits, the Agency considered whether the risks of each use are outweighed by the benefits of the uses, what risk reductions could be achieved, and how risk reduction measures would affect the benefits of the use.

The Agency has determined that the risks of the non-wood preservative uses of cresote are greater than the social, economic, and environmental benefits of these uses. Accordingly, the Agency is proposing to deny applications for and to cancel the registration of products for the following uses:

1. Herbicical uses:
   a. Ornamental flowering plants and gardens.
   b. Product storage yards.
   c. Agricultural premises and highway rights-of-way.
2. Fungicidal use (canvas and rope).
3. Disinfectant uses:
   a. Seed potato storage premises and equipment.
   b. Livestock premises.
   c. Poultry premises.
   d. Home and institutional uses.
   e. Transportation vehicles.
   f. Tree wound dressings.
   g. Metal working fluids.
4. Uses as larvicide, insecticide, repellant:
   a. Mosquito larvicide.
   b. Insect repellent.
   c. Animal repellent.
   d. Bird repellent.
   e. Screwworm control.
   f. Insect control.
   g. Gypsy moth control.
   h. Animal dip.

This Notice is organized into five units. Unit I is this introduction. Unit II, entitled "Legal Background," provides a general discussion of the regulatory framework within which this action is taken. Unit III sets forth a summary of the bases for the regulatory actions which the Agency proposes to implement concerning the non-wood uses of creosote. Unit IV sets forth the Agency's proposed regulatory actions. Unit V, Procedural Matters, describes the procedures which EPA will follow in implementing its final regulatory decision.

II. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended ("FIFRA"), an applicant for registration must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment". FIFRA section 3(c)(5). The term "unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic social and environmental costs and benefits of the use of any pesticide." FIFRA section 2(bb). This standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with commonly recognized practice and in compliance with the terms and conditions of registration.

The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide or require modification of the terms and conditions

of registration whenever it is determined that the pesticide causes unreasonable adverse effects on the environment. The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide an informal procedure to gather and evaluate information about the risks and benefits of these uses.

The regulations governing the RPAR process provide that a rebuttable presumption shall arise if a pesticide meets or exceeds a risk criterion set out in the regulations. 40 CFR 162.11(a) and (b). The Agency announces that an RPAR has arisen by issuing a notice for publication in the Federal Register. Registrants and other interested persons are invited to review the data upon which the review is based and to submit data and information to rebut the presumption by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant risk to humans or the environment. In addition to submitting evidence to rebut the risk presumption, commenters may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide outweigh the risks of use. Unless all presumptions of risk are rebutted, the RPAR is concluded by issuance of a Notice of Intent to Cancel.

Section 6(b) of FIFRA requires EPA to submit all proposed Notices of Intent to Cancel to the Secretary of Agriculture for comment. Accordingly, the Agency has sent a copy of this Notice and the Position Document to the Secretary and has requested comment within the next 30 days. Section 25(d) of FIFRA requires EPA to solicit the views of the Scientific Advisory Panel, as well. The Agency has provided the same materials to the members of the Panel, asking for their comments within 30 days.

In addition, while not required to do so by statute, EPA has decided to afford all interested persons an opportunity to comment on the basis for the proposed action while the proposed action is under review by the Secretary of Agriculture and members of the Scientific Advisory Panel. Accordingly, appropriate steps are being taken to make copies of the position document available to registrants and other interested persons at the time the decision documents are transmitted for external review. Interested persons will be allowed a 60-day period of time to comment.

At the end of this review period, the Agency will make any changes in the proposed action which are deemed appropriate as a result of the comments received. The Agency will then proceed to implement the desired regulatory action by preparing appropriate documents and issuing them in the manner prescribed by the statute and by the Agency's rules. These procedures are described in Unit IV.

In determining whether the use of a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risks, and the impacts of such modifications on the benefits of use. If the Agency determines that such changes reduce risks to the level where the benefits outweigh the risk, it may require that such changes be made in the terms and conditions of the registrations. Alternatively, the Agency may determine that no changes in the terms and conditions of a registration will adequately assure that use of the pesticide will not pose an unreasonable adverse effect. In either case, the Agency will issue a Notice of Intent to Cancel the registration. Adversely affected persons may also request a hearing on the cancellation of a specified registration and use, and, if they do so in a legally effective manner, that registration and use will be maintained pending a decision at the close of an administrative hearing.

III. Determinations and Announcement of Regulatory Actions

The Agency has considered information regarding the risks of the non-wood preservative uses of creosote as well as the economic and other benefits associated with the use of these chemicals. Detailed information on the risk and benefit information considered by the Agency appears in the PD 2/3, which sets forth the Agency's reasons for concluding this RPAR.

A. Determinations of Risk

Coal tar is a black, viscous liquid or semi-solid produced by the high termperature carbonization of coal. Creosote and natural oil are products of coal tar. All three are complex mixtures, the chemical composition of which varies depending on the source of coal and the operating conditions under which they are produced. More than 300 compounds have been positively identified in coal tar and it has been estimated that as many as 10,000 may exist. [The components of creosote are listed in Tables II–2 and II–3 of the PD 2/3.]

The creosote RPAR was based on information indicating that creosote poses the risks of mutagenicity and oncogenicity to humans. In assessing risks associated with these chemicals, the Agency has considered two factors: the toxic effects of the chemical; and the anticipated extent of exposure. Each will be discussed below.

Mutagenicity. The Agency has reviewed studies of the mutagenic effects of creosote and coal tar creosote in *Salmonella tymphimurium* strains and in L51784 mouse lymphoma cells, and has found that, in both cases, these chemicals produced dose-related increases in mutagenic activity on metabolic activation.

The Agency has evaluated the data regarding the mutagenic activity of creosote and creosote coal tar and is component compounds and has concluded that they have the potential of mutagenicity in humans. While the Agency recognizes that it is not accurate to extrapolate directly from bacterial tests to the likely human response, it is persuaded by the weight of evidence that creosote and coal tar have the potential to cause mutations in humans.

Oncogenicity. The Agency has also reviewed numerous studies showing coal tar to be oncogenic in laboratory animals. The Agency has evaluated studies in which the dermal application of creosote and coal tar have been shown to produce skin tumors in mice. Dose response relationships for oncogenicity have also been shown where inhalation is the route of exposure. References to these studies appear in the PD 2/3, along with the Agency's analyses of public comments concerning oncogenicity.

The Agency has also reviewed reports confirming cases of human cancer resulting from exposure to coal tars. It has been reported that workers occupationally exposed to creosote have developed skin tumors and other skin cancers. Based on the studies characterizing creosote and coal tar as animal carcinogens and the individual human case studies linking exposure to creosote with cancer, the Agency has concluded that the use of products containing creosote, coal tar and neutral oil poses a significant risk of oncogenicity to humans.

Exposure Assessment. The Agency has further concluded, based on exposure data, that applicators of products containing creosote, coal tar, and coal tar neutral oils are subject both to dermal and inhalation exposure during the application process. The Agency has not been able to compute quantitative exposure estimates, however, because of the variations in composition of coal tar and its derivatives.

B. Determination of Benefits

The risks of use for all use situations are of sufficient magnitude to require the Agency to determine whether these uses offered offsetting social, economic, or environmental benefits.

The non-wood uses of creosote fall into these categories: herbicidal uses, fungicidal uses, insecticidal uses and disinfectant uses. Creosote is an ingredient in products registered as a foliar spray to control weeds and grass. As a fungicide, creosote is registered for use on rope and canvas products. As a disinfectant, it is used to control fungi and bacteria in seed potato storage areas and equipment, poultry and livestock areas, and on tree wound dressings. Its insecticidal uses include the control of mosquito and fly larvae and the treatment of gypsy moth egg larvae, and use as a repellent. These non-wood preservative uses of creosote represent only 2 percent of the amount of creosote produced. In most cases, moreover, the Agency believes that there are few or no products actually being sold for the registered use. Thus, cancellation of these registrations would have no adverse economic or social impact.

A brief summary of the projected economic impact for each use is provided below.

1. Herbicidal uses:

a. *Ornamental plants and lawns.* Creosote is currently registered as a herbicide for use on ornamental flowering plants and lawns to control nutgrass. However, the Agency is unaware of any current use of creosote for this purpose. Since there are several registered alternatives, cancellation of this use is expected to have no economic impact.

b. *Product storage yards.* Creosote and coal tar have limited use to control weeds and grass on product storage yards. There are satisfactory substitutes available and cancellation of this use is expected to have no economic impact.

c. *Agricultural premises and highway rights-of-way.* Coal-tar creosote is registered for use on agricultural premises and along highway rights-of-way for general weed control. The Agency has no information on the extent of current use. Because of the number of alternative products available, the Agency estimates no economic impact from cancellation of this use.

2. Fungicidal (rope and canvas):

M & S creosote oil is registered for use as a fungicide on rope and canvas. However, the Agency believes that cancellation of this use would have no economic impact since alternatives are available.

3. Biocidal:

a. *Seed potato storage premises and equipment.* Coal tar is used as a disinfectant to control bacterial ring-rot, an infectious tuber disease in seed potato plants. Approximately 2,600 gallons of coal tar disinfectant are used annually in Maine, the only geographical area of significant use. Although alternatives exist, coal tar products are favored by the industry.

b. *Livestock premises.* Creosote, coal tar, and coal tar neutral oils are used as livestock disinfectants. However, since alternatives are available, cancellation would not have a significant economic impact.

c. *Home and institutional use.* Although several products are registered for home and institutional uses, actual use for these purposes is unlikely because the products have a strong unpleasant odor.

d. *Transportation vehicles.* Although products are registered for use as disinfectants in transportation vehicles, the Agency knows of no actual use for these purposes.

e. *Tree wound dressings.* Although creosote is registered for use as a tree wound dressing, the Agency has no evidence of current use.

f. *Metal working fluids.* Only one product is registered for use as a bactericide-fungicide in metal working fluids, but is no longer in production.

4. Use as larvicide, insecticide, repellent:

a. *Mosquito larvicide.* The neutral oil coal-tar acids are registered for use in the control of mosquito larvae, but current use in the United States is limited or non-existent.

b. *Insect repellent.* Coal tar is currently registered for use as an insect repellent, but there is no evidence that products with coal tar are currently being marketed.

c. *Animal repellent.* Creosote products are registered as animal repellents but the Agency has not been able to obtain information on the extent of use. The Agency believes that creosote products are in current use to prevent cribbing by horses on wooden structures, and is unaware of non-coal tar alternatives.

d. *Screwworm control.* One product is registered for screwworm, control, but actual use of the product cannot be confirmed.

e. *Insect control.* Coal tar products are registered to control maggots and flies. However, satisfactory alternatives are available.

f. *Animal dip.* Coal tar distillates have been used for more than a century to control parasites on animals. However, there are numerous registered alternative products. Therefore, the cancellation of this use would not have a significant impact.

g. *Bird repellent.* Coal tar products are used to treat seed to prevent its ingestion by birds. Both chemical and non-chemical alternatives are available.

h. *Gypsy moth control.* Creosote and neutral oil products are used by the USDA Plant Protection and Quarantine Program to destroy the egg masses of the gypsy moth. Cancellation of this use is not expected to result in a significant economic impact.

C. Determination of Unreasonable Adverse Effects

Based on the determinations summarized above and discussed in greater detail in the PD ⅔, the Agency is proposing to initiate the following regulatory actions and this document shall constitute its notice of intent regarding these actions.

The Agency has determined that the risk arising from herbicidal, fungicidal, disinfectant, larvicidal, insecticidal and repellent uses of creosote, coal tar, and neutral oils are greater than the social, economic, and environmental benefits and that the registrations of these uses should be cancelled and applications for them should be denied.

IV. Initiation of Regulatory Action

Cancellation of registrations and denial of applications for registrations of products containing creosote and registered for the following non-wood uses is proposed:

1. Herbicides:
   a. Ornamental flowering plants and gardens.
   b. Product storage yards.
   c. Agricultural premises and highway rights-of-way.
2. Fungicidal use (canvas and rope).
3. Disinfectant uses:
   a. Seed potato storage premises and equipment.
   b. Livestock premises.
   c. Poultry premises.
   d. Home and institutional uses.
   e. Transportation vehicles.
   f. Tree wound dressings.
   g. Metal working fluids.
4. Uses as larvicide, insecticide, repellent:
   a. Mosquito larvicide.
   b. Insect repellent.

c. Animal repellent.
d. Bird repellent.
e. Screwworm control.
f. Insect control.
g. Gypsy moth control.
h. Animal dip.

V. Procedural Matters

This Preliminary Notice of Determination notifies the United States Department of Agriculture, the Scientific Advisory Panel, pesticide registrants and users, environmental groups, and other interested parties of the Agency's preliminary determination relating to the risks and benefits of pesticide products containing coal tar, creosote, and coal tar neutral oil for non-wood preservative uses, and provides these entities and individuals with an opportunity to comment on these determinations.

As discussed in Unit II of this notice, the Agency's decision to initiate the regulatory actions described in Unit IV must be referred for review by the Secretary of Agriculture and the Scientific Advisory Panel. In accordance with FIFRA, the EPA position document setting forth in detail the reasons and factual basis for the regulatory actions which the Agency proposes and this notice of determination are being transmitted immediately to the Secretary of Agriculture and the Scientific Advisory Panel for comment.

The Agency is also transmitting copies of these documents to registrants of the non-wood preservative uses of creosote, coal tar, and coal tar neutral oil and is offering other interested parties an opportunity to comment on the basis for the Agency's action by making copies of the Position Document available upon request. Interested persons may receive copies of the documents by communicating their requests to the Registration Division, Office of Pesticide Programs, as described in the beginning of this Notice.

After completion of these review procedures, the Agency will consider the comments received and issue for publication in the **Federal Register** an analysis of them, together with any changes in the regulatory actions announced in this notice which it deems appropriate.

Dated: August 14, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84-22234 Filed 8-21-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee) Main Committee Meeting

August 15, 1984.

The Commission has scheduled the next meeting of its Space WARC Advisory Committee for September 6, 1984. This will be the first meeting of the Advisory Committee following the ITU's CCIR preparatory meeting (CPM) for Space WARC held this summer. The principal objective of the meeting will be to review the status of U.S. preparations for the Space WARC, including a review of the CPM results and upcoming events, and consideration of a revised structure for the Advisory Committee so as to be more responsive to the critical issues to be addressed at the Conference. Details regarding the date, place and agenda of the meeting are provided below.

Chairman: S.E. Doyle (916) 355-6941.
Date: Thursday, September 6, 1984.
Time: 10:45 A.M.-6:00 P.M.
Location: Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, D.C. 20554.

Agenda:

(1) Adoption of Agenda
(2) Review of Minutes
(3) Status of Preparatory Activities
—Highlights of CPM
—Upcoming Events
(4) Proposed Committee Structure, Tasks and Schedule
(5) Reports on Previous Work and Relation to Proposed Structure
(6) Date of Next Meeting
(7) Other Business
(8) Adjournment

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-22188 Filed 8-21-84; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

August 15, 1984.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submissions are available from Doris Peacock, Agency Clearance Officer. (202) 632-7513.

Persons wishing to comment on these information collections should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-4814.

Title: Section 73.3525, Agreements for Removing Application Conflicts
Action: Extension
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 985 Respondents; 1,970 Hours

Title: Section 74.781, Station Records (low power television or television translator stations)
Action: Extension
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 5,850 Recordkeepers; 5,265 Hours

Title: Section 74.784, Rebroadcasts
Action: Extension
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 5,375 Respondents; 5,375 Hours

Title: Section 74.833, Temporary Authorizations
Action: Extension
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 41 Respondents; 164 Hours

Title: Section 73.67, Remote Control Operation
Action: Approval for existing collection in use without an OMB control number
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 100 Recordkeepers; 4,000 Hours
Description: Section 73.67(d) of the Commission's Rules requires stations using directional antennas which are operated by remote control and do not have an approved sampling system to make a skeleton proof of performance at least once each calendar year. The results of the proof must be kept on file at the transmitter or remote control point for three years.

Title: Section 73.69, Antenna Monitors
Action: Approval for existing collection in use without an OMB control number
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 100 Respondents; 200 Hours
Description: Section 73.69(d)(5) of the Commission's Rules requires AM station licensees to file an informal request with the Commission for modification of

license when replacing an antenna monitor.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-22255 Filed 8-21-84; 8:45]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection

Uniform Form for Registration as a Transfer Agent (OMB No. 3064-0026).

Background

In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF-83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Judy McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Federal Deposit Insurance Corporation, Washington, DC 20429.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 389-4446.

SUMMARY: The FDIC is requesting OMB to extend to September 30, 1987 the expiration date of Form TA-1 (OMB No. 3064-0026) used by an insured nonmember bank to register as a transfer agent with the FDIC as required by FDIC regulation 12 CFR Part 341. Section 17A(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q) requires a transfer agent to be registered with the appropriate regulatory agency prior to performing the function of a transfer agent. It is estimated that one hour is required on the average to prepare the Form TA-1.

Dated: August 8, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-22266 Filed 8-21-84; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

[Notice 1984]

Privacy Act; Proposed Notice of New and Revised Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, 5 U.S.C. 522(e)(11), the Federal Election Commission hereby publishes for comment new or revised systems of records that are maintained by the Commission.

A new systems report was filed with the Speaker of the House of Representatives, the President of the Senate and the Office of Management and Budget on August 16, 1984.

These systems have been revised or proposed as a result of a re-evaluation of the manner in which records are maintained at the Commission.

The new systems of records which have been added are FEC 9—FEC Litigation Action, FEC 10—FEC Letter File, Public Communications and FEC 11—FEC Contributor Name Index System. All other systems have been revised to incorporate administrative changes which have taken place since the last publication of FEC systems of records in 1977 and 1978.

Any person interested in commenting on any portion of the systems of records contained in this notice may do so by submitting comments in writing to Christina H. VanBrakle, Privacy Act Officer, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

Dated at Washington, D.C., on August 16, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

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FEC 1

SYSTEM NAME:

Requests for advisory opinions.

SYSTEM LOCATION:

Federal Election Commission, Washington, D.C. 20463.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested advisory opinions from the FEC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters requesting legal opinions and responses thereto from the FEC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 U.S.C. 437d(a)(7) and 437f.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Documents maintained for historical purposes and for use as precedent in subsequent requests for advisory opinions. Commissioners and staff use this system to respond to requests for opinions. These documents are available to the public for information and so that interested parties may submit comments to the Commission.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and microfilm.

RETRIEVABILITY:

Indexed by name of requestor, date of opinion, request number, incoming correspondence number and, as applicable, by microfilm roll and frame number.

SAFEGUARDS:

Originals are kept in locked filing cabinets in limited access areas under personal surveillance during working hours and in locked rooms at other times. Copies are freely available.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER AND ADDRESS:

The General Counsel, Federal Election Commission, Washington, D.C. 20463 (202/523-4143).

NOTIFICATION PROCEDURES:

Refer to Commission access regulations at 11 CFR 1.1 *et seq.*, 41 FR 43064 (1976).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual requestor, persons submitting comments and the Federal Election Commission.

FEC 2

SYSTEM NAME:

Audits and investigations.

SYSTEM LOCATION:

Federal Election Commission, Washington, D.C. 20463.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates required to file statements and reports under the Federal Election Campaign Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Audit and investigation data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 U.S.C. 437d(a)(10), 437g(a) (2), (5) and 438(a) (8), (9); 26 U.S.C. 9007, 9038.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The General Counsel, Assistant Staff Directors, Commissioners, and their staffs may use audit and investigation data for informal hearings, administrative compliance, civil litigation, voluntary compliance or to refer matters to appropriate law enforcement authorities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Locked safes in limited access locations. Access is limited to FEC staff on a restricted basis and to appropriate law enforcement agencies as directed by the Commission.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEMS MANAGER AND ADDRESS:

Assistant Staff Director for Audit, Federal Election Commission, Washington, D.C. 20463 (202/523–4155).

NOTIFICATION PROCEDURES:

Refer to Commission access regulations at 11 CFR 1.1 *et seq.*, 41 FR 43064 (1976).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Same as above.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

With respect to open audits, the foregoing system is exempt pursuant to the provisions of 5 U.S.C. 552a(k)(2). See 11 CFR 1.14.

FEC 3

SYSTEM NAME:

Compliance actions.

SYSTEM LOCATION:

Federal Election Commission, Washington, D.C. 20463.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints (complainants) and persons complained about (respondents), candidates filing late reports, or no reports, and cases internally generated through review and audit of reports and statements filed by candidates.

CATEGORIES OF RECORDS IN THE SYSTEM:

Complaints, referrals, and responses thereto; internal investigations of reports on file at the Commission, depositions, interrogatories and responses thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 U.S.C. 437g(a) (1), (2), (4) and (5); 438(a)(7) and 438(b); 26 U.S.C. 9006 and 9038.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

While any case is active, these documents are maintained as the agency's working or investigative file. Based upon information contained in the file, recommendations are made to the Commission as to the disposition of a case, and the Commission acts upon those recommendations. Compliance actions are assigned by the Associate General Counsel to an attorney and/or to appropriate staff for investigation. Administrative action and civil litigation are handled by the General Counsel's office. Evidence of knowing and willful violations of the law may be referred to the Attorney General.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records. Closed compliance cases are duplicated, stored on microfilm and are available to the public, minus information deemed to be exempt under the Freedom of Information Act.

RETRIEVABILITY:

This system is indexed and retrievable by name of complainant or respondent by compliance action number or by microfilm roll and frame number, as appropriate.

SAFEGUARDS:

This system is kept in locked filing cabinets in limited access areas under personal surveillance during working hours, and in locked filing cabinets in locked rooms at other times.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER AND ADDRESS:

The General Counsel, Federal Election Commission, Washington, D.C. 20463 (202/523–4143).

NOTIFICATION PROCEDURES:

Refer to Commission access regulations at 11 CFR 1.1 *et seq.*, 41 FR 43064 (1976).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Complainants, respondents, third parties who have been requested, or subpoenaed, to produce relevant information, and the Federal Election Commission.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

With respect to open investigations, the system is exempt pursuant to 5 U.S.C. 552a(k)(2). See 11 CFR Part 114.

FEC 4

SYSTEM NAME:

Mailing Lists.

SYSTEM LOCATION:

Federal Election Commission, Washington, D.C. 20463.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals and institutions who have requested a subscription to the *Record.*

(b) Individuals who have requested FEC publications.

(c) State and local election officials interested in keeping informed of developments.

(d) Reporters who request releases; media added by the Press Office.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Lists of names, addresses, principal areas of interest.

(b) List of names, addresses and subjects of interest to the requestor.

(c) List of names, addresses, duties and jurisdictions.

(d) Computer listings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 U.S.C. 438 (a) for all categories.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

(a) Distribution of monthly newsletter, the *Record,* to subscribers.

(b) To forward new publications and other informational materials to persons who have expressed an interest in the subject matter.

(c) To distribute publications and other materials of interest to those who administer the election law of the states.

(d) To mail press releases.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized for all categories.

RETRIEVABILITY:

(a) Name or identification numbers.

(b) Name.

(c) Name, title, jurisdiction or region of the country.

(d) Name of individual or name of media.

SAFEGUARDS:

Access code with password for all categories.

RETENTION AND DISPOSAL:

(a) Purged every two years or upon request of subscriber.

(b) Purged every two years.

(c) Indefinite.

(d) Indefinite.

SYSTEM MANAGER AND ADDRESS:

Assistant Staff Director for Information, Federal Election Commission, Washington, D.C. 20463 (202/523-4068).

NOTIFICATION PROCEDURES:

Refer to Commission access regulations at 11 CFR 1.1 *et seq.,* 41 FR 43064 (1976).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

(a) Individuals and organizations who request a subscription to the *Record.*

(b) Individuals to whom the Information Division has mailed publications.

(C) Officials requiring up-to-date information on elections administration.

(D) Oral and written requests to be placed on list; media directories.

FEC 5

SYSTEM NAME:

Personnel records.

SYSTEM LOCATION:

Federal Election Commission, Washington, D.C. 20463

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment, current employees (including unpaid interns), and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) SF-171's/resumes.

(b) SF-7 Record Cards (former employees).

(c) Official Personnel Folder (OPF).

(d) Employee Performance Folders (EPF)

(e) Individual Employee Master Files.

(f) Discipline/Adverse Action Files.

(g) Outside Employment Files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 U.S.C. 437c and 5 CFR 293.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) SF-171's/Resumes—used by Personnel staff and all levels of management to evaluate qualifications and make personnel selections.

(b) SF-7 Record Cards—used by Personnel staff to verify salary, grade and service of former employees for use by prospective employers, credit bureaus, etc.

(c) OPF—used by Personnel staff to process and record personnel actions, and by Personnel staff and line managers to evaluate skills, ability and qualifications for selection, promotion, and other personnel actions.

(d) EPF—used by Personnel staff to record performance-related information such as performance appraisals, and by line managers as basis for personnel actions.

(e) Individual Employee Master File—computer-stored record of all personnel actions and other pertinent employee data; used by Personnel staff to press and record personnel actions and by the Supervisory Computer Systems Analyst to update and revise files, programs and produce required statistical reports.

(f) Discipline and Adverse Actions—used by Personnel staff and line managers in considering decisions on such actions, and for appeals, grievances and hearings.

(g) Outside Employment Files—used by Personnel and legal staff to consider requests for outside employment and to verify approval/disapproval.

In addition to the above, in the event that a system of records maintained by this agency to carry out its functions indicated a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from the system of records may be disclosed as "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized complaints examiner, equal employment opportunity investigator, administrative

law judge, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint or appeal filed by an employee. A record from this system of records may be disclosed to the U.S. Office of Personnel Management in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(a) Hard copy record kept in Personnel Office.
(b) Hard copy record kept in Personnel Office.
(c) Hard copy record kept in Personnel Office.
(e) Computer disk packs within central processing unit.
(f) Hard copy record kept in Personnel Office.
(g) Hard copy record kept in Personnel Office.

RETRIEVABILITY:

(a) Retrieval by hand of alphabetical files.
(b) Retrieval by hand of alphabetical files.
(c) Retrieval by hand of alphabetical files.
(d) Retrieval by hand of alphabetical files.
(e) On line access using SSN.
(f) Retrieval by hand of alphabetical files.
(g) Retrieval by hand of alphabetical files.

SAFEGUARDS:

(a) Locked file cabinet in locked office.
(b) Locked Office.
(c) Locked file cabinet in locked office.
(d) Locked file cabinet in locked office.
(e) Overall password for group number; individual passeord for each program; knowledge of password limited to appropriate personnel.
(f) Locked file cabinet in locked office.

RETENTION AND DISPOSAL:

(a) 1 year; shredded.
(b) Indefinite.
(c) Indefinite; transferred with employee to succeeding agency or retired to Federal Records Center upon retirement or termination/resignation from Federal service or death.
(d) Indefinite; shredded within 30 days of employee departure unless part of ongoing adjudicatory action.
(e) Indefinite.
(f) 2 years; shredded.
(g) 2 years; shredded.

SYSTEM MANAGER AND ADDRESS:

Director of Personnel, Federal Election Commission, Washington, D.C. 20463 (202/523–4114).

NOTIFICATION PROCEDURES:

Refer to Commission access regulations at 11 CFR 1.1 *et seq.*, 41 FR 43,064 (1976).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Personnel applications, resumes, employment forms, records of personnel action.

FEC 6

SYSTEM NAME:

Candidate reports and designations.

SYSTEM LOCATION:

Federal Election Commission, Washington, D.C. 20463.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates for Federal office required to file reports of contributions and expenditures and designations of compaign depositories and authorized committees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports and Statements of candidates; reports by delegates and other persons making contributions or independent expenditures and designations on behalf of a Federal candidate but not through a political committee, candidate, or authorized committee or agent of a candidate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 U.S.C. 432(e), 434, and 437b(a)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system may be used by any person for information purposes. However, any information complied from such reports shall not be sold or utilized by any person for the purposes of soliciting contributions or for any commercial purpose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and/or microfilm and on-line disk storage electronic data processing system.

RETRIEVABILITY:

Retrievable by candidate's name or by State, in which candidate seeks election; candidate identification number or last name for computer storage.

SAFEGUARDS:

Locked filing cabinets.

RETENTION AND DISPOSAL:

Reports are preserved for a 10-year period except that reports relating solely to candidates for the House of Representative are preserved for 5 years from the date of receipt. Microfilm is preserved indefinitely.

SYSTEM MANAGER AND ADDRESS:

Assistant Staff Director for Disclosure, Federal Election Commission, Washington, D.C. 20463 (202/523–4181).

NOTIFICATION PROCEDURES:

Refer to Commission access regulations at 11 CFR 1.1. *et seq.*, 41 FR 43064 (1976).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Reports filed with the FEC.

FEC 7

SYSTEM NAME:

Certification for primary matching funds and general election campaign funds

SYSTEM LOCATION:

Federal Election Commission, Washington, D.C. 20463.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Candidates for nomination or election to the Office of President of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Certification forms and supporting data requesting matching funds or election funds.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 U.S.C. 9003, 9006; 26 U.S.C. 9033, 9036, 9037.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Certification of eligibility for funds by presidential candidates. These files are available for public inspection.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Indexed by name of candidate.

SAFEGUARDS:

Locked filing cabinets.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEMS MANAGER AND ADDRESS:

Assistant Staff Director for Audit, Federal Election Commission, Washington, D.C. 20463 (202/523–4155).

NOTIFICATION PROCEDURES:

Refer to Commission access regulations at 11 CFR 1.1 *et seq.*, 41 FR 43064 (1976).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Certification reports filed with the Commission.

FEC 8

SYSTEM NAME:

Payroll records.

SYSTEM LOCATION:

Federal Election Commission, Washington, D.C. 20463.

CATEGORIES OF RECORDS IN THE SYSTEM:

Varied payroll records, including, among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefit records; requests for deductions; tax forms; W–2 forms; overtime requests; leave data; and retirement records. Records are used by Commission employees to maintain adequate payroll information for Commission employees, and otherwise by Commission employees who have a need for the record in the performance of their duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C., generally. Also, 2 U.S.C. 437c(f).

ROUTINE USES FOR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event that a system of records maintained by this agency to carry out its functions indicated a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation of prosecuting such violation or charged with enforcement or implementing the statute or rule, regulations or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the Office of Personnel Management in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance processes as set forth in that circular.

Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of Treasury form W–2, wage and tax statement, also is disclosed to the State and city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Assistant Director for Administration; Federal Election Commission, Washington, DC 20463. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Assistant Staff Director for Administration.

In the absence of a withholding agreement, the Social Security number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security number, in accordance with Section 7 of the Privacy Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer disk packs within central processing unit.

RETRIEVABILITY:

On line access program utilizing employee social security number.

SAFEGUARDS:

Overall password for group number; individual password for each program; knowledge of password limited to appropriate personnel.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

SYSTEM MANAGER AND ADDRESS:

Assistant Staff Director for Administration, Federal Election Commission, Washington, D.C. 20463 (202/523–4112).

NOTIFICATION PROCEDURES:

Refer to Commission access regulations at 11 CFR 1.1 *et seq.*, 41 FR 43,064 (1976).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

The subject individual; the Federal Election Commission.

SYSTEM NAME:

Litigation Actions.

SYSTEM LOCATION:

Federal Election Commission, Washington, D.C. 20463.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have brought judicial action against the Commission and individuals against whom the Commission has brought judicial action pursuant to 2 U.S.C. 437g or 437h, 26 U.S.C. 9011 or 9041, 5 U.S.C. 552 or any other statute.

CATEGORIES OF RECORDS IN THE SYSTEM:

All papers incident to a law suit, including discovery materials, motions briefs and orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 U.S.C. 437g(a)(6), 437g(a)(8), 437g(a)(11), and 437h.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Maintained for historical purposes and for consultation as precedent in subsequent judicial or administrative actions. Civil litigation is handled by the General Counsel's office. Access is limited to FEC staff on a restricted basis.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and microfilm.

RETRIEVABILITY:

System indexed by name of party litigant and, as applicable, by microfilm roll and frame number.

SAFEGUARDS:

This system is kept in locked filing cabinets or in limited access areas under personal surveillance during working hours, and in locked rooms at other times.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER AND ADDRESS:

The General Counsel, Federal Election Commission, Washington, D.C. 20463 (202/523–4143).

NOTIFICATION PROCEDURES:

Refer to Commission access regulations at 11 CFR 1.1. *et seq.*, 41 FR 43064 (1976).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual party litigants and counsel, court personnel and the Federal Election Commission.

FEC 10

SYSTEM NAME:

Letter file, Public Communications.

SYSTEM LOCATION:

Federal Election Commission, Washington, D.C. 20463.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have written to the FEC requesting answers to specific questions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inquiries by individuals concerning the Federal Election Campaign Act of 1971, as amended.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 U.S.C. 438(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Response to inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper files.

RETRIEVABILITY:

Name of individual.

RETENTION AND DISPOSAL:

Retained in-house for one year; shipped afterward to general storage.

SYSTEM MANAGER AND ADDRESS:

Assistant Staff Director for Information, Federal Election Commission, Washington, D.C. 20463 (202/523–4068).

NOTIFICATION PROCEDURES:

Refer to Commission access regulations at 11 C.F.R. 1.1 *et seq.*, 41 FR 43064 (1976).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individuals who request information in writing.

FEC 11

SYSTEM NAME:

Contributor Name Index System.

SYSTEM LOCATION:

Federal Election Commission, Washington, D.C., 20463.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been listed on campaign finance reports as having given $500 or more per transaction to a Federal candidate or their supporting political committee.

CATEGORIES OF RECORDS IN THE SYSTEM:

On-line disk storage electronic data processing index of names.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

2 U.S.C. 441a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Commission staff and the public may use this system to ascertain whether and to what extent named individuals have made contributions to Federal candidates and political committees.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On-line disk storage electronic data.

RETRIEVABILITY:

Indexed by last name of contributor.

SAFEGUARDS:

Requests are handled only on an overnight request basis, with

Commission staff doing research and retrieval.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER AND ADDRESS:

Assistant Staff Director for Data Systems Development Division, Federal Election Commission, Washington, D.C. 20463 (202/523–4020).

NOTIFICATION PROCEDURES:

Refer to Commission access regulations at 11 C.F.R. 1.1 *et seq.*, 41 FR 43064 (1976).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individual contributors.

[FR Doc. 84–22211 Filed 8–21–84 8:45 am]

BILLING CODE 6715–01

FEDERAL MARITIME COMMISSION

[Docket No. 84–28]

Petchem, Inc. v. Canaveral Port Authority, et al.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Petchem, Inc., d/b/a/ Petchem, Inc. (of Connecticut) against Canaveral Port Authority, Port Canaveral Towing, Inc., (a/k/a Port Everglades Towing, Inc.), and Hvide Shipping, Inc., was served August 14, 1984. Complainant alleges that respondents have violated sections 16 and 17 of the Shipping Act, 1916, in connection with their alleged actions to deny complainant the opportunity to compete and engage in the business of providing commercial tug and towing service at Port Canaveral, Florida.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by August 17, 1985, and the final decision of the Commission shall be issued by December 17, 1985.

Francis C. Hurney,

Secretary.

[FR Doc. 84–22221 Filed 8–21–84; 8:45]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Exchange Financial Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1))for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in §225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 11, 1984.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Exchange Financial Corporation*, Mt. Sterling, Kentucky; to engage *de novo* through its subsidiary, Exchange Loan Production and Services Corporation, Mt. Sterling, Kentucky, in making, acquiring, or servicing loans or other extensions of credit (including issuing of letters of credit and accepting drafts) for the company's account or for the account of others, such as would be made, for example, by a consumer finance, credit card, mortgage, commercial finance, or factoring company.

Board of Governors of the Federal Reserve System, August 16, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–22219 Filed 8–21–84; 8:45 am]

BILLING CODE 6210–01–M

Society Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 14, 1984.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Society Corporation,* Cleveland, Ohio; to acquire BancSystems Association, Westlake, Ohio, thereby engaging in the provision of data processing, data transmission services, and data bases and facilities primarily to financial institutions. Company also provides computer hardware and other equipment to financial institutions and nonfinancial corporations for use in conjunction with software designed for processing and transmission of financial, banking, or economic data. Less than 30 percent of the cost of the package offered is attributable to hardware. Company limits the data processed by it and the packages it offers to financial, banking, or economic data among financial institutions and nonfinancial corporations.

Board of Governors of the Federal Reserve System, August 16, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-22218 Filed 8-21-84; 8:45 am]

BILLING CODE 6210-01-M

Trust Company of Georgia, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulations Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 13, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Trust Company of Georgia,* Atlanta, Georgia; to acquire 100 percent of the voting shares of First Thompson Bancorp, Inc., Thompson, Georgia, thereby indirectly acquiring First National Bank of Thompson.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Giddings Bancshares, Inc.,* Giddings, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Allied First National Bank, Giddings, Texas.

Board of Governors of the Federal Reserve System, August 16, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-22220 Filed 8-21-84; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget; Status Report of Orders and Shipments (GSA Form 1678)

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve the extension of an existing information collection.

ADDRESSES: Send comments to Franklin S. Reeder, GAS Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to William W. Hiebert, GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Daniel Hinz, Federal Supply and Services, Office of Contract Management (703-557-1435).

SUPPLEMENTARY INFORMATION: 1. *Purpose.* The information collection provides data regarding the performance status of open contracts. It is used to take default actions when contractors fail to perform in a timely manner.

2. *Annual reporting burden.* This is estimated as follows: Respondents 2,800; responses 33,600; hours 16,800.

3. *Obtaining copies of proposals.* Requestors may obtain copies from the Directives and Reports Management Branch (ATRAI), Room 3007, GS building, Washington, DC 20405 (202-566-0666).

Dated August 14, 1984.

Frank J. Sabatini,

Director, Information Management Division.

[FR Doc. 84-22273 Filed 8-21-84 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are anounced:

Anti-Infective Drugs Advisory Committee

Date, time, and place. September 17 and 18, 8:30 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, September 17, 8:30 a.m. to 9:30 a.m.; open committee discussion, September 17, 9:30 a.m. to 4:30 p.m. and September 18, 8:30 a.m. to 10 a.m.; closed presentation of data, September 18, 10:30 a.m. to 12 a.m.; Thomas E. Nightingale, Center for Drugs and Biologics (HFN-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4695.

General function of the committee. The committee reviews and evaluates available data on the safety and affectiveness of marketed and investigational prescription drugs for use in infectious diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. The committee will discuss (1) draft guidelines for evaluating the prophylactic use of antimicrobial drugs in invasive procedures, (2) draft points to consider for the safety evaluation of antiviral drugs for non-life-threatening conditions, (3) the appropriateness of one-dose therapy for urinary tract infections, and (4) coagulopathy as an adverse reaction to moxalactam.

Closed presentation of data. The committee will hear trade secret or confidential commercial information relevant to new drug application 50–580. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552(c)(4)).

Immunology Devices Panel

Date, time, and place. September 24 and 25, 9 a.m., Rm. 703–727A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, September 24, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 a.m.; closed presentation of data, 1 p.m. to 3 p.m.; closed committee discussion, 3 p.m. to 5 p.m.; September 25, open committee discussion, 9 a.m. to 10 a.m.; closed presentation of data; 10 a.m. to 12 a.m.; closed committee deliberations, 1 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 5 p.m.; Srikrishna Vadlamudi, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal persentations should notify the contact person before September 14, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications for tumor markers: carcinoembryonic antigen (CEA), and alpha-fetoprotein (AFP).

Closed presentation of data. The committee will discuss trade secret or confidential commercial information regarding premarket approval applications for tumor markers: CEA and AFP. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. The committee will review and discuss trade secret or confidential commercial information regarding premarket approval applications for tumor markers: CEA and AFP. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the presentation of participants at a public hearing. Accordingly, all interested persons are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on public hearings.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact persons listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Example of portions of the FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency

action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarrented invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: August 15, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

FR Doc. 84–22187 Filed 8–21–84; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA) **Federal Register**, Vol. 46, No. 223, pp. 56911–56934, dated Thursday, November 19, 1981, **Federal Register**, Vol. 48, No. 3, pp. 512–518, dated Wednesday, January 5, 1983 and **Federal Register**, Vol. 48, No. 198, pp. 46434–46448, dated Wednesday, October 12, 1983) is amended to reflect the organizational changes described below:

- The Bureau of Support Services (BSS) will be abolished and its functional responsibilities divided between the Office of Management and Budget (OMB) and the Bureau of Data Management and Strategy (BDMS).
- OMB will assume responsibility for the former BSS functions of supporting OMB's financial, personnel, and administrative systems. OMB will also be responsible for records maintenance, beneficiary correspondence, and premium collection correspondence activities.
- The remaining BSS functions related to ADP, systems planning and development, computer operations and certain administrative functions related to ADP procurement and financial planning will be placed in BDMS.
- The actuary functions performed by the Office of Financial and Actuarial Analysis will be moved from BDMS to an office level component reporting directly to the Associate Administrator for Management and Support Services.

The specific amendments to the HCFA functional statements are as follows:

- Section FH.10 The Office of the Associate Administrator for Management and Support Services (FH) (Organization) is amended as follows:

1. Reference "B" The Bureau of Support Services (FHB) is deleted and replaced by B. The Office of Financial and Actuarial Analysis (FHC)

- Section FH.20.B. Bureau of Support Services (FHB) is deleted in its entirety including all of the subordinate functional statements.
- Section FH.20.A. Office of Management and Budget (FHA) is amended to read:

A. Office of Management and Budget FHA)

Provides HCFA-wide policy direction, coordination and control in the areas of budget, financial and accounting operations, personnel, management evaluation and analysis, administrative services, project grants, contracting and procurement and workplanning. Develops and promulgates HCFA policy in these areas and executes these policies throughout HCFA. Designs implements, maintains, and provides ADP support to HCFA with respect to personnel management systems, financial management systems, and administrative systems which support Office of Management and Budget functions. Provides clerical and manual support in processing a variety of bill, query, enrollment and premium billing transactions. Provides analytical support in the development of procedural instructions for the clerical support staff. Directs a correspondence and control staff with respect to inquiries related to health insurance utilization records. Serves as the Chief Administrative Officer for the Agency.

- Section FH.20.B. Bureau of Data Management and Strategy (FHE) is amended to read:

D. Bureau of Data Management and Strategy (FHE)

Manages statistical data system on HCFA programs to support program decisions by various HCFA components. Provides mathematical and statistical programming required to answer research inquires. Develops and coordinates statistical and information policy. Coordinates the development of HCFA information policy as it relates to HCFA's long-range information plans with non-Federal segments of the health care industry. Develops common coding standards and quality assurance monitoring mechanisms. Provides technical information planning and development review of HCFA data collection initiatives. Coordinates the development of special purpose statistical data bases required for assessing the impact of proposals which change health care financing programs, special research and evaluation studies and for general data dissemination. Designs and develops the production of periodic statistical and tabulations to access the characteristics of HCFA beneficiaries and the utilizations and cost of program benefits. Provides direction for the nationwide operation of a centralized ADP and telecommunications facility for HCFA, including systems analysis, programming, computer operations, and data transmission. Establishes and maintain computerized records supporting HCFA programs including records for determining entitlement to the utilization of Medicare benefits and program management records that facilitate the administration of HCFA programs. Negotiates and administers agreements and provides ADP liaison between HCFA users, the Social Security Administration and other external organizations for the provision of ADP capacity and support services. Develops, coordinates and directs the HCFA ADP systems program, including its application to Medicare contractors, in accordance with the EOMB, General Services Administration (GSA) and Departmental guidelines.

- Section FH.20.D.1. Office of Financial and Actuarial Analysis (FHE1) and the three supporting divisions are deleted from reference D. Bureau of Data Management and Strategy (FHE) and become reference B. to appear as follows:

B. Office of Financial and Actuarial Analysis (FHG)

Conducts and directs the actuarial program for HCFA and directs the development of and methodologies for macroeconomic analysis of health care financing issues. Performs actuarial economic and demographic studies to predict HCFA program expenditures under current law and under proposed modifications to current law. Provides program estimates for use in the President's budget and for reports required by the Congress. Studies questions concerned with financing present and future health programs, evaluates operations of the Federal Hospital Insurance Trust Fund and Supplementary Medical Insurance Trust Funds and performs macroanalyses for the purpose of assessing the impact of various factors of health care financing upon costs of Federal programs. Develops and conducts studies to estimate and project national and area health expenditures. Analyzes trend data sources such as the Consumer Price Index (CPI) to develop projections of health care costs. Analyzes data on physicians' costs and charges to develop reimbursement indices and monitors expansion of services and inflation of costs in the health care sector. Publishes cost projections and economic analyses, and provides actuarial, technical advice and consultation to HCFA components, governmental components, Congress and outside organizations.

1. Divsion of Medicare Cost Estimates (FHG1)

Evaluates operations of the Medicare trust funds, concerning income and outgo and the necessary tax rates for program solvency. Prepares cost estimates for the Hospital Insurance program and the Supplementary Medical Insurance program for use in the President's budget. Develops such variables as the Part B premium rate, the inpatient deductible, the Part A premium rate for voluntary enrollers, and the physician economic index applicable to prevailing fees. Computes workload estimates of the impact of modifications in program benefits and financing. Combines actuarial, economic, statistical, and program analytical skills in preparing its estimates and provides these combined skills as technical consultants throughout the government.

2. Division of Medicaid Cost Estimates (FHG2)

Provides cost estimates of the Medicaid program and any proposed legislative changes in the program. Creates and maintains a State by State data base relating to the low income population, their health use and incurred and expected costs. Develops descriptive information detailing and projecting the effect of changes in the economy or national health care system on the Medicaid program. Develops annual Medicaid program budget requirements for the President's budget preparation and presentation, including the Congressional justification. Prepares long-range program cost estimates, determines gross rates of program cost changes, and revises data requirements for future program costs. Develops and publishes routine descriptive Medicaid statistical information. Prepares cost estimates for legislative proposals affecting Medicaid benefits. Provides actuarial and statistical consultation to other HCFA components, States or outside organizations.

3. Division of National Cost Estimates (FHG3)

Monitors prices, utilization, and costs of health care and analyzes their impact on HCFA programs and the implications for the national economy. Develops and conducts studies to estimate, project, and analyze national and State health expenditures and the financial and enrollment experience of private health insurance. Prepares cost estimates of proposed national health initiatives. Synthesizes the results of economic and actuarial studies relating to estimating factors, such as the interaction between supply and demand, or the influences of cost sharing on costs, and develops and establishes methodologies for analyzing health care financing problems. Provides cost estimates for specific health areas such as capital, technology, malpractice, etc., in response to Congressional or Administration requests. Provides technical microanalyses for Administration or Department initiatives, such as cost containment, including calculating the economic effect of the proposal on a specific Congressional district or provider, determining the relative performance of a particular provider or group of providers in terms of cost or uses, and projects premium increases of health insurance companies in particular States.

Dated: August 14, 1984.

Margaret M. Heckler,

Secretary.

[FR Doc. 84-22253 Filed 8-21-84; 8:45 am]

BILLING CODE 4120-03-M

Health Resources and Services Administration

Application Announcement for Grants for Residency Training in General Internal Medicine and General Pediatrics

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1985 Grants for Residency Training in General Internal Medicine and/or General Pediatrics are being accepted under the authority of Section 784, Title VII, of the Public Health Service Act, as amended.

Section 784 authorizes the award of grants for planning, developing and operating approved residency training programs which emphasize the training of residents for the practice of general internal medicine or general pediatrics. In addition, Section 784 authorizes assistance in meeting the cost of supporting residents who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

Eligible applicants are accredited schools of medicine and osteopathy, public and private nonprofit hospitals, or other public or private nonprofit entities.

To receive support, programs must meet the requirements of final regulations published in the **Federal Register** on August 1, 1980 (45 FR 51201), and the amendment dated February 24, 1984 (49 FR 6905).

In the funding of approved applications, preference will be given to projects in which:

1. Substantial training experiences are provided in settings where physician assistants or nurse practitioners, or both, are used as part of a health care team.

2. Administrative and educational resources are coordinated for the use of a program of general internal medicine and a program of general pediatrics which are to be conducted within a single project.

3. Substantial portions of a project are conducted in a primary medical care manpower shortage area(s) designated under Section 332 of the Public Health Service Act and in particular, one which is located in a Metropolitan Statistical Area, as defined by the Office of Federal Statistical Policy and Standards, Department of Commerce; or are conducted in an Area Health Education Center funded, at least in part, under Section 781 of the Act.

Grant application kits are being mailed only to program directors of approved residency training programs in internal medicine and/or pediatrics. Individuals and entities representing programs which have not yet been approved, but desire an application, should write to: Grants Management Officer (D–28), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C–22, Rockville, Maryland 20857, Telephone (301) 443–6960.

Should additional programmatic information be required, please contact: Primary Care Graduate Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C–04, Rockville, Maryland 20857, Telephone (301) 443–5590.

The deadline date for receipt of applications is October 15, 1984. Applications shall be considered as meeting the deadline if they are either (1) *received* on or before the deadline date, or (2) *postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt form a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Application materials are being made available without final action on the Fiscal Year 1985 budget and the enactment of health professions renewal legislation. Therefore, financial adjustments and programmatic changes may be necessary at a later date. Should such changes be necessary, all applicants will be notified.

This program is listed at 13.884 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 45 CFR Part 100.

Dated: August 16, 1984.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 84-22198 Filed 8-21-84; 8:45 am]

BILLING CODE 4160-16-M

Application Announcement for Special Initiative Grants for Area Health Education Center Programs

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1985 Special Initiative Grants for Area Health Education Center Programs are being accepted under the authority of Section 781(a)(2) of the Public Health Service Act, as amended by Pub. L. 97–414 dated January 4, 1983.

Section 781(a)(2) authorizes Federal assistance to medical and osteopathic schools which have previously received Federal financial assistance for the area health education centers (AHEC) program under either Section 802 of Pub. L. 94–484 or Section 781. This authority is a "special initiative" provision. Section 781(a)(2) applications will be to improve the distribution, supply, quality, utilization and efficiency of health personnel in the health services delivery system; to encourage regionalization of responsibility of the health professions schools; or to prepare, through preceptorships and other programs, individuals subject to a service obligation under the National Health Service Corps scholarship program to provide effective health services in health manpower shortage areas.

To be eligible to receive support for a special initiative area health education center program grant, the applicant must be a public or nonprofit private accredited school of medicine or osteopathy, or consortium of such schools, or the parent institution on behalf of such school(s).

To receive support, programs must meet the requirements of final regulations published in the **Federal Register** on February 22, 1983, (48 FR 7443).

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (U–76), Bureau of Health Professions, Health Resources and Service Administration, 5600 Fishers Lane, Room 8C–22, Rockville, Maryland 20857, Telephone: (301) 443–6857.

Questions regarding programatic information should be directed to: Division of Medicine, Area Health Education Center Branch, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C–05, Rockville, Maryland 20857, Telephone: (301) 443–6950.

Application materials are being made available without final action on the Fiscal Year 1985 budget and the enactment of health professions renewal legislation. Therefore, financial adjustments and programmatic changes may be necessary at a later date. Should such changes be necessary all applicants will be notified.

The application deadline date is October 5, 1984. Applications shall be considered as meeting the deadline if they are either (1) *received* on or before the deadline date, or (2) *postmarked* on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

This program is listed at 13.824 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Dated: August 16, 1984.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 84-22197 Filed 8-21-84; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 16718, Mississippi]

Oil and Gas Lease, Mississippi

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Reinstatement of a Terminated Oil and Gas Lease.

SUMMARY: 1. Federal oil and gas lease ES 16718 terminated automatically by operation of Law on May 1, 1984. (30 U.S.C. 188).

2. A petition for reinstatement of ES 16718 was filed by Stanley V. Cheslock (Lessee) under Section 31D of the Mineral Leasing Act of 1920, as amended by the Federal Oil and Gas Royalty Management Act of 1982, (96 Stat. 2447).

3. The Lessee has met all the following requirements of reinstatement:

(a) $500—Reimbursement of Departmental Administrative Cost.

(b) $1730— New Rental Rate.

(c) $136—Estimated Publication Cost.

4. The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5.00 per acre per year, and royalty increased to 16⅔ percent beginning May 1, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia C. Ledwell, Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304, (703) 235–2651.

G. Curtis Jones, Jr.,

State Director.

[FR Doc. 84-22123 Filed 8-21-84; 8:45 am]

BILLING CODE 4310-GJ-M

Exchange of Public and Private Lands in Monterey and San Benito Counties, CA

The following described public lands have been determined to be suitable for disposal by exchange under Sec. 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Mount Diablo Meridian

T. 19 S., R. 11 E.,
Sec. 2, SE¼NW¼, N½SE¼;
Sec. 14, W½E½, W½;
Sec. 17, S½S½;
Sec. 19, NE¼NE¼;
Sec. 20, N½N½;
Sec. 21, N½, NW¼SE¼;
Sec. 22, S½N½, N½NW¼, N½S½, SE¼SE¼;
Sec. 23, All;
Sec. 24, SW¼NW¼, W½SW¼;
Sec. 25, NW¼NW¼;
Sec. 26, N½N½, S½NW¼;
Sec. 27, NE¼NE¼.

Totals 2,840.00 acres.

In exchange for these lands, the Federal Government will acquire the following described lands from Harold J. Eade Ranch Co., Inc.,

Mount Diablo Meridian

T. 17 S., R. 12 E.,
Sec. 33, SW¼NE¼, W½W½, SE¼NW¼, SE¼SW¼, NE¼SE¼;
Sec. 34, S½NE¼, SE¼NW¼, N½SW¼, W½SW¼SW¼, NE¼SE¼;
Sec. 35, SW¼NW¼.
T. 18 S., R. 12 E.,
Sec. 3, S½ of Lot 1, S½ of Lot 2, NW¼NW¼ of Lot 2, SE¼NW¼, NE¼SW¼;
Sec. 20, E½;
Sec. 21, NW¼;
Sec. 26, N½;
Sec. 27, N½;
Sec. 28, NE¼;
Sec. 35, N½.

Total, 2,350.50 acres.

The purpose of this exchange is to acquire the non-Federal lands because of their high values for recreational use, wildlife habitate, riparian habitat and sensitive species habitat. That exchange is consistent with the Bureau's planning for the lands involved and has been discussed with the San Benito County Planning Commission, Monterey County Planning Department and State agencies through their clearinghouse. The public interest will be well served by making the exchange.

The values of the lands to be exchanged are approximately equal. The Harold J. Eade Ranch Co., Inc., will waive equalization payment required of the United States.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. A reservation of right-of-way for ditches and canals to the United States (43 U.S.C. 945).

2. A reservation of all minerals to the United States.

3. A right of use of so much of the surface necessary for exploration and development by any current or subsequent mineral entryman or lessee.

4. Subject to the existing grazing use of Herman Akers, holder of grazing authorization No. CA–019–4301. The rights of Herman Akers to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. CA–019–4301 shall cease on February 28, 1990, or until such time as Herman Akers elects to waive such rights. Harold J. Eade Ranch Co., Inc., is entitled to receive annual grazing fees from Herman Akers in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

5. Subject to the existing grazing use of Fred Pfyffer, holder of grazing authorization No. CA–019–4364. The rights of Fred Pfyffer to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. CA–019–4364, shall cease on February 29, 1991, or until such time as Fred Pfyffer elects to waive such rights. Harold J. Eade Ranch Co., Inc., is entitled to receive annual grazing fees from Fred Pfyffer in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

Land to be acquired by the United States will be subject to the following reservations, terms and conditions:

1. Subject to existing mineral rights and reservations.

2. An exclusive right-of-way 60.00 feet wide, together with other rights and easements, over and across, as granted to Union Carbide Corporation, a New York corporation, by Memorandum of Agreement from New Idria Mining and Chemical, a Nevada corporation, dated January 1, 1963 and recorded February 7, 1963, in Vol. 284 of Official Records, at Page 379, Recorder's File No. 82598, San Benito County Records.

3. An easement for ingress and egress and appurtenances thereto granted to Mark L. Ward and Shirley R. Ward, husband and wife, as joint tenants, recorded September 17, 1971, in Vol. 369 of Official Records, at Page 771, Recorder's File No. 110788, San Benito County Records.

4. An easement for installation and maintenance of a 2" pipeline and appurtenances thereto granted to Mark L. Ward and Shirley R. Ward, husband and wife, as joint tenants, recorded April 15, 1976, in Vol. 405 of Official Records, at page 475, Recorder's File No. 130836, San Benito County Records.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. The segregative effect shall terminate as provided at 43 CFR 2201.1(b).

Detailed information concerning the exchange, including the land report and environmental assessment report is available for review at the Hollister Resource Area Office, 402 Park Hill, P.O. Box 365, Hollister, California 95024–0365.

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Bakersfield District Office, Bureau of Land Management, 800 Truxtun Avenue, Bakersfield, California 93301. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination.

Dated: August 2, 1984.

David E. Howell,

Area Manager.

[FR Doc. 84-22202 Filed 8-21-84; 8:45 am]

BILLING CODE 4310-40-M

Filing of Plat of Survey; Oregon

AGENCY: Bureau of Land Management, Interior

ACTION: Notice.

SUMMARY: The plat of survey of the following described land will be officially filed in the Oregon State Office, Portland, Oregon on September. 28, 1984.

Willamette Meridian

T. 34 S., R. 14 W., Oregon

The plat representing a dependent resurvey of a portion of the offset coast meridian, a portion of the south boundary, a portion of the subdivisional lines, and the survey of omitted lands, offshore islands, and the informative traverse of shorelines created by artificial fill in section 31 was accepted July 12, 1984.

The headlands embraced in this survey were omitted from the original

surveys of the subdivision of the township which returned the areas upon which title is based.

Island No. 1, Big Sister Rock, designated as Lot 4, Island No. 2, South Sister Island designated as Lot 5, and Island No. 3, Unnamed, designated as Lot 6, are located approximately 14 miles southeasterly of Port Orford.

South Sister Rock is included in the Oregon Island Wilderness Withdrawal, Act of Congress October 11, 1978, and all of the islands are withdrawn by Public Land Order 6287 of June 16, 1982, for a National Wildlife Refuge.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 NE Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: August 14, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-22200 Filed 8-21-84; 8:45 am]

BILLING CODE 4310-3-M

[OR 37250 (WA)]

Washington; Filing of Public Lands for Quantity Grant Selection

The State of Washington has filed a selection application to acquire the lands described below, under the provisions of the Act of February 22, 1889 (25 Stat. 676), as amended, in partial satisfaction of its entitlement for certain quantity grant purposes. The application has been assigned the serial Number OR 37250 (WA).

The lands included in the selection application are described as follows:

Willamette Meridian, Washington

T. 9 N., R. 28 E.,
Sec. 8, lots 235, 236 and 247.
T. 9 N., R. 32 E.,
Sec. 2, SW¼SE¼.
Aggregating 47.5 acres.

The filing of the selection application segregates the lands described above from settlement, sale, location, or entry under the public land laws, including the mining laws, but not the mineral leasing laws or the Geothermal Steam Act. The segregative effect on the public lands shall terminate upon issuance of a document of conveyance to such lands, or upon publication in the **Federal Register** of a notice of termination of the segregation, or the expiration of two years from the date of filing of the selection application, whichever occurs first.

Dated: August 14, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-22201 Filed 8-21-84; 8:45 am]

BILLING CODE 4310-33-M

[Serial No. AA-16164]

Easement Amendment on Hiland Drive, South of Eagle River, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Easement Amendment Under Section 17(b) of Alaska Native Claims Settlement Act (ANCSA).

SUMMARY: Notice is hereby given that Hiland Drive, the primary access route to the Upper Eagle River South Fork area, will replace Easement Identification Number (EIN) 1 D9 through T. 14 N., R. 2 W., Section 24 and T. 14 N., R. 1 W., Section 19. An amended EIN 1 D9 will be dedicated within Section 20 that will connect the primary access route to the remaining portion of EIN 1 D9 in Section 20 and continuing on southeasterly through Eklutna, Inc., lands.

During the easement identification process, the wrong easement for access to the South Fork and upper Eagle River was identified and reserved. EIN 1 D9 as reserved is an old jeep trail which is generally unused for vehicular traffic.

This easement, when amended will provide legal access to the upper Eagle River South Fork area.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action, including maps, is available for review at the Anchorage District Office, 4700 East 72nd Avenue, Anchorage, Alaska 99507, or call Don Hinrichsen at (907) 267-1308.

For a period of 30 days from the date of publication of this Notice, interested parties may submit comments at the above address. Any adverse comments will be evaluated by the Anchorage District Manager who may cancel or modify this action and issue a final determination. In the absence of any adverse action by the Anchorage District Manager, this will become the final determination of the Department of the Interior.

Wayne A. Boden,

District Manager.

[FR Doc. 84-22193 Filed 8-21-84; 8:45 am]

BILLING CODE 4310-JA-M

[Serial No. I-20204]

Idaho; Issuance of Land Exchange Conveyance Document; Exchange of Public and Private Lands

The United States has issued an exchange conveyance document to David Manookian, Box 2060, Sun Valley, Idaho 83352, for the following-described lands under Section 206 of the Federal Land Policy and Management Act of 1976:

Boise Meridian, Idaho

T. 1 S., R. 20 E.,
Sec. 23, SW¼SW¼, W½W½SE¼SW¼;
Sec. 26, W½W½NE¼NW¼, W½NW¼† SE¼NW¼.
Comprising 65.00 acres of public land in Blaine County.

In exchange for these lands, the United States acquired the following-described lands:

Boise Meridian, Idaho

T. 1 S., R. 20 E.,
Sec. 25, lot 2, NW¼SW¼.
Comprising 81.55 acres of private land in Blaine County.

The purpose of this exchange was to consolidate public land for better management.

The values of Federal public land and non-Federal land in the exchange were appraised at $9,750 and $9,000 respectively. An equalization payment of $750.00 was paid to the United States by David Manookian.

Dated: August 13, 1984.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 84-22195 Filed 8-21-84; 8:45 am]

BILLING CODE 4310-GG-M

[Serial No. I-14926]

Idaho; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 279-acre withdrawal for the Owyhee Project continue for an additional 100 years, which is the estimated life of the project with which the withdrawal is associated. The lands will remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments should be received within 90 days of the date of publication of this notice.

ADDRESS: Comments should be sent to: Chief, Branch of Land Operations,

Bureau of Land Management, 3380 American Terrace, Boise, ID 83706.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 208–334–1597.

The Bureau of Reclamation proposes that the existing land withdrawal made by the Secretarial Order of March 28, 1935, be continued for a period of 100 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1967, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

Boise Meridian

T. 2 N., R. 4 W.,
Sec. 15, NE¼NE¼, S½SW¼SW¼;
Sec. 17, E½NW¼.

T. 2 N., R. 5 W.,
Sec. 5, SE¼SW¼;
Sec. 6, W½E½SE¼.

T. 3 N., R. 5 W.,
Sec. 31, lot 4, W½SE¼SE¼.

The area described contains approximately 279 acres in Owyhee County.

The purpose of the withdrawal is to protect mineral material sources which are utilized to maintain constructed Reclamation Projects in the area. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Operations, in the Idaho State Office.

The authorized officer of the Bureau of Land Manatement will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: August 15, 1984.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 84-22277 Filed 8-21-84; 8:45 am]

BILLING CODE 4310-CG-M

Sale of Public Lands in Calaveras, Colusa, Glenn, Monterey, Napa, Riverside, San Bernardino, San Diego, Sonoma, and Yolo Counties, CA, and Washoe County, NV; Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action; Sale of Public Lands in Calaveras, Colusa, Glenn, Monterey, Napa, Riverside, San Bernardino, San Diego, Sonoma, and Yolo Counties, California, and Washoe County, Nevada—Amendment.

SUMMARY: This document amends the Notices of Realty Action for the sale of public lands in California and those parts of Nevada managed by the California Bureau of Land Management that appeared on pages 22001–22002 in the **Federal Register** of Thursday, May 24, 1984 (49 FR 22001), CA 15610; on pages 22547–22548 in the **Federal Register** of Wednesday, May 30, 1984 (49 FR 22547), CA 15337, CA 15339, CA 15340, and CA 15342 through 15344; on pages 24803–24805 in the **Federal Register** of Friday, June 15, 1984 (49 FR 24803), N 39101 through N 39103, N 39105 through N 39107, N 39775 and N 39776; on pages 25529–25530 in the **Federal Register** of Thursday, June 21, 1984 (49 FR 25529), CA 15365 through 15376, and CA 15378 through 15386; on pages 27823–27826 in the **Federal Register** of Friday, July 6, 1984 (49 FR 27823), CA 15392 through CA 15435, CA 15437 through CA 15456, CA 15458 through 15525, and CA 15886 through 15889 and on pages 28475 through 28476 in the **Federal Register** of Thursday, July 12, 1984 (49 FR 28475), CA 13253, CA 15782, CA 15783, and CA 15795.

SUPPLEMENTARY INFORMATION: The amendment is made to the sale procedures for each of the sales described above. Accordingly, these procedures hereby are amended to comply with the changes to the Bureau's public land sale regulations that appeared on pages 29012–29016 in the **Federal Register** of Tuesday, July 17, 1984 (49 FR 29012).

FOR FURTHER INFORMATION CONTACT: Carl Rountree, Land Use Specialist, at the Bureau of Land Management, 2800 Cottage Way, E–2841, Sacramento, California 95825.

Dated: August 15, 1984.

Robert M. Laidlaw,

Acting Deputy State Director, Lands and Renewable Resources.

[FR Doc. 84-22282 Filed 8-21-84; 8:45 am]

BILLING CODE 4310-40-M

National Park Service

Virgin Islands National Park Advisory Committee; Establishment

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is establishing the Virgin Islands National Park Advisory Committee. The purpose of the committee is to advise the Secretary of the Interior on programs and policies at Virgin Islands National Park, Christiansted National Historic Site, and Buck Island Reef National Monument. It also functions to provide closer communication with the public on such matters.

Further information regarding the committee may be obtained from the Director, National Park Service, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

The certification of establishment is published below.

Certification

I hereby certify that the establishment of the Virgin Islands National Park Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of the Interior by 16 U.S.C. 461, et seq., and 16 U.S.C. 431, et seq.

Dated: July 2, 1984.

William P. Clark,

Secretary of the Interior.

[FR Doc. 84-22321 Filed 8-21-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-163 (Final)]

Cell-Site Transceivers and Subassemblies Thereof From Japan

AGENCY: United States International Trade Commission.

ACTION: Rescheduling of the hearing to be held in connection with the subject investigation.

SUMMARY: The Commission hereby announces the rescheduling of the hearing to be held in connection with this investigation from 10:00 a.m. on August 30, 1984, to 10:00 a.m. on November 8, 1984.

EFFECTIVE DATE: August 13, 1984.

FOR FURTHER INFORMATION CONTACT:

Bill Schechter (202–523–0300), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On June 12, 1984, the Commission instituted a final antidumping investigation involving cell-site transceivers and subassemblies thereof from Japan and scheduled a hearing to be held in connection with the investigation for August 30, 1984 (49 FR 27641, July 5, 1984). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from August 20, 1984, to October 20, 1984. The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule. Pursuant to section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)(B)), the Commission must make its final determination within 45 days of Commerce's final determination, or in this case by December 3, 1984.

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on October 29, 1984, pursuant to § 207.21 of the Commission's Rules (19 CFR 207.21).

Hearing

The hearing in connection with this investigation will begin at 10:00 a.m. on November 8, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on October 29, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on November 1, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is November 1, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on November 13, 1984.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before November 13, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). 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 to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: August 14, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–22284 Filed 8–21–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 731-TA-169, 171,[1] 175, 177, 178, 180, and 182 (Final)]

Certain Carbon Steel Products From Argentina, Australia, Finland, And Spain

AGENCY: United States International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: As a result of affirmative preliminary determinations by the U.S. Department of Commerce that there is a reasonable basis to believe or suspect that imports of certain carbon steel products from Argentina, Australia, Finland, and Spain are being sold in the United States at less than fair value, the United States International Trade Commission hereby gives notice of the institution of investigations Nos. 731–TA–169, 171, 175, 177, 178, 180, and 182 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether industries in the United States are materially injured, or are threatened with material injury, or the establishment of industries in the United States are materially retarded, by reason of imports from the specified countries of the following carbon steel products:

Carbon steel plates not in coils provided for in item 607.66 of the *Tariff Schedules of the United States* (*TSUS*) from Finland [investigation No. 731–TA–169 (Final)];

Carbon steel plates whether or not in coils provided for in TSUS item 607.66 from Spain [investigation No. 731–TA–171 (Final)];

Cold-rolled carbon steel plates and sheets provided for in TSUS item 607.83 from—

Argentina [investigation No. 731–TA–175 (Final)]; and Spain [investigation No. 731–TA–177 (Final)];

Galvanized carbon steel sheets provided for in TSUS items 608.07 and 608.13 from—

Australia [investigation No. 731–TA–178 (Final)]; and Spain [investigation No. 731–TA–180 (Final)]; and

Carbon steel angles, shapes, and sections having a maximum cross-sectional dimension of 3 inches or more provided for in TSUS item 609.60 from Spain [investigation No. 731–TA–182 (Final)].

The Department of Commerce will make its final determinations of sales at less than fair value in these cases on or before October 2, 1984, and the Commission will make its final injury determinations by November 21, 1984 (19 CFR 207.25).

EFFFECTIVE DATE: July 25, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Bonnie J. Noreen (202–523–1369),

[1] Includes products covered by investigation No. 731–TA–171 (Preliminary)—carbon steel plates not in coils provided for in TSUS item 607.66 from Spain—and investigation No. 731–TA–173 (Preliminary)—carbon steel plates in coils provided for in TSUS item 607.66 from Spain.

Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

On March 26, 1984, the Commission determined, on the basis of the information developed during the course of its preliminary investigations, that there were reasonable indications that industries in the United States were materially injured or threatened with material injury by reason of imports of the aforementioned carbon steel products from Argentina, Australia, Finland, and Spain. The preliminary investigations were instituted in response to petitions filed on February 10, 1984, by the United States Steel Corp., Pittsburgh, PA.

Participation in the Investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations, pursuant to §201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to these investigations must be served on all other parties to the investigations (as identified by the service lists), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c)).

Staff Report

A public version of the staff report containing preliminary findings of fact in these investigations will be placed in the public record on September 20, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commisson will hold a public hearing in connection with these investigations beginning at 10:00 a.m., on October 9, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on September 27, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 11:00 a.m., on October 2, 1984, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is October 3, 1984.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on October 16, 1984.

Written Submissions

As mentioned, parties to these investigations may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before October 16, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). 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 to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: August 17, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-22299 Filed 8-21-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-193]

Certain Rowing Machines and Components Thereof; Commission Decision Not To Review Initial Determination Terminating Respondent Lotus Enterprise, Ltd. and Adding as Respondent Lotus Enterprise Company, Ltd.

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review the initial determination (I.D.) terminating respondent Lotus Enterprise, Ltd. and adding as a respondent, Lotus Enterprise Company, Ltd., in this investigation.

SUPPLEMENTARY INFORMATION: The Commission has received neither a petition for review of the I.D. nor comments from Government agencies.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1627.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.53(c) and 210.53(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.53 (c) and (h)).

Issued: August 17, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-22300 Filed 8-21-84; 8:45 am]

BILLING CODE 7020-02-M

[332-189]

Investigation; Study of the Multifiber Arrangement

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), the Commission has instituted investigation No. 332-189 for the purpose of gathering and presenting information on trade in textile products covered under the

Arrangement Regarding International Trade in Textiles, known as the Multifiber Arrangement (MFA).

EFFECTIVE DATE: August 16, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Reuben Schwartz or Ms. Mary Elizabeth Sweet, Textiles, Leather Products, and Apparel Division, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202–523–0114 or 202–523–0394, respectively)

Background and Scope of Investigation

The report will build on two earlier studies released by the Commission—*The History and Current Status of the Multifiber Arrangement*, USITC Publication 850 (1979) and *The Multifiber Arrangement, 1973 to 1980*, USITC Publication 1131 (two volumes) (1981). This report will assist in an accurate review and analysis of experience with the current MFA and provide a basis for developing a position with regard to any subsequent negotiated extension and its likely impact on the textile program.

Data will be provided to show U.S. imports by country, by MFA category, and by fiber and product. The import restraint levels in the bilateral agreements which the United States has entered into under the MFA will be compared with actual imports. In addition, the report will describe the administration and monitoring of restraint levels and modifications in the administration of the textile program that took place since the Commission's last report on the MFA.

The Commission expects to complete its study by April 16, 1985.

Written Submissions

While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Although the Commission is not actively seeking proprietary company data, commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties.

To be ensured of consideration by the Commission, written statements should be received by the close of business on January 16, 1985 All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: August 16, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–22298 Filed 8–21–84; 8:45]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–18; Sub-59X]

The Chesapeake and Ohio Railway Company; Abandonment and Discontinuance of Trackage Rights; in Saginaw County, MI; Exemption

The Chesapeake and Ohio Railway Company (C&O) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*. The line to be abandoned is C&O's Improvement Spur between milepost 0.02 and milepost 1.28, a distance of approximately 1.26 miles, and an 0.86-mile connecting track owned by Grand Trunk Western Railroad Company (GTW), over which C&O has trackage rights used to reach the Improvement Spur, a total distance of 2.12 miles, all in Saginaw County, MI.

C&O has certified (1) that no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line (or a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Michigan has been notified in writing at least 10 days prior to the filing of the notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on September 21, 1984 (unless stayed pending reconsideration). Petitioners to stay the effective date of this exemption must be filed by September 3, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by September 11, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representatives:

Rene J. Gunning, 100 North Charles Street, Suite 2204, Baltimore, MD 21202

Peter J. Shudtz, Terminal Tower, Cleveland, OH 44101

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: August 14, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84–22204 Filed 8–21–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–18; Sub-58X]

The Chesapeake and Ohio Railway Company; Abandonment in Meigs County, OH; Exemption

The Chesapeake and Ohio Railway Company (C&O) has filed a notice for exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*. The line to be abandoned is a portion of C&O's Pomeroy Subdivision between milepost 127.96 at or near Hobson and milepost 132.00 at or near Pomeroy, a distance of 4.04 miles in Meigs County, OH.

C&O has certified (1) that no local or overhead traffic has moved over the line for at least 2 years, and that the line does not handle overhead traffic, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service on the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agencies) in Ohio has been notified in writing at least 10 days prior to the filing of this notice. *See: Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983). Ohio has no objection to the proposed abandonment.

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on September 21, 1984 (unless stayed pending reconsideration). Petitions to

stay the effective date of the exemption must be filed by September 4, 1984, and petitions for reconsideration, including environmental energy, and public use concerns, must be filed by September 11, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Rene J. Gunning, Chessie System Railroads, Suite 2204, 100 North Charles St., Baltimore, MD 21201.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: August 14, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-22205 Filed 8-21-84; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 347; Sub-1]

Coal Rate Guidelines; Nationwide

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Oral Argument.

SUMMARY: In this proceeding, the Commission has proposed maximum rate guidelines for captive coal traffic. The proposal, termed Constrained Market Pricing, establishes four upward constraints on the pricing of captive coal traffic. These are: (1) Revenue adequacy, (2) stand-alone cost, (3) managerial efficiency, and (4) the 15 percent phase-in. Details of the proposed decision are provided in our prior decision decided February 8, 1983 (served February 24, 1983, and published at 48 FR 8362, February 28, 1983). Because of the importance of these guidelines, oral argument will be held on September 18, 1984, in Washington, DC.

DATES: Oral argument will be held at 10:00 a.m. on September 18, 1984. The railroads and shipper/consignee interests will each have up to 90 minutes to present their respective arguments. The law offices of Slover and Loftus will coordinate and allocate time for the shipper/consignee comments and the law offices of Pepper, Hamilton & Sheetz will coordinate and allocate time for the railroad comments. The Commission's Office of the Secretary will coordinate and allocate time for other parties, such as Federal Agencies. Parties wishing to participate shall contact the appropriate coordinator by August 24, 1984.

On September 7, 1984, the coordinators shall provide to the Office of the Secretary an ordered list of persons that will participate in the oral argument. The Commission will issue a schedule of appearances.

ADDRESSES: The oral agrument will be heard in Hearing Room A at the Interstate Commerce Commission Building, 12th and Constitution Avenue, NW., Washington, DC.

If you desire to participate, Please contact:

Slover and Loftus, 1224 Seventeenth St., NW., Washington, DC 20036, (202) 347-7170

or

Pepper, Hamilton & Sheetz, 1777 F. Street, NW., Washington, DC 20006, (202) 842-8191

or

Office of the Secretary, Interstate Commerce Commission, Room 2215, Washington, DC 20423, (202) 275-7428

FOR FURTHER INFORMATION CONTACT: Leslie Selzer, (202) 275-7627.

SUPPLEMENTARY INFORMATION: In this proceeding, the Commission has proposed a Constrained Market Pricing methodology for judging the reasonableness of maximum rates for captive coal traffic. The proposal describing the methodology under consideration was served on February 24, 1983. Comments by more than sixty parties have been filed. Due to the extensive and diverse nature of the comments received and the significance of this proceeding, parties will be given an opportunity to augment their written comments. In holding this oral agrument, the Commission is seeking further clarification and explanation of the issues raised in the written comments. Of particular interest to the Commission are arguments pertaining to the following issues:

1. What role should revenue adequacy play in determining whether a rate is reasonable? (For example: Should a revenue-adequate carrier be prohibited from increasing its rates? How should rate increases be limited when the carrier is not revenue adequate?)

2. Assuming that a railroad has not achieved revenue adequacy, should rate increases be phased in?

3. If rate increases for revenue-inadequate carriers should be phased in, what specific criteria should be used for arriving at the proper pace for phase-in?

4. Since there is general agreement with the concept that a rate is unreasonable if it exceeds the "stand-alone cost" of providing the transportation, should a method for determining stand-alone costs be specified by rule, or should the complainant in each rates case be given an opportunity to prove, by any method it can successfully defend, that the rate exceeds stand-alone costs?

5. How should issues relating to the stand-alone cost concept generally, be resolved, including the proper treatment of land, possible use of discounted cash flow analysis, grouping methodologies, the effect of changes in volume or group composition, and treatment of contract rates?

6. What is the proper means of ensuring that captive shippers are not supporting a rail carrier's operational inefficiencies?

7. Are there additional or alternative methods or factors not otherwise considered by the Commission, that should be used to determine rate reasonableness?

An appropriate period of time at the beginning of the oral argument will be reserved for appearances by public officials who wish to be heard. Please contact the Office of Legislation and Government Affairs, (202) 275-7231.

At the time of arguments, parties may supplement their oral presentations with written remarks.

This notice is issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: August 14, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84-22210 Filed 8-21-84; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388; Sub-16]

Intrastate Rail Rate Authority; Mississippi

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Decision.

SUMMARY: The Commission has granted final certification to the Mississippi Public Service Commission under 49 U.S.C. 11501(b) to regulate intrastate rail transportation for a 5-year period.

DATE: Certification will be effective on September 20, 1984.

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 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: August 10, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84–22209 Filed 8–21–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30457]

San Diego & Imperial Valley Railroad Company, Inc.; Exemption From 49 U.S.C. 10901 and 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts (1) Railtex, Inc. and the San Diego & Imperial Valley Railroad Company, Inc. (Imperial), from the requirements of prior approval under 49 U.S.C. 10901 to conduct operations over the line of railroad of the San Diego & Arizona Eastern Railway Company; (2) Imperial from 49 U.S.C. 11301 to issue 108,000 shares of common stock; and (3) Railtex from 49 U.S.C. 11343 to continue in control of Imperial, subject to labor protective conditions.

DATES: Exemptions effective on August 20, 1984. Petitions to reopen must be filed by September 10, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30457 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: John D. Heffner, Suite 1000, 1250 Eye Street, NW, Washington, DC 20005

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 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: August 9, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84–22208 Filed 8–21–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–19; Sub-79X]

Washington County Railroad Company and the Baltimore and Ohio Railroad Company, Abandonment and Discontinuance of Service in Washington County, MD; Exemption

The Washington County Railroad Company (WC) and the Baltimore and Ohio Railroad Company (B&O), operator of the properties of WC and Western Maryland Railway Company (WM) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights.*[1] The portion of line to be abandoned by WC and the discontinuance of service by the B&O and WM is the Antietam Branch between Valuation Station 130+00 and Valuation Station 154+00, a distance of approximately 0.46 mile, in Washington County, MD.

Applicant has certified (1) that no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line or by a State or local governmental entity acting on behalf of such user regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Maryland has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment or discontinuance of service shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 366 I.C.C. 91 (1979).

The exemption will be effective on (30 days after service), (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by (10 days after the service date), and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by (20 days after the service date), with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: August 10, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84–22207 Filed 8–21–84; 8:45 am]

BILLING CODE 7035–01–M

[1] Service and trackage rights discontinuances were added to the exemption provisions of 49 CFR Part 1152 Subpart F by Ex Parte No. 274 (Sub-No. 8A), *Exemption of Out of Service Lines (Discontinuance of Service and Trackage Rights)* (not printed), served April 20, 1984, to be printed at 1 I.C.C. 2d55. A petition for reconsideration of that decision was filed May 10, 1984, and is pending.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Department policy, 28 CFR 50.7 notice is hereby given that on August 7, 1984, in *United States* v. *Commonwealth of Pennsylvania,* Civil Action Nos. 83–0676 and 84–0366, a consent decree was lodged with the United Stated District Court for the Middle District of Pennsylvania. The complaints filed by the United States alleged violations of the Clean Air Act by defendants due to failure to control air pollutants at their facilities at Slippery Rock University, Phillipsburg State General Hospital, the State Correctional Institution at Rockview, and the Pennsylvania State University. The complaints sought injunctive relief to control these pollutants. The consent decree provides that the defendants undertake installation and operation of necessary air pollution control facilities in accordance with schedules in the decree.

The Department of Justice will receive from a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States*

v. *Commonwealth of Pennsylvania*, D.J. Ref. 90–5–1–554.

The proposed consent decree may be examined at the office of the United States Attorney, 420 Post Office Building, Scranton, Pennsylvania 18501, and at the Region III Office of the Environmental Protection Agency, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.60 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

James M. Spears,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84–22301 Filed 8–21–84; 8:45 am]

BILLING CODE 4410–01–M

NUCLEAR REGULATORY COMMISSION

Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations; Monthly Notice

I. Background

Pursuant to 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 July 24, 1984 (49 FR 29902) through August 13, 1984.

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, Attention: Docketing and Service Branch.

By September 21, 1984, 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 manner, 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 proceedings, 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 fileings 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 Borad 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: June 25, 1984.

Description of amendments request: The amendments would modify the Technical Specifications to change Figure 6.2–2 to reflect two Assistant Plant Managers; one to be responsible for overall plant operations and the other to be responsible for overall plant administration.

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). The example which the licensee states that the proposed amendments fits 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."

We agree with the licensee's analysis. The changes modify Figure 6.2–2, Facility Organization, to reflect the Assistant Plant Manager Plant Operations and the Assistant Plant Manager Plant Support. These managers are also shown as members of the Plant Operations Review Committee. These changes are administrative in nature. In addition, the licensee's organizational change would appear to enhance its operational technical capability. Therefore, the Commission proposes that the changes are a no significant hazards consideration.

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, DC 20036.

NRC Branch Chief: Steven A. Varga.

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: July 6, 1984.

Description of amendments request: The amendments would modify the Technical Specifications to remove the listing of snubbers in accordance with Commission direction contained in Generic Letter 84–13. Our requirements for snubber operability and reporting of failures is not changed. Other minor administrative changes and typographical corrections to the specifications are proposed. The changes include: (1) Specification 4.4.6.5.c and Table 4.4–2 are changed to reflect 10 CFR 50.73 reporting requirements; (2) Specification 3.6.4.4 and 4.6.4.4 had been erroneously shown as 3.6.4.5 and 4.6.4.5 (typographical correction); (3) Specification 4.7.4.b was separated for clarification to show a new specification 4.7.4.c for the inspection of buried piping which does not require a plant shutdown; (4) Table 3.7–5 (Unit 2 only) is renumbered and three other typographical corrections were made in the Table; and (5) Specifications 6.5.2.8.n and 6.5.3.1 were changed to eliminate a misinterpretation of the administrative duties of Manager—Safety Audit and Engineering Review. This change is an administrative clarification.

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). The example which the proposed amendments fits 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.

We agree with the licensee's analysis since the changes identified above are minor administrative changes, typographical corrections or clarifications in intent of the Technical Specifications. Therefore, the Commission proposes that these changes are not 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, DC 20036.

NRC Branch Chief: Steven A. Varga.

Arkansas Power and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: April 13, 1984, Supplemented April 26, 1984.

Description of amendment request: This submittal is a total revision and supersedes the request for amendment

dated September 30, 1983, which was noticed on December 21, 1983 (48 FR 56499). 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.

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 of Appendix I, 10 CFR Part 50, required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of radiological material to unrestricted areas during normal operation as low as is reasonable 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 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 reasonable achievable".

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, D.C. 20036.

NRC Branch Chief: George W. Rivenbark, Acting.

Arkansas Power and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: June 15, 1984.

Description of amendment request: The amendment would revise the testing requirements for hydraulic shock suppressors (snubbers) and add new requirements for mechanical snubber operability and testing to ensure that these devices are operable. Snubbers are attached to piping and equipment to provide restraint during a seismic or other event which initiates dynamic loads, yet allow slow motion such as that produced by thermal expansion. The changes were proposed 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 acceptance criteria for visual inspection and functional testing, adding a formula for the selection of representaitve sample sizes; revising the snubber listing in Table 3.16–1; adding a listing of mechanical snubbers, table 3.16–2; adding a testing requirement for snubbers prior to installation; and adding a snubber seal replacement program.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the 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 actions involving no significant hazards considerations is a change that constitutes additional limitation, restriction or control not presently included in the Technical Specifications. The amendment request fits this example. The proposed changes revise sections of the Technical Specifications related to hydraulic snubbers by including additional functional testing, and incorporating both operability and testing requirements for mechanical snubbers. The listing of snubbers (Tables 3.16–1 and 3.16–2) would add hydraulic and mechanical snubbers which are not currently included.

Based upon the above, the Commission proposes to determine that the amendment request involves no significant hazards considerations.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, D.C. 20036.

NRC Branch Chief: George W. Rivenbark, Acting.

Arkansas Power and Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: April 13 and April 26, 1984.

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 provides 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 opertion 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 not significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 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 constitutes 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 reasonable 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 reasonable achievable".

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street NW., Suite 700, Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Arkansas Power and Light Company, Docket No. 50–368, Arkansas Nuclear One Unit No. 2, Pope County, Arkansas

Date of amendment request: May 19, 1984.

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 letter dated November 20, 1981, which requested the licensee 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, the inclusion of a formula for the selection of representative sample sizes, the clarifying of 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 these standards by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards include changes that are purely administrative or 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 hazard.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street NW., Suite 700, Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: June 20, 1984.

Description of amendment request: The proposed amendment would change the Technical Specifications to conform with requirements of 10 CFR 50.54(m)(2) relative to licensed operator staffing of the plant. Specifically, Table 6.2–1 would be changed to require two licensed Senior Reactor Operators (SROs) when the plant is operating. Section 6.2.B.2 would be changed to state: "when the unit is in an operational mode other than cold shutdown or refueling, a person holding a Senior Reactor Operator license shall be present in the control room at all times. In addition to this Senior Operator, a Licensed Operator or Senior Operator shall be present at the controls when fuel is in the reactor."

The licensee also proposes to add a footnote to Table 6.2–1 which would indicate that a Shift Technical Advisor (STA) with an SRO license may serve simultaneously as STA and SRO.

In addition, the amendment would eliminate a footnote to Table 6.2–1 which describes the education, training and experience required of an STA on the basis that stating such personnel qualifications is inconsistent with the purpose of technical specifications. The licensee states further that including these qualifications in the technical specifications is unnecessary since they are stated in the Commission's NUREG–0737, "Clarification of TMI Action Plan Requirements," and in Boston Edison Company's STA job description.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning application of the standards for determining whether license amendments involve significant hazards by providing certain examples (48 FR 14870). One example of an amendment which is considered not likely to involve significant hazards considerations 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."

The proposed changes to conform with 10 CFR 50.54(m)(2) would provide an additional source of SRO expertise on shift when needed and would not be likely to result in any other changes to facility operations. Those changes are therefore consistent with example (vii).

The proposed changes in the footnotes to Table 6.2–1 would not eliminate either the STA or SRO functions required by the present Technical Specifications and they would not modify the qualifications required of an STA. On that basis, the staff has reached a preliminary conclusion that these changes would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of an accident of a type different from any evaluated previously, or (3) involve a significant reduction in a margin of safety.

Having reached the above conclusions, the staff proposes to determine that the application for amendment does not involve a significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W.S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NCR Branch Chief: Domenic B. Vassallo.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: July 12, 1984.

Description of amendment request: The amendment would delete license condition 3.D which requires that "the valves in the equalizer piping between the recirculation loops shall be closed at all times during reactor operation." This requirement is obsolete since the equalizer valves have been removed and the remaining equalizer pipes have been capped.

Basis for proposed no significant hazards consideration determination: The present license condition prohibits either valve in the equalizer line from being opened during reactor operation. The equalizer line is not used during standby or shutdown. Thus, the only need for the equalizer valves since condition 3.D became effective has been to isolate the equalizer line. Cutting and capping the equalizer pipes accomplishes the same purpose and the valves were removed because they were

no longer connected. Hence, the deletion of license condition 3.D pertaining to these valves would have no effect on plant safety.

Based on this evaluation, the staff finds that the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of an accident of a type different from any evaluated previously, or (3) involve a significant reduction in a margin of safety. The staff, therefore, has made a preliminary determination that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W.S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: July 30, 1984.

Description of amendment request: The proposed amendment would change the Technical Specifications concerning thermal and pressurization limits for the reactor pressure vessel in accordance with the requirements of revised 10 CFR Part 50 Appendices G and H. A table would be added to provide the schedule for withdrawal of material surveillance capsules, and the thermal and pressurization curves on Figures 3.6.1 and 3.6.2 would be adjusted to reflect the RT_{NDT} shift determined from actual testing of the first capsule removed.

While making the above changes, the licensee would clarify the figures by showing the limits for hydro and leak tests on revised Figure 3.6.1 and the limits for subcritical and critical heatup and cooldown on revised Figure 3.6.2. These revised figures would eliminate the need for a requirement now in Specification 3.6.A.2 that "the curves of Figure 3.6.1 shall be adjusted upward by an amount as shown on Figure 3.6.2" because the pressurization temperature adjustment for neutron exposure would be shown directly on the curves.

The proposed amendment would modify Specification 3.6.A.2 to require the operator to take certain actions if the thermal and pressurization limits, which were established to prevent brittle fracture of the reactor vessel, are not met. Since the existing Technical Specifications do not specify remedial action when the limits are not met, the operator presently is required to shut down the reactor, per 10 CFR 50.36(c)(2). In lieu of immediate shut down, the licensee proposes a restriction on the operator to prevent shut down in a manner which might increase the possibility of brittle fracture. The amendment would require the operator to stabilize reactor conditions at temperatures and pressures within the Technical Specification limits. When a reactor is thus stabilized, the possibility of brittle fracture of the reactor vessel is not increased. Stabilizing the vessel in this manner allows additional time for the licensee to evaluate whether reactor vessel integrity was affected in order to assure that the reactor can be operated within the safety margins of the regulations.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning application of the standards for determining whether license amendments involve significant hazards considerations by providing certain examples (48 FR 14870). Three such examples are: "(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: For example, a change resulting from the application of a small refinement of a previously used calculational model or design method; 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."

The staff has reviewed the proposed amendment and finds that:

1. The addition of a new table providing information and adjusting the thermal and pressurization curves, as required by a revision of the regulations, is similar to the Commission's example (vii).

2. Revising the format of Figures 3.6.1 and 3.6.2 and eliminating the related phrase in Specification 3.6.A.2 conforms with example (vi).

3. The restriction proposed for addition to specification 3.6.A.2, is similar to example (ii).

Having found that the proposed changes in the Technical Specifications are in conformance with the Commission's guidance, the staff has made a proposed determination that the amendment would not involve a significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W.S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth Massachusetts

Date of amendment request: August 9, 1984.

Description of amendment request: The proposed amendment would change Table 3.2.F of the Technical Specifications (TSs) by incorporating limiting conditions for operation (LCOs) of instrumentation added in accordance with Regulatory Guide 1.97. This new instrumentation measures bulk and local temperatures in the torus suppression pool. Additions to Tables 3.2.F and 4.2.F would also be made to provide the limiting conditions for operation of and calibration frequencies for other new instruments for monitoring certain parameters in a post-accident situation. These instruments have been installed in accordance with the TMI Action Plan (NUREG–0660). Footnotes to the tables would be modified to clarify their intent and to identify their applicability to the various parameters. A footnote, applicable to the new parameters, would be added to Table 3.2.F which states: "With less than the minimum number of operable instrument channels, restore the inoperable channels to operable status within 7 days or prepare and submit a special report to the Regional Director of Inspection and Enforcement within 14 days of the event outlining the action taken, the cause of the inoperability and the plans and schedule for restoring the channels to operable status."

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 (48 FR 14870). One of the examples of an amendment which is considered not likely to involve a significant 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."

The additional surveillance requirements imposed by this amendment are similar to the above example. The staff has, therefore, made an initial determination that this amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W.S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: May 10, 1984, as supplemented June 18, 1984.

Description of amendment request: The proposed amendments would revise the Technical Specification (TS) 4.4.3.1.b and TS 4.4.3.2.a to incorporate changes in instrument tag numbers. The integrated drywell floor equipment drain leakage detection system has been replaced on Brunswick-1 and is being replaced on Brunswick-2 with a system consisting of two separate components. Separate instrument numbers are needed for each component, which results in a new instrument number to be added to TS 4.4.3.1.b and TS 4.4.3.2.a. In addition, the instrument number "G16–FY–K601" is incorrect and should actually be "G16–FY–K600" in TS 4.4.3.1.b and TS 4.4.3.2.a. The balance of the changes shown are editorial revisions to make nomenclature consistent with the GE/BWR–4 Standard Technical Specifications.

In addition, the proposed amendments would correct three typographical errors. TS 4.6.6.1.c is revised to refer to Regulatory Guide 1.52, instead of Regulatory Guide 1.53, in relation to obtaining carbon samples from the Standby Gas Treatment System charcoal absorbers. TS 4.1.3.7.1.b is corrected to refer to TS 4.1.3.1.2 for surveillance requirements, not TS 4.1.3.1. The table number reference of Table 3.3.4–2 (page 3/4 3–42) is changed from the incorrect table number of 3.3.4–1 (applies only to Brunswick-1 TS). Administrative changes are also made in TS 3/4.6.6 to make it more closely conform to the BG/BWR–4 Standard Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards considerations by providing certain examples published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of an amendment likely to involve no significant hazards consideration relates to a change (i) which is purely administrative in nature; for example, a correction of an error, or a change in nomenclature. Since the proposed revision involves only correction of typographical errors, changes in instrument numbers and changes in nomenclature, CP&L determined that it falls under the criteria of example (i) and as such involves no significant hazards consideration.

The Commission staff has reviewed the amendment request and the CP&L determination and finds that the amendment request does fall within the criteria of the Commission's example (i) of change which is purely administrative in nature and which is an action not likely to involve a significant hazards consideration. Therefore, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: June 6, 1984.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) by clarifying the definitions pertaining to the Operational Conditions located in Table 1.2 of the Brunswick Steam Electric Plant, Units 1 and 2 TSs. Footnotes corresponding to those provided in NUREG–0123 General Electric BWR–4 Standard Tehnical Specifications (STS), are added to more clearly define the Operational Conditions and the allowed use of the Reactor Mode Switch.

There are presently three footnotes to Table 1.2. Two of those footnotes were combined into one and the third was rewritten for clarification. It is now the same as the STS. Three new footnotes are added which provide for reactor mode switch (RMS) placement while in the Run or Startup/Hot Standby position, the Refuel position while a single rod is being removed, and the Refuel position while a single rod is being uncoupled.

The footnotes added in this revision allow for temporary placement of the Reactor Mode Switch in the Run or Startup/Hot Standby positions to test the switch interlock function or placement of the RMS in the refuel position when work on a single control rod is being performed. In each instance, measures required to ensure safety which are consistent with guidance provided in the STS are included.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for determining whether a requested amendment involves or does not involve a significant hazards consideration by providing examples which were published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of an amendment 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. The proposed amendment is very similar to this example because it may involve a minor relaxation in requirements but the proposed amendment is entirely consistent with NUREG–0123, Revision 3, "Standard Technical Specifications for General Electric Boiling Water Reactors," which is equivalent to the Standard Review Plan for technical specifications. Based on the foregoing, the NRC staff proposes to determined that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: June 13, 1984.

Description of amendment request: The proposed change to the Technical Specifications (TS) would change the requirements for minimum water level in TS 3/4.9.9, Water Level—Spent Fuel Storage Pool, from 22 feet 3 inches to 20 feet 6 inches.

On December 15, 1983 the NRC issued a Safety Evaluation (SE) which authorizes increasing the storage capacity for boiling water reactor (BWR) fuel in the spent fuel pools for the Brunswick Steam Electric Plant, Units 1 and 2. This would be achieved by replacing some of the existing spent fule storage racks with new high density storage racks. The physical construction of these new racks will encroach on the present Technical Specification limits concerning minimum water level.

The present Brunswick Steam Electric Plant, Units 1 and 2 Technical Specification 3.9.9 states, "At least 22 feet, 3 inches of water shall be maintained over the top of active irradiated fuel assemblies seated in the spent fuel storage racks." The basis for this level is to ensure that sufficient water depth is available to remove some of the activated iodine released following a postulated fuel handling accident. The numerical difference between 22 feet 3 inches and 20 feet 6 inches is summarized below:

1. Difference in evaluation of fuel support plates between the old spent fuel racks and the new spent fuel racks, 10 inches; 2. Difference in reference points between the top of the irradiated fuel assemblies and the top of the irradiated fuel rods, 10⅛ inches; 3. Difference applied to obtain an even number of inches, ⅞ inches; Total, 21 inches.

It should be noted that the proposed change results in a reduction in water height above the active fuel of 10⅞ inches. The remaining 10⅛ inches is the result of change in reference points to correlate with the reference point called out in Regulatory Guide (RG) 1.25.

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 actions involving no 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 examples, a change resulting from the application of a small refinement of a previously used calculational model or design method."

Regulatory Guide (RG) 1.25, "Assumptions used for Evaluating the Potential Radiological Consequences of a Fuel Handling Accident in the Fuel Handling and Storage Facility for Boiling and Pressurized Water Reactors," provides guidance for assessing the risk to the public health and safety resulting from a fuel handling accident. Using the assumptions listed in RG 1.25 and some additional conservatisms, CP&L has performed an analysis which shows that the decrease in water level over the spent fuel racks increases the 0–2 hour thyroid dose at the exclusion distance from 0.00631 Rem to 0.00741 Rem and the 0–30 day thyroid dose at the low population zone from 0.0101 Rem to 0.0119 Rem (compared to the guidelines of 10 CFR Part 100 of 300 Rem). Therefore the decrease in water level over the racks does not significantly increase the radiological doses caused by a potential refueling accident and these same doses are well within the guidelines provided in 10 CFR Part 100.

Reducing the minimum water level over the top of the active irradiated fuel assemblies seated in the spent fuel storage racks could reduce a safety margin. However, the results of the change are well within the criteria specified in the Standard Review Plan, Section 15. 7. 4 and 10 CFR Part 100, guidelines.

The staff has reviewed the above and finds that the proposed change is within the scope of example (vi). Therefore, based on the above discussion, the NRC staff proposes to determine that the change would not involve a significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: June 26, 1984.

Description of amendment request: The proposed amendment would revise Section 5.3.2 of the Technical Specifications (TSs) to reflect the use of hybrid design hafnium control rod assemblies. These assemblies will be used to replace standard control rod assemblies during the current Unit 2 refueling outage and will be used as replacements during upcoming Unit 1 refuelings.

The changes made to Section 5.3.2 of the Brunswick-1 and Brunswick-2 TSs reflect the use of hybrid design hafnium control rod assemblies to replace existing control rod assemblies. The Hybrid I Control Rod (HICR) Assembly has been designed by General Electric (GE) to be used as direct replacement for the present control rod assemblies. The original control rods contained only boron carbide, B_4C, as the absorbing material. The new assembly design uses B_4C absorber cubes and three solid hafnium rods in the outside edge of each wing. This new design will lengthen control rod lifetime.

The description of these control rods was submitted to the NRC by General Electric in topical report NEDE–22290. Based on the staff's evaluation of the information provided in (a) NEDE–22290, (b) a meeting with GE representatives, and (c) responses to NRC staff questions, the staff concluded that there is reasonable assurance that the substitution of Type I HICRs for other approved GE control blades will not result in unacceptable hazards to the public and should, in fact, result in improved control blade performance and a positive contribution to reactor safety. Therefore, NEDE–22290, as amended to incorporate this safety evaluation, is approved as a referential document for the GE Type I HICR by NRC letter dated August 22, 1983.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (19 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously

evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the proposed amendment and the related topical report. The licensee concludes that the proposed amendment does not involve a significant hazards consideration and based on the following discussion the staff concurs with this conclusion.

The materials evaluation, which includes the chemical, physical, mechanical and irradiation properties, indicates that data and experience demonstrate acceptable corrosion resistance in high temperature water and steam exist for hafnium in BWR control rods. The physical properties expected to be germane to control applications indicate acceptable performance in the BWR environment.

The mechanical evaluation indicates that the thermal expansion and irradiation growth of hafnium will not interfere with handle and velocity limiter.

A nuclear evaluation indicates that the HICR will have no significant impact on core and fuel operation when used as a replacement for the current B_4C control rod assemblies. Experiments provide critical benchmarks for calculations and illustrate a minimum impact on local power and flux distribtutions with all hafnium rods. An even smaller impact is expected for HICR which is a mixture of hafnium and B_4C. Therefore, the HICR can be used without change in the current lattics physics treatment of control rod assemblies and current design procedures.

Thermal-hydraulic evaluation shows that the maximum temperature of the new rods is not significantly different from the currently used control rod assemblies.

An accident evaluation shows that the HICR weight and envelope are identical to the current assemblies. The mechanical and nuclear properties of the HICR do not differ from the current assemblies in any measures that might be significant during normal or accident conditions.

The HICR is, except for minor differences, mechanically identical to the BWR assemblies for which many reactor years of safe operating experience are available. Accordingly the mechanical safety analysis for the HICR is enveloped by the mechanical safety analyses for the current assemblies.

The reactor core response for the HICR design has been evaluated against the current control rod design for comparison with linear heat generation, minimum critical power ratio and maximum average planar heat generation limits. The HICR weight and rod worth are the same as the current control rod design, therefore the scram speed and scram reactivity are the same and the above limits are not affected by the change.

Based on the above, the staff has determind that: (1) The probability of occurrence or the consequences of an accident would not be increased above those analyzed in the Final Safety Analysis Report (FSAR) because the weight and envelope of the HICR are identical to those of the currently used assemblies, and the nuclear and mechanical properties of the HICR do not differ from currently used assemblies is a significant way; (2) the possibility of an accident different from those analyzed in the FSAR would not result from these changes because, in addition to the above, these systems would not be operated in a manner new or different from that described in the FSAR; and (3) the margin of safety as analyzed in Technical Specifications would not be reduced because the proposed amendment involves no significant relaxation of the criteria used to establish safety limits, no significant relaxation of the bases for limiting safety system settings, and no significant relaxation in limiting conditions for operation. Therefore, the staff finds 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; (2) create the possibility of a new or diferent kind of accident; or (3) involve a significant reduction in a margin of safety. Accordingly, the Commission proposes to determine that the proposed changes to the TS involve no significant hazards considerations.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket No. 50–324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of application for amenmdent: June 26, 1984.

Description of amendment request: The proposed amendment would change the Technical Specifications (TSs) to incorporate revised minimum critical power ratio (MCPR) values, revised maximum average planar linear heat generation rate (MAPLHGR) values for the new BP8DRB299 fuel type, and inclusion of a footnote to TS 3.3.6.2, End-of-Cycle Recirculation Pump Trip (EOC-RPT) System Instrumentation to reflect the manual bypassing of the EOC-RPT system during Cycle 6 operation for Unit 2. In addition, TX 5.3.1 is being revised to reflect that reload fuel has a maximum enrichment of 2.99 weight percent U-235. The Reload Licenisng Submittal incorporates the results of analyses supporting the use of full-arc admission without Recirculation Pump Trip (EOC-RPT).

This reload is based on the same General Electric generic report used in the last Unit 1 reload submittal. This report has been reviewed and approved by the staff. The fuel enrichment is identical to that for Unit 1 during the last reload for which the Commission issued Amendment No. 56 on June 28, 1983 and Amendment No. 71 on June 5, 1984.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards considerations by providing certain examples published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of an amendment which will likely be found to involve no significant hazards consideration is a change resulting from a nuclear reactor core reloading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility are involved. Based on the above discussion, the staff finds that the reload is supported by adequate submittals which the staff has reviewed and that the proposed changes revise the Brunswick Steam Electric Plant, Unit 2 Technical Specifications to reflect the results of the reload analysis and do not involve fuel assemblies significantly different from those previously reviewed by the NRC. Therefore, the staff finds that the proposed changes fall within the Commission's example (iii) of an action not likely to involve a significant hazards consideration.

Accordingly, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic V. Vassallo.

Carolina Power & Light Company, Docket No. 50–324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of application for amendment: June 29, 1984.

Description of amendment request: The proposed amendment to the Technical Specifications (TSs) would revise TS Tables 3.3.5.3–1 and 4.3.5.3–1 (Accident Monitoring Instrumentation) and Section 3/4.6.2.1 (Suppression Chamber) to incorporate the inclusion of a suppression pool temperature monitoring system (SPTMS) to meet the acceptance criteria of NUREG-0661, Appendix A. In addition, TS Sections 3/4.6.2.1 and 3/4.6.4.1 (Drywell-Suppression Chamber Vacuum Breakers) have been modified to more closely conform to the guidance of the BWR–4 Standard Technical Specifications (STS), NUREG–0123.

The requested TS change reflects the new suppression pool temperature monitoring system being installed on Brunswick–2 during the current refueling outage. This system consists of 24 Class 1E resistance temperature detectors (RTDs) installed about the torus at designated locations to provide accurate measurement of the average pool water temperature. These new RTDs are split into two totally independent channels consisting of 12 RTDs per channel. All new RTDs are Class 1E qualified, seismically analyzed, and the two suppression pool temperature monitoring divisions meet the acceptance criteria of Regulatory Guide 1.97, NUREG–0661, and NUREG–0783. The new suppression pool temperature monitoring system also serves as the accident monitoring instrumentation for suppression chamber water temperature. Tables 3.3.5.3–1 and 4.3.5.3–1 have been changed to reflect the new instrument numbers. In addition, a footnote has been added in Table 3.3.5.3–1 to ensure that the dual function of the system is apparent to operations personnel.

In addition, TS Section 3/4.6.2 has been rewritten to make the section more closely conform to the format of the STS. A limiting Condition for Operation (LCO) and new action items have been added to ensure appropriate requirements exist for various plant conditions. The LCO and Surveillance Requirements pertaining to suppression chamber leakage have been moved from Section 3/4.6.4 to Section 3/4.6.2, consistent with guidance of the STS.

The above proposed modifications are submitted in response to the staff request dated March 19, 1984 which included a Safety Evaluation of the Mark I Long Term Containment Program for the Brunswick facilities. In that Safety Evaluation the staff concluded that containment modifications made have restored the original design safety margin to the Mark I Containment at the Brunswick plant.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards consideration by providing certain examples published in the **Federal Register** on April 6, 1983 (48 FR 14870). Examples of an amendment likely to involve no significant hazards consideration include: (i) A purely administrative change; and (ii) a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The new suppression pool temperature monitoring system/accident monitoring instrumentation is subject to LCOs, actions, and surveillances, specified in Section 3/4.6.2 during normal operation, which were not previously required and, therefore, constitute additional limitations. The staff has reviewed the proposed change as discussed above and has concluded that this proposed change falls within the scope of example (ii). The reformatting of Sections 3/4.6.2 and 3/4.6.4 and the changing of instrument numbers in Tables 3.3.5.3–1 and 4.3.5.3–1 represent administrative changes, which fall within the scope of example (i). Therefore, the staff proposes to determine that the proposed amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington, South Carolina

Date of amendment request: November 10, 1980 as supplemented February 7, and October 25, 1983 and January 13, February 7 and May 9, 1984.

Description of amendment request: The request for amendment was initially noticed on August 23, 1983 (48 FR 38393). This notice includes requested changes in subsequent submittals dated October 25 and January 13, February 7 and May 9, 1984. The amendment would revise and update those Technical Specification requirements dealing with radiological effluents.

The application was submitted in response to an NRC request to incorporate present staff positions to ensure compliance with 10 CFR 50, Appendix I.

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. The additional proposed changes add requirements to ensure compliance with the regulations in accordance with more recent staff positions. Therefore, the staff proposes to determine that the application does not involve a siginficant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Carolina Power and Light Company, Docket No. 50–261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington, South Carolina

Date of amendment request: May 7, 1984.

Description of amendment request: This amendment would revise the Technical Specifications to incorporate limiting conditions for operation on the use of backfeeding through the main and unit auxiliary transformers.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards considerations by providing certain examples published in the **Federal Register** on April 6, 1983 (48 FR 14864). One of the examples of an amendment which will likely be found to involve no siginficant hazards considerations is a change that constitutes an additional limitation, restriction, or control not presently included in the TS; example (ii).

The amendment request is similar to example (ii) because it constitutes additional limitation not presently included in the Technical Specifications.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: May 10, 1984, as revised June 20, 1984.

Description of amendment request: Currently, Consumers Power Company has a byproduct material license (10 CFR 30 license) and a facility operating license (10 CFR 50 license) for Big Rock Point. The proposed amendment would incorporate the Big Rock Point Byproduct Material License into the Big Rock Point Facility Operating License.

The proposed amendment would also institute sealed source leak test requirements in the Big Rock Point Technical Specifications. The plant Technical Specifications do not currently include such tests.

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, April 6, 1984). One of the examples (i) of actions not likely to involve a significant hazards consideration relates to a purely administrative change to the Technical Specifications. The incorporation of the existing separate byproduct material license into the facility operating license is a purely administrative change. The NRC currently incorporates the byproduct license in the facility operating license for new nuclear power plants. Also, the NRC has encouraged the byproduct license incorporation for operating nuclear power plants.

Another example (ii) of actions not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The addition of the proposed sealed source leak test requirements to the Technical Specifications constitutes such an additional control.

Therefore, the staff proposes to determine that the requested action would involve a no significant hazards consideration determination in that it (1) does not involve a significant increase in the probability or consequences of a previously evaluated accident, (2) does not create the possibility of a new or different kind of accident from an accident previously evaluated, and (3) does not involve a significant reduction in a margin of safety.

Local Public Document Room Location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: Walter A. Paulson, Acting Chief.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of Amendment request: December 13, 1983.

Description of amendment request: The proposed amendment would approve changes to the technical specifications to add limiting conditions for operation and surveillance requirements for primary coolant leakage detection systems in accordance with Section 4.15.2 of NUREG0820, Integrated Plant Safety Assessment for the Palisades Plant, prepared under the Systematic Evaluation Program.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of action not likely to involve a significant hazards consideration relates to a change that consititues an additional limitation, restriction, or control not presently included in the Technical Specifications. The changes proposed in the application for amendment are encompassed by this example since the requested action would result in additional limitations. The NRC staff, therefore, proposes to determine that the requested action would involve a no significant hazards consideration determination in that it (1) does not involve a significant increase in the probability or consequences of a previously evaluated accident; (2) does not create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) does not involve a significant reduction in a margin of safety.

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: Walter A. Paulson, Acting Chief.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of Amendment request: June 13, 1984.

Description of amendment request: The proposed amendment would approve changes to the technical specifications (1) to add limiting conditions for operation to require the containment purge and ventilation isolation valves to be electrically locked closed whenever the reactor is in a Hot Shutdown, Hot Standby, or Power Operation condition, and (2) add surveillance requirements to periodically check that these valves are closed and to periodically perform leak rate tests of the valves.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of action not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The changes proposed in the application for amendment are encompassed by this example since the requested action would result in additional limitations. The NRC staff, therefore, proposes to determine that the requested action would involve a no significant hazards consideration determination in that it (1) does not involve a significant increase in the probability or consequences of a previously evaluated accident; (2) does not create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) does not involve a significant reduction in a margin of safety.

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: Walter A. Paulson, Acting Chief.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of Amendment request: July 9, 1984.

Description of amendment request: The requested Technical Specification change pertains to the implementation of a post-accident sampling program. The proposed change is consistent with the requirements of NUREG–0737 TMI Action Plan Item II.B.3 and the guidance given in Generic Letter 83–37, dated November 1, 1983.

Basis for proposed no significant hazards consideration determination: The proposed license amendment would consititute additional limitation, restriction, or control not presently included in the Technical Specifications. The proposed amendment, therefore, fits example (ii) of the types of amendments that are considered not likely to involve significant hazards considerations as provided in Commission guidance published in the Federal Register on April 6, 1983 (48 FR 14870). On this basis, the NRC staff proposes to determine that the requested action would involve a no significant hazards consideration determination in that it (1) does not involve a significant increase in the probability or consequences of a previously evaluated accident; (2) does not create the possibility of a new or different kind of accident from an accident previously evaluated; and (3) does not involve a significant reduction in a margin of safety.

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: Walter A. Paulson, Acting Chief.

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: April 30, 1984.

Brief description of amendment: The amendments would authorize proposed changes to the Technical Specifications (TSs) by revising TSs 3.10.6 and 6.6.2.1 to incorporate monitoring and control limits of hydrogen concentration in the Waste Gas Holdup Tanks and revise the existing Reportable Occurrence TSs to reflect the current regulatory requirements.

TS 3.10.6 and Item 13 of Table 4.1–3 (Minimum Sampling Frequency and Analysis Program) are being revised to document existing administrative control limits and sampling frequency for hydrogen concentration in the Waste Gas Holdup Tanks. These proposed amendments are being submitted in reponse to a January 16, 1984, NRC Safety Evaluation which discussed the present Oconee Nuclear Station waste gas system operation and existing program and found it acceptable pending (1) completion of waste gas studies associated with the issue of explosive gas limitations and monitoring system and (2) receipt of proposed TSs addressing this issue.

In response to Generic Letter No. 83–43, revisions to TS 6.6.2.1 are being proposed to reflect changes in the Commission's regulations on licensee reportable events.

Basis for proposed no significant hazards consideration determination: Duke Power Company's Submittal of April 30, 1984, included a discussion of the proposed action with respect to the no significant hazards consideration standards.

The Commission has provided, at 48 FR 14870, guidance concerning the application of these standards by providing certain examples. The proposed amendment of the TSs concerning Waste Gas Holdup Tank hydrogen concentration monitoring and limitations has been determined to be a change that constitutes additional limitations and controls not presently included in the TSs. Example (ii) of the types of amendments considered not likely to involve significant hazards considerations is applicable to this portion of the amendment request. This specific example involves amendment requests that are considered to be a change that constitutes an additional limitation, restriction, or control not presently included in the TSs. The staff has determined, based on the consideration that this portion of the requested amendment constitutes additional limitations or controls not presently included in the TSs, that the revision does not involve a significant increase in the probability or consequences of accidents previously considered, nor creates the possibility of a new or different kind of accident, and will not involve a significant decrease in a safety margin.

The proposed TS amendment concerning Reportable Events has been determined to be an administrative change. These changes to the Administrative Controls Section of the TSs will reflect the current regulations governing Licensee Event Reports as required by the Commission. Example (vii) of the types of amendments considered not likely to involve significant hazards considerations is applicable to this portion of the amendment request. This specific example involves changes to make a license conform to changes in the Commission's regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulation.

The staff has determined, based on the consideration of this portion of the requested amendment, that the requested changes fall within example (vii), that the revision does not involve a significant increase in the probability or consequences of accidents previously considered, nor creates the possibility of a new or defferent kind of accident, and will not involve a significant decrease in a safety margin.

Therefore, the Commission proposes to determine that the application does not involve a significant hazards consideration since it appears that the standards of 10 CFR 50.92 are met.

Local Public Document Room Location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Attorney for Licensee: J. Michael McGarry, III, Bishop Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: June 25, 1984.

Description of amendment request: This is an application for an amendment to Operating License DPR–66, revising the schedule of the Containment Integrated Leak Rate Test (CILRT).

Currently, the third type A CILRT is scheduled for the fifth refueling outage (47 months following the second CILRT). However, the 10-year inservice inspection (ISI), previously also scheduled for the fifth refueling outage, has recently been rescheduled for the sixth refueling outage. (This rescheduling has been described in detail in a letter, S. A. Varga of NRC to J. J. Carey of Duquesne Light Company, dated May 21, 1984.) Therefore, the third CILRT cannot be performed during the shutdown for the 10-year inservice inspection as required by the present Technical Specification requirements and 10 CFR 50, Appendix J, Section J.III.D.1(a).

The licensee requested an exemption form the subject regulations and a change to the Beaver Valley Unit 1 Technical Specifications such that the

CILRT schedule will be detached from the ISI schedule, but the CILRT will be performed at a frequency of once every 40±10 months. Only the amendment request is the subject of this Notice.

Basis for proposed no significant hazards consideration determination: The proposed amendment affects the CILRT schedule only to the extent that the CILRT will no longer need to be coordinated with ISI. No hardware change or procedural change is involved. Therefore, the probability of an occurrence or the consequence of an accident or malfunction of equipment important to safety is not increased, and no new accident or malfunction of a different type from those previously evaluated is created. Since the requested amendment will not change the frequency, the nature or the acceptance criteria of the CILRT, there is no reduction in the margin of safety.

Therefore, on the basis that the answers to these standards are all negative, the staff proposes to characterize the requested amendment as involving no significant hazards consideration.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A Varga.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendments request: June 15, 1984.

Description of amendments request: These amendments would revise and add new requirements to the plant Technical Specifications for items required by NUREG–0737, Clarification of TMI Action Plan Requirements, for implementation after December 31, 1981. The proposed amendments include: (1) Modified Table of Contents to add the new sections; (2) definition for the Reactor Vessel Level Monitoring System; (3) Limiting Condition for Operation for the Reactor Coolant System (RCS) Venting System; (4) instrumentation requirements are modified to reflect post-TMI accident monitoring instrumentation; (5) additional requirements and update for the Auxiliary Feedwater System; and (6) the basis and surveillance requirements for the RCS Venting Systems have been added.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether amendments involve no significant hazards considerations by providing certain examples (48 FR 14870). One of these examples 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. The proposed amendments are in response to Generic Letter 83–37, dated November 1, 1983, which requested that all PWR licensees review their Technical Specifications to verify they were consistent with the guidelines provided or request amendments as necessary. Since the proposed amendments add requirements or conditions in accordance with staff positions to ensure compliance with the regulations, these proposed changes fall within the above example (ii) of a change not likely to involve significant hazards consideration.

The staff proposes to determine that the application does not involve a significant hazards consideration since it does not (1) involve a significant increase in the probability or consequences of a accident previously evaluated; or (2) create the possibility of a new of different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety and the proposed change falls within the Commission's example (ii) of actions not likely to involve significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199

Attorney for licensee: Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, NW., Suite 1224, Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: January 5, 1983, as revised June 13, 1984 (Revision 1).

Description of amendment request: This proposed amendment would change the Technical Specifications (TSs) to specify post-accident monitoring instrumentation to measure High-Range Noble Gas Effluent and containment parameters (High Range Radiation, Pressure, Water Level and Hydrogen). The TSs would specify the required number of instrument channels, minimum number of channels, and ACTIONS to be followed if channels are not available. The TSs would also specify surveillance requirements for the instrumentation and make administrative changes. The administrative change in Section 3.5.5.2 is a correction regarding local flow indication in the emergency feedwater system because the non-nuclear instrumentation is not used for this purpose. The administrative change in Table 4.1–1 clarifies when surveillance of radiation monitoring is required because the existing wording could be misinterpreted. The other administrative changes are editorial.

This amendment request was initially noticed in the **Federal Register** on February 24, 1984 (49 FR 7038). The initial amendment request is still effective and Revision 1 incorporates additional ACTION statements to cover unavailability of instrumentation, as well as more frequent surveillance than specified in the initial amendment request.

Basis for proposed no significant hazards consideration determination: As stated in the initial notice, the initial amendment request adds additional limitation, restriction or control not presently included in the TSs. Revision 1 to the amendment request further adds additional limitation, restriction or control and therefore is, again, in the same category as Example (ii), 48 FR 14870, of the list of actions that are not likely to involve significant hazards considerations. The revised change request would impose additional requirements for post-accident monitoring instrumentation and additional limits on plant operations if specified instrumentation is not available, in excess of current requirements of the TSs. As stated in the previous notice, the administrative changes simply clarify the TSs and therefore a finding of no significant hazards consideration is justified in accordance with 48 FR 14870, Example (i). Thus, the Commission's staff proposes to determine that the revised amendment request does not involve a 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, DC 20036.

NRC Branch Chief: John F. Stolz.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: June 4, 1984, as supplemented on August 8, 1984.

Description of amendment request: GPU Nuclear Corporation has requested four changes to the Technical Specifications (TSs) as follows: in Section 3.6.7, correct a clerical error by changing "HOT STANDBY" to "HOT SHUTDOWN"; in Table 4.1–1, item 2. (Control Rod Drive Trip Breaker), add the remark "Includes shunt trip feature.", delete Section 6.15, Environmental Qualification; in Section 6.16, Iodine Monitoring Program, change the title to "Post Accident Sampling Programs" and expand the requirements of the TSs to include Reactor Coolant Sampling, and Containment Atmosphere Sampling in addition to the Iodine Sampling currently included in the TSs.

The Commission's staff and licensee have discussed these changes and have agreed that Table 4.1–1 could be clarified and, accordingly, the proposed revision to Table 4.1–1 as stated in licensee's letter dated August 8, 1984, now reads "includes independent testing of the shunt and undervoltage trip features." Additionally, the NRC staff and licensee agree that Section 6.16 should be clarified so that the title includes " . . . (II.B.3 and II.F.1.2)" and the first two lines read " . . . accurately sample and analyze vital areas . . .", and the fourth line reads "1. Iodine Sampling and Particulate Sampling."

Basis for proposed no significant hazards consideration determination: Two of the TS changes are administrative changes which are considered not likely to involve significant hazards considerations, Example (i), 48 FR 14870. The term "HOT STANDBY" in TS 3.6.7 is clearly an error because the action statement in this paragraph starts at HOT STANDBY mode and the intent is to bring the reactor to a lower mode, i.e. HOT SHUTDOWN. The section on environmental qualification, TS 6.15, is outdated because it refers to requirements to be implemented in 1980 and 1982. This section has been superseded by 10 CFR 50.49, Environmental Qualification, and therefore the proposed TS change is administrative because it updates the TSs.

The proposed change regarding Control Rod Drive Trip Breakers is considered by the Commission's staff to be a safety issue because it is needed to complete part of Generic Letter 83–28, dated July 8, 1983. However the proposed change is not likely to involve significant hazards considerations because it will impose additional restrictions not currently included in the TSs (Example (ii), 48 FR 14870), namely, it will require independent testing of the shunt trip and undervoltage trip features which currently is not required by the TSs.

The proposed change as amended by the licensee's letter dated August 8, 1984, as requested by staff, also would revise the title of TS 6.16 to "Post Accident Sampling Programs NUREG–0737 (Item II.B.3, II.F.1.2.)." This proposed change is also considered by the Commission's staff to be a safety issue because it completes Items 2 and 3 in Enclosure 1 to Generic Letter 83–37, dated November 1, 1983 (NUREG–0737, Items II.B.3 and II.F.1.2). However, the proposed change does not involve significant hazards considerations because it will impose additional controls not currently included in the TSs (Example (ii), 48 FR 14870), namely, it will require an administrative program for post-accident sampling and analysis which is currently not required by the TSs. Based on the foregoing discussion, the Commission's staff proposes to determine that the amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commmonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for licensee: G.F. Trowbridge, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Wiscasset, Maine

Date of amendment request: May 22, 1984.

Description of amendment request: The proposed change supplements Maine Yankee's application of October 7, 1982 and previous supplement dated September 26, 1983. These proposed changes were previously noticed on August 23 and November 22, 1983, respectively. This proposed change would modify the Maine Yankee Technical Specifications to more closely conform with the Standard Technical Specifications. It would explicitly provide a detailed listing of containment isolation valves which could be manually repositioned under administrative controls. It would also define the compensatory measures associated with such repositionings to assure continued containment integrity. The specific valves for which repositioning would be allowed are used during startup and shutdown. They include valves used for main steam line warmup, steam trap blowdown, and operation of the residual heat removal system. Repositioning is also allowed for certain required surveillance activities.

Basis for proposed no significant hazards consideration determination: The current technical specifications do not explicitly account for a number of containment isolation valves required to be repositioned for plant operation or surveillance requirements. The proposed changes constitute additional limitations and restrictions not currently included in the plant technical specifications. This follows example (ii) of amendments not likely to involve significant hazards considerations as given by the Commission in 48 FR 14870. Additionally, these changes do not involve significant relaxation of safety limits, or limiting conditions for operation, or the basis used two establish such limits. Thus, these changes are not represented by the examples (i or ii) of amendments likely to involve significant hazards considerations as provided by the Commission. Therefore, the Commission proposes to determine that this proposed change involves no significant hazards considerations.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Attorney for licensee: J.A. Ritscher, Esq., Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Branch Chief: James R. Miller.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Wiscasset, Maine

Date of amendment request: June 19, 1984.

Description of amendment request: This proposed change is intended to modify the Maine Yankee Technical Specifications to reflect recent changes in the NRC's Rules. Specifically these changes reflect revised rules as follows:

(1) 10 CFR 50.54(m) (2) and (3)—Conditions of Licenses—Changes are proposed to Section 5.2 of the Technical Specifications in order to properly refer to and agree with the new shift manning requirements.

(2) 10 CFR 50.73—Licensee Event Report System—Changes are proposed to Sections 3 and 5 of the Technical Specifications to conform with revisions to the licensee event reporting system.

Additionally, the licensee has requested that certain orders concerning the Environmental Qualification of Electric Equipment issued in 1980 be deleted from the license since they are now superseded by 10 CFR 50.49.

Basis for proposed no significant hazards consideration determination: The proposed changes reflect minor changes to make the Maine Yankee license conform with changes in the regulations. These changes represent minor changes to the operation of the facility. These changes fit example (vii) of those provided by the Commission in 48 FR 14870 involving no significant hazards consideration. Therefore, the staff proposes to determine that this amendment involves no significant hazards considerations.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Attorney for licensee: J.A. Ritscher, Esq., Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Branch Chief: James R. Miller.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: February 1, 1984, superseding request of March 2, 1979.

Description of amendment request: This submittal supersedes the request for amendment dated March 2, 1979 which was noticed in the Monthly **Federal Register** Notice on September 21, 1983 (48 FR 43140). This request for Technical specification (TS) changes is to incorporate revised radiological effluent and environmental monitoring limiting conditions for operation, action statement, and surveillance requirements. The proposed changes are in response to an NRC request of July 11, 1978, the meeting held on August 25–26, 1982 and telephone conference of November 10, 1983 and are intended to implement the design objectives and requirements of 10 CFR 50.34(a), 10 CFR 50.36a, 10 CFR 20, 10 CFR 50, Appendix A, General Design Criteria 60 and 64 and 40 CFR 190.

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 50.34(a), which pertains to the Design Objectives for equipment to control releases of radioactive material in effluents from nuclear power reactors; 10 CFR 50.36a, which pertains to technical specifications on effluents from nuclear power reactors; 10 CFR 20, which pertains, in part, to the controlled release of radioactive materials in liquid and gaseous effluents; 10 CFR 50, Appendix A, General Design Criteria 60, which pertains to control of releases of radioactive materials to the environment and 64, which pertains to monitoring radioactivity releases; and 40 CFR 190, which pertains to radiation doses to the public from operations associated with the entire uranium fuel cycle. This amendment, therefore, reflects changes to make the Nine Mile Point license conform to changes in the regulations. Since the licensee is presently obligated by these regulations to control and limit offsite releases of radioactive materials to levels which are as low as is reasonably achievable, 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 similar to the examples 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: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: Domenic B. Vassallo.

Pennsylvania Power & Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: May 18, 1984.

Description of amendment request: The proposed amendment revises Technical Specifications in response to changes in 10 CFR 50.72 and 10 CFR 50.73. The changes are related to Special Reporting requirements as discussed in NRC Generic Letter 83–43 dated December 19, 1983. Specifically the proposed changes are:

1. On page 1–6, "REPORTABLE OCCURRENCE" would be revised to read "REPORTABLE EVENT." Definition 1.35 would be revised to read "A REPORTABLE EVENT shall be any of those conditions specified in Section 50.73 to 10 CFR Part 50."

2. On pages 3/4 3–61 (twice), 3/4 3–64, 3/4 3–93, 3/4 7–3, 3/4 11–16, 3/4 11–20 and 3/4 12–1, the phrase ". . . in lieu of any other report required by Specification 6.9 . . ." would be deleted.

3. On page 3/4 3–77, ACTION statement b. would be deleted and ACTION statement c. would become statement b. for continuity purposes.

4. On pages 3/4 3–81, 3/4 3–86 and 3/4 11–20, ACTION statement c. would be revised to read "The provisions of Specifications 3.0.3 and 3.0.4 are not applicable."

5. On page 3/4 4–13, in ACTION statement b., the sentence "A REPORTABLE OCCURRENCE shall be prepared and submitted to the Commission pursuant to Specification 6.9.1." would be revised to read "A Special Report shall be prepared and submitted to the Commission pursuant to Specification 6.9.2 within 30 days."

6. On page 3/4 6–8, in Technical Specification 4.6.1.5.2, ". . . required inspection shall be reported to the Commission pursuant to Specification 6.9.1." would be revised to read ". . . required inspection shall be reported in a Special Report to the Commission pursuant to Specification 6.9.2 within 30 days."

7. On page 3/4 7–33, ACTION statement a. would be revised to read "With one fire pump and/or one of the above required water supplies inoperable, restore the inoperable equipment to OPERABLE status within 7 days or, provide an alternate backup pump or supply. The provisions of Specifications 3.0.3 and 3.0.4 are not applicable." ACTION statement b. would be revised to read "With the fire suppression water system otherwise inoperable establish a backup fire suppression water system within 24 hours." The substatements 1. and 2. under ACTION statement b. would be deleted.

8. On pages 3/4 7–36, 3/4 7–38 and 3/4 7–39, in ACTION statement a., proposed change would delete the remainder of the statement beginning with "Restore the system to OPERABLE status . . ."

9. On page 3/4 7–40, in ACTION statement a., proposed change would delete the remainder of the statement beginning with "Restore the inoperable hose station(s) to OPERABLE status . . ."

10. On page 3/4 7–42, in ACTION statement a., proposed change would delete the remainder of the statement

beginning with "Restore the inoperable hydrant(s) and/or hose house(s) to OPERABLE status . . ."

11. On page 3/4 7–43, in ACTION statement a., proposed change would delete the remainder of the statement beginning with "Restore the inoperable first rated assembly(s) and/or sealing device(s) to OPERABLE status . . ."

12. On page 3/4 8–6, in Technical Specification 4.8.1.1.3, the first sentence would be revised to read "All diesel generator failures, valid or non-valid, shall be reported to the Commission in a Special Report pursuant to Specification 6.9.2 within 30 days."

13. On pages 3/4 11–5, 3/4 11–12, 3/4 12–2, 3/4 12–7 and 3/4 12–13, (twice), the proposed change would change the referenced Specification from "6.9.1.11" to "6.9.1.8."

14. On pages 3/4 11–6, 3/4 11–7, 3/4 11–13, 3/4 11–14, 3/4 11–15, 3/4 11–22, 3/4 12–1, 3/4 12–2, 3/4 12–7, and 3/4 12–13 (twice), the phrase ". . . in lieu of a Licensee Event Report . . ." would be deleted.

15. On pages 3/4 12–7, 3/4 12–11, 3/4 12–12, 3/4 12–13, and 3/4 12–14 (twice), the proposed change would change the referenced Specification from "6.9.1.10" to "6.9.1.7."

16. On page 6–8, Specification 6.2.1.6.g. would be revised to read "Review all REPORTABLE EVENTS."

17. On page 6–11, Specification 6.5.2.7.g. would be revised to read "All REPORTABLE EVENTS."

18. On page 6–13, Specification 6.6 title would be revised to read "REPORTABLE EVENT ACTION," and Specification 6.6.1 would be revised to read "The following actions shall be taken for REPORTABLE EVENTS: a. The Commission shall be notified and/or a report submitted pursuant to the requirements of Section 50.73 to 10 CFR Part 50, and b. Each REPORTABLE EVENT shall be reviewed by the PORC and submitted to the SRC and the Vice President—Nuclear Operations."

19. On page 6–16, the title to Specification 6.9.1 would be revised to read "ROUTINE REPORTS."

20. On pages 6–17, 6–18 and 6–19, the proposed change would delete Specifications 6.9.1.7, 6.9.1.8 and 6.9.1.9.

21. On page 6–20, Specification 6.9.1.10 would be renumbered to 6.9.1.7.

22. On page 6–21, Specification 6.9.1.11 would be renumbered to 6.9.1.8. Additionally, pagination would be changed for continuity purposes and elimination of blank pages within this section.

23. On page 6–22, Specification 6.10.1.c would be revised to read "ALL REPORTABLE EVENTS."

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the no significant hazards consideration standards by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve significant hazards considerations, example (vii), relates to 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 NRC staff proposes to find that the proposed amendment changes in items 1 through 12, 14, 16 through 20 and 23 are as a result of changes to Section 50.72 and the addition of Section 50.73 to 10 CFR Part 50 effective 1 January 1984, and therefore, do not involve a significant hazards consideration since the proposed changes to the technical specifications would maintain consistency between the technical specifications and 10 CFR Part 50. Another example of actions not likely to involve significant hazards considerations, example (i), relates to a purely administrative change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The NRC staff proposes to find that the proposed amendment changes in items 13, 15, 21 and 22 are purely administrative changes to achieve consistency throughout the technical specifications, and therefore, do not involve a significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: A. Schwencer.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: November 18, 1976 as supplemented by letter dated April 19, 1984.

Description of amendment request: The proposed amendment would add Surveillance Requirements to incorporate the requirements of Appendix J on the leaktight integrity of the primary reactor containment and components which penetrate the containment. The proposed changes were requested by the NRC of all licensees to bring them into conformance with Section 50.54(o) and Appendix J of 10 CFR Part 50 "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

The licensee also proposes to delete references in Table 3.7.4 (Primary Containment Testable Isolation Valves) to certain valves which do not require local leakage rate testing.

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). 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: for example, a more stringent surveillance requirement.

All of the changes proposed in this application for amendment, with the exception of one, are encompassed by this example because restrictions would be added to conform to the Rules and Regulations of the Commission. Section 50.54(o) and Appendix J of 10 CFR Part 50 ensure that systems and components which penetrate the containment are tested on a regular interval and the leaktight integrity of the primary reactor containment is ensured.

The licensee also has proposed to delete references to three specific valves in Table 3.7.4 of the current Technical Specifications. The bases for these deletions are that Appendix J requirements (Sections II.B and II.D) for local leakage rate testing do not apply to these valves since they are not relied upon to prevent the escape of containment air in a post-accident period because they would be water covered throughout the post-accident period. Based upon the above, the staff concludes that the operation of the Peach Bottom facility in accordance with this proposed change 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.

Accordingly, the staff proposes to determine that all of the above proposed changes involve no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

NRC Branch Chief: George W. Rivenbark.

Portland General Electric Company, Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: July 13, 1984.

Description of amendment request: The amendment would (1) make numerous changes to reporting requirements to confrom to revised 10 CFR 50.72 "Immediate notification requirements for operating nuclear power reactors" and new 10 CFR 50.73, "Licensee event report system," (2) add a specific requirement to report both challenges and failures of pressurizer power-operated relief valves and safety valves, (3) revise and clarify the schedule for submitting a special report regarding any degradation of the control building connection bolts from 10 days to 90 days, and (4) change the title of off-site (corporate) review committee from the "Nuclear Operations Board" to the "*Trojan* Nuclear Operations Board."

Basis for proposed no significant hazards consideration determination: The proposed changes to the reporting requirements resulting from changes in 10 CFR 50.72 and 50.73 are consistent with these regulations and administrative in nature since the telephone reporting requirements of § 50.72 are more stringent than those of the existing technical specifications and § 50.73(g) states that the requirements contained in § 50.73 replace all existing requirements for licensees to report "Reportable Occurrences" as defined in individual plant technical specifications. Thus, the proposed changes are administrative changes to conform the technical specifications to the revised regulations.

The proposed new requirement to report challenges and failures of pressurizer power operated relief valves and safety valves is made at NRC request in Generic Letter 82–16 and derives from NUREG–0737, item II.K.3.3, "Reporting Relief Valves and Safety Valve Failures and Challenges." The proposed report is in conformance with the NRC request.

The proposal to revise the schedule for submittal of a special report regarding any degradation of the control building connection bolts from 10 to 90 days would remove a possible ambiguity between specification 3.7.11.b which calls for a 10-day report and specification 4.7.11.1.f which calls for a 90-day report of abnormal degradation. The change would allow more time to make the report that, in the event of abnormal degradation, would probably be necessary. No changes would be made in the time allowed to take corrective action, that is 14 days.

Finally, the title redesignation for the off-site (corporate) review committee is purely an administrative change in title only. Based on the foregoing, it 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, of (3) involve a significant reduction in a margin of safety. Therefore, 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 SW 10th Avenue, Portland, Oregon.

Attorney for licensee: J.W. Durhan, Senior Vice President, Portland General Electric Company, 121 SW Salmon Street, Portland, regon 97204.

NRC Branch Chief: James R. Miller.

Portland General Electric Company et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: June 12, 1984.

Description of amendment request: The amendment would allow a ±10% tolerance to the required hydrogen mixing system flow rate. At present the 18-month surveillance requirement states that system flow rate must be verified to be 2500 cubic feet per minute (cfm). The amendment would revise this to be 2500 ±250 cfm.

Basis for proposed no significant hazards consideration determination: The capacity of the hydrogen mixing system would remain more than adequate with the proposed tolerance band of ±10%. Therefore it 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 SW. 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.

Portland General Electric Company et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: June 22, 1984.

Description of amendment request: The amendment would revise the required volume of boric acid to be maintained in the boric acid storage tanks for both the operating and shutdown modes of reactor operation.

At present, in the shutdown mode a boric acid storage tank must contain a minimum of 12,544 gallons (rounded to 12,600 gallons) when relied upon as a borated water source. This volume includes an allowance of 4050 gallons more than actually needed because this much volume was believed to exist below the lowest indicating range and is therefore unmonitored volume. The unmonitored volume is neglected since it would not be a good operating practice to continue pumping from the tank once its level gauge reads empty. On the strength of more recent calculations, the licensee has determined that the correct value for unmonitored volume is 741 gallons and that, therefore, the required minimum volume of boric acid should be corrected to 9235 gallons. This is the sum of 8494 required gallons plus 741 unmonitored gallons.

As for the minimum required boric acid volume when operating, the licensee noted that the unmonitored storage tank volume had inadvertently not been added to the required volume of 14,418 gallons. Therefore, the licensee proposes to revise this volume upward by 741 gallons to require a minimum volume of 15,159 gallons, the corrected value.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether an amendment involves 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 an action not likely to involve a significant hazards consideration is 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 a change in nomenclature." The proposed amendment is similar to this example since it serves both to correct an error and achieve consistency of boric acid requirements for the operating and shutdown modes. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Multnomah County Library, 801 SW. 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.

Portland General Electric Company, Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: July 13, 1984.

Description of amendment request: The amendment involves changes and corrections to the remote shutdown instrumentation and a correction to the height of the instruments on the meteorological tower.

Specifically, the reference to *pressurizer* pressure on Table 3.3–9 as a remote shutdown instrument would be corrected to *reactor coolant system* pressure (range 0–3000 psig). A footnote would be added to indicate that backup indication for reactor coolant system pressure can be provided by the sample panel pressure indicator.

The range of the steam generator pressure instrument would be corrected to read 0–1500 psig, versus 0–1200 psig shown at present.

The range of the auxiliary feedwater flow rate instrument would be corrected to read 0–450 gpm, versus 0–1000 gpm shown at present. Also, the minimum number of these channels required to be operable would be increased from "one" to "two (to operable steam generators)" to be consistent with the assumptions of the safety analysis for the loss of main feedwater.

Finally, Tables 3.3–8 and 4.3–5 would be corrected to indicate the meteorological instruments are located on the tower at elevation 53 feet mean sea level (MSL) versus elev. 50 feet MSL shown at present.

Basis for proposed no significant hazards consideration determination: As described above, most of the requested changes are minor corrections to the technical specifications to indicate the correct ranges, height, or nomenclature of the instrument. They do not involve actual changes to the facility.

The footnote to the reactor coolant system pressure channel indicating that backup indication for this variable can be provided by the sample panel pressure indicator would provide an alternate means of remotely monitoring this variable in the event of an extended outage of the reactor coolant system pressure channel and thereby provide the licensee additional flexibility.

Increasing the number of auxiliary feedwater flow rate channels required from one to two is more conservative and consistent with the safety analysis which assumes delivery of auxiliary feedwater to two steam generators in the event of a loss of main feedwater flow. Therefore it 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 SW. 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. 50–286, Indian Point Unit No. 3, Westchester County, New York

Date of amendment request: December 29, 1983.

Description of amendment request: The purpose of this change is to upgrade the Technical Specifications to make them at least as stringent as the Standard Technical Specifications for Westinghouse Pressurized Water Reactors (NUREG–0452). This change request is in response to the Nuclear Regulatory Commission's letter dated July 7, 1980, which indicated over thirty (30) sections of the current Technical Specifications that need upgrading to be at least as stringent as the Standard Technical Specifications.

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). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to 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 staff proposes to determine that the proposed changes do not involve a significant hazards consideration since they entail additional restrictions designed to make the Technical Specifications more stringent.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Branch Chief: Steven A. Varga.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: May 11, 1983.

Description of amendment request: This submittal supplements the request for amendment dated November 24, 1982, which was noticed in the **Federal Register** on April 25, 1984 (49 FR 17872). The submittal provides additional information supplementing the information in the November 24, 1982, submittal on conformance with NRC Regulatory Guide 1.35 and technical justification for the reduction of the re-jacking force of detensioned tendons. The Technical Specification revision proposed in the November 24, 1982, application remains unchanged.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards considered not to involve a significant hazards consideration by providing certain examples (48 FR 14870). One example (vi) 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 May 11, 1983, submittal provides additional technical information to supplement the information in the submittal of November 24, 1982. The supplemental information does not change the proposed Technical Specifications nor the technical

justification for the proposed Technical Specification change. Therefore, our previous proposed determination regarding significant hazards considerations remains unchanged. Namely, Regulatory Guide 1.35, "Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containments" specifies that a maximum test liftoff force greater than the inservice force be applied followed by a detensioning sequence to identify broken or damaged strands. The proposed jacking force of 0.75 f's, where f's is the guaranteed ultimate tendon strength, is greater than the inservice force and is therefore in line with the requirements of Regulatory Guide 1.35. The proposed reduction of jacking force from 0.8 f's to 0.75 f's may reduce the margins somewhat, but it is still within acceptable criteria. This is similar to the Commission's Example (vi), and for this reason, the Commission proposes to determine that the amendment request as supplemented involves no significant hazards consideration.

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: George W. Rivenbark, Acting.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: March 22, 1984.

Description of amendment request: The amendment would add additional valves to Technical Specification Table 3.8–2, "Motor Operated Valves Thermal Overload Protection and/or Bypass Devices." The amendment would also correct spelling errors in the same Technical Specification Table.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to a change that constitutes an additional limitation, restriction, or control not presently included in Technical Specifications. Another example relates to a purely administrative change to Technical Specifications such as correction of an error in Technical Specifications. The amendment involved here is similar to these two examples in that it adds additional valves to Technical Specification controls and it corrects spelling errors in the Technical Specifications. On these bases, the NRC staff proposes to find that this license amendment involves no significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinor G. Adensam.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: May 23, 1984.

Description of amendment request: The amendment would revise Technical Specifications to allow installation of a P–9 interlock which would prevent a direct reactor trip following a turbine trip at or below 50% reactor power.

Basis for proposed no significant hazards consideration determination: Analyses show that a turbine trip at 50% power with no direct reactor trip presents no hazard to the integrity of the reactor coolant system or the main steam system. Pressure relieving devices incorporated in the systems are adequate to limit the maximum pressures to within design limits. Also, for normal plant operation with all normal control systems assumed operational, pressurizer pressure does not reach the point of pressurizer power operated relief valve (PORV) activation. Therefore, the deletion of reactor trip on turbine trip at or below 50% power does not significantly increase the probability of a small break loss of coolant accident.

The analyses also demonstrate that for a complete loss of forced reactor collant flow initiated from the most adverse preconditions of a turbine trip, the departure from nucleate boiling ratio (DNBR) remains well above the Technical Specification bases limit of 1.30 at all times during the transient. Thus, no fuel or clad damage is predicted, and all applicable acceptance criteria are met.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and has determined that should this request be implemented, it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because a turbine trip is not made more probable, PORVs should not open, and reactor coolant system, main steam system and fuel integrity are still maintained, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the reator will still trip if any trip signal is present, or (3) involve a significant reduction in a margin of safety because pressure remains below design limits and DNBR remains well above the design limit. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Mr. Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinor G. Adensam.

Southern California Edison Company, Docket No. 50–206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: November 30, 1983 as modified July 27, 1984.

Description of amendment request: The July 27, 1984 submittal revised the request provided on November 30, 1983 (Proposed Change 126) which was noticed in the **Federal Register** on March 22, 1984 (49 FR 10743). The proposed amendment would revise Technical Specification (TS) Section 3.7, "Auxiliary Electrical Supply," and Section 4.4, "Emergency Power System Periodic Testing."

The changes made by the July 27, 1984 submittal to the original proposed change (November 30, 1983) are as follows: (a) The surveillance value on battery charger current for 125 volt dc bus No. 1 has been increased from 500 amps to 800 amps; (b) the operability requirement for the safety injection load sequencers has been changed to include Mode 4; previously only Modes 1–3 were included; (c) TS 3.7.II.A has been revised to require ac vital buses 1, 2, and 4 to be operable in Modes 5 and 6; previously vital bus 4 and any two of vital buses 1, 2, and 3 were required; (d) a minimum electrolyte temperature is provided for the uninterruptible power supply (UPS) battery.

These changes to the November 30, 1983 submittal were made as a result of

staff comments provided by letter dated March 9, 1984 and as a result of the new battery which has been obtained to replace Battery No. 1.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards of no significant hazards consideration by providing certain examples (April 6, 1983, 48 FR 14870. One of the examples [example (ii)] is a change that constitutes an additional limitation, restriction, or control not presently included in the TSs; for example, a more stringent surveillance requirement. The above proposed changes fall into this category as discussed below. The first change (charger current) provides a higher required value that the charger must supply and thus is a more stringent requirement.

The load sequencers are now required to be operable in Mode 4. This is an additional restriction not in present TS or in the original proposed change.

Vital buses 1 and 2 are explicitly required to be operable in Modes 5 and 6 because they have loads associated with residual heat removal functions. This change from the original request is more restrictive since it does not allow vital bus 3 to be considered in meeting the limiting condition for operation requirement.

Presently, no minimum electrolyte temperature is specified for the UPS. Thus, the new proposed requirement is an additional limitation.

The basis for the Commission's proposed no significant hazards consideration relating to the November 30, 1983 submittal was provided by the March 22, 1984 **Federal Register** notice. As discussed above, the Commission proposes to determine that the additional changes also do not involve a significant hazards consideration in that they (1) do not increase the probability or consequences of an accident previously evaluated; (2) do not create the possibility of a new or different kind of accident from any accident previously evaluated, and (3) do not result in a significant decrease in any margin of safety.

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: Walter A. Paulson, Acting Chief.

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 9, 1984.

Description of amendment request: This amendment would add limiting conditions for operation (LCO) and surveillance requirements to the Technical Specifications (TS) for various plant modifications required by TMI Action Plan items covered by Generic Letters 82–16 and 83–37. These modifications are: (1) Reactor coolant system vents (II.B.1), (2) containment pressure (wide range) monitor (II.F.1.4); (3) containment water level monitors (II.F.1.5); (4) containment hydrogen monitors (II.F.1.6); (5) reactor trip on turbine trip logic (II.K.3.12); and (6) radiation monitoring instrumentation (II.F.1.1, 2, 3).

In addition, other changes needed to support inclusion of the above specifications in standard format are made, such as definitions of ACTION and STAGGERED TEST BASIS, additions to TS 3.0 Limiting Conditions for Operation (General) to define compliance with the LCO, requirements for entry into an operational mode, and correspondingly, additions in 4.0 Surveillance Requirements (General).

Section 3.5.1, Reactor Trip System Instrumentation has been revised to provide more explicit action statements and to add time frames for restoring channels to operability.

Section 4.3.3, which contains the surveillance requirements for hydrogen recombiners, has been modified to reflect testing recommendations from the equipment manufacturer so that the required testing will better demonstrate operability of the recombiners.

Some reformatting of specifications in Section 3 is made to clearly separate the SPECIFICATION; i.e., LCO from the ACTION which is to be taken if the LCO is not met. Some surveillance requirements are located from one table to another to group related requirements together.

Basis for proposed no significant hazards consideration determination: Generic Letter 82–16 (issued September 20, 1982) and Generic Letter 83–37 (issued November 1, 1983) requested all Pressurized Water Power Reactor Licensees to review their Technical Specifications to determine if they were consistent with the guidance provided with the generic letters. For items where utilities identified deviations or the absence of a specification, they were requested to submit an application for a license amendment. In response to these requests, the licensee for San Onofre 1 determined that there were no provisions in the Technical Specifications that addressed the TMI items discussed above. Therefore, the proposed amendment request was submitted.

The Commission has provided guidance concerning the application of standards of no significance hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) 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: for example, a more stringent surveillance requirement. Example (i) relates to administrative changes. As discussed in the licensee's Safety Evaluation of the proposed change, the change provides additional limiting conditions for operation and surveillance requirements not presently in the Technical Specifications to assure the functionality of post-TMI required modifications. The format changes are strictly administrative since they do not change the provisions of the affected TS. The staff therefore agrees that the proposed change falls within the categories of examples (i) and (ii) and thus proposes to determine that the requested action would involve a no significant hazards consideration determination in that it (1) does not involve a significant increase in the probability or consequences of previously evaluated accident; (2) does not create the possibility of a new or different kind of accident; (2) does not create the possibility of a new or different kind of accident from an accident previously evaluated, and (3) does not involve a significant reduction in a margin of safety.

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: Walt Paulson, Acting Chief.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment requests: June 27, 1984, June 29, 1984, and July 18, 1984

(reference PCN-050, PCN-179, PCN-180, and PCN-141).

Description of amendment request: The four proposed changes are described below.

(1) Revise Technical Specification 3/4.9.6, Refueling Machine (PCN-50). Technical Specification 3/4.9.6 defines the operability and surveillance requirements for the fueling machine to ensure that (a) the refueling machine will be used for all movements of fuel assemblies and Control Element Assemblies (CEA's), (b) the refueling machine has sufficient load capacity to lift a fuel assembly, and (c) the core internals and pressure vessel are protected from excessive lifting forces in the event of inadvertent mechanical interference during fuel handling operations. At present, Technical Specification 3/4.9.6 requires that the refueling machine be used for all movement of the CEA's. However, during refueling, the Control Element Drive Motor (CEDM) drive shaft extensions must be manually uncoupled and recoupled. Coupling and uncoupling is verified by weighing the CEA's. These operations involve small movements of the CEA's. At present, these small movements of CEA's are prohibited by Technical Specification 3/4.9.6 because they are not done by the refueling machine. However, the refueling machine cannot be used for either coupling, uncoupling or weighing of CEA's. Note that the existing technical specifications allow the four-fingered CEA's to be removed without using the refueling machine. The proposed change would add a note which allows coupling, uncoupling and weighing of CEA's during refueling.

(2) Revise Technical Specification 3/4.9.10 (Refueling) Water Level—Reactor Vessel (PCN-179). Specification 3/4.9.10 requires that a minimum water level of 23 feet be maintained above the reactor vessel flange during movements of CEA's or fuel assemblies in the reactor vessel. During refueling, the CEDM drive shaft extensions are uncoupled and recoupled to the CEA's, and the four-finger CEA's are removed using the upper guide structure. Coupling or uncoupling of the CEDM drive shaft extensions involves small movements of the CEA's as does the verification of coupling/uncoupling, and the removal of the four-finger CEA's. Therefore, under the current Technical Specification, a water level of 23 feet must be maintained above the vessel flange during these operations. However, the design of the tools used to couple and uncouple the CEA's from the CEDM drive shaft extensions requires that the work platform be positioned less than 3 feet above the reactor vessel flange. Verification of CEA coupling/uncoupling is most efficiently accomplished at the time the CEA's are coupled/uncoupled. Thus, the existing specification prohibits coupling, uncoupling, and verification of the CEA's using the tools required for these activities. Also, the design of the upper guide structure lift rig and work platform requires the water level to be less than 23 feet above the reactor vessel flange when latching the four-finger CEA's to the work platform and lifing them into the upper guide structure.

The proposed change adds a note to the applicability for Specification 3/4.9.10 which allows the water level to be lowered to 23 feet above the fuel assemblies rather than the vessel flange (a difference of about 11 feet) during CEA coupling and uncoupling, verification of coupling/uncoupling, and removal of the four-finger CEA's.

(3) Revise Technical Specification 3/4.9.12, Fuel Handling Building Post Accident Cleanup Filter System (PCN-180). Specification 3/4.9.12 requires that the Fuel Handling Building Post Accident Cleanup Filter System (FHBPACFS) be operable when irradiated fuel is in the storage pool and defines a number of functional tests which periodically must be conducted to assure such operability. The FHBPACFS includes electrical heaters to maintain the relative humidity at the inlet to the charcoal filters at or below 70% to preserve charcoal adsorber efficiency. Specification 4.9.12.d.3 requires verification that the heater thermal dissipation is within ±5% of the specified rating. The heater ratings contained in the specification are based on the nominal operating voltage. However, when the plant is on line in normal operation, the bus voltages are higher than nominal. Additionally, Specification 4.8.1.1 (Diesel Generator surveillance requirements) permits a ±10% bus voltage variation during diesel generator operation. Because the power dissipated by a heater varies with the square of the voltage, small deviations from the nominal voltage (e.g., ±2.5%) will result in heater dissipations outside of the allowable range, thereby rendering the system inoperable.

The proposed change revises Specification 4.9.12.d.3 to allow correction of measured heater dissipation to the nominal voltage for the purposes of determining operability. In addition, the proposed change corrects a typographical error in the specification dissipation for heater E-464. Heater E-464 is actually rated at 28.7 kw versus the 28.4 kw listed currently.

(4) Revise Technical Specification 3/4.4.4, Steam Generator (PCN-141). Technical Specification 3/4.4.4 requires steam generator operability and specifies surveillance requirements to verify steam generator integrity. The current acceptable level of steam generator tube wall thinning shown in Figure 4.4.1 of the Technical Specifications is 44% for tube rows 0 through 92 and decreases linearly to 26% in tube row 147. The proposed change will delete Figure 4.4.1 and specify a tube thinning limit of 44% for all steam generator tubes.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. The proposed changes relate to examples (vi) and (i) of the Commission's guidance. Example (vi) relates to a change which either may result in some increase in the probability or consequences of a previously-analyzed accident or may in some way reduce a safety-margin, but where the results of the change are clearly within all acceptance criteria with respect to the system or component specified in the Standard Review Plan (SRP). Example (i) relates to a change which is purely administrative: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature.

(1) Revise Technical Specification 3/4.9.6, Refueling Machine (PCN-50).

SRP Section 9.1.4 discusses acceptable criteria for the fuel handling system. The objectives of the SRP are to preclude criticality accidents and releases of radioactivity. Criticality accidents are, in part, prevented by verification of uncoupling of the CEA extension shafts prior to removal of the upper guide structure, thereby preventing CEA withdrawal when the upper guide structure is removed. The proposed change would permit small movements of the CEA's during refueling due to manual coupling/uncoupling are verification of uncoupling, thereby reducing the probability of accidental criticality.

The proposed specification maintains the requirement to use the refueling machine for significant movements of fuel, requires the refueling machine to have sufficient capacity to lift a fuel

assembly and requires an overload cutoff to assure that excessive forces are not applied. Therefore, the proposed change meets the SRP acceptance criteria and is similar to example (vi) of 48 FR 14870.

(2) Revise Technical Specifications 3/4.9.10, Refueling Water Level, Reactor Vessel (PCN–179). This item is also similar to example (vi). In this case, the acceptance criteria relating to refueling water level are delineated in the Bases Section of NUREG–0212, Revision 2, Standard Technical Specifications (STS) for Combustion Engineering Pressurized Water Reactors. Specifically, Base Section B 3/4.9.10 requires that sufficient water depth (23 feet) be available to remove 99% of the assumed 10% iodine gap activity which would be released by an irradiated fuel assembly striking the reactor vessel flange and rupturing. However, with the fuel assemblies seated in the reactor vessel, as will be the case during DEA coupling, uncoupling, and weighing, and during removal of the four-finger CEA's, no fuel damage could occur above the top of the fuel. The proposed specification requires that 23 feet of water be maintained above the top of the fuel rather than the vessel flange as previously required. This will continue to ensure that sufficient water depth is available to remove 99% of the assumed 10% iodine gap activity released from a fuel assembly damaged by any conceivable accident. Therefore, the proposed change meets the acceptable criteria delineated in the Bases of the STS and is similar to example (vi) of 48 FR 14870.

(3) Revise Technical Specification 3/4.9.12, Fuel Handling Building Post Accident Cleanup Filter System (PCN–180). This item is similar to example (vi) and example (i). SRP Section 9.4.2, Spent Fuel Pool Area Ventilation System (SFPAVS), references Regulatory Guide 1.52 which recommends that heaters be installed in the SFPAVS upstream of the charcoal adsorbers. The heaters must have sufficient capacity to maintain the relative humidity below 70%, thereby preserving the efficiency of the charcoal adsorber. The proposed change affects the manner in which the results of the heater dissipation surveillance tests are evaluated to accommodate the allowed variations for the nominal bus voltage which may exist at the time the surveillance in conducted. The proposed change does not reduce the heater dissipation requirements and maintains the 70% relative humidity acceptance criteria. Therefore, the proposed change satisfies the SRP acceptance criteria and is similar to example (vi) of 47 FR 14870.

Additionally, the proposed change increases the required dissipation for heater E–464 from 28.4 kw to 28.7 kw. This corrects a typographical error. Therefore, this part of the proposed change is similar to example (i) of 48 FR 14870.

(4) Revise Technical Specification 3/4.4.4, Steam Generator (PCN–141). The original analysis upon which this Technical Specification is based established the structural adequacy of the San Onofre 2 and 3 steam generator tubes and tube supports, when subjected to various hypothetical accident conditions. It was determined that the limiting event was a combination of a Loss of Coolant Accident (LOCA) and Safe Shutdown Earthquake (SSE). The calculated stresses occurring in the steam generator tube walls as a result of the limiting event were compared to the maximum allowable stresses as defined by the NRC staff's criteria (Regulatory Guide 1.121, Bases for Plugging Degraded PWR Steam Generator Tubes). The analysis indicated that degradation of up to 64 percent is acceptable for both the straight portion of all tubes and the "U" bend region for the majority of tube rows. The outer tube rows experienced significant stress in the "U" bend region, due to the combination of hydraulic loads associated with blowdown of the primary system as a result of the LOCA and earthquake-induced accelerations resulting from the SSE. Thus, in the outer tube bundle bend regions, the allowable degradation decreased linearly from 64 percent to a minimum of 46 percent at the outermost row. The values in the technical specification vary from 44% to 26%. The 20% difference between the allowable degradation and the Technical Specification limit represents margin for instrument error and degradation between inspections.

However, a revised analysis has shown that tube degradation of 64% is acceptable for all rows of tubes. Thus, the proposed change will remove unnecessary conservatism from the assumptions used in the original analysis and thereby establish a more accurate steam generator tube thinning limit. In addition, the proposed change prevents unnecessary (a) plugging of tubes, (b) associated high personnel radiation exposure and (c) decreases in the steam generator heat transfer surface area.

The revises analysis of the limiting LOCA/SSE scenario credits for the frictional or binding restraint on the tubes provided by the vertical tube supports in the horizontal tube run on top of the "U" tube span; this was previously neglected in the original calculations. In addition, the LOCA and SSE peak loads were combined by the square-root-of-the-sum-of-the-squares (SRSS) method; these loads were combined by addition in the original calculations. The use of SRSS, under appropriate circumstances, is an acceptable method under the SRP for combining loads. The combination of a LOCA and SSE is still the limiting event. The revised analysis shows that tube degradation of up to 64 percent is acceptable for all steam generator tubes in meeting the criteria of Regulatory Guide 1.121, which results in the proposed Technical Specification limit of 44% for all tubes, based on the 20% margin previously used.

Section 5.4.2.2 of the SRP references Regulatory Guide 1.83 which specifies inservice inspection criteria for determining steam generator operability. The proposed change prescribes steam generator tube thinning criteria which was developed in accordance with Regulatory Guide 1.83 and the SRP. Therefore, we conclude that the proposed change is similar to example (vi) of 48 FR 14870.

Local Public Document Room Location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn.: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Branch Chief: George W. Knighton.

Southern California Edison Company, Docket No. 50206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of Amendment request: July 17, 1984.

Description of amendment request: This amendment would approve changes to the Technical Specifications to include the requirement to limit the amount of overtime worked by plant staff members performing safety-related functions.

Basis for proposed no significant hazards consideration determination: Generic Letter 82–16 requested all Pressurized Water Power Reactor Licensees to review their Technical Specifications to determine if they were consistent with the guidance provided in the generic letter. For items where utilities identified deviations or the absence of a specification, they were requested to submit an application for a license amendment. In response to that

request, the licensee for San Onofre 1 determined that there are no provisions in the Technical Specifications that address plant staff overtime. The Commission has provided guidance concerning the application of standards of 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 [example (ii)] relates to 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 staff overtime limits are not addressed in the current Technical Specifications, the proposed change falls within the category of example (ii). Therefore, the staff proposes to determine that the requested action would involve a no significant hazards consideration determination in that it (1) does not involve a significant increase in the probability or consequences of a previously evaluated accident; (2) does not create the possibility of a new or different kind of accident from an accident previously evaluated; and (3) does not involve a significant reduction in a margin of safety.

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: Walter A. Paulson.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit No. 1, Callaway County, Missouri

Date of amendment request: July 6, 1984.

Description of amendment request: The purpose of the proposed amendment request is to reflect a change in Appendix A Technical Specification Figure 6.2–1 to show an organizational reporting change for the Quality Assurance Training Supervisor who would report to the Assistant Manager, Quality Assurance rather than to the Superintendent, Quality Engineering. The proposed change in reporting relationships to the Assistant Manager, Quality Assurance represents no change in the responsibilities of the Quality Assurance Training Supervisor, nor does it reduce any Quality Assurance Department activity scope. Since the majority of the Quality Assurance Personnel are assigned onsite, the reassignment of the Quality Assurance Training Supervisor from offsite to onsite will facilitate planning, scheduling, and the conduct of QA training for QA personnel. The Assistant Manager, Quality Assurance, the most senior QA position onsite, will provide direction for the QA Training Supervisor in his responsibility for training QA Department personnel. All positions involved in the revision are indicated on Technical Specification Figure 6.2–1 and are under the overall direction of the Manager, Quality Assurance.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the no significant hazards consideration standards by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards considerations, example (ii), relates to a purely administrative change to Technical Specifications. Since the QA Department training program remains unchanged and its implementation has been facilitated by the organization change, the amendment request involves a minor revision to a previously submitted and approved Quality Assurance organization. The change to Technical Specification Figure 6.2–1 shows an organizational change and is purely an administrative change, and therefore, does not involve a significant hazards consideration.

Local Public Document Room Locations: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: B.J. Youngblood.

Union Electric Company, Docket 50–483, Callaway Plant, Unit No. 1, Callaway County, Missouri

Date of amendment request: July 17, 1984.

Description of amendment request: The proposed amendment would change Technical Specifications 3.4.9.3, 4.6.1.2, and 3/4.6.1.2. The overpressure protection systems Technical Specification, limiting condition for operation (LCO), 3.4.3.a is being changed to set the allowable tolerance on the RHR suction relief valves at ±3%. This change makes the Specification consistent with the requirements of the ASME Boiler and Pressure Vessel Code, Section III, Article NB 7513.1, as long as the maximum pressure allowed is less than the lowest pressure setting of the power operated relief valves (PORVs). Action item (a) as written is not consistent with the LCO as specified. The intent of the Specification is to give credit for the availability of the RHR suction relief valves for cold overpressure protection. In the Standard Technical Specifications (NUREG–0452, Revision 4), when relying on PORVs for cold overpressure protection, if one PORV becomes inoperable, seven days are allowed for restoring it or an action would be required for Callaway to open to two square inch vent. Regardless of the status of the PORVs, this same action should be applicable if Callaway loses on RHR suction relief valve while relying on RHR suction relief for cold overpressure protection.

Technical Specification 4.6.1.2, containment leakage surveillance requirement, and its associated bases 3/4.6.1.2 have been revised to provide clarifications on the leak rate testing of valves pressurized with fluid from a seal system. The Clarifications are provided by the incorporation of Standard Technical Specifications 4.6.1.2.d.3 and 4.6.1.2.g (NUREG–0452, Revision 4) into Callaway Specifications 4.6.1.2.d.3 and 4.6.1.2.h and by an addition to bases 3/4.6.1.2 to include Callaway Plant specific requirements that are consistent with 10 CFR 50, Appendix J. Paragraph III.C.3.

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). This amendment request is similar to the example of an action involving no significant hazards consideration which relates to a change to make the license conform to regulations, where the license amendment results in changes to facility operations clearly in keeping with the regulations.

Local Public Document Room Locations: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: B.J. Youngblood.

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: July 26, 1983 and March 30, 1984.

Description of amendment request: As presently specified in the NA–1&2 TS, the Core Surveillance Report which describes F_{xy} limits and the surveillance power level for each reload cycle must be submitted to the NRC 60 days prior to initial criticality for each reload cycle. The proposed change would allow the licensee to submit the Core Surveillance Report at a reduced time interval upon specific written approval by the NRC. In addition, in the event that the F_{xy} limit should change requiring a new or amended Core Surveillance Report, the report would be submitted 60 days prior to the date that the F_{xy} limit would become effective unless otherwise approved by written NRC approval. The reduction in submittal time would allow more flexibility in scheduling core design tasks and planning refueling outages.

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). One of the examples of actions involving no significant hazards 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 clearly within all acceptance criteria with respect to the system or component specified in the Standard Review Plan. Use of the proposed change represents a reduction in the time interval (prior to criticality) for submitting the Core Surveillance Report to the NRC. However, use of the proposed change requires prior written approval by the NRC. In addition, the change will not affect the validity of information and conclusions contained in the Core Surveillance Report nor will it affect required axial power distribution surveillance. Finally, the proposed change is consistent with the provisions of NUREG–0452, Revision 4, Standard Technical Specifications for Westinghouse PWRs dated Fall 1981 which are appropriately applied to NA–1&2. Therefore, the proposed change falls within the scope of the example cited above. Accordingly, the staff proposes to determine the proposed change involves no significant hazards consideration.

Local Public Document Room Locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC 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: December 30, 1983 and June 4, 1984.

Description of amendment request: The request for amendment was initially noticed on February 24, 1984 (49 FR 7049). This notice includes clarifying information provided by the licensee in a subsequent submittal dated June 4, 1984. The proposed change would correct an administrative error presently existing in the NA–1&2 Technical Specifications. The change would specifically revised the P–7 reactor trip system interlock setpoint as specified in the NA–1&2 TS Table 3.3–1, Reactor Trip Systems Interlocks, to indicate "Pressure equivalent to 10% rated turbine power" instead of the presently specified "pressure equivalent to 10% rated thermal power." Having the input to the P–7 setpoint from turbine impulse pressure based on rated thermal power rather than turbine power is an administrative error and is not consistent with the NA Setpoint Study and the Precautions, Limitations and Setpoints documentation. The proposed change would provide consistency with the P–13 interlock which is the input from the turbine impulse pressure channels to the P–7 interlock. The proposed change provides consistency with the NA Setpoint Study and Precautions, Limitations, and Setpoints documentation and will allow the affected system to operate as approved and designed.

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 change falls within the scope of this example. On this basis, the Commission proposes to determine that the proposed amendment 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 535, Richmond, Virginia 23212.

NRC Branch Chief: James R. Miller.

Virginia Electric and Power Company, Docket No. 50–339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of amendment request: March 15, 1984.

Description of amendment request: The amendment request would revise the present Technical Specifications by deleting Surveillance Requirement 4.8.1.1.2.C.6 which requires verification that on a simulated loss of a diesel generator (with offsite power not available), the loads are shed from the emergency busses and that subsequent loading of the diesel generator is in accordance with design requirements. In addition, remaining surveillance requirements are renumbered accordingly. The proposed change is recommended by NRC Generic Letter 83–30. The Generic Letter states that the additional testing required by Surveillance Requirement 4.8.1.1.2.C.6 is not consistent with GDC 17, Regulatory Guide 1.108, and the NRC Standard Review Plan. The Generic Letter states that Surveillance Requirement 4.8.1.1.2.C.6 should be deleted. Finally, the proposed change will reduce the number of ambient fast starts—a concern expressed in NRC Generic Letter 83–41.

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). One of the examples of actions involving no significant hazards 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 clearly within all acceptance criteria with respect to the systems or component specified in the Standard Review Plan.

The proposed change represents a relaxation in Surveillance Requirements for diesel generator testing. However, even with the proposed deletion of the above Surveillance Requirements, the remaining Surveillance Requirements would provide sufficient information to assess the status of the diesel generator

with regard to degradation and its ability to serve as a standby (onsite) power supply. These requirements for periodic diesel generator testing include starting test, design load test (capacity), load rejection test, auto-start test, load acceptance test, and functional test. Therefore, the results of this change, while relaxing the Surveillance Requirements for diesel generator testing, are clearly within the acceptance criteria.

Therefore, based on the foregoing, the NRC staff proposes to determine that the proposed 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 Viringia, 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 No. 50–339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of amendment request: April 16, 1984.

Description of amendment request: The proposed change would revise the NA–2 Technical Specification 3.4.6.2 to indicate only those valves that are to be tested for Event V concerns. On April 20, 1981, the licensee received an "Order for Modification of License Concerning Primary Coolant System Pressure Isolation Valves" which revised the NA–1 Technical Specification (TS) 3.4.6.2. This required Order for Modification was issued by the NRC staff to require surveillance of valves with WASH 1400 Event V valve configurations. As a result of this NRC Licensing Action, NA–2 TS 3.4.6.2 for Reactor Coolant System Pressure Valves (issued August 21, 1980) now became more extensive than required for the NA–1 Event V concern even though the NA–1&2 valve configurations are identical.

The valves identified as being of major concern in the NRC NA–1 Safety Evaluation Report of April 20, 1981 are part of the Low Pressure Safety Injection (LPSI) system. The LPSI is connected to the cold leg side of each of the three primary coolant loops. Each cold leg branch of the LPSI has two check valves in a series configuration of concern with all three branches leading to parallel motor operated valves outside containment. The high pressure/low pressure interface is on the up stream side of the motor operated valves. No other valve configurations of concern were identified in the NRC Order for Modification for NA–1. Since the NA–2 valve configurations are identical to the NA–1 valve configurations, the proposed change would identify only the LPSI to the cold legs as of concern for NA–2 and thereby make TS 3.4.6.2 for both NA–1&2 identical.

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). Examples of actions not likely to involve significant hazard consideration include actions specified as (i) a purely administrative change to the technical specifications: for example, a change to achieve consistency throughout the technical specifications. The proposed action would make the NA–2 TS indicate only those valves that are to be tested for Event V concerns identical to NRC NA–1 Order for Modification of License Concerning Primary Coolant System Pressure Isolation Valves dated April 20, 1981. In addition, the proposed change would also provide consistency to the NA–1&2 TS. Thus, the proposed action falls within the scope of examples (i) cited above. On this basis, the staff proposes to determine that the changes involve 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 535, Richmond, Virginia 23212.

NRC Branch Chief: James R. Miller.

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 amendment request: March 14, 1983 as revised September 6, 1983 and July 13, 1984.

Description of amendment request: The proposed amendments contain minor administrative changes to earlier submittals proposing Technical Specification changes that would allow use of Westinghouse Optimized Fuel assemblies at the Point Beach Nuclear Plant Units 1 and 2. Specifically, Figure 15.3.10–1, "Control Bank Insertion Limits for Point Beach Units 1 and 2" has been changed so that the units on the ordinate axis now read "percent withdrawn" instead of "steps withdrawn." Figure 15.3.10–3 "Point Beach Units 1 and 2 Hot Channel Factor Normalized Operating Envelope" has been changed so that the break points on the curve include the next significant digit instead of rounded-off values as in earlier submittals, i.e., 10.992 instead of 10.99. The March 14, 1983 and September 6, 1983 submittals were noticed in the Federal Register on February 24, 1984 (49 FR 7050).

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). One of the examples of actions involving no significant hazards considerations is example (i) purely administrative changes 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 changes proposed by the licensee are administrative changes to an earlier submittal, changing the nomenclature on the ordinate axis for one figure and the number of significant digits for values contained on another figure. The values on the figures remain the same. Therefore the staff proposes to determine that the proposed amendments involve no significant hazards considerations.

Local Public Document Room location: Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: June 18, 1984.

Description of amendment request: This proposed amendment adds a statement to Technical Specification 4.5.a.3 to require testing of the containment fan coil emergency discharge and backdraft dampers at each refueling outage. An appropriate statement has been added to the Basis to indicate the function of the dampers.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards in 10 CFR 50.92 by providing certain examples

(48 FR 14870) of actions likely to involve a no significant hazards consideration. One example (ii) of actions involving a no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently in-luded in the Technical Specifications. The staff, therefore, proposes to find that the application for amendment involves a no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Steven E. Keane, Esquire, Foley and Lardner, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Branch Chief: Steven A. Varga.

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.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: June 26, 1984.

Brief description of amendment: The amendment would change the Technical Specifications for the reactor protection system to apply to the two new scram discharge volumes (SDVs) with redundant and diverse instrumentation that the licensee has installed in response to an NRC Confirmatory Order dated June 24, 1983.

Date of publication of individual notice in "Federal Register": August 6, 1984 49 FR 31349.

Expiration date of individual notice: September 5, 1984.

Local Public Document Room location: Plymouth Public Library, North Street, Boston, Massachusetts 02360.

Carolina Power & Light Company, Docket, No. 50–325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of amendment request: May 10, 1984, as supplemented June 20, 1984.

Brief description of amendment: The proposed amendment would revise the Technical Specifications which would permit a one-time extension of the surveillance interval on the excess flow check valves for two and a half months.

Date of publication of individual notice in the "Federal Register": July 19, 1984, 49 FR 29339.

Expiration date of individual notice: August 20, 1984.

Local Public Document Room location: Southport, Brunswich County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 31, 1984.

Description of amendment request: The amendment would modify the technical specifications to change the discharge pressure requirements for ECSS periodic flow testing to reflect true pump performance with allowance for ECCS pump degradation due to normal wear.

Date of publication of individual notice in "Federal Register": July 12, 1984.

Expiration date of individual notice: August 13, 1984.

Local Public Document Room location: Russell Library, 119 Broad Street, Middletown, Connecticut 06457.

GPU Nuclear Corporation and Jersey Central Power and Light Company, Oyster Creek Nuclear Generating Station, Docket No. 50–219, Ocean County, New Jersey

Date of amendment request: August 31, 1982 as supplemented October 28, 1984.

Description of amendment request: This proposed license amendment would approve Appendix A Technical Specification changes which would reflect the use of General Electric reload fuel and core design features (NEDO–24195) for Cycle 10 operation.

Date of publication of individual notice in "Federal Register": July 20, 1984 (49 FR 29495).

Expiration date of individual notice: August 20, 1984.

Local Public Document Room location: 101 Washington Street, Toms River, New Jersey 08753.

Pacific Gas and Electric Company, Diablo Canyon Nuclear Power Plant, Unit 1, San Luis Obispo, California

Date of amendment requests: December 17, 1982; January 11, 1983; June 6 and 8, 1984.

Brief description of amendment: The amendment would revise the Technical Specifications concerning (1) frequency of auditing the emergency and security plans and their implementing procedures, (2) limits of working hours for unit staff, (3) prompt notification of failure of pressurizer power operated relief valves and, (4) administrative controls.

Date of publication of individual notice in "Federal Register": June 28, 1984 (48 FR 26660).

Expiration date of individual notice: July 30, 1984.

Local Public Document Room location: California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Rochester Gas and Electric Corporation, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: April 2, 1984; June 12, 1984.

Brief description of amendment: The proposed amendment would allow spent fuel pool storage capacity expansion from 595 to 1016 spaces.

Date of publication of individual notice in "Federal Register": July 27, 1984 (49 FR 30261).

Expiration date of individual notice: August 27, 1984.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

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 filed with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Arkansas Power and Light Company, Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of application for amendment: February 27, 1984.

Brief description of amendment: The amendment modifies the Arkansas Nuclear One, Unit 1 Technical Specifications pressure-temperature limit curves for hydrostatic test, normal heatup, and normal cooldown. Also, the Technical Specifications are revised to require that these pressure-temperature curves be updated prior to reaching 15 effective full power years of operation.

Date of issuance: July 27, 1984.

Effective date: July 27, 1984.

Amendment No. 83.

Facility Operating License No. DPR–51. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": April 25, 1984 (49 FR 17853).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Baltimore Gas & Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: October 24, 1983 as revised by letters dated February 10 and April 9, 1984.

Brief description of amendments: The amendments revised the licenses to include the latest revisions to the Security Plan, the Safeguards Contingency Plan, and the Guard Training Qualification Plan. The approved documents consist of information withheld from public disclosure pursuant to 10 CFR 73.21 of the Commission's regulations.

Date of issuance: August 1, 1984.

Effective date: August 1, 1984.

Amendment Nos.: 95 and 76.

Facility Operating License Nos. DPR–53 and DPR–69. Amendments revised the licenses.

Date of initial notice in "Federal Register": June 20, 1984 (49 FR 25350 at 25352).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 1, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Baltimore Gas & Electric Company, Docket Nos. 509–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: April 9, 1984.

Brief description of amendments: The amendments changed the Unit 1 and Unit 2 Technical Specifications (TS) to reflect: (1) Changes to the administrative requirements of TS 6.2, "Organization", associated with corporate organizational changes, (2) installation of additional fire protection instrumentation, and (3) a change in the administrative control of access to high radiation areas. These changes to the TS are in partial response to the application dated April 9, 1984. The remaining issues addressed in the April 9, 1984 application will be addressed in future correspondence.

Date of issuance: August 2, 1984.

Effective date: Within 30 days of its issuance.

Amendment Nos.: 96 and 77.

Facility Operating License Nos. DPR–53 and DPR–69. Amendments revised the Technical Specifications.

Date of initial notice in "Federal Register": June 20, 1984 (49 FR 25350 at 25353).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 2, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: March 2, 1984.

Brief description of amendment: The amendments incorporate Technical Specifications in response to NRC Generic Letter No. 83–36 dated November 1, 1983. These Technical Specifications are related to NUREG–0737 items which have to do with monitoring of radiation releases, containment conditions and control room habitability during and following accident conditions and impose additional limiting conditions for operation and surveillance requirements for the instrumentation for measuring the above quantities.

Date of issuance: August 13, 1984.

Effective date: August 13, 1984.

Amendment Nos.: 73 and 99.

Facility Operating License Nos. DPR–71 and DPR–62. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": May 23, 1984, 49 FR 21826.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 13, 1984.

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 No. 50–373, La Salle County Station, Unit 1, La Salle County, Illinois

Date of application for amendment: January 13, 1984, as modified by letters of March 22, 1984 and April 5, 1984.

Brief description of amendment: This amendment revises the La Salle, Unit 1 Technical Specifications to reflect changes incorporated into the La Salle County Station, Unit 2 Technical Specifications. Consequently, consistency and uniformity between Unit 1 and Unit 2 Technical Specifications will minimize the potential for confusion and Technical

Specifications violation, and allow a consistent basis for operating, maintainance and surveillance procedures for both units.

Date of issuance: August 8, 1984.

Effective date: August 8, 1984.

Amendment No.: 18.

Facility Operating License No. NPF-11. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register" Notice: June 20, 1984 (49 FR 25355).

Date of initial notice in "Federal Register": The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 8, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Commonwealth Edison Company, Docket No. 50-374, La Salle County Station, Unit 2, La Salle County, Illinois

Date of application for amendment: May 24, 1984.

Brief description of amendment request: This amendment revises the La Salle, Unit 2 Technical Specifications to reflect a reactor scram on low control rod drive pump discharge pressure modification as required for completion by License Condition 2.C.(7).

Date of issuance: July 24, 1984.

Effective date: July 24, 1984.

Amendment No.: 3.

Facility Operating License No. 18. Amendment revised both the Technical Specifications and License.

Date of initial notice in "Federal Register": June 20, 1984 (49 FR 24357).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 24, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Commonwealth Edison Company, Docket No. 50-254, Quad Cities Nuclear Power Station, Unit 1, Rock Island County, Illinois

Date of application for amendment: February 21 and 28, and May 8, 1984.

Brief description of amendment: These amendments revise the Technical Specifications to (1) incorporate new maximum average planar linear heat-generation rate (MAPLHGR) curves for new linear fuel of the same nuclear type as non-barrier fuel already approved and contained in the core, and approve extended MAPLHGR curves for assembly average burnup to 45,000 MWD/ST for certain fuel types that will comprise part of the core for the upcoming operating Cycle 8; (2) change the calibration and functional test frequencies for certain specific instrumentation that is being modified into analog trip systems and (3) incorporate appropriate Technical Specifications for operation with the newly modified scram discharge system.

Date of issuance: August 2, 1984.

Effective date: August 2, 1984.

Amendment No.: 90.

Facility Operating License No. DPR-29: Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": May 23, 1984, 49 FR 21827, and June 20, 1984, 49 FR 25358.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 2, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Moline Public Library, 504-17th Street, Moline, Illinois 61265.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: April 26, 1984.

Brief description of amendment: This amendment changes Figure 6.2-1 of the Technical Specifications to reflect the new Offsite Organization. The new organization will consolidate the nuclear portion of the company under a single management position, the Vice President.

Date of issuance: August 8, 1984.

Effective date: August 8, 1984.

Amendment No.: 79.

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": June 20, 1984 (49 FR 25359).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 8, 1984.

No significant hazards consideration comments received: None.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit 2, St. Lucie County, Florida

Date of application for amendment: December 22, 1983.

Brief description of amendment: The amendment changes the Axial Shape Index figures to reflect the fact that Limiting Conditions of Operation are not needed below 30% of rated thermal power.

Date of issuance: August 10, 1984.

Effective date: August 10, 1984.

Amendment No.: 6.

Facility Operating License No. NPF-16: Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": April 25, 1984 (49 FR 17850 at 17859).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 10, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: March 18, 1983, as supplemented January 17, 1984.

Brief description of amendment: The amendment revises the Technical Specifications to provide for a more realistic method for controlling personnel access to high radiation areas where no enclosures exist which would allow locking of a high radiation area boundary and where such enclosures could not reasonably be constructed. A notice regarding the Commission's consideration of this amendment was published in the Federal Register on December 21, 1983. A supplemental request was received from the licensee on January 17, 1984, which conformed the language of the proposed Technical Specification change to that of the Commission's Standard Technical Specifications but which did not alter the content of the previous Federal Register notice.

Date of issuance: August 10, 1984.

Effective date: August 10, 1984.

Amendment No.: 70.

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": December 21, 1983, 48 FR 56504.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 10, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Crystal River Public Library, 668 NW. 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 application for amendment: May 6, 1982, as supplemented January 20, and March 7, 1983, February 6 and February 23, 1984 (withheld from public disclosure).

Brief Description of amendment: The amendment revises the license to incorporate Revision 4 of the Crystal River Unit 3 physical security plan. Although the **Federal Register** Notice published on March 22, 1984, stated that the licensee's final supplement to the license amendment request was the February 6, 1984 submittal, the actual modified physical security plan was submitted on February 23, 1984. This final submittal was implementation of previous responses and therefore did not represent a substantive change to what had previously been submitted.

Date of issuance: August 13, 1984.

Effective date: August 13, 1984.

Amendment No.: 71.

Facility Operating License No. DPR–72. Amendment revised the license.

Date of initial notice in "Federal Register": March 22, 1984, 49 FR 10735. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 13, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida.

Northeast Nuclear Energy Company, et al., Docket No. 50336, Millstone Nuclear Power Station Unit 2, Town of Waterford, Connecticut

Date of application for amendment: January 18, 1984.

Brief Description of amendment: This amendment modified the Technical Specifications as follows: (1) Clarified the frequency for visual inspections; (2) provided requirements for functional testing of snubbers which visually appear inoperable; (3) included a formula for the selection of representative sample sizes; (4) clarified the testing acceptance criteria; and (5) revised the method of snubber listing to incorporate more information.

Date of issuance: August 2, 1984.

Effective date: August 2, 1984.

Amendment No.: 96.

Facility Operating License No. DPR–65. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": June 20, 1984 (49 FR 25350 at 25365). An earlier application dated July 15, 1981, which was superseded by the January 18, 1984 submittal, was published on July 20, 1983 (48 FR 33076 at 33082).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 2, 1984.

No significant hazards consideration comments received: No.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry and Howard, One Consitution Plaza, Hartford, Connecticut 06103.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: March 9, 1984.

Brief Description of amendment: The amendment added operability and surveillance requirements for the containment hydrogen, water, and pressure monitors.

Date of issuance: August 2, 1984.

Effective date: August 2, 1984.

Amendment No.: 82.

Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": April 25, 1984 (49 FR 17850 at 17867).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 2, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: November 29, 1982, as supplemented March 7, 1984.

Brief description of amendments: These amendments authorize changes to the Technical Specifications (1) to implement the requirements of Appendix I of 10 CFR Part 50; (2) to establish new limiting conditions for operation for average release rates; and (3) to revise environmental monitoring programs to assure conformance with the Commission's requirements of Appendix I to 10 CFR Part 50.

Date of Issuance: August 3, 1984.

Effective date: December 31, 1984.

Amendments Nos.: 102 and 104.

Facility Operating Licenses Nos. DPR–44 and DPR–56: Amendments revised the Technical Specifications.

Date of initial notice in "Federal Register": August 23, 1983, 48 FR 38417 and April 25, 1984, 49 FR 17870.

The Commission's related evaluation of the amendments is contained in a letter and Safety Evaluation dated August 3, 1984.

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.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 26, 1984.

Brief description of amendment: The amendment makes a minor change to the minimum required load for testing of the emergency diesel generators (EDGs) and deletes one of the 18-month surveillance tests for the EDGs. This test required a verification that, on a simulated loss of the EDGs with off-site power not available, the loads would be shed from the emergency busses and the subsequent loading of the EDG would be in accordance with design requirements.

Date of issuance: July 27, 1984.

Effective date: July 27, 1984.

Amendment No.: 89.

Facility Operating License No. NPF–1. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": June 20, 1984 (49 FR 25350 at 25370).

The Commission's related evaluation of the amendment is contained in the letter transmitting the amendment dated July 27, 1984.

No significant hazards consideration comments received: No comments received.

Location of Local Public Document Room: Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 26, 1984.

Brief description of amendment: The amendment revises the surveillance requirements for verifying reactor shutdown margin when one or more control rods are immovable or

untrippable and when starting up the reactor.

Date of issuance: August 2, 1984.

Effective date: August 2, 1984.

Amendment No.: 90.

Facility Operating License No. NPF–1. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": June 20, 1984 (49 FR 25350 at 25370).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated Agusut 2, 1984.

No significant hazards consideration comments received: No comments received.

Location of Local Public Document Room: Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 6, 1984.

Brief description of amendment: The amendment permits the continued use of a limited number of fuel assemblies with either three stainless steel rods or five stainless steel rods and additional grid straps in lieu of fuel rods. The modified fuel would be used in fuel cycle 7 and later fuel cycles.

Date of issuance: August 10, 1984.

Effective date: August 10, 1984.

Amendment No.: 91.

Facility Operating License No. NPF–1. Amendment revised the operating license.

Date of initial notice in "Federal Register": May 23, 1984 (49 FR 21824 at 21834). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 10, 1984.

No significant hazards consideration comments received: No.

Location of Local Public Document Room: Multnomah County Library, 801 SW. 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: February 25, 1983, as supplemented May 3, 1984.

Brief description of amendment: This amendment revises the existing TS requirements of section 4.11.B that these unit coolers be tested for operability during the surveillance testing of the associated ECCS pumps. The revised surveillance testing frequency for these coolers is once per three months.

Date of issuance: August 3, 1984.

Effective date: August 3, 1984.

Amendment No.: 82.

Facility Operating License No. DPR–28. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": February 24, 1984, 49 FR 7041. On May 3, 1984, the licensee submitted additional clarifying information. This supplemental information was not considered by the staff when the initial notice was published in the **Federal Register** on February 24, 1984. The information was clarifying in nature and therefore, the conclusions reached in the original notice for no significant hazard consideration are still acceptable.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 3, 1984.

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: April 15, 1983, as supplemented August 12, 1983.

Brief description of amendment: The amendment approves Technical Specification changes that (1) limit the working hours of unit staff performing safety related functions; and (2) provide for the reporting of safety and relief valve failures and challenges.

Date of issuance: July 31, 1984.

Effective date: July 31, 1984.

Amendment No.: 62.

Provisional Operating License No. DPR–18. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": September 21, 1983 (48 FR 43145) and May 23, 1984 (49 FR 21836). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 31, 1984. No significant hazards consideration comments received.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: December 6, 1983.

Brief description of amendment: The amendment revises the Technical Specifications to incorporate leak testing of the 66-inch containment purge valves and 12-inch containment equalizing valves at 6-month intervals.

Dat of issuance: August 10, 1984.

Effective date: August 10, 1984.

Amendment No.: 56.

Facility Operating License No. DPR–54. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": May 23, 1984, 49 FR 21838.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 10, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Tennessee Valley Authority, Docket Nos. 50–259 and 50–260, Browns Ferry Nuclear Plant, Units 1 and 2, Limestone County, Alabama

Date of application for amendment: August 24, 1984.

Brief description of amendment: The amendments change the Technical Specifications to delete surveillance requirements for dampers FCO–150A and FCO–150C which have been removed.

Date of issuance: July 27, 1984.

Effective date: July 27, 1984.

Amendment Nos.: 104 and 98.

Facility Operating License Nos. DPR–33 and DPR–52. Amendments revised the Technical Specifications.

Date of initial notice in "Federal Register": December 21, 1948, FR 56513. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 27, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

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 application for amendment: July 18, 1983.

Brief description of amendment: The amendments change Section 6.8 of the Technical Specifications to (1) replace "operator" with "reactor operator" to provide consistent nomenclature and (2) permit fuel handling operations to be supervised by a senior reactor operator whose qualifications are limited to fuel handling operations.

Date of issuance: July 30, 1984.

Effective date: July 30, 1984.

Amendment Nos.: 105, 99, and 72.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": November 22, 1983, 48 FR 52835. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

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 application for amendment: June 24, 1983.

Brief description of amendment: The amendments change the Technical Specifications related to the suppression chamber drain valves to (1) clarity the correct operating positions for these valves; (2) identify proper action of these valves in an initiating signal; and (3) correct typographical errors in the valve designation numbers.

Date of issuance: August 2, 1984.

Effective date: August 2, 1984.

Amendment Nos.: 106, 100, and 73.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in "Federal Register": November 22, 1983, 48 FR 52835. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 2, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

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 application for amendment: August 12, 1980, as superseded November 3, 1982.

Brief description of amendment: The amendments change the Technical Specifications to allow operation for up to 30 days with one of the sixteen main steam tunnel high temperature switches bypassed.

Date of issuance: August 9, 1984.

Effective date: August 9, 1984.

Amendment Nos.: 107, 101, and 74.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": November 22, 1983, 48 FR 52828. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 9, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

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 application for amendment: April 9, 1984.

Brief description of amendment: The amendments change the Technical Specifications to allow extension of surveillance intervals, clarify various instrumentation requirements, make an editorial correction and make corrections necessitated by plant modifications and changes to regulations.

Date of issuance: August 13, 1984.

Effective date: August 13, 1984.

Amendment Nos.: 108, 102, and 75.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": June 20, 1984 48 FR 25375 and 49 FR 25377.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated Autust 13, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

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: November 5, 1982 as modified by letters dated July 1, 1983 and August 18, 1983 (Item 5).

Brief description of amendment: The amendment modifies Technical Specification Sections 3.0.3 and 4.0.3, and Bases Section 3.0.3. It also adds a new Technical Specification Section 3.0.5 and Bases Section 3.0.5. The application for license amendment proposed, in addition to the changes approved herein, the addition of Section 4.0.3.1 which would specify actions required when a surveillance test is missed soley due to administrative error. This proposed change is still under review and is being evaluated as a separate licensing action.

Date of issuance: July 18, 1984.

Effective date: July 18, 1984.

Amendment No.: 71.

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": February 24, 1984, 49 FR 7045. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 18, 1984.

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: May 2, 1983 (Item 3 only).

Brief description of amendment: The amendment modifies Table 3.6.-2, which relates to containment isolation valves, to permit delaying surveillance testing of the main steam isolation values, MS 100 and MS 101 until after entering Mode 4 during startup but prior to entering Mode 3. These changes will allow surveillance testing of the valves when there is sufficient steam in the main steam lines to lubricate the value piston rings, thereby minimizing the potential for damage to the valve.

Date of issuance: July 20, 1984.

Effective date: July 20, 1984.

Amendment No.: 72.

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": March 22, 1984, 49 FR 10746. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 20, 1984.

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: November 25, 1981 (Item 2) as modified by letter dated February 22, 1983.

Brief description of amendment: This amendment revises the Technical Specifications to add new Sections 3.3.2.3 and 4.3.2.3 and new Tables 3.3-15 and 4.3-15 to reflect the addition of the final Anticipatory Reactor Trip System.

The Basis for the specifications has also been added.

Date of issuance: July 25, 1984.

Effective date: July 25, 1984.

Amendment No.: 73.

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": April 25, 1984, 49 FR 17875. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 25, 1984.

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: May 19, 1983.

Brief description of amendment: The amendment changes the Technical Specifications to require an audit of the Davis-Besse Nuclear Power Station Emergency Plan and Implementing Procedures and the Davis-Besse Nuclear Power Station Security Plan and Implementing Procedures at a frequency of at least once per 12 months.

Date of issuance: July 31, 1984.

Effective date: July 31, 1984.

Amendment No.: 74.

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": November 22, 1983, 48 FR 52837. The Commission's related evaluation of the amendment is contained in a letter to the licensee dated July 31, 1984.

No signifcant 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: February 23, 1984.

Brief description of amendment: The amendment revises the license by deleting the requirement for an Automatic Air Dump System imposed by NRC Order for Modification License dated Juanuary 9, 1981.

Date of issuance: August 1, 1984.

Effective date: August 1, 1984.

Amendment No. 82.

Facility Operating License No. DPR-28. Amendment revised the license.

Date of initial notice in "Federal Register": May 23, 1984 49 FR 21847. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 1, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brook Memorial Library, 244 Main Street, Brattleboro, Vermont 05301.

Washington Public Power Supply System, Docket No. 50-397, WNP2, Richland, Washington

Date of application for amendment: May 11 and June 15, 1984.

Brief description of amendment: This amendment will change the requirements of 10 CFR 50.44 until either the required 100 percent rated thermal power trip startup tests have been completed or the reactor has operated for 120 effective full power days.

Date of issuance: July 27, 1984.

Effective date: July 27, 1984.

Amendment No. 3.

Facility Operating License No.: NPF-21. Amendment revised Technical Specifications 3.10.5.

Date of initial notice in "Federal Register": June 18, 1984, 49 FR 24957. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated 27, 1984.

No significant hazards consideration comments received: *Yes.*

Source: public.

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington.

Washington Public Power Supply System, Docket No. 50-397, WNP2, Richland, Washington

Date of application for amendment: January 20; February 8 and May 4, 1984

Brief description of amendment:

(1) Technical Specification Table 4.3.7.12-1: Note 7 is added top state that "for the Channel Functional Test on intermediate range noble gas activity monitors, demonstrate that circuit failures or instrument controls when set in the OFF position produce control room alarm annunciation."

(2) Technical Specification Table 3.6.3-1, Primary Containment Isolation Valves: The closure times is revised from 5 seconds to 15 seconds for the 8 Reactor Recirculation Hydraulic Valves and Reactor Recirculation (Seal Injection) Valves RR-V-16 A, B.

(3) Technical Specification 3/4.8.1, A. C. Sources: In the note referred to in paragraph 4.8.1.1.2.a, Items 4 and 5, the word "only" is changed to "at least" to allow the flexibility to perform more than one cold start test of the diesel generator per 184 days as currently required.

(4) Technical Specification 3/4.8.3, Onsite Power Distribution Systems: Paragraph 3.8.3.2b is modified to clarify that distribution panel DP-S1-1F is the Division 1 125-VDC critical switch gear distribution panel and DP-S1-1D is the Division 1 remote shutdown distribution panel.

(5) Technical Specification 3/4.9.2, Instrumentation: In item b, the words "audible indication" is changed to "alarm."

(6) Technical Specification 6.2.3, Nuclear Safety Assurance Group (NSAG): Paragraph 6.2.3.2 is modified to include qualification of NSAG consistent with FSAR & SER. In line 3 after the word "science" the following is added: or qualifications meeting ANS 3.1 Draft Revision, dated March 13, 1981, Section 4.2 or 4.4 or equivalent, as described in Section 4.1

Date of issuance: August 14, 1984.

Effective date: August 14, 1984.

Amendment No.: 4.

Facility Operating License No. NPF-21: Amendment revised the Technical Specifications.

Date of initial notice in "Federal Register": May 23, 1984, 49 FR 21849. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 14, 1984.

No significant hazards consideration comments received: *No.*

Local Public Document Room location: Richland City Library, Swift and Northgate Streets, Richland, Washington.

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 document related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By September 21, 1984, 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 intevene 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) 342–6700). 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 petition 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).

Carolina Power & Light Company, Docket No. 50–325 Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of application for amendment: May 10, 1984, as supplemented June 20, 1984.

Brief description of amendment: The amendment permits a one-time extension of the surveillance interval on the excess flow check valves for two and one-half months.

Date of issuance: August 10, 1984.

Effective date: August 10, 1984.

Amendment No.: 72.

Facility Operating License No. DPR–71. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. July 19, 1984, 49 FR 29339.

Comments received: No.

The Commission's related evaluation is contained in a Safety Evaluation dated August 10, 1984.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Dated at Bethesda, Maryland this 15th day of August 1984.

For the Nuclear Regulatory Commission.

Charles M. Trammell III,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 84–22152 Filed 8–21–84; 8:45 am]

BILLING CODE 7590–01–M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Prospective Payment Assessment Commission; Meeting

Notice is hereby given of a meeting of the Prospective Payment Assessement Commission scheduled for Wednesday, September 12, 1984. The meeting will convene at 9:00 a.m. at the Mayflower Hotel, 1127 Connecticut Avenue, Northwest, East Room, and will be open to the public.

Donald A. Young, M.D.,

Executive Director, Prospective Payment Assessment Commission.

[FR Doc. 84–22029 Filed 8–21–84; 8:45 am]

BILLING CODE 6820–BW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14089; 812–5892]

Ohio National Fund, Inc.; Filing of Application

August 14, 1984.

Notice is hereby given that Ohio National Fund, Inc. ("Applicant") 237 William Howard Taft Road, Cincinnati, Ohio, 45219, filed an application on July 6, 1984, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") granting exemptions from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 promulgated thereunder, to the extent necessary to permit it to use the amortized cost method of valuation for short-term debt obligations held in its Omni Portfolio. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and Rules thereunder for a statement of the relevant provisions.

Applicant is a corporation organized under the laws of Maryland which is registered under the Act as an open-end diversified management investment company. O.N. Investment Management Company ("ONIMCO") is the investment manager of the Applicant. The Applicant has four Portfolios, interests in each of which are represented by a separate class of capital stock. Applicant represents that it intends to offer its capital stock exclusively to The Ohio National Life Insurance Company ("Ohio National Life"), its affiliated companies and separate accounts and pension and profit-sharing plans of such companies established in connection with certain variable annuity contracts.

Applicant desires to use the amortized cost method for the purpose of valuing short-term debt obligations held in its Omni Portfolio. According to the application, the Omni Portfolio invests in a combination of short-term debt obligations, intermediate and long-term bonds, and common stocks. Under the amortized cost method of valuation, securities are originally valued at the cost at which they were purchased, and their value is adjusted daily to account for amortization of any premium, or for accretion of any discount. The Act, however, requires an investment company to calculate net asset value for the purpose of pricing its shares by valuing at market value portfolio securities for which market quotations are readily available.

According to Applicant, the primary concern that the Commission has expressed about use of the amortized cost valuation method has been that this method of valuation may, in times of sharp increases or decreases in interest rates, result in dilution of shareholders' interests in investment companies. Applicant states that in order to protect against such dilution, prior exemptions granted by the Commission and Rule 2a–7 under the Act to permit money market funds to use amortized cost valuation contain a series of conditions designed to assure that use of amortized cost valuation will not result in excessive dilution or other unfair results to shareholders. Applicant further states that, in connection with the valuation of short-term debt securities held by its Omni Portfolio, it is willing to consent to the imposition of what are in substance the same conditions as those generally imposed by the Commission in prior exemptive orders and Rule 2a–7 under the Act, except for the condition requiring a stable net asset value per share. Applicant submits that the Omni Portfolio cannot maintain a constant net asset value per share since it invests in common stocks and intermediate and long-term bonds as well as in short-term debt obligations. Applicant submits that there is no necessary relationship between use of the amortized cost method of valuation and the maintenance of a stable price for each share of an investment company. Applicant asserts that the inclusion of this condition in prior exemptive orders and Rule 2a–7 came about because money market funds that sought exemptions to permit them to use amortized cost valuation did so to facilitate their ability to maintain a stable price per share for the convenience of their shareholders. Applicant states that it seeks to use amortized cost valuation for short-term debt obligations held in its Omni Portfolio in order to achieve significant savings in its administrative costs.

Applicant submits that the use of the amortized cost method of valuation in connection with the operation of the Omni Portfolio is especially unlikely to result in any dilution or other unfair effects to shareholders invested in that Portfolio because it is not a "money market fund," but rather a particular type of investment medium for variable annuity contracts. The contractholders who participate in the Omni Portfolio will tend to have a longer range investment perspective than is typical of shareholders in money market funds, since withdrawals from the contacts may involve the payment of deferred

sales changes and adverse federal income tax consequences. Applicant further states that such a long-range investment perspective is especially likely to be characteristic of those contractholders who allocate their purchase payments to the Omni Portfolio. According to the application, the Omni Portfolio is designed to accommodate those contractholders who do not wish to allocate by themselves their purchase payments among equity, bond, and money market investments, but who rather wish ONIMCO to do so by varying the investments of the Omni Portfolio among those types of securities as its appraisal of current economic and financial conditions dictates. Applicant states that even large fluctuations in interest rates are therefore unlikely to trigger large-scale investments in or redemptions of shares of the Omni Portfolio since participants or potential participants in that Portfolio are not likely to be the type of investors who wish to actively manage their investments.

Applicant therefore requests exemptions from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent deemed necessary to permit it to use the amortized cost method for valuing debt obligations of one year's maturity or less held in its Omni Portfolio. Applicant states it is willing to consent to the entry of an order by the Commission conditioning the grant of its exemption request upon the following conditions:

(1) In supervising the operations of Applicnt and delegating special responsibilities involving portfolio management to its investment manager, Applicant's Board of Directors undertakes (as a particular responsibility within the overall duty of care owed to Applicant's shareholders) to establish procedures reasonably designed, taking into account current market conditions and the Omni Portfolio's investment objectives, to minimize the deviation between the Omni Portfolio's short-term debt obligations as computed through use of the amortized cost method of valuation, and its value as determined through use of available market quotations.

(2) Included within the procedures to be adopted by the Board of Directors shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the Omni Portfolio's short-term debt obligations, as determined by using available market quotations, from its value as computed through use of the amortized cost method of valuation; and the maintenance of records of such review. To fulfill this condition, the Applicnt will use actual quotations or estimates of market value reflecting current market conditions chosen by the Board of Directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio investments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the amortized cost value of the short-term debt obligations of the Omni Portfolio, exceeds one-half of one percent (0.5%), a requirement that the Board of Directors promptly consider what action, if any, should be initiated.

(c) If the Board of Directors believes the extent of any deviation from the amortized cost value of the short-term debt obligations in the Omni Portfolio may result in material dilution or other unfair results to contractholders, it will take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which may include: selling portfolio instruments prior to maturity to realize capital gains or losses to shorten such Portfolio's average portfolio maturity; withholding the crediting of additional shares in lieu of dividends; redeeming shares in kind; or using a net asset value per share as determined by using available market quotations.

(3)(a)(i) The Omni Portfolio will use the amortized method of valuation only for their short-term debt obligations—*i.e.*, obligations with remaining maturities of one year or less (except that repurchase agreements having a term of one year or less from the date of delivery of the repurchase agreement may be valued through use of the amortized cost method of valuation regardless of the maturity of the underlying securities held pursuant to the repurchase agreement).

(ii) The Omni Portfolio shall maintain a dollar-weighted average portfolio maturity for its short-term debt obligations appropriate to its objective of minimizing the deviation from its net asset value per share, as determined through use of the amortized cost method of valuation, from its net asset value per share, as determined through use of available market quotations, provided, however, that the Omni Portfolio shall never maintain a dollar-weighted average portfolio maturity for its short-term debt obligations which exceeds 120 days. If the disposition of a portfolio instrument should result in a dollar-weighted average portfolio maturity for the short-term debt obligations of the Omni Portfolio which exceeds 120 days, such Portfolio's available cash will be invested in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

(b) The maturity of short-term debt obligations held by the Omni Portfolio shall be calculated as set forth in Rule 2a–7 under the Act or in such other manner as the Commission may require by rule or order.

(4) Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in subparagraph (1) above, and the Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

(5) The short-term debt obligations held in the Omni Portfolio, including repurchase agreements, will be limited to those United States dollar-denominated instruments which the Board of Directors determines present minimal credit risks, and which are of high quality. For this purpose, "high quality" instruments shall mean those instruments which are rated by any major rating agency within its two highest rating categories or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

(6) If any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter, Applicant will file a quarterly report on Form N–1Q and will include, as an attachment thereto, a statement describing the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for this request, and the specific issues, if any, of fact or law that

are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personaly 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. 84-22224 Filed 8-21-84; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange

August 15, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rules 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Inter-Regional Financial Group, Inc.
Common Stock, $.12-1/2 Par Value (File No. 7-7797)
NBI, Inc.
Common Stock, $.10 Par Value (File No. 7-7798)
Pacific Resources, Inc.
Common Stock, No Par Value (File No. 7-7799)
Storer Communications
Common Stock, $1.00 Par Value (File No. 7-7800)
Shoe-Town, Inc.
Common Stock, $.01 Par Value (File No. 7-7801)
Tribune Co.
Common Stock, $25.00 Par Value (File No. 7-7802)
United States Leasing International, Inc.
Common Stock, $1.00 Par Value (File No. 7-7803)
Veeco Instruments, Inc.
Common Stock, $1.00 Par Value (File No. 7-7804)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 6, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-22227 Filed 8-21-84; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange

August 15, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rules 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Amtek, Inc.
Common Stock, $1.00 Par Value (File No. 7-7805)
Banctexas Group, Inc.
Common Stock, No Par Value (File No. 7-7806)
Bairnco Corp.
Common Stock, $.05 Par Value (File No. 7-7807)
Circus Enterprises, Inc.
Common Stock, $.10 Par Value (File No. 7-7808)
Damson Oil Corp.
Common Stock, $.40 Par Value (File No. 7-7809)
Freeport-McMorhan Oil & Gas Royalty Trust
Shares of Beneficial Interest, No Par Value (File No. 7-7810)
General Datacom Industries, Inc.
Common Stock, $.10 Par Value (File No. 7-7811)
General Nutrition, Inc.
Common Stock, No Par Value (File No. 7-7812)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Helionetics, Inc.
Common Stock, $.10 Par Value (File No. 7-7813)
Geothermal Resources International, Inc.
Common Stock, $.50 Par Value (File No. 7-7814)

Interested persons are invited to submit on or before September 6, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Excahnge Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-22226 Filed 8-21-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21247; SR-BSE-84-3]

Self-Regulatory Organization; the Boston Stock Exchange; Filing of Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is whereby given that on July 6, 1984, the Boston Stock Exchange filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Boston Stock Exchange is proposing to amend Chapter XX, Section 6 of the Exchange's rules to add a new rule which would require a member or member organization or employee thereof that gives any compensation to an employee of another member or member organization or other financial concern [1] in excess of $100 to first obtain

[1] Such financial concerns include any officer or employee of a news or financial information medium, bank, trust company, insurance company or any corporation, firm or individual engaged in the business of dealing, either as broker or principal, in stocks, bonds or other securities, bills of exchange, acceptances or other forms of commercial paper.

the prior written consent of the recipient's employer.[2] However, gratuities valued at $100 or less in total given to any one person specified in Section 6, during the calendar year, are exempt from the rule's consent and notice requirement.

In addition, the proposed rule would require that a record of each gratuity given to a person covered by Section 6 be retained and available for inspection by the Exchange for at least three years. The Exchange has stated in its filing that the proposed amendment is consistent with section 6(b)(5) of the Act in that it is designed to prevent fraudulent acts and practices which might arise in connection with the giving of gifts without such employer's knowledge.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six 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–BSE–84–3.

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, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–22229 Filed 8–21–84; 8:45 am]

BILLING CODE 8010–01–M

[2] In the case of gifts by a member or member organization or employee thereof to floor employees of the BSE, the prior written consent of both the employer and the BSE is required.

[Release No. 34–21240; File No. SR–CBOE–84–20]

Self-Regulatory Organization; Chicago Board Options Exchange, Inc., Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 19, 1984, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The Exchange files as a rule change the following memorandum to members, which slightly revises its prior memorandum on the suject, which also was filed as a rule change (SR–CBOE–84–08):

To: The Membership
From: Alan Resser, Chairman
Exemption Committee
Re: Position and Exercise Limit
Exemption Procedures

The Exemption Committe became a part of the Exchange Committee struture on February 8, 1984. To insure that all members are aware of Committee policy as regards the granting of position and exercise limit exemptions, the policy is set forth below. It is slightly revised from the policy published in the Exchange Bulletin date February 8, 1984. Explanatory notes have also been included. The Exchange's Executive Committee has approved the following position and exercise limit exemption policy and procedures.

Policies With Regard to Granting Exemptions to Position and Exercise Limits (Revised)

Exchange Rules 4.11, and 4.12 provide that the President or his designee may authorize exemptions to the currently applicable position and exercise limits. The purpose of this process is to assure that there is sufficient depth and liquidity of the market place, and not to confer a right upon the market-maker applying for an exemption.

In light of the procedural safeguards set forth below, the purpose of the exemptive process, and the prohibition against the granting of retroactive exemptions, the Executive Committee has determined that Exemption Committee decisions granting or denying exemptions are not subject to review under Chapter XIX of the Exchange Rules regarding Hearings and Review.

Policy

1. An exemption may be granted for the purpose of maintaining a fair and orderly market in the options on a given underlying security.

2. Generally, an exemption will be granted only to a market-maker who has requested an exemption, who holds an appointment to the options where the exemption is requested, whose positions are near the current position limit and who is significant in terms of daily volume. (The interpretation of this point has been that the positions must be within 10% of the applicable limits).

3. If an exemption is granted, it will be effective at the time the decision is communicated. *Retroactive exemptions will not be granted.*

4. The size and length of an exemption will be determined on a case by case basis (An exemption is usually granted until the nearest expiration).

Procedures

1. A request for an exemption from the established position and exercise limits must be in writing and *must state the specific reasons* why an exemption should be granted.

2. The request should be submitted to Nancy Wagner, Manager, in the Department of Surveillance on the seventh floor.

3. The Chairman of the Exemption Committee will appoint panels, usually consisting of three members of the Committee, to review, among other factors, such matters as market-maker positions, trading activity, and comments by trading crowd members concerning market conditions. A Panel will make a recommendation to the President or his designee as to whether or not an exemption should be granted.

4. A Panel will normally meet after the market close on Tuesdays and Thursdays. To ensure review by a Panel, exemption requests must be submitted to Nancy Wagner no later than 10:00 a.m. on the day of a meeting. A panel's review is conducted informally, and a panel may receive information in such manner as is most effective, in its discretion, to ascertain whether an exemption is necessary to maintain depth and liquidity in the market.

5. Based upon the recommendation of a Panel the President or his designee will decide whether to grant the requested exemption.

6. The President or his designee will communicate the exemption decision to the requesting market-maker and his clearing form as soon as possible,

generally on the day following Panel review.

7. Ordinarily, a first application will be considered by a panel without the presence of the applicant. If a market-maker's request for an exemption has been denied and he wishes to reapply for an exemption he may make a brief personal appearance at the next scheduled exemption committee meeting to present only those issues not previously considered by the Committee.

The above procedures have been established for market-makers nearing the limits due to general market conditions. Please note that the President or his designee will consider instant exemption requests for extraordinary situations, such as an order imbalance or position limit restriction of market-makers who are near the limits in highly unusual circumstances. Requests for instant exemptions should be made by calling Nancy Wagner at 786–7714 or Pat Cerny at 786–7722.

Regarding instant exemptions, a market-maker may be qualified for an instant exemption if there is a customer order in one of his assigned option classes which may not be able to be filled due to position limit restrictions. If this situation exists, the market-maker should contact either Bob Fodor, Gary Knoblauch, Jeff Wolfson or Charles Woodward of the Exemption Committee as well as Nancy Wagner of Exchange staff.

The following their immediate review of the situation, a decision will be made as to whether an exemption is warranted.

A list of current exemptions will be posted in a generally accessible area and will include, but may not be limited to, the following information: The exemption recipient's name,. and the class, size, and duration of each exemption. The list will be updatd after each exemption meeting.

For information regarding the exemption policy, contact Nancy Wagner at 786–7714, Alan Resser on the trading floor or any other member of the Committee.

The members are: Alan Resser, Chairman; Bob Fodor, Vice Chairman; Mike Kelly, Tom Bond, Lanny Brooks, Dave Johnson, Herchel Portman, Jerry EtsHokin, Charles Woodward, Gary Knoblauch, Ernie Naiditch, Jeff Wolfson, and Gary Lahey.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this rule change is to revise the Exchange's memorandum to members concerning exemptions to position and exercise limits. The memorandum is organized into two sections: Policy and procedures. There will be an Exemption Committee, from which the Committee Chairman will appoint Panels to consider requests. There only will be a recommendation from a Panel and not a separate staff recommendation, since staff will make its recommendation to the Panel. Finally, an instant exemption may be given by the President and his designee in extraordinary circumstances. The statutory basis for this rule change is secion 6(b)(5) of the Securities Exchange Act of 1934 (the Act), in that it will protect investors and promote just and equitable principles of trade.

This revised memorandum also (1) emphasizes the informality of the process, (2) specifies that the discretionary process is not subject to review under Chapter XIX of the Exchange Rules, and (3) provides for public posting of granted exemptions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

This proposal will not impose any burden on competition that is not necessary or apopropriate under the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 12, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 14, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–22225 Filed 8–21–84: 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21248; SR–NSCC–84–12]

Self-Regulatory Organization; National Securities Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 23, 1984, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change described below. The Commission is publishing this notice to solicit comments.

NSCC's proposal amends several NSCC rules and procedures to clarify rights and obligations of Settling Members and Municipal Comparison Only Members ("MCOMs"). Specifically, the proposal clarifies: (1) NSCC's authority to examine the financial responsibility and operational capability of MCOMs, (2) fees charged to NSCC Members maintaining more than one sub-account ("number") for comparison processing, and (3) delivery obligations for municipal securities positions removed from NSCC's Continuous Net Settlement ("CNS") system.

First, the proposal explicitly authorizes NSCC to examine the financial responsibity and operational capability of MCOM applicants and continuing MCOMs. In conducting such examinations, NSCC may inspect books and records and require sworn testimony. In addition, the proposal requires all MCOMs to submit quarterly to NSCC a copy of Part II or Part IIA of their Financial and Operational Combined Uniform Single ("FOCUS") Reports.[1]

Next, the proposal adds a footnote to NSCC's current fee schedule to clarify the discount to Members maintaining more than ten numbers.[2] The footnote specified that the discount only applies when NSCC does not provide training to entities on whose behalf the additional numbers are maintained.[3]

Finally, the proposal clarified delivery obligations for municipal securities positions that are removed from CNS processing when: (1) A municipal security becomes ineligible for CNS processing, or (2) a participant having a net long position submits a buy-in instruction. In those cases, NSCC's current procedures provide that NSCC will issue, receive, and deliver orders to be settled under MSRB rules, and that NSCC will not guarantee those settlement obligations. NSCC's proposal clarifies that when such receive and deliver orders are issued, they may name as the *contra* party participants of an interfaced clearing corporation as well as other NSCC Members. Receive and deliver orders will not name another clearing corporation as the *contra* party. Furthermore, if the named *contra* party is not itself an NSCC Member, NSCC's Envelope Settement Service may not be used to make physical delivery.[4] Other delivery methods, such as drafting services or NSCC's Correspondent Delivery and Collection Service, must be used.

NSCC believes the proposal is necessary to clarify participant obligations under NSCC rules in an area that is also governed by MSRB rules. Specifically, NSCC states that because MSRB close-out rules allow a longer period for delivery than is allowed under NSCC rules, NSCC cannot accommodate buy-ins of municipal securities under its current buy-in procedures.[5] Consequently, buy-in instructions for a municipal security result in removal of the long position from the CNS system and issuance of receive and deliver orders that can be settled in the time frame prescribed by MSRB rules. NSCC also believes that the proposal is necessary to clarify participant obligations with respect to examinations and payment of fees. NSCC therefore believes that the proposal facilities prompt and accurate clearance and settlement of securities transactions and is consistent with Section 17A of the Act.

NSCC's proposal has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of NSCC's proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the Federal Register. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–NSCC–84–12.

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 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–22223 Filed 8–21–84; 8:45 am]

BILLING CODE 8010–01–M

[1] The Commission notes that section 17A(b)(3) of the Act prohibits a registered clearing agency from unfair discrimination in the admission of participants. Furthermore, under section 19(f) of the Act, the Commission may review clearing agency decisions to deny membership or participation.

[2] The discount reduces the monthly fee from $100 to $25 for the eleventh and each additional number maintained by a Member.

[3] If NSCC provides training to a non-NSCC Member for whom a number is maintained, the monthly fee for that number is $1 per side compared, up to $100.

[4] MSRB Rule G–12 requires physical delivery for settlement of close-out obligations.

[5] MSRB Rule G–12 allows at least 11 days for delivery after notice of intention to buy-in, while NSCC Rule 10 and Procedures VI K and IX allow only two days for delivery. The MSRB allows a longer time for delivery because municipal securities markets historically have lacked depth and easy availability of securities certificates. Therefore, NSCC believes it appropriate not to guarantee delivery obligations for municipal securities positions removed from the CNS system. However, NSCC has proposed this procedure as an interim measure only. The Commission notes that on February 1, 1985, when municipal securities transactions are required to be settled by book-entry movement at a registered securities depository, a deeper and more organized market for municipal securities should develop. The Commission anticipates that NSCC will reevaluate the need for this procedure based on its experience after that date.

[812–5875; Release No. 14101]

Lutheran Brotherhood Fund, Inc., et al.; Application for an Order Approving Certain Offers of Exchange

August 15, 1984.

In the matter of Lutheran Brotherhood Fund, Inc., Lutheran Brotherhood Income Fund, Inc., Lutheran Brotherhood Money Market Fund, Lutheran Brotherhood Municipal Bond Fund, Inc., Tax-Free Instruments Trust, 421 Seventh Avenue, Pittsburgh, PA 15219, Lutheran Brotherhood Securities Corp., 625 Fourth Avenue South, Minneapolis, MN 55415 and Federated Securities Corp., 421 Seventh Avenue, Pittsburgh, PA 15219.

Notice is hereby given that Lutheran Brotherhood Fund, Inc. ("LB Fund"), Lutheran Brotherhood Income Fund, Inc. ("Income"), Lutheran Brotherhood Money Market Fund ("Money Market"), Lutheran Brotherhood Municipal Bond Fund, Inc. ("Municipal"), all of which are sold through registered representatives or general agents or both who are, or may become, parties to agreements with Lutheran Brotherhood Securities Corp. ("LBSC") (collectively, the "Lutheran Brotherhood Funds");

Tax-Free Insturments Trust ("Tax-Free," collectively with the Lutheran Brotherhood Funds, "Funds"), which is sold through broker-dealers which are, or may become, parties to dealer agreements with Federated Securities Corp. ("Federated"); and LBSC and Federated (collectively, "Applicants"), filed an application on June 18, 1984, and an amendment thereto on August 2, 1984, requesting an order of the Commission pursuant to Section 11(a) of the Investment Company Act of 1940 ("Act") approving the terms of certain proposed offers of exchange on a basis other than relative net assets values of the shares involved in the exchanges. 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 for the text of Section 11(a).

Applicants state that each of the Funds is registered as an open-end investment company under the Act. LBSC is registered as a broker-dealer under the Securities Act of 1934, acts as the principal distributor for the Lutheran Brotherhood Funds and maintains a continuous public offering of their shares at their current public offering price. Federated is registered as a broker-dealer under the Securities Act of 1934, acts as the principal distributor for Tax-Free and maintains a continuous public offering of its shares.

Applicants state that shares of Money Market and Tax-Free (the "No-Load Funds") are sold without a sales charge. Shares of LB Fund, Income and Municipal are sold at net asset value plus a maximum sales load of 5.0% (the "LB Load Funds"). The sales charge is reduced on larger purchases of shares of each of the LB Load Funds, with a minimum sales load of ½% on purchases of $500,000 or more.

Applicants assert that the exchange plan would allow shareholders of the No Load Funds to exchange shares from their current Fund, with written or telephonic instructions, into an LB Load Fund. Specifically, Applicants request an order to permit: (i) The LB Load Funds and LBSC to offer shares of the LB Load Funds in exchange for shares of Money Market, including reinvested shares, at net asset value plus the applicable sales charge; and (ii) the LB Load Funds and LBSC to offer shares of the LB Load Funds in exchange for shares of Tax-Free, including reinvested shares, at net asset value plus the applicable sales charge. Each exchange will be subject to a minimum exchange amount equal to the minimum initial investment of the Fund into which the exchange is to be made. Since the proposed exchange offers may be interpreted to be made on a basis other than relative net asset values, Applicants request an order, pursuant to Section 11(a) of the Act, approving the terms of the proposed exchange offers.

Applicants state that the purpose of the proposed exchange plan is to provide greater investment flexibility to shareholders whose investment objectives have changed. Applicants represent that a shareholder acquiring shares on any LB Load Fund through such an exchange would pay the same overall sales charge as a proportion of the public offering price that he would have paid had he directly purchased shares of one of the LB Load Funds. Applicants assert that if the full sales load were not charged, the exchanging shareholder would be inequitably benefited because he would not pay the sales load that an investor purchasing directly into the Fund would pay. Applicants state that the financial incentives to sales representatives to recommend exchanges are minimal since shareholders will receive credit for all sales charges paid prior to an exchange. LBSC and Federated, the principal distributors of the Lutheran Brotherhood Funds and Tax-Free, respectively, will monitor its sales representatives to insure that exchanges are not initiated for any sales representative's personal gain.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 10, 1984, 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. 84-22228 Filed 8-21-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 06/06-0286]

Gill 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 (1984)), 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: Gill Capital Corporation

Address: 615 Soledad Street, San Antonio, Texas 78205.

The proposed officers, directors and 10 or more percent, direct or indirect, stockholders of the Applicant are as follows:

William R. Cain, President and Director, 13400 Blanco No. 407, San Antonio, Texas 78216

Morris W. Wosnig, Executive Vice President and Director, 705 Fawndale, San Antonio, Texas 78239

Thaddeus J. Dorsey, Secretary/Treasurer, 219 Gardenview, San Antonio, Texas 78213

Judith Knight Shields, Vice President, 11660 Huebner Road No. 304, San Antonio, Texas 78230

Gary R. Imig, Assistant Secretary Treasurer, 1225 Wiltshire Avenue, San Antonio, Texas 78209

Edward E. Mattson, Director, 2607 Kaiser, San Antonio, Texas 78222

Christopher Gill, Director, 310 Paseo Encinal, San Antonio, Texas 78212

Peter Gill, Director, 20350 Highway 281 N., Park Ranch Road, San Antonio, Texas 78260.

Gill Financial Corporation, a wholly owned subsidiary of Gill Savings Association, 100 percent.

Beneficial holders of 10 or more percent of the voting securities of Gill Saving Association.

Mrs. Josephine Gill Hudson, 5555 Del Monte No. 2406, Houston, Texas 77056

Mrs. Josephine Gill Hudson as Executrix Estate of Richard Gill, 5555 Del Monte No. 2406, Houston, Texas 77056

Richardson Gill, 3234 Terryhollow Lane, Austin, Texas 78703

Peter Gill, 20350 Highway 281 N., Park Ranch Road, San Antonio, Texas 78206

Christopher Gill, 310 Paseo Encinal, San Antonio, Texas 78212.

The applicant, a Texas corporation will begin operations with $10,000,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of Texas.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of 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 San Antonio, Texas area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 15, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[Declaration of Disaster Loan Area No. 2165]

Texas; Declaration of Disaster Loan Area

The area affected is bordered on the north by Park Row, on the south by Pioneer Parkway, on the east by SH 360 and on the west by New York Avenue in the City of Arlington, Tarrant County, Texas. This constitutes a disaster area because of damage resulting from a fire which occurred on August 1, 1984. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 15, 1984, and for economic injury until the close of business on May 16, 1985, at the address listed below:

Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051

or other locally announced locations.

Interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (Non-profit organizations including charitable and religious organizations)	10.500.

The number assigned to this disaster is 216505 for physical damage and for economic injury the number is 620100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 16, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-22272 Filed 8-21-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of Secretary

[Public Notice 913]

Certain Nonimmigrant Visas; Validity

Notice is hereby given that consular officers are authorized to issue, in their discretion, nonimmigrant visas under section 101(a)(15)(B) of the Immigration and Nationality Act (temporary visitors for business or pleasure) valid for an indefinite period of time to otherwise eligible nationals of the countries listed below, which offer reciprocal or more liberal treatment to nationals of the United States who are in a similar class.

This order, which adds several countries to the list and incorporates recent amendments, will be amended from time to time to include other countries which accord similar privileges to United States citizens. The asterisks identify those countries which have been added with this Notice.

In addition, beause of recent changes in the treatment of U.S. national in certain nonimmigrant classes, Suriname, formerly Surinam, has been deleted from that list under the provisions of section 101(a)(15)(B), in order to accord its nationals the same reciprocal treatment currently accorded U.S. nationals.

Anguilla*
Antigua and Barbuda*
Austria
Bahamas
Barbados
Belize
Belgium
Bermuda*
Bolivia*
Botswana
Brunei*
Cayman Islands*
Canada*
Central African Republic
Chile
Cyprus
Denmark
Fiji
Finland
France
German, Federal Republic of
Gibraltar*
Greece
Guatemala*
Iceland
Ireland
Israel
Italy
Jamaica
Lesotho
Liechtenstein
Luxembourg
Malawi
Malaysia*
Maldives, Republic of
Malta
Mauritius*
Seychelles, Republic of
Singapore
Mexico
Monaco
Morocco
Netherlands
Netherlands Antilles
New Zealand
Norway
Panama*
Paraguay
Peru*
Philippines*
Portugal
St. Christopher-Nevis*
St. Lucia*
St. Vincent and the Grenadines*
Saint Pierre and Miquelon
San Marino
Spain
Swaziland*
Sweden
Switzerland
Thailand*
Tonga*
Trinidad and Tobago
Tunisia
Turkey
Tuvalu*
United Kingdom
Urguay
Venezuela*
Virgin Islands*

Public Notice 767 of August 4, 1981, issued at 46 FR 39718 and any amendments thereto are hereby superseded.

Dated: August 15, 1984.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 84-22260 Filed 8-21-84; 8:45 am]

BILLING CODE 4710-06-M

[Public Notice CM-8/758]

Modem Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the Modem Working Party of Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on September 6, 1984 at the Pheasant Run Resort, 23W555 North Avenue, St. Charles, Illinois (Chicago area). The meeting will begin at 8:30 a.m.

This Working Party deals with matters in telecommunications relating to the development of international digital data transmission. Agenda for the meeting is as follows:

1. Selection of a new chairman;

2. Review the report of the recent 14.4 kilobits-per-second Rapporteurs Meeting and prepare for upcoming Rapporteurs Meeting in Paris;

3. Consider certain V.22bis items to be presented.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Requests for further information may be directed to Mr. Earl Barbely, State Department, telephone 202 632-3405 or Mr. T. de Haas, Chairman of U.S. Study Group D, Department of Commerce, Boulder, Colorado, telephone 303 497-3728.

Dated: August 6, 1984.

Earl S. Barbely,

Chairman U.S. CCITT National Committee.

[FR Doc. 84-22265 Filed 8-21-84 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/759]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Stability, Load Lines, and Safety of Fishing Vessels; Meeting

The Working Group on Stability, Load Lines, and Safety of Fishing Vessels of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 10:00 AM on September 11, 1984 in Room 1303 at the U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting will be to discuss United States initiatives toward Session #30 of the International Maritime Organization Subcommittee on Subdivision, Stability, Load Lines, and Fishing Vessels in January 1985.

Members of the public may attend up to the seating capacity of the room.

For further information, contact Mr. W. A. Cleary, Jr., U.S. Coast Guard Headquarters (G-MTH-5), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426-2187 or 2188.

Dated: August 9, 1984.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84-22264 Filed 8-21-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Demonstrating Compliance With Surge and Stall Characteristics of Aircraft Turbine Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of draft advisory circular and request for comments.

SUMMARY: This draft Advisory Circular is intended to provide guidance for demonstrating compliance with the requirements of Part 33 relating to turbine engine surge and stall characteristics.

DATES: Comments must be received on or before December 5, 1984.

ADDRESS: Send all comments on the draft to Federal Aviation Administration, Aircraft Certification Office, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. George F. Mulcahy, Engine and Propeller Standards Staff, ANE-110, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone 617-273-7351.

SUPPLEMENTARY INFORMATION:

Comments Invited

Comments are solicited on all aspects of the draft Advisory Circular. A copy of the draft Advisory Circular may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Burlington, Massachusetts, on August 1, 1984.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84-22190 Filed 8-21-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular, Public Debt Series No. 25-84]

Treasury Notes of August 31, 1986; Series X-1986

August 16, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,500,000,000 of United States securities, designated Treasury Notes of August 31, 1986, Series X-1986 (CUSIP No. 912827 RD 6). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated August 31, 1984, and will bear interest from that date, payable on a semiannual basis on February 28, 1985, and each subsequent 6 months on August 31 and February 28 until the principal becomes payable. They will mature August 31, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1 p.m., Eastern Daylight Saving Time, Wednesday, August 22, 1984. Noncompetitive tenders as defined below will be considerd timely if postmarked no later than Tuesday, August 21, 1984, and received no later than Friday, August 31, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must

show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, whereever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5. must be made or completed on or before Friday, August 31, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, August 20, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Friday, August 31, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 84-22194 Filed 8-22-84; 8:45 am]

BILLING CODE 4810-40-M

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 539; Ref: ATF O 1100.96A]

Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Part 18, Production of Volatile Fruit-Flavor Concentrates; Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to the Associate Director (Compliance Operations) and permits redelegation to Compliance Operations personnel.

2. *Cancellation.* ATF O 1100.96, Delegation Order—Delegation to the Assistant Director (Regulatory Enforcement) of Authorities of the Director in 27 CFR Part 18, dated September 13, 1978, is canceled.

3. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the manufacture of volatile fruit-flavor concentrates. We have determined that certain authorities should, in the interest of efficiency, be delegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, authority to take final action on the following matters is delegated to the Associate Director (Compliance Operations):

a. To approve, pursuant to written applications, alternate methods or procedures in lieu of methods or procedures specifically prescribed in regulations, under 27 CFR 18.13.

b. To withdraw approval for any alternate method or procedure whenever the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the authorization, under 27 CFR 18.13.

c. To prescribe all forms required by regulations, under 27 CFR 18.16.

d. To make determination, pursuant to a written request, as to whether a concentrate is unfit for beverage use, under 27 CFR 18.52(b).

5. *Redelegation.*

a. The authorities in paragraph 4a, 4b and 4d above may be redelegated to Bureau Headquarters personnel not lower than the position of specialist.

b. The authority in paragraph 4c above may be redelegated to Bureau Headquarters personnel not lower than the position of branch chief.

c. The authority in paragraph 4a above to approve alternate methods or procedures, may be redelegated to regional directors (compliance) whenever a request is of a type identical to one previously approved by Bureau Headquarters. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of technical section supervisor.

d. The authority in paragraph 4b above may be redelegated to regional directors (compliance), to withdraw approval for alternate methods or procedure which were approved at the regional level. Regional directors (compliance) may redelegate this authority to personnel not lower than the position of technical section supervisor.

6. *For Information Contact.* Sharon K. Hendee, Procedures Branch, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202) 566-7602.

7. *Effective Date.* This delegation order becomes effective on August 22, 1984.

Approved: August 15, 1984.

W.T. Drake,

Acting Director.

[FR Doc. 84-22217 Filed 8-21-84; 8:45 am]

BILLING CODE 4810-31-M

Customs Service

[T.D. 84-177]

Recordation of Trade Name; The Drackett Co.

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

ACTION: Notice of recordation.

SUMMARY: On March 27, 1984, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "The Drackett Company" was published in the **Federal Register** (49 FR 11743). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in opposition to the recordation and received not later than May 29, 1984. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "The Drackett Company" is recorded as the trade name used by The Drackett Company, a corporation organized under the laws of the State of Delaware, located at 5020 Spring Avenue, Cincinnati, Ohio 45232. The trade name is used in connection with the following merchandise manufactured in the United States: household care products, including preparations for windows, floors, tile, etc.; furniture and silver polishes; drain cleaners; air deodorants and disinfectants, etc.; mops and brooms.

DATE: August 22, 1984.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Dated: August 16, 1984.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 84-22287 Filed 8-21-84; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 84-179]

Recordation of Trade Name; Zimmer, Inc.

AGENCY: U.S. Customs Service.

ACTION: Notice of Recordation.

SUMMARY: On March 27, 1984, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "ZIMMER, INC." was published in the **Federal Register** (49 FR 11743-11744). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in opposition to the recordation and received not later than May 29, 1984. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "ZIMMER, INC." is recorded as the trade name used by Zimmer, Inc., a corporation organized under the laws of the State of Delaware, located in Warsaw, Indiana 46580. The trade name

is used in connection with the marketing of orthopedic, surgical, patient-care and hospital products manufactured in the United States.

DATE: August 22, 1984.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5765).

Dated: August 16, 1984.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 84–22285 Filed 8–21–84; 8:45 am]

BILLING CODE 4820–02–M

[T.D. 84–178]

Recordation of Trade Name; Westwood Pharmaceuticals, Inc.

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of recordation.

SUMMARY: On March 27, 1984, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Westwood Pharmaceuticals, Inc." was published in the **Federal Register** (49 FR 11743). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in opposition to the recordation and received not later than May 29, 1984. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "Westwood Pharmaceuticals, Inc." is recorded as the trade name used by Westwood Pharmaceuticals, Inc., a corporation organized under the laws of the State of Delaware, located at 468 Dewitt Street, Buffalo, New York 14213. The trade name is used in connection with a wide range of dermatological products manufactured in the United States.

DATE: August 22, 1984.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5765).

Dated: August 16, 1984.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 84–22286 Filed 8–21–84; 8:45 am]

BILLING CODE 4820–02–M

Internal Revenue Service

Solicitation for Assistance in Drafting Regulatory Projects

AGENCY: Internal Revenue Service, Treasury.

ACTION: Solicitation for assistance in drafting regulatory projects.

SUMMARY: The Internal Revenue Service and the Department of the Treasury are soliciting issue papers, regulatory language, or examples on certain federal tax projects from interested individuals and organizations.

DATES: Submissions with respect to any project should arrive at the Internal Revenue Service by September 30, 1984 (September 4, 1984, in the case of the foreign sales corporation project).

ADDRESS: Commissioner of Internal Revenue, Attention: CC:LR:T Internal Revenue Service, Room 4429, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George H. Bradley, 202–566–3486 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The recent enactment of the Tax Reform Act of 1984 (Pub. L. 98–369) will require the Internal Revenue Service to provide rapid guidance to the public and to its own personnel. In order to best serve the public, the Internal Revenue Service and the Treasury Department are inviting professional organizations, law and accounting firms, companies, and interested individuals, to submit issue papers, regulatory language, or examples on specified draft regulations projects that are being initiated pursuant to the Tax Reform Act of 1984.

The initial list of regulations projects on which submissions are invited is set forth below. This list may be revised from time to time. Moreover, submissions are also invited and will be welcomed concerning any other provision of the Tax Reform Act of 1984 as to which a member of the public believes early regulatory guidance is needed.

Submissions with respect to any project should arrive at the Internal Revenue Service by September 30, 1984, (September 4, 1984, in the case of the foreign sales corporation project) so that the attorneys responsible for developing the regulations may have the benefit of the material submitted. Pre-submission communications with respect to any project will be limited to matters of procedure.

All material submitted will be available for public inspection and copying.

The following is a list of the regulations projects for which submissions are specifically solicited:

Code section and file No.	Subject
Sec. 79; LR–	Group term life insurance.
Sec. 103; LR–155–84	Federally guaranteed bonds.
Sec. 103; LR–157–84	$40 million limit.
Sec. 168; LR–124–84	Tax-exempt entity leasing.
Sec. 170, 6050(j); LR–143–84.	Substantiation of charitable contribution property.
Sec. 312(m); LR–154–84	Earnings and profits.
Sec. 367; LR–150–84	Transfer of property outside of U.S.
Sec. 461; LR–161–84	Prepayments.
Sec. 483, 1274; LR–158–84	Deferred payment rules.
Sec. 704 (c); LR–164–84	Partnership allocations re: contributed property.
Sec. 707 (a); LR–163–84	Payments by partnerships to partners (disguised sales).
Sec. 809 (a); LR–159–84	Differential earnings amount.
Sec. 817 (h); LR–160–84	Variable contracts.
Sec. 921–927; LR–167–84	Foreign sales corporations.
Sec. 1445; LR–151–84	FIRPTA withholding.
Sec. 1504 (a); LR–152–84	Definition of affiliated group.
Sec. 4942 (g); EE–	Grant administration expenses.
Sec. 6053 (c); LR–162–84	Tip reporting requirement.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84–22289 Filed 8–17–84; 5:06 pm]

BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held August 29, 1984 in Room 600, 301 4th Street, SW., Washington, D.C. From 10:30 AM to 12:30 PM, the Commission will discuss activities of USIA's Bureau of Programs and Agency programs in Mexico. From 1:45 PM to 3:30 PM, the Commission will hear views of USIA's Standing Committee of the American Foreign Service Association, and discuss the activities of the Bureau of Educational and Cultural Affairs.

Please call Louise Stroud, (202) 485–2459, if you are interested in attending the meeting since entrance to the building is controlled.

Dated: August 15, 1984.

Charles Canestro,

Management Analyst Federal Register Liaison.

[FR Doc. 84–22199 Filed 8–21–84; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 164
Wednesday, August 22, 1984

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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Federal Reserve System	4
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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, August 27, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Citicorp Person-to-Person Financial Center, Inc., an operating noninsured industrial bank located at 2945 South 132nd Street, Omaha, Nebraska.

Applications for consent to purchase assets and assume liabilities and establish two branches:

Carolina Bank & Trust Co., Lamar, South Carolina, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Chesterfield Branch of First National Bank of South Carolina, Columbia, South Carolina, and the Bennettsville Branch of The South Carolina National Bank, Charleston, South Carolina, and to establish those two offices as branches of Carolina Bank & Trust Co.

Memorandum and resolution re: Final amendments to Part 338 of the Corporation's rules and regulations, entitled "Fair Housing," which eliminate the requirement that insured State nonmember banks collect and record in a log-sheet certain data concerning home loan inquiries while retaining the requirement that information on all home loan applications be recorded and retained for 25 months.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Accounting and Corporate Services:

Memorandum re: Investment Management Report, June 30, 1984.

Report of the Director, Division of Liquidation:

Memorandum re: Reports Under Delegated Authority Status of Approved Committee Cases

Discussion Agenda: No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 20, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-22420 Filed 8-20-84; 4:00 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, August 27, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations, pursuant to section 10(b) of the Federal Deposit Insurance Act, that the Corporation examine certain state member banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to convert into a non-FDIC-insured institution:

The Dollar Savings Bank, Pittsburgh, Pennsylvania.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees aurhorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive

Secretary of the Corporation, at (202) 389–4425.

Dated: August 20, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–22421 Filed 8–20–84; 4:00 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:30 p.m. on Thursday, August 16, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in American National Bank in McLean, McLean, Texas, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, August 16, 1984; (2) accept the bid for the transaction submitted by McLean Bank of Commerce, McLean, Texas, a newly-chartered State nonmember bank; (3) approve the applications of McLean Bank of Commerce, McLean, Texas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in American National Bank in McLean, McLean, Texas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B) consider a recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,097-L
City and County Bank of Knoxville
Knoxville, Tennessee
City and County Bank of Anderson County
Lake City, Tennessee
First Peoples Bank of Washington County
Johnson City, Tennessee
United American Bank in Hamilton County
Chattanooga, Tennessee

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: August 17, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–22373 Filed 8–20–84; 4:00 pm]

BILLING CODE 6714–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, August 27, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 17, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–22303 Filed 8–17–84; 4:47 pm]

BILLING CODE 6210–01–M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of August 20, 1984; Week of August 27, 1984 (Tentative); Week of September 3, 1984 (Tentative); and Week of September 10, 1984 (Tentative).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 20

No Commission meetings scheduled.
Affirmation Meeting (Public Meeting)—Wednesday, August 22, 2:00 p.m., if needed (As Announced)

Week of August 27

No Commission meetings scheduled. (As Announced)

Week of September 3

Tuesday, September 4

2:00 p.m.
Discussion of Environmental Qualification of Electrical Equipment (Public Meeting)

Wednesday, September 5

10:00 a.m.
Discussion of Indian Point Probabilistic Risk Assessment (Public Meeting)
2:00 p.m.
Discussion of Reexamination of Exemption Process (Public Meeting)

Thursday, September 6

10:00 a.m.
Discussion/Possible Vote on Proposed Rule on Backfitting (Public Meeting)
2:00 p.m.
Discussion of Commission Policy for Handling Last Minute Allegations (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, September 7

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Callaway—1 (Public Meeting)
2:00 p.m.
Discussion of Options for TMI–1 Restart (Public Meeting)

Week of September 10

Monday, September 10

2:00 p.m.
Briefing on Steam Generator Generic Requirements (Public Meeting)

Tuesday, September 11

2:00 p.m.
Briefing on BWR Pipe Crack Report (Long Range Plan) (Public Meeting)

Thursday, September 13

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of "Director's Denial of 2.206 Relief (In the Matter of Pacific Gas and Electric Company)"; "ALAB–763 (In the Matter of Pacific Gas and Electric Company)"; "Shoreham: LILCO's Motion for Reconsideration of Commission's July 18 Memorandum and Order"; and "Waste Confidence Decision" was held on August 16 (Public Meeting).

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

August 17, 1984.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84–22418 Filed 8–20–84; 3:53 pm]

BILLING CODE 7590–01–M

6

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [49 FR 31983 August 9, 1984/To be published]

STATUS: Closed/open meetings.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, August 6, 1984. Friday, August 10, 1984.

CHANGE IN THE MEETING: Additional meeting/Deletion/Rescheduling

The following item was considered at a closed meeting held on Wednesday, August 15, 1984, at 10:00 a.m.

Regulatory matter regarding financial institution.

The following item was not considered at an open meeting scheduled for Wednesday, August 15, 1984, at 2:30 p.m.

Consideration of what action, if any, the Commission should take with respect to the reopening of trading in a security after the primary market for that security halts trading due to pending news. For further information, please contact Michael Simon at (202) 272–2405.

The following items scheduled for Tuesday, August 21, 1984, at 10:00 a.m., have been rescheduled for Thursday, August 16, 1984, at 3:30 p.m.

Formal order of investigation.
Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.

Chairman Shad and Commissioners Cox and Peters determined that Commission business required the above changes and that no earlier notice thereof was possible.

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: David Wescoe at (202) 272–2092.

Dated: August 17, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–22319 Filed 8–21–84; 5:03 pm]

BILLING CODE 8010–01–M

federal register

Wednesday
August 22, 1984

Part II

Environmental Protection Agency

40 CFR Part 415

Clean Water; Inorganic Chemicals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 415

[FRL-2612-2]

Clean Water; Inorganic Chemicals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation limits the discharge of pollutants into navigable waters and into publicly owned treatment works by existing and potential new sources that manufacture certain inorganic chemicals.

The Clean Water Act and a consent decree require EPA to issue this regulation.

The purpose of this regulation is to provide effluent limitations guidelines based on "best practicable technology," "best available technology," "best conventional technology," and to establish new source performance standards and pretreatment standards for existing and new sources. The Agency also is amending currently effective regulations for two subcategories.

DATES: In accordance with 40 CFR 100.01 (45 FR 26048), this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time September 5, 1984. These regulations shall become effective October 5, 1984.

Under section 509(b)(1) of the Clean Water Act judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: The Record will be available for public review September 5, 1984 in EPA's Public Information Reference Unit, Room 2404 (Rear) (EPA Library), 401 M Street SW., Washington, D.C. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

Technical information may be obtained by writing to Dr. Thomas E. Fielding, Effluent Guidelines Division (WH-552), EPA, 401 M Street SW., Washington, D.C. 20460, or through calling 202/382-7156. Copies of the technical documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (703/487-6000). For additional economic information contact Ms. Josette Bailey, Economic Analysis Staff (WH-556), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202/382-5382). The economic analysis may also be obtained from the National Technical Information Service.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Fielding (202/382-7156).

SUPPLEMENTARY INFORMATION:

Overview

The preamble summarizes the legal authority, background, technical and economic bases, and other aspects of the regulation. The abbreviations, acronyms, and other terms used in the preamble are defined in Appendix A.

This rule is supported by EPA's technical conclusions detailed in the "Development Document for Effluent Limitations Guidelines and Standards for the Inorganic Chemicals Point Source Category (Phase II)", EPA 440/1-84-007, June 1984. The Agency's economic conclusions are detailed in the document entitled "Economic Impact Analysis of Effluent Limitations Guidelines and Standards for the Inorganic Chemicals Industry, Phase II", EPA 440/2-84-013, June 1984. A summary of the comments received on the proposed regulation and our detailed responses to all comments are included in a report "Responses to Public Comments, Proposed Inorganic Chemicals Manufacturing Effluent Guidelines and Standards (Phase II)." Further supporting materials are contained in the record supporting the rulemaking.

Organization of This Notice

I. Legal Authority
II. Scope of This Rulemaking
III. Background
  A. The Clean Water Act
  B. Prior EPA Regulation
  C. Overview of the Industry
IV. Industry Description and Subcategorization
V. Methodology and Data Gathering Efforts
VI. Control Treatment Options and Technology Basis for Final Regulations
  A. Control Treatment Options
  B. Amendments to the Sodium Chloride and Sodium Sulfite Subcategories
  C. Changes from Proposed Rule
VII. Additional Study of 23 Subcategories
  A. General
  B. Exclusions from PSES
  C. PSNS
VIII. Economic Considerations
  A. Costs and Impacts
  B. Executive Order 12291
  C. Regulatory Flexibility Analysis
  D. SBA Loans
IX. Non-Water Quality Environmental Impacts
  A. Air Pollution
  B. Solid Waste
  C. Consumptive Water Loss
  D. Energy Requirements
X. Pollutants and Subcategories Not Regulated
  A. Exclusion of Pollutants
  B. Exclusion of Subcategories
XI. Responses to Major Comments
XII. Best Management Practices
XIII. Upset and Bypass Provisions
XIV. Variances and Modifications
XV. Relationship to NPDES Permits
XVI. Availability of Technical Assistance
XVII. Public Participation
XVIII. Appendices
  A. Abbrevations, Acronyms, and Other Terms Used in This Notice
  B. Toxic Pollutants Excluded in All Subcategories
  C. Toxic Pollutants Excluded in Particular Subcategories
  D. Subcategories Excluded
  E. Exclusion of Subcategories from PSES

I. Legal Authority

This regulation is being promulgated under the authority of sections 301, 304, 306, 307, 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217), also called the "Act," and as further amended. It is also being promulgated in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), *modified* by orders dated October 26, 1982, August 2, 1983, and January 6, 1984.

II. Scope of This Rulemaking

The inorganic chemicals manufacturing industry is included within the U.S. Department of Commerce, Bureau of the Census, Standard Industrial Classification (SIC) 281, Industrial Inorganic Chemicals. This final regulation applies to parts of Subgroups 2812, Alkalies and Chlorine; 2813, Industrial Gases; 2816, Inorganic Pigments; and 2819, Inorganic Chemicals, Not Elsewhere Classified.

The most important pollutants or pollutant parameters found in the wastewater of these subcategories are: (a) toxic pollutants (antimony, chromium, nickel, lead, copper, cadmium, zinc, selenium, and arsenic); (b) conventional pollutants (TSS and pH); and (c) nonconventional pollutants (chlorine and cobalt). EPA's 1973 to 1976 round of rulemaking emphasized the achievement of best practicable technology currently available (BPT) by July 1, 1977. In general, BPT represents the average of the best existing

performances of well-known technologies for control of familiar (i.e., "classical") pollutants.

In contrast, this round of rulemaking aims for the achievement of the best available technology economically achievable (BAT) that will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. At a minimum, BAT represents the best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic substances.

EPA is promulgating BPT, BCT, BAT, NSPS, and PSNS for the following six subcategories:

—Subpart BL (Cadmium Pigments and Salts)
—Subpart BM (Cobalt Salts)
—Subpart AJ (Copper Salts)
—Subpart AU (Nickel Salts)
—Subpart BN (Sodium Chlorate)
—Subpart BO (Zinc Chloride)

PSES are being promulgated for the following five subcategories:

—Subpart BL (Cadmium Pigments and Salts)
—Subpart BM (Cobalt Salts)
Subpart AJ (Copper Salts)
Subpart AU (Nickel Salts)
Subpart BO (Zinc Chloride)

We are not promulgating PSES for the Sodium Chlorate subcategory because there are no indirect dischargers in that subcategory.

Amendments are being promulgated for Subpart P (Sodium Chloride), and Subpart T (Sodium Sulfite). For Subpart P (Sodium Chloride, solution brine-mining process), this includes revocation of the existing BAT. BCT limitations are deferred for this subcategory. For Subpart T (Sodium Sulfite), EPA is withdrawing BAT, NSPS, and PSNS and establishing a new BAT rule. We further establish a new BCT equal to BPT and a new NSPS and PSNS equal to the new BAT. No PSES are promulgated for the single indirect discharger.

BAT regulations for the above industries, as well as the calcium chloride industry, were reconsidered as the result of a petition from the Salt Institute. No change is promulgated for the calcium chloride industry. The technical rationale for these decisions can be found in Section VI, "Control Treatment Options and Technology Basis for Final Regulations."

III. Background

A. The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" ("BPT"), section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable . . . which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT"), section 301(b)(2)(A). New industrial direct dischargers were required to comply with section 306 new source performance standards ("NSPS"), based on best available demonstrated technology; and new and existing dischargers to publicly owned treatment works ("POTW") were subject to pretreatment standards under sections 307 (b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under section 402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTW (indirect dischargers).

Although section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of BPT and BAT. Moreover, sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industrial categories, section 307(a) of the Act required the Administrator to develop a list of toxic pollutants and promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

EPA was unable to promulgate many of these regulations by the dates contained in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating BAT effluent limitations guidelines, pretreatment standards, and NSPS for 65 "priority" pollutants and classes of pollutants for 21 major industries. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979), *modified* by orders dated October 26, 1982, August 2, 1983, and January 6, 1984.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the federal water pollution control program, its most significant feature is its incorporation of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984, of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under section 307(a) of the Act. Likewise, EPA's programs for NSPS and pretreatment standards are now aimed principally at toxic pollutant controls.

BPT Effluent Limitations

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of applying such technology in relation to the effluent reductions derived from such application, the age of equipment and facilities involved, the process employed, non-water quality environmental impacts (including energy requirements), and other factors the Administrator considers appropriate (section 304(b)(1)(B)). In general, the BPT technology level represents the average of the best existing performances of plants of various ages, sizes, processes, or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category. BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where such are common industry practice. The cost/benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, which

does not require the Agency to quantify benefits in monetary terms. See, e.g., *American Iron and Steel Institute* v. *EPA*, 526 F.2d 1027 (3rd Cir. 1975). In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impacts of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies. Therefore, EPA has not considered these factors. See *Weyerhaeuser* v. *Costle*, 590 F.2d 1011 (D.C. Cir. 1978).

BAT Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, and non-water quality environmental impacts (including energy requirements), (section 304(b)(2)(B)). At a minimum, the BAT technology level represents the best economically achievable performance of plants of various ages, sizes, processes, or other shared characteristics. As with BPT, uniformly inadequate performance may require transfer of BAT from a different subcategory or category. BAT may include process changes or internal controls, even when these technologies are not common industry practice. The statutory assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra*). In developing the BAT regulations, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels. Despite this expanded consideration of costs, the primary determinant of BAT is effluent reduction capability. As a result of the Clean Water Act of 1977, 33 U.S.C. 1251 *et seq.*, the achievement of BAT has become the principal national means of controlling water pollution due to toxic pollutions.

BCT Effluent Limitations

The 1977 Amendments added section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" (BCT) for discharge of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(a)(4) (biological oxygen demanding pollutants (BOD5), total suspended solids (TSS), fecal coliform, and pH), and any additional pollutants defined by the Administrator as "conventional" (oil and grease, 44 FR 44501, July 30, 1979).

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F.2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly-owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BTB. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test and to apply the second cost test. (EPA had argued that a second cost test was not required).

On October 29, 1982, EPA proposed a revised BCT methodology. While EPA is considering revising that proposed methodology, we have determined that in two subcategories in the Inorganic Chemical Industry (Phase II), no technology beyond BPT will pass the proposed BCT cost test or any other BCT test that the Agency is likely to adopt. Accordingly, in those subcategories (Sodium Chlorate and Zinc Chloride) we are setting BCT equal to BPT. However, the Agency will need to reconsider the BCT limitations for those two subcategories when a new BCT cost test is promulgated. In the other four subcategories, no additional technologies were identified that would remove significant additional quantities of conventional pollutants. Accordingly, EPA has determined that BCT equals BPT in those four subcategories.

NSPS

New Source Performance Standards (NSPS) are based on the best available demonstrated technology. New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies, and, therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies to reduce pollution to the maximum extent feasible.

PSES

Pretreatment Standards for Existing Sources (PSES) are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of well-operated publicly owned treatment works (POTW) with secondary treatment installed.

The Act requires pretreatment for toxic pollutants that pass through the POTW in amounts that would violate direct discharger effluent limitations or interfere with the POTW's treatment process or chosen sludge disposal method. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. EPA has generally determined that there is pass through of pollutants if the percent of pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system. The general pretreatment regulations, which served s the framework for the categorical pretreatment regulations are found at 40 CFR Part 403. 43 FR 27736 (June 26, 1978); 46 FR 9462 (January 28, 1981).

PSNS

Like PSES, Pretreatment Standards for New Sources (PSNS) are to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of the POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incoroprate the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating PSES.

The purpose of these regulations is to provide effluent limitations guidelines for BPT, BAT, and BCT, and to establish NSPS, PSES, and PSNS, under sections 301, 304, 306, 307, and 501 of the Clean Water Act.

B. Prior EPA Regulations

EPA initially approached the regulation of the Inorganic Chemicals Manufacturing Point Source Category in two stages. The first stage covered 22 Major Inorganic Chemical Products, and

the final regulations for these industrial subcategories were published on March 12, 1974. (39 FR 9612). The regulations included numerical BPT and BAT effluent limitations and standards of performance and pretreatment standards for new sources. Zero-discharge requirements specified for many of the subcategories were to become effective in 1977 or later. In the second stage, the Agency promulgated BPT-based effluent limitations for an additional group of 27 subcategories referred to as "Significant Inorganic Chemical Products." (40 FR 22402 (May 22, 1975)). Taken together, the two groups of regulations covered 49 inorganic chemical subcategories, many of which included more than one specific chemical product. Although some toxic pollutants were covered in cases where a direct relationship to the process was obvious (e.g., mercury and/or lead in the Chlor-Alkali Industry), the main thrust of the regulations was the control of the pollutant parameters which accounted, in terms of quantity, for most of the pollutant loading of navigable waters attributable to the manufacture of inorganic chemicals.

On March 10, 1976, the United States Court of Appeals for the Fourth Circuit in *E. I. duPont de Nemours & Co.*, v. *Train*, 541 F.2d 1018 (4th Cir. 1976), set aside and remanded for reconsideration a number of general definitions and specific discharge regulations (generally requiring zero discharge of pollutants) promulgated in 1974. These regulations were all within 40 CFR Parts 401 and 415 and covered the chlor-alkali, hydrochloric acid, hydrofluoric acid, nitric acid, sodium carbonate, sodium dichromate, sodium metal, sodium silicate, sulfuric acid, and titanium dioxide subcategories.

Following the court remand, on November 23, 1976 (41 FR 51601), the Agency revoked the second set of published regulations for aluminum fluoride, chrome pigments, hyrogen cyanide, and sodium silicofluoride. The Agency's intent was to reconsider the specific effluent limitations established for these industries in the light of information made available on process differences between plants and additional data on the actual concentrations and treatability of the regulated discharge constituents. The information was presented to the Agency in the form of various documents prepared by members of the industries concerned.

On June 7, 1976, a consent decree was issued as a result of a suit filed by four environmental groups (*Natural Resources Defense Council, Inc.* v. *Train, supra*). The consent decree identified 21 point source categories and required EPA to promulgate BAT effluent limitations guidelines, new source performance standards, and pretreatment standards for specified industrial categories identified by Standard Industrial Classification (SIC) code numbers. The major industries included in the Inorganic Chemicals Manufacturing Point Source Category are:

- SIC 2812—Alkalies and Chlorine.
- SIC 2813—Industrial Gases.
- SIC 2816—Inorganic Pigments.
- SIC 2819—Industrial Inorganic Chemicals, Not Elsewhere Classified.

On July 20, 1977, pursuant to paragraph 13 of the Consent Decree, the Agency promulgated interim final regulations establishing pretreatment standards for existing sources for nine of the 49 inorganic chemical subcategories (42 FR 37294).

Following this promulgation the Agency divided its inorganic chemicals rulemaking effort into two phases. Phase I covered 60 of 177 subcategories previously identified as belonging to the category. The Phase I regulations were promulgated June 29, 1982 (47 FR 28260). The Phase II regulations, the subject of this notice, were proposed October 25, 1983 (48 FR 49408). Changes from the proposed rule are discussed in section VI.C. below.

C. Overview of the Industry

Phase II was to have covered the remaining 117 subcategories. However, after review of all of the inorganic products listed in SIC codes 2812, 2813, 2816, and 2819, seven more subcategories were identified, bringing the total number of subcategories examined in Phase II to 124. These additional subcategories were identified as a result of contacts with chemical producers, a literature search, site visits by EPA and contractor personnel, and telephone communications. Of the 124 subcategories, 106 were excluded from further study for one or more of the following reasons:

1. The chemical is no longer being produced;
2. Only one plant was known to be producing the chemical;
3. The amount and toxicity of the pollutants discharged did not justify national regulations;
4. No dischargers could be identified in the subcategory;
5. No toxic pollutants were found at significant treatable levels; or
6. The subcategory was already regulated by existing guidelines.

As discussed below, we are excluding these subcategories from national regulation under Paragraph 8 of the Settlement Agreement.

In addition, we are deferring one subcategory for coverage under a more appropriate point source category.

IV. Industry Description and Subcategorization

The inorganic chemicals industry is very large and diversified and has been segmented into subcategories for the purpose of establishing effluent guidelines. In developing these regulations, the Agency has considered whether different effluent limitations and standards are appropriate for different segments of the inorganic chemicals industry. Factors taken into consideration for subcategorization include: raw materials used, product produced, manufacturing process employed, geographical location, size and age of equipment and facility involved, nonwater-quality aspects of waste characteristics, water pollution control technology, treatment costs, energy requirements and solid waste disposal. EPA found that final product is the industry's most significant identifying factor, and developed 184 subcategories on this basis. Some subcategories required secondary subcategorization because of process differences for the same product. Other subcategories were consolidated because of similar production processes, pollutants, unit flows, and treatment processes. Section 4 of the Development Document describes the rationale for the subcategorizations in detail.

The Agency identified the following 17 chemical products in Phase II for which effluent limitations guidelines and standards are warranted:

1. Cadmium Pigments
2. Cadmium Chloride
3. Cadmium Nitrate
4. Cadmium Sulfate
5. Cobalt Chloride
6. Cobalt Nitrate
7. Cobalt Sulfate
8. Copper Carbonate
9. Copper Chloride
10. Copper Iodide
11. Copper Nitrate
12. Nickel Carbonate
13. Nickel Chloride
14. Nickel Fluoborate
15. Nickel Nitrate
16. Sodium Chlorate
17. Zinc Chloride

Because the pollutants, pollutant concentrations, and applicable treatment technologies are the same for a number of the subcategories, the following consolidation of 17 subcategories into six subcategories has been adopted:

1. Cadmium Compounds—Includes cadmium pigments, cadmium chloride, cadmium nitrate, and cadmium sulfate. There are 12 plants in the subcategory, of which six are direct dischargers, four are indirect dischargers and two have no discharge. Five facilities manufacture cadmium pigments, but pigment production is always associated with

production of a precursor cadmium salt. Cadmium salts are produced by dissolving cadmium or its oxide in acid and evaporating to dryness. Cadmium pigments are produced by reacting cadmium salts with sulfides or mixtures of sulfides and selenides. Due to the large differences in the volume of wastewater discharged, cadmium pigments and cadmium salts are treated separately in the final regulation.

The cadmium pigments model plant has a unit flow of 92.4 m^3/kkg (i.e., 92.4 m^3 of wastewater are discharged for every kkg of cadmium pigments produced). The major sources of wastewater are from washing, quenching, and rinsing the pigments.

The toxic pollutants found in significant amounts are cadmium, selenium, and zinc.

There are currently seven plants in the United States producing cadmium salts not associated with cadmium pigments production. Four of these are direct dischargers, two are indirect dischargers, and one achieves zero discharge. The cadmium salts model plant has a unit flow of 0.058 m^3/kkg. Wastewater emanates from decanted, filtered, or purified reaction media, washdown of equipment and area, air pollution control devices, and other indirect process sources.

As in the cadmium pigments segment, the toxic pollutants found in significant amounts in cadmium salts process wastewaters are cadmium, selenium, and zinc.

2. Cobalt Salts—Includes cobalt chloride, cobalt nitrate, and cobalt sulfate. There are ten plants in the subcategory, of which five are direct dischargers, three are indirect dischargers and two have no discharge. Cobalt salts are produced by reacting cobalt metal with either hydrochloric, sulfuric, or nitric acid. The cobalts salts model plant has a unit flow of 0.083 m^3/kkg. Process wastewater in this industry is generally the result of washdowns, cleanups, spills, and pump leaks. All direct process contact water is recycled back to the process. In general, air pollution control water is also recycled to the process. No screening and verification data are available for this subcategory because none of the plants contacted at the time available for sampling were producing cobalt salts. The industry submitted influent and effluent data, but for only a very limited number of pollutants. The Agency has assumed that the toxic pollutants (nickel and copper) usually found in the cobalt and cobalt oxide raw materials are the toxic pollutants most likely to be present at treatable levels in the wastewater. Since all cobalt salts producers also manufacture copper or nickel salts and combine the wastewaters for common treatment, limiting the toxic metals common to all three wastewaters simplifies the establishment of permit limits and pretreatment standards using the combined wastestream formula. Monitoring costs are reduced by minimizing the number of pollutants to be monitored. In addition, the nonconventional pollutant, cobalt, is found in significant quantities.

3. Copper Salts—Includes copper carbonate, copper chloride, copper iodide, copper nitrate, and copper sulfate. This subcategory will replace the copper sulfate subcategory. There are 23 plants in the subcategory, of which 6 are direct dischargers, 6 are indirect dischargers and 11 have no discharge. Twenty-one facilities are known to produce copper salts exclusive of copper carbonate, which will be discussed separately.

The copper salts covered in this segment are produced by reacting a copper source (metal, oxide, or salt) with either sulfuric acid (copper sulfate), chlorine or hydrochloric acid (copper chloride), iodine or potassium iodide (copper iodide), or nitric acid (copper nitrate).

Of the 21 facilities identified as copper salts producers, 5 are direct dischargers, 5 are indirect dischargers, and 11 achieve zero discharge. The copper salts model plant has a unit flow of 0.94 m^3/kkg.

Process wastewater is generated primarily from indirect process contact and non-contact ancillary uses.

The toxic pollutants found in the wastewater include nickel, copper, and in some cases, selenium, which was found in one copper sulfate plant wastewater after treatment but not in the raw wastewater. The existing limitations for selenium under the copper sulfate subcategory are to ensure that selenium is adequately controlled if added to the wastewater during treatment.

There are seven facilities in the United States which produce copper carbonate. Six of these also produce other copper salts. Copper carbonate is manufactured by reacting either copper sulfate or copper nitrate with sodium carbonate in water. The wash water is the major source of wastewater from the copper carbonate process.

Of the seven copper carbonate production facilities, four are direct dischargers, two are indirect dischargers, and one achieves zero discharge. The copper carbonate model plant has a unit flow of 58.1 m^3/kkg.

The toxic pollutants found in the wastewater at copper carbonate facilities include copper and nickel.

4. Nickel Salts—Includes nickel carbonate, nickel chloride, nickel fluoborate, nickel nitrate, and nickel sulfate. This subcategory will replace the nickel sulfate subcategory. There are 19 plants in the subcategory, of which eight are direct dischargers, nine are indirect dischargers, and two have no discharge. There are 19 plants in the United States producing nickel salts, exclusive of nickel carbonate, which will be discussed separately.

The nickel salts covered in this subdivision are produced by reacting a nickel source (metal, oxide, or salt) with either sulfuric acid (nickel sulfate), hydrochloric acid (nickel chloride), fluoboric acid (nickel fluoborate), or nitric acid (nickel nitrate).

Of the 19 facilities identified as nickel salts producers, eight are direct dischargers, nine are indirect dischargers, and two achieve zero discharge. The nickel salts and model plant has a unit flow of 0.68 m^3/kkg.

Process wastewater at the plants in this segment of the Nickel Salts subcategory is generated primarily from indirect process contact and non-contact ancillary uses. The toxic pollutants found in the wastewater include nickel and copper.

There are seven facilities in the United States which produce nickel carbonate, as well as other nickel salts. Nickel carbonate is manufactured by reacting any one of several nickel salts with sodium carbonate in water. The wash water is the major source of wastewater from the nickel carbonate process.

Of the seven nickel carbonate production facilities, four are direct dischargers, and three are indirect dischargers. The nickel carbonate model plant has a unit flow of 120 m^3/kkg.

The toxic pollutants found in the wastewater at nickel carbonate facilities include copper and nickel.

5. Sodium Chlorate—There are 13 plants in the subcategory of which nine are direct dischargers and have no discharge.

Sodium chlorate is produced by the electrolysis of sodium chloride brine in diaphragmless electrochemical cells. Sources of process wastewater are brine purification wastes, barometric condenser water, brine and caustic discharge from the air scrubbers, equipment leaks and spills, pump seal leaks, product filter backwash, and equipment washdown. Considerable amounts of process water are recycled in this industry.

There are no indirect dischargers in this subcategory. The sodium chlorate model plant has a unit flow of 2.7 m^3/kkg.

The agency has identified chromium and antimony as the only toxic pollutants to be regulated at sodium chlorate facilities. The non-conventional pollutant, total residual chlorine, has also been selected for regulation.

Since there are no existing indirect dischargers in this subcategory, the Agency is excluding this subcategory from categorical PSES under the provisions of paragraph 8(b) of the Settlement Agreement.

6. Zinc Chloride—There are seven plants in the subcategory, of which five are direct dischargers, one is an indirect discharger and one has no discharge. Zinc chloride is produced by reacting zinc metal with hydrochloric acid. Various forms of zinc feed materials are used from pure zinc metal to galvanizer skimmings. One plant uses a zinc containing wastewater from an organic chemical plant as the source of zinc.

The zinc chloride model plant used for the proposed regulations has a unit flow of 13.5 m^3/kkg. However, recent data indicate that unit flow may vary considerably depending upon the product produced (liquid or solid). Because this is determined by the market and cannot be predicted, we are promulgating guidelines and standards on a concentration basis only. Permit writers may convert the concentration based limit to a mass-based limit based on the flow at individual plants. Process wastewater in the industry is generally condensate from evaporators used in the concentration process. In addition, barometric condenser cooling water, and small quantities of water from air scrubbers, equipment washdown, and pump seal leaks are discharged.

The toxic pollutants found in the wastewater include arsenic, lead, and zinc.

EPA is replacing two subcategories with new consolidated subcategories. Subpart AJ (Copper Sulfate) has been replaced by Subpart AJ (Copper Salts) which includes copper sulfate, copper chloride, copper iodide, copper nitrate, and copper carbonate. Subpart AU (Nickel Sulfate) has been replaced by Subpart AU (Nickel Salts), which includes nickel sulfate, nickel chloride, nickel nitrate, nickel fluoborate, and nickel carbonate.

This subcategorization scheme has been adopted for the following reasons:

a. Many facilities produce copper sulfate or nickel sulfate as well as other copper or nickel salts covered in these subparts. The wastewater streams are typically commingled and sent to a common wastewater treatment system.

b. The production processes for copper or nickel sulfate and the other copper or nickel salts covered in this subpart are very similar.

c. Wastewater flows and pollutant characteristics are very similar for copper or nickel sulfate and the other copper or nickel salts.

d. Wastewater treatment processes which have been determined to be effective in the copper or nickel sulfate industry are the same as for the other salts.

e. Levels of treatability are the same for copper or nickel sulfate and the other copper or nickel salts.

The exception to the above is the copper or nickel carbonate production industry. The Agency has determined that copper carbonate should be a separate segment within the Copper Salts subcategory and that nickel carbonate should be a separate segment within the Nickel Salts subcategory because the wastewater unit flows at copper carbonate and nickel carbonate facilities are substantially greater than at other copper or nickel salts facilities covered in these subparts. The limitations for the copper salts and nickel salts subparts are based upon the same concentration limits as are currently in effect for the copper sulfate and nickel sulfate industries, respectively. Thus, there is no change for the copper sulfate and nickel sulfate industries. The copper carbonate and nickel carbonate industries have different mass limits due to different unit flows.

This regulation applies to the 46 existing plants in these subcategories. Many plants are multiproduct plants manufacturing several products in different subcategories. For multiproduct plants incurring costs, the Agency has estimated the total cost for the technology, and prorated the costs to each product based on the wastewater flow from each product in Phase II.

V. Methodology and Data Gathering Efforts

The data gathering efforts and methodology used in developing the proposed regulation were summarized in the "Preamble to the Proposed Inorganic Chemicals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards" (48 FR 49408, October 25, 1983). The *Development Document for Effluent Limitations Guidelines and Standards for the Inorganic Chemicals Manufacturing Point Source Category Phase II* greatly expands and details this summary, and includes the use of new data we acquired since October 1983. This new data includes:

(1) A contractor's report prepared in June 1984 entitled "Dual-Media Filtration Treatability Test Results at Zinc Chloride Plant F144", and (2) public comments on the proposed development document and the proposed rule. The treatability studies were conducted in response to public comment.

Each of these sources affected the final regulation. After receiving information from the treatability study, we reevaluated the proposed treatment technologies for BPT and BAT for the zinc chloride subcategory which in turn led to changes in the limitations for zinc and a change from mass-based to concentration-based limitations in that subcategory. On the basis of industry comments and new data submitted by industry, we decided to revise the cadmium and zinc limitations in the cadmium pigments and salts subcategory, and to revise the compliance date for PSES to allow three years for compliance. In addition, plant by plant compliance cost estimates were developed for all nine plants projected to incur costs in the cobalt salts, copper salts, nickel salts, and zinc chloride subcategories and the cadmium salts segment of the cadmium pigments and salts subcategory. These nine plants are multiproduct plants and most of them are regulated under several phase II subcategories. Estimates of the sludge generated by wastewater treatment and the costs associated with its proper disposal in compliance with anticipated RCRA requirements are included. Where available, industry data on sludge volumes and characteristics were utilized. Disposal costs were estimated on the basis of disposal in an off-site hazardous material landfill except where data showed that the waste is not hazardous.

VI. Control Treatment Options and Technology Basis for Final Regulations

A. Control Treatment Options

1. Available Control Treatment Options

It was found that most treatment requirements in this industry could be met by optimized design and operation of conventional technologies. For all subcategories except Sodium Chlorate, the treatment technology options considered were:

Option 1—Lime precipitation with clarification for heavy metals removal.

Option 2—Filtration of the clarified wastewater from Option 1 for further removal of metal hydroxide precipitates and other suspended solids.

The use of sulfide precipitation prior to filtration was considered as a polishing step for further toxic pollutant removals beyond those achieved by Option 2. However, it was rejected because:

a. The only available data demonstrating the performance of sulfide treatment are from chlor-alkali mercury cell plants.

b. The process wastewater at mercury cell plants is significantly different from the wastewater from other inorganic chemicals plants.

c. Treatability studies conducted to determine the effectiveness of sulfide treatment when transferred to other industries did not show significant improvement in toxic metal removals over those achieved by Option 2 technology.

For the Sodium Chlorate subcategory, the following treatment options were considered:

Option 1—Hexavalent chromium reduction followed by lime precipitation and clarification for the removal of heavy metals. The chromium reduction technology will also reduce total residual chlorine.

Option 2—Granular media filtration of the clarified wastewater from Option 1 for improved removal of metal hydroxide precipitates and other suspended solids.

Hexavalent chromium reduction is needed only in the Sodium Chlorate subcategory because there is no hexavalent chromium in the wastewater from the other five subcategories.

In addition, for all subcategories flow reduction by maximum recycle was considered as a means of greatly reducing the volume of process wastewater. Zero discharge was also considered.

In developing the limitations for the Sodium Chlorate subcategory, the Agency examined several plants that achieve zero discharge of pollutants. However, since the four plants achieve zero discharge through special circumstances (access to a low cost source of purified salt, customer preference for solution grade product, and/or location in an arid region of the country), the zero discharge option is not technically feasible for the typical plant. Therefore, zero discharge was rejected as a BAT option for this subcategory.

In all other subcategories, several plants have no discharge. However, at all of those plants, special circumstances enable the facility to achieve no discharge, such as use of very pure raw materials, production of only liquid products, location in arid regions of the country, or very low production volumes. Accordingly, a zero discharge requirement for either existing or new sources is not technically feasible for most plants, and the Agency has rejected a nationally applicable zero discharge requirement for those subcategories. (A more detailed discussion of how individual plants achieve zero discharge is contained in Sections 11 to 16 of the Development Document.)

Flow reduction was considered as an option in all subcategories because it has proven to be an effective and inexpensive means to reduce toxic pollutant discharges in other categories. However, plants in the inorganic chemicals industry already have consistently low flows. Therefore, a treatment technology which includes flow reduction could not be identified. The direct discharge limitations will be mass-based limits (i.e., limits based on volume of production) except in the zinc chloride subcategory where concentration-based limits are used; those mass-based limits will also be available as alternative limitations for indirect dischargers.

2. Control Treatment Options Recommended

BPT

The BPT technology recommended is the technology currently installed by the majority of the direct dischargers in each subcategory, except for the Sodium Chlorate subcategory, where only one of nine direct dischargers has any treatment installed. Option 2, filtration of the clarified wastewater from Option 1, is the technology upon which the final BPT limitations are based for the following subcategories:

—Cadmium Pigments and Salts (four of six direct dischargers have Option 2)
—Cobalt Salts (four of five direct dischargers have Option 2)
—Copper Salts (four of five direct dischargers have Option 2)
—Nickel Salts (nine of 12 direct dischargers have Option 2)

Option 1, lime precipitation with clarification, is the technology upon which the final BPT limitations are based for the following subcategory:

—Zinc Chloride (All five direct dischargers have this technology but none have Option 2)

Option 1, hexavalent chromium and total residual chlorine reduction followed by lime precipitation and clarification, is the technology upon which the final BPT limitations are based for the following subcategory:

—Sodium Chlorate (Only one of nine plants has this technology. Similar technology is used in the sodium dichromate and chrome pigments subcategories to control hexavalent chromium, and in the chlor alkali subcategory to control total residual chlorine)

The implementation of BPT would remove 39,200 pounds per year of toxic pollutants, including over 25,000 pounds per year of hexavalent chromium and 12,800 pounds per year of cadmium, at estimated investment costs of $3.9 million and annualized costs of $1.9 million. The Agency has concluded that these costs are justified by the corresponding reduction in pollutants.

BAT

Option 2, filtration of the clarified wastewater from the Option 1 treatment, is the technology upon which the final BAT limitations are based for all six subcategories. Option 2 was chosen for the following reasons:

—All six subcategories are very similar to the Copper Sulfate, Nickel Sulfate, Chrome Pigments, and Chlor-Alkali (Diaphragm Cell) subcategories covered in Phase I; the wastewaters in Phase II contain the same toxic metal pollutants at the same concentrations as the Phase I subcategories.
—Option 2 was selected as the technology basis for BAT in those four Phase I subcategories.
—Most direct discharge plants in Phase II either have Option 2 (or equivalent) or no treatment.
—Filters remove an additional 11,300 pounds per year of toxic pollutants in this industry because, after lime precipitation and clarification, the bulk of the suspended solids are the precipitated toxic metal hydroxides.
—No additional technologies were identified that would remove significant additional amounts of toxic or non-conventional pollutants.

This regulation would limit the non-conventional pollutant cobalt in discharges from the Cobalt Salts subcategory and the non-conventional pollutant total residual chlorine in discharges from the Sodium Chlorate subcategory. The final BAT limitations on these non-conventional pollutants are identical to the final BPT limitations. According to the statute, the compliance date for BAT limitations for non-conventional pollutants is no more than three years from promulgation and in no case later than July 1, 1987. The Agency does not have sufficient information upon which to impose an earlier compliance date for BAT limitations on non-conventional pollutants. However, since BAT equals BPT for both of the

non-conventional pollutants, the limitations would take effect at the same time as the BPT limitations. The time necessary to achieve compliance with the BPT limitations is to be determined by the permit writer on a case-by-case basis.

PSES

The final PSES limitations are based upon the final BAT treatment technology, i.e., filtration of the clarified wastewater from the Option 1 treatment because BAT provides better removal of the regulated toxic pollutants than is achieved by a well-operated POTW with secondary treatment installed and thus these toxic pollutants would pass through a POTW in the absence of pretreatment.

EPA has generally determined that there is pass through of pollutants if the percent of pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removal by the BAT model treatment system. A study of 50 well-operated POTW's with biological treatment and meeting secondary treatment criteria showed that regulated metals are typically removed at rates varying from 20 to 70 percent. POTWs with only primary treatment have even lower rates of removal. In contrast, BAT level treatment by inorganic chemicals manufacturing industrial facilities can achieve removals of approximately 99 percent or more. Thus it is evident that metals from this industry do pass through POTW's. Many of the pollutants present in inorganic chemicals manufacturing wastes, at sufficiently high concentrations, can inhibit biodegradation in POTW operations. In addition, a high concentration of toxic pollutants in the sludge can limit POTW use of sludge management alternatives, including the beneficial use of sludges on agricultural lands. Appendix C of this preamble ("Toxic Pollutants Excluded in Particular Subcategories") lists the specific toxic and nonconventional pollutants regulated in each subcategory.

Implementation of PSES would remove 53,200 pounds per year of toxic pollutants, including over 21,100 pounds of cadmium.

The Agency is promulgating PSES (and PSNS) limitations based on concentrations (mg/l) rather than mass-based limitations, because the flow in the industry is low and the Agency could not identify any flow reduction technology for this industry. Therefore, the imposition of mass-based PSES would result in no significant reduction benefits. Under these circumstances, since it is easier for POTWs to enforce pretreatment standards based on concentrations of pollutants rather than mass-based limitations, we are promulgating concentration-based pretreatment standards.

According to the statute, PSES must be achieved no later than 3 years after promulgation. While EPA has the discretion to require a shorter compliance period, the Agency has decided to allow the full 3 years for compliance with the PSES promulgated today. However, facilities subject to the Phase I regulations (promulgated June 29, 1982) must comply with the PSES established for products covered by those regulations by August 12, 1985, even if the subcategories containing those products (i.e., copper sulfate and nickel sulfate) are expanded by today's regulation to include other products.

NSPS

The final NSPS limitations for all six subcategories are based upon the BAT treatment technology, i.e., filtration of the clarified wastewater from the Option 1 treatment since no additional technology which removes significant quantities of additional pollutants is known to the Administrator. The Agency is not establishing an NSPS of zero discharge because it is not generally technically feasible. (See Section VI.A.1. above.)

PSNS

The final PSNS limitations for all six subcategories are based upon the final BAT treatment technology, i.e., filtration of the clarified wastewater from the Option 1 treatment for the reasons given under PSES and NSPS above. For the reasons discussed under PSES above, EPA is promulgating concentration based limitations for PSNS.

BCT

The final BCT limitations for all six subcategories are based upon the BPT treatment technologies and are applicable only to TSS and pH. For the Sodium Chlorate and Zinc Chloride subcategories, additional technology considered failed the proposed BCT cost test. While EPA is considering revising that proposed methodology, we have determined that in two subcategories in the Inorganic Chemical Industry (Phase II), no technology beyond BPT will pass the proposed BCT cost test or any other BCT test that the Agency is likely to adopt. Accordingly, in those subcategories (Sodium Chlorate and Zinc Chloride) we are setting BCT equal to BPT. reconsider whether a revision to the BCT technologies in these subcategories is appropriate. For the other four subcategories, no additional technologies that would significantly reduce conventional pollutants are known to the Administrator.

B. Amendments to the Sodium Chloride and Sodium Sulfite Subcategories

1. Background

The effluent limitations guidelines and standards for the Sodium Chloride (Solution Brine-Mining Process), Calcium Chloride, and Sodium Sulfite (Soda Ash—Sulfur Dioxide Reaction Process) subcategories were promulgated on March 12, 1974 and are still in effect. These guidelines set numerical discharge limitations for BPT and established limitations for BAT, NSPS and PSNS at no discharge of process wastewater pollutants. PSES were reserved for each subcategory. The technology used as a basis for the BAT limitations, NSPS and PSNS for the Sodium Chloride (Solution Brine-Mining Process) and Calcium Chloride subcategories was the use of surface (noncontact) condensers instead of barometric (contact) condensers. For the Sodium Sulfite subcategory, the technology basis was evaporation of the BPT treated wastewater.

On May 19, 1981, EPA received a petition from the Salt Institute requesting reconsideration of the currently effective BAT guideline for the Sodium Chloride (Solution Brine-Mining Process) subcategory, which requires no discharge of process wastewater pollutants. BPT for that subcategory allows a discharge. The Agency decided to include in this BAT review the Calcium Chloride and Sodium Sulfite subcategories, which also require no discharge for BAT but allow a discharge for BPT. The Sodium Chloride (Solution Brine-Mining Process) subcategory includes 18 plants, none of which are indirect dischargers. The annual production was estimated at about 3,175,000 metric tons (3,500,000 short tons) per year in 1981. The estimated daily discharge is 1,454,000 m^3/day (384 million gallons per day) of barometric condenser wastewater. The plants are located in inland rural areas where the annual precipitation is too high to permit solar evaporation of the water from the brine to be used to recover the sodium chloride product. Fourteen of the eighteen plants operating in early 1984 discharge their process wastewater directly. Two of the plants achieve zero discharge by reinjection (both also use cooling ponds). Two plants employ cooling towers with one achieving zero discharge, and the other discharges only infrequently during cooling tower blowdown.

The Calcium Chloride subcategory includes seven plants, none of which discharge process wastewater.

There are three Sodium Sulfite plants which utilize the soda ash—sulfur dioxide reaction process. The annual production capacity of soduim sulfite by this process is estimated to be approximately 69,840 metric tons (77,000 short tons) with an estimated total average daily discharge of 416.4 cubic meters (110,000 gpd). There are two direct dischargers and one indirect discharger. The discharge to POTW from that one plant averages 70 cubic meters per day (18,500 gpd); this stream is lightly contaminated washdown water only.

In our review, we have acquired information on all 28 plants in the three subcategories, including data on the discharge of toxic pollutants and the costs of the technology basis for the existing BAT. Based on these data, we are promulgating changes to the regulation for the Sodium Chloride (Solution Brine-Mining Process) and Sodium Sulfite subcategories.

2. Final Revisions

(a) *Sodium Chloride.* EPA is revoking the existing BAT for the Sodium Chloride (Solution Brine-Mining Process) subcategory. The action will reduce projected industry costs for environmental control by over $36.4 million in capital costs and over $11.6 million in annual costs. The rationale for this revision is summarized as follows: BAT is to control toxic and nonconventional pollutants, BCT to control conventional pollutants. There are no toxic pollutants discharged. No nonconventional pollutants are discharged, except for sodium chloride (table salt), which is discharged in concentrations equivalent to those normally found in high quality, fresh surface waters. Therefore, we do not believe that BAT regulations are justified. All technologies to control conventional pollutants more stringent than BPT failed the proposed BCT cost test. However, EPA is considering revising that proposed methodology. In this subcategory, it is not clear that all technologies to control conventional pollutants more stringent than BPT would fail a revised BCT cost test. Therefore, the Agency is deferring establishing a BCT for the sodium chloride (solution brine-mining process) subcategory.

The technology basis for NSPS and PSNS is the use of noncontact condensers instead of contact condensers. New plants can design for noncontact condensers, although their costs are higher than contact condensers. The economic impact analysis shows that the zero discharge NSPS is economically achievable, whether achieved using noncontact or contact condensers. Thus, NSPS is not a barrier to entry. Therefore, there is no need to change the currently effective NSPS or PSNS.

(b) *Calcium Chloride.* We are not revising BAT for the Calcium Chloride subcategory because there are no existing direct dischargers in that subcategory, i.e., all plants have achieved no discharge of process wastewater pollutants.

(c) *Sodium Sulfite.* We are withdrawing the current BAT, NSPS and PSNS for the Sodium Sulfite subcategory because the technology basis for those regulations, evaporation of the wastewater, is considerably more expensive than originally estimated, primarily due to the greatly increased cost of fuel.

In order for the two existing direct dischargers to comply with the current BAT, total capital investment would be $1.8 million, with total annualized costs of $2.9 million. An analysis of these compliance costs projects significant effects on the cost of production and on profitability with a minimum reduction of 15 percent profitability. One plant closure due to treatment costs is projected. EPA has concluded that these increased costs would result in a regulation that is not economically achievable for this subcategory.

The economic impact of the current NSPS was evaluated for a model plant producing sodium sulfite. The costs associated with wastewater treatment would result in an estimated 25 percent increase to the cost of production, which could represent a barrier to entry for this product. Thus, the current NSPS is not economically achievable.

The alternative of solar evaporation of the wastewater from an evaporation pond is not feasible for the two direct dischargers because the plants are located in areas of the country where precipitation exceeds evaporation.

In place of the current BAT, NSPS and PSNS, we are promulgating new limitations based on the technology for BPT. Chromium, zinc and COD would be the controlled pollutants. Sodium sulfite production and wastewater characteristics are very similar to those for sodium bisulfite. The toxic pollutant limitations promulgated for the Sodium Sulfite subcategory are based on those promulgated for the Sodium Bisulfite subcategory. Both direct dischargers also produce sodium bisulfite and combine the wastewaters for treatment; that treatment effectively controls COD and toxic metals. Data from both plants were used in developing the BAT limitations for the Sodium Bisulfite subcategory and the two plants are currently meeting these levels.

There is no existing PSES for this subcategory and it was included among the 23 subcategories for PSES consideration. Since there is only one plant, with a discharge of only 18,000 gallons per day, containing an estimated 19.3 kg/yr toxic pollutants, we are excluding the subcategory from further national PSES regulation development under Paragraph 8b of the Settlement Agreement.

C. Changes from Proposed Rule

Based on new data submitted by commenters, we have revised the limitations for cadmium and zinc in the cadmium pigments and salts subcategory, and they are now less stringent. For more detail, see "Responses to Major Comments", Section XI below.

Based on our treatability study for the zinc chloride subcategory, we have revised the limitations for zinc for both BPT and BAT, and they are now less stringent. The treatability study also revealed that the unit flow depends very much on the type of zinc chloride product. Zinc chloride may be produced for sale as solutions of different concentrations and as solid zinc chloride. If the product is a dilute solution of zinc chloride, the unit flow is low. As product solutions become more concentrated, the unit flow increases, and is highest for production of solid zinc chloride. The zinc chloride manufacturers produce all grades of zinc chloride. The unit flows vary by a factor of 10. Any mass-based limit based on the average unit flow would be too lenient for production of dilute zinc chloride and too stringent for production of solid zinc chloride. A concentration-based limitation avoids these problems.

In response to a comment, we have revised the pH range for the zinc chloride subcategory to allow effluent pH in the range 6–10 from the proposed 6–9 range. Zinc removal is best at a pH of about 9, and the effluent from treatment could be above 9 occasionally. For this reason, and recognizing that regulations for other industries allow effluent pH at a pH of 10, we believe a pH of up to 10 should be allowed for the zinc chloride subcategory.

We proposed that calcium hypochlorite manufacturing, when conducted at a chlor-alkali manufacturing plant, be subject to the promulgated chlor-alkali guidelines. Our data indicated that the three calcium

hypochlorite plants, which also manufacture chlor-alkali, combined the wastewaters for treatment and discharge. The combined discharge was in compliance with the chlor-alkali effluent limitations guidelines and standards. However, we believe that because the calcium hypochlorite effluent at these plants is controlled by the technology on which the chlor-alkali limitations are based, it is more appropriate to exclude the calcium hypochlorite from national regulation, pursuant to paragraph 8(a)(i) of the Settlement Agreement. Therefore, we have excluded this subcategory from regulation.

We proposed compliance with PSES be achieved by 24 months after the effective date. One commenter asserted that additional time was needed for compliance with the PSES for the several subcategories in which he produces.

The Clean Water Act requires compliance with PSES not later than 36 months after promulgation. Most inorganic chemical manufacturing phase II plants are small with low process wastewater flows, and, because the treatment technology is readily available from venders, could achieve compliance in 2 years. However, some plants are more complicated than the average plant and engineering design and construction could take longer than average. Therefore, in the regulations promulgated today, the compliance date for PSES is 36 months after the date of promulgation. As noted above, plants which also produce products subject to the Phase I guidelines would have to meet the PSES compliance date specified in Phase I for those products.

The proposed NSPS TSS limitations in the Sodium Chlorate and Zinc Chloride subcategories were erroneously based on the BPT technology which does not include filtration rather than the more stringent BAT/NSPS technology which does include filtration. This final regulation corrects this error, and the NSPS TSS limitations in those two subcategories are based on the BAT/NSPS technology, and they are now more stringent.

We proposed to establish a new BCT equal to BPT in the Sodium Chloride (Solution Brine-Mining Process) subcategory, because all technologies to control conventional pollutants more stringent than BPT failed the proposed BCT cost test. However, EPA is considering revising that proposed methodology. In this subcategory, it is not clear that all such technologies would fail a revised BCT cost test. Therefore, the Agency is deferring establishing a BCT for the Sodium Chloride (Solution Brine-Mining Process) subcategory.

VII. Additional Study of 23 Subcategories

A. General

EPA considered in the Phase II project PSES for 18 subcategories from Phase I for which no PSES have previously been developed and reviewed PSES for five subcategories for which PSES were promulgated in 1977. Those 23 subcategories were excluded from further national BAT regulation development under Paragraph 8 because existing BPT or BAT guidelines for those 23 subcategories required no discharge of process wastewater pollutants. PSNS (all of zero discharge) are in effect for 10 of those 23 subcategories including two of those with currently effective PSES.

We conducted a telephone survey of all plants in those 23 subcategories. For the 18 subcategories with no PSES, the purposes of this survey were to identify whether any discharging facilities existed, to identify how many indirect dischargers existed, and to determine which subcategories might require development of PSES or a more detailed examination and review. For the remaining five subcategories, the purposes of the survey were to determine how many indirect dischargers there were and whether existing pretreatment standards were adequate.

Some 310 of the 312 plants in 22 subcategories were contacted by telephone and provided information. The two operations which could not be contacted are located in areas where there are no POTW's and the process utilized would not be expected to produce an effluent to be treated. For the Hydrogen subcategory (refinery byproduct), there are 137 plants listed in addition to those identified above. However, any dischargers to POTW's are controlled under existing PSES and PSNS for the Petroleum Refining Category (40 CFR Part 419).

B. Exclusions From PSES

After examining these 23 subcategories, EPA has decided to exclude all of them from further national PSES regulation, for the reasons set forth in Appendix E.

C. PSNS

Of the 22 subcategories (other than Hydrogen) under discussion, there is no currently effective PSNS for the following 12 subcategories:

Borax	Chromic Acid
Bromine	Fluorine
Calcium Hydroxide	Iodine
Potassium Chloride	Ferric Chloride
Stannic Oxide	Lead Monoxide
Zinc Sulfate	Sodium Fluoride

We are promulgating a PSNS for each subcategory based on the currently effective BPT, which for each subcategory requires zero discharge of process wastewater pollutants. Since existing plants which are subject to BPT are required to achieve zero discharge of process wastewater pollutants and are in fact able to meet that requirement, there would be no barrier to entry for potential new plants that might discharge indirectly in the absence of PSNS. There is pass through because in the absence of a no discharge pretreatment requirement, toxic pollutants would be discharged into and hence from a POTW.

D. NSPS

There are also no New Source Performance Standards (NSPS) for these 12 subcategories. However, none are needed since, in the absence of NSPS, currently effective BPT effluent limitations of zero discharge of process wastewater pollutants would apply.

VIII. Economic Considerations

A. Costs and Impacts

The economic impact assessment is presented in the document entitled *"Economic Impact Analysis of Final Effluent Standards and Limitations for the Inorganic Chemicals Industry, Phase II"*, EPA 440/2–84–013. That document details the investment and annual compliance costs for the industry as a whole and for model plants in each subcategory covered by the regulation. Compliance costs are based on engineering estimates of capital and operating requirements for the effluent control systems described earlier in this preamble. Cost estimates for hazardous waste disposal are also included. The report assesses the impact of effluent control costs in terms of production cost changes, plant closures, employment effects, and balance of trade effects. These impacts are discussed in the report for each regulatory option.

EPA has identified 46 facilities that manufacture the chemicals covered by this regulation; 18 of them will incur costs to comply with the proposed guideline. Total capital investment costs for existing dischargers (BPT, BAT and PSES combined) is estimated to be $5.9 million, with annualized costs of $2.8 million, including depreciation and interest. These costs are expressed in 1983 dollars and are based on the presumption that plants will move from existing treatment to either BAT or PSES. No major economic impacts (e.g.,

plant closure or unemployment) are projected as a result of compliance costs for this regulation. Maximum price increases if all costs are passed on to consumers are small, ranging from 0.01 to 2.0 percent. Balance of trade effects are not significant. The Agency concludes that this regulation is economically achievable.

In order to measure the potential economic impacts, EPA estimated compliance costs for 46 individual plants. The plant-specific analysis focuses on the increase to production costs, changes to profitability, and changes to net present values. Plant closure determinations are based on a comparison of net present value of cash flow to salvage value.

Cost-Effectiveness Analysis. EPA has also conducted an analysis of the incremental removal cost per pound equivalent for each of the proposed technology-based options. Pound equivalents are calculated by multiplying the number of pounds of a pollutant by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant (copper) divided by the water quality criterion for the pollutant being evaluated. The use of pound equivalents gives relatively more weight to removal of the more toxic pollutants. Thus, for a given expenditure, the cost per pound equivalent would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed. The results of this analysis are presented in the report entitled "Cost-Effectiveness Analysis of Effluent Limitations and Standards for the Inorganic Chemicals Industry, Phase II." This analysis is included in the record of this rulemaking.

BPT. Of the 21 direct dischargers, 10 will incur costs in order to comply with BPT. The remaining facilities are achieving removal levels equivalent to or better than BPT. Investment costs for the 10 direct dischargers are estimated to be $3.9 million, and total annualized costs are $1.9 million. The major portion of these costs are attributable to Sodium Chlorate producers, where most facilities do not currently operate wastewater treatment systems. There are no plant closures or employment losses projected as a result of BPT costs. Price increases associated with these costs are approximately 2.0 percent for Sodium Chlorate and Nickel Carbonate and less than 1 percent for the other subcategories. These impacts are not significant.

BAT. For all subcategories except Sodium Chlorate and Zinc Chloride, BAT is the same as BPT. Since many of the existing direct dischargers are currently achieving BAT levels of removal, the incremental costs of BAT over BPT are primarily associated with seven Sodium Chlorate producers. For the 11 direct dischargers incurring costs to meet BAT, total incremental investment costs beyond BPT are $0.9 million, and total incremental annualized costs are $0.4 million. No plant closures or employment losses are projected as a result of these costs. Price increases associated with these costs are small—less than two percent for most subcategories. Thus the Agency believes that the BAT effluent limitations are economically achievable.

PSES. There are nine indirect dischargers and six will incur costs to comply with PSES. Total investment costs are $1.1 million and total annualized costs are $0.5 million. No plant closures or employment losses are projected as a result of these costs. The price increases associated with these costs are small—less than 2.5 percent for all subcategories. The Agency believes the PSES are economically achievable.

NSPS and PSNS. An anlaysis of new source standards uses a model plant approach. The pollution control investment required to install a treatment technology is the same for new and existing producers in the industry. Therefore, new plans will not be operating at a cost disadvantage relative to current manufacturers. Regulations for new sources are not expected to discourage entry into the industry or result in any differential economic impacts to new plants.

B. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules impose an annual cost to the economy of $100 million or more or meet other economic impact criteria. The final regulation for inorganic chemicals manufacturing phase II is not a major rule. The costs to be incurred by this industry will be significantly less than $100 million. Therefore, formal regulatory impact analysis is not required. This final rulemaking satisfies the requirement of the Executive Order for a non-major rule. The Agency's regulatory strategy considered both the cost and the economic impacts of the final rulemaking.

C. Regulatory Flexibility Analysis

Public Law 96–354 requires EPA to prepare an Initial Regulatory Flexibility Analysis for regulations that have a significant impact on a substantial number of small entities.

The analysis may be conducted in conjunction with or as part of other Agency analyses. A small business analysis for this industry is included in the economic impact analysis.

The primary variable used to define firm size is number of employees. According to the Small Business Administration's designation of small firm for the SIC groups covering these chemicals (1,000 employees or less), small businesses comprise 38 percent (17 firms) of the plants in the analysis.

For the small firms, as defined above, investment costs for BAT and PSES are $1.4 million, and total annualized costs are $0.6 million. The economic impact analysis presents the effects associated with this rule and with the other regulatory options the Agency considered. For this rulemaking, there are no significant impacts on small firms; therefore, a formal Regulatory Flexibility analysis is not required.

D. SBA Loans

The agency is continuing to encourage small plants to use Small Business Administration (SBA) financing as needed for pollution control equipment. The three basic programs are: (1) The Guaranteed Pollution Control Bond Program, (2) the Section 503 Program, and (3) the Regular Guarantee Program. All the SBA loan programs are only open to businesses that have: (a) Net assets less than $6 million, and (b) an average annual after-tax income of less than $2 million, and (c) fewer than 250 employees.

For further information and specifics on the Guaranteed Pollution Control Bond Program contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203 (703) 235–2902.

The Section 503 Program, as amended in July 1980, allows long-term loans to small and medium sized businesses. These loans are made by SBA approved local development companies. These companies are authorized to issue Government-backed debentures that are brought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee and Section 503 Program contact your district or local SBA Office. The coordinator at EPA headquarters is Ms. Frances Desselle who may be reached at (202) 382–5373.

IX. Non-Water-Quality Environmental Impacts

Eliminating or reducing one form of pollution may cause other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the non-water-quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, the effects of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption were considered. Although it is difficult to balance pollution problems against each other and against energy use, EPA believes that this regulation will best serve often competing national goals.

The following non-water-quality environmental impacts (including energy requirements) are associated with the final regulation. The Administrator has determined that the impacts identified below are justified by the benefits associated with compliance with the limitations and standards.

A. Air Pollution

Imposition of BPT and BAT limitations and NSPS, PSES, and PSNS will not create any substantial air pollution problems.

B. Solid Waste

Very small amounts of additional solid wastes would be generated by facilities in complying with BAT, NSPS, PSES, and PSNS. It is estimated that less than 210 kilograms per day (470 pounds per day) of solid waste will be generated by the BPT treatment, and less than 23 kilograms per day (50 pounds per day) of solid waste will be generated by the BAT treatment. We estimate that less than 410 kilograms per day (900 pounds per day) of solid waste will be generated by the PSES treatment. Since NSPS/PSNS is the same as BAT/PSES, similar amounts of solid waste generation may be expected.

If a waste is identified or listed as hazardous, it is subject to handling, transportation, treatment, storage, and disposal requirements under Sections 3002–3005 of RCRA and EPA regulations promulgated under RCRA (see 40 CFR Parts 261–267).

Compliance with these requirements involves costs in addition to the costs for compliance with the effluent limitations established by this regulation. The specific standards necessary to estimate these costs have been established, and costs for compliance with RCRA requirements are specifically considered in the economic impact analysis for this regulation.

C. Consumptive Water Loss

Treatment and control technologies that require extensive recycling and reuse of water may require cooling mechanisms. Evaporative cooling mechanisms can cause water loss and contribute to water scarcity problems—a primary concern in arid and semi-arid regions. This regulation assumes some recycling, thus assuming some cooling mechanisms may be required which could create additional consumptive water loss. However, the quantity of water involved is not significant, and most of the industry is located in coastal areas or areas with sufficient water resources. Moreover, it was concluded that the pollution reduction benefits of recycle technologies outweigh their impact on consumptive water loss.

D. Energy Requirements

The achievement of BPT effluent limitations and PSES is estimated to increase electrical energy consumption by approximately 3 million kilowatt-hours per year. Implementing BAT limitations will consume a negligible amount of additional electric power. Achievement of BPT and BAT effluent limitations will require a typical direct discharger to increase total nergy consumption by less than 1 percent of the energy now consumed in production processes. A similar increase would be expected by NSPS/PSNS, since the technologies are the same as BAT and PSES. The BAT amendments for the Sodium Chloride (solution brine-mining process) and Sodium Sulfite subcategories would decrease energy use.

X. Pollutants and Subcategories Not Regulated

The Settlement Agreement contains provisions authorizing the exclusion from regulation, in certain circumstances, of toxic pollutants and industry categories and subcategories. These provisions have been rewritten in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979, 12 ERC 1833.

A. Exclusion of Pollutants

Paragraph 8(a)(iii) of the Settlement Agreement authorizes the Administrator to exclude the following toxic pollutants from regulation: (a) Those not detectable by section 304(h) analytical methods or other state-of-the-art methods; (b) those present in amounts too small to be effectively reduced by available technologies; (c) those present only in trace amounts and neither causing nor likely to cause toxic effects; (d) those detected in the effluent from only a small number of sources within a subcategory and uniquely related to those sources; and (e) those that will be effectively controlled by the technologies on which other effluent limitations and standards are based. The toxic pollutants excluded from regulation in all subcategories, under paragraph 8(a)(iii) of the Settlement Agreement, are listed in Appendix B of this Notice.

The Agency is excluding certain additional toxic pollutants from regulation in particular subcategories on the basis of a review of long-term industry data as well as treatability study data indicating that in the particular subcategories, the pollutants in question will be effectively controlled by the technologies upon which other effluent limitations and standards are based. These pollutants and the reasons for their exclusion are listed in Appendix C of this notice.

B. Exclusion of Subcategories

Paragraph 8(a)(i) of the Settlement Agreement authorizes the Administrator to exclude from regulation industry categories or subcategories for which equal or more stringent limitations are already provided by existing effluent limitations and standards. Also, paragraph 8(a)(iv) of the Settlement Agreement authorizes the exclusion of subcategories in which the amount of toxicity of each pollutant in the discharge does not justify developing national regulations.

Paragraph 8(b) of the Settlement Agreement authorizes the Administrator to exclude from pretreatment standards a subcategory if: (i) 95 percent or more of all point sources in the subcategory introduce into POTWs only pollutants which are susceptible to treatment by the POTW and which do not interfere with, do not pass through, or are not otherwise incompatible with such treatment works; or (ii) the toxicity and amount of the incompatible pollutants introduced by such point sources into POTWs is so insignificant that developing a pretreatment regulation is not justified. The subcategories excluded under paragraphs 8(a)(i), 8(a)(iv), and 8(b) of the Settlement Agreement are listed in Appendix D of this Notice.

In addition to the subcategories excluded under the Settlement Agreement, one subcategory is deferred for coverage under another guideline. That subcategory is listed in Appendix D.

XI. Responses to Major Comments

We proposed the regulation for the Inorganic Chemical Manufacturing Point Source Category (Phase II) on October 25, 1983. We received a total of 44 comments from 15 commenters during the comment period which ended December 27, 1983. Commenters include 13 inorganic chemical manufacturing companies, the Chlorine Institute, and the Chemical Manufacturers Association.

The comments focused on five issues. They include:

(1) Effluent quality achievable from cadmium pigments plants;

(2) Basis for proposed limitations for the zinc chloride subcategory;

(3) NSPS for the sodium chloride (solution brine-mining) subcategory;

(4) Inclusion of calcium hypochlorite in the chlor-alkali subcategory; and

(5) Compliance date for PSES.

Our responses to these comments are summarized below, and are provided in detail in the report "Responses to Public Comments on the Proposed Effluent Guidelines and Standards for the Inorganic Chemicals Manufacturing Point Source Category (Phase II)."

(1) Effluent Quality Achievable From Cadmium Pigments Plants

We proposed limitations based on 18 months of data from one plant which produces both chrome pigments and cadmium pigments. That plant combines the wastewaters from both products for end-of-pipe lime, settle, and filter treatment.

Comment: Three commenters questioned the achievability of the proposed limitations, two on the grounds that only a small proportion of wastewater at the "model" plant was cadmium pigments wastewater, and therefore the low cadmium effluent levels were achieved by dilution of the raw waste, and could not be achieved by the other plants in the industry. The third commenter stated that its plant, a direct discharger, could meet the proposed concentration-based PSES, but could not meet the proposed mass-based BPT/BAT effluent limitations. All three commenters provided data, and one plant, the "model" plant, submitted both influent and effluent data. One commenter also stated that only a few of the several cadmium pigments produced at the plant contain zinc, and that the zinc loading to treatment would be much higher when producing those few products than it would otherwise.

Response: The technology basis for the promulgated chrome pigments guidelines is hexavalent chromium reduction in acid followed by lime addition to a pH of about 8.5, followed by settling and filtration. The technology basis for the proposed cadmium pigments guidelines is lime addition to a pH of about 10.5 followed by settling and filtration. Plants which combine the chrome pigments and cadmium pigments process wastewaters for common treatment have to carefully control the pH between 9 and 10; too low a pH will result in excessive discharge of cadmium, while too high a pH will result in excessive discharge of chromium. Plants that produce only cadmium pigments can maintain the pH at the most effective level for cadmium removal. Therefore, even though those plants may have higher influent cadmium concentrations than plants manufacturing both cadmium pigments and chrome pigments, they can achieve the same cadmium effluent levels expected.

Two commenters' plants co-treat chrome pigments and cadmium pigments process wastewater, but the model plant generally has lower cadmium levels in the influent to treatment. In order to estimate achievable levels for the average plant, both sets of data were edited to eliminate effluent data where the plants were out of compliance with the chrome pigments guidelines and when very high cadmium levels coincided with very low chromium levels, both of which show improper pH control. The model plant data was also edited to eliminate data where the influent cadmium levels were very low. Using the edited data, and variability factors derived from unedited data (since editing the data would reduce the variability), we revised the proposed effluent limitations for total cadmium. The final limitations are about twice the limitations proposed, which were based on unedited model plant effluent data.

We agree that the zinc in cadmium pigments wastewater comes from only a few of the cadmium pigments products, and that the effluent zinc levels would be higher on days when those products containing zinc were manufactured. The average plant might produce cadmium pigments containing zinc more frequently than the model plant. In order to estimate the effluent zinc level for the average plant, we edited the model plant effluent data (the commenter's plant does not monitor zinc in its wastewater treatment facility effluent) to exclude effluent data associated with low influent zinc levels which probably occurred on days the model plant was not manufacturing cadmium pigments containing zinc in significant quantities. Using the edited data and variability factors derived from unedited data (since editing the data would reduce the variability), we revised the proposed effluent zinc limitations. The final limitations are about 50 percent higher than the proposed limitations, which were based on unedited model plant effluent data.

One commenter cannot meet the mass-based limitations for cadmium pigments in its discharge because the discharge consists of treated wastewater from both cadmium pigments and chrome pigments wastewater. The contribution of cadmium in chrome pigments wastewater must be taken into account.

Chrome pigments process wastewater contains low levels of cadmium. Because the levels are low, the promulgated chrome pigments guidelines do not limit cadmium. However, to assist permit writers and POTW's, the Inorganic Chemical Manufacturing Phase I Development Document provides guidance for establishing limitations on discharge of cadmium in chrome pigments process wastewater. These limitations may be added to the cadmium pigments limitations for dischargers who produce both products.

(2) Basis for Proposed Limitations for Zinc Chloride

We proposed BPT limitations based on lime and settle end-of-pipe treatment and BAT limitations based on filtration of the BPT effluent. The unit flows were derived by averaging the unit flows for the two largest plants in the industry, and the levels achievable were based on long-term data from one of those two plants. We proposed that pH be controlled within the range 6–9 units.

Comment: One commenter questioned the appropriateness of filtration as the technology basis for BAT in this subcategory and our interpretation of the available long-term data. The commenter pointed out that the long-term zinc data from the "model" plant was dissolved zinc, not total zinc.

The company commented further that, as we stated in the preamble to the proposed regulation and in the development document, no zinc chloride manufacturer has filtration of the effluent from lime and settle treatment, and therefore the commenter requested that filtration not be used as the technology basis for BAT, and suggested alternate limitations for TSS and lead for BPT. The company also recommended that the pH limitations be changed to pH 6–10, because control of zinc requires a pH of about 9 and occasional pH effluent levels above 9 would be expected.

Response: The proposed BPT for this subcategory was lime and settle, and the proposed BAT was filtration of the BPT effluent. The commenter's plant was the BAT "model" plant, even though we knew the plant did not have a filter. Based on our on-site evaluation of its wastewater treatment facility and its long-term data, we believed the plant was very efficiently operating their lime and settle treatment. We believed the plant's data showed that its treatment was achieving effluent levels for total zinc equivalent to levels achieved in other industries by filtration. Other zinc chloride manufacturers, all of which are much smaller, could achieve similar effluent quality at the least cost by adding filtration to their existing lime and settle treatment rather than rebuild their lime and settle treatment systems.

However, we have reexamined the effluent data previously submitted and agree that we misinterpreted the zinc data. Commenter's plant is not achieving effluent total zinc levels equivalent to levels achieved in other industries by filtration. Based on data from those other industries, which indicated that significant additional removal of total zinc beyond BPT might be achievable by the application of filtration technology in the zinc chloride industry, we believed filtration technology should be tested for the zinc chloride industry. Therefore, we conducted a bench-scale treatability study at the commenter's zinc chloride manufacturing plant to test the effectiveness of filtration for removal of total zinc after lime and settle treatment. The treatability study showed:

1. A well-operated lime and settle treatment system treating only zinc chloride process wastewater cannot achieve the low effluent zinc concentration levels we proposed for BPT. The proposed BPT limitations were based on a plant where only five percent of the process wastewater is from the manufacture of zinc chloride, which we now believe is not representative of the zinc levels achievable by the average plant. We have revised the BPT limitations for total zinc and they are now based on a plant with lime and settle treatment where 100 percent of the process wastewater is from the manufacture of zinc chloride. The revised limitations are about twice the proposed limitations.

2. Filtration removes a minimum of 80 percent of the zinc in the effluent from lime and settle treatment. This is very good removal of zinc, and therefore we have selected filtration of the BPT effluent as the technology basis for BAT in the zinc chloride subcategory. The BAT limitations were derived by reducing the revised BPT effluent limitations by 80 percent.

We also determined that the unit flow from the zinc chloride manufacturing process at the model plant is much greater than previously reported to us. Our investigation of the reason for the high unit flow shows that the unit flow depends very much on the type of zinc chloride product. Zinc chloride may be produced for sale as solutions of different concentrations and as solid zinc chloride. If the product is a dilute solution of zinc chloride, the unit flow is low. As product solutions become more concentrated, the unit flow increases, and is highest for production of solid zinc chloride. The zinc chloride manufacturers produce all grades of zinc chloride. The unit flows vary by a factor of 10. Any mass-based limit based on the average unit flow would be too lenient for production of dilute zinc chloride and too stringent for production of solid zinc chloride. Accordingly, we have decided to adopt a concentration-based limitation, which will avoid these problems.

We have estimated the costs of compliance for five of the six zinc chloride plants (one plant is in compliance with the promulgated BAT). Using these costs, the economic impact analysis indicates both BAT and PSES are economically achievable.

We agree that zinc removal is best at a pH of about 9, and that the effluent from treatment could be above 9 occasionally, unless additional effluent pH control is provided. At proposal, we included the cost of effluent pH control in the BPT cost. For the model plant, the costs for compliance with the proposed effluent pH of 6–9 would be $110,000 capital costs and over $20,000 annualized costs. Because of the higher pH required for zinc removal and because EPA's effluent limitations for other industries allow effluent pH at a pH of 10, we believe a pH of up to 10 should be allowed for the zinc chloride subcategory. No significant environmental impacts are expected from the higher pH. However, no discharges will be permitted which would cause a violation of state water quality standards, which generally include a pH standard of 6–9.

(3) Amend NSPS for the Sodium Chloride Subcategory

We proposed to withdraw the currently effective "no discharge" BAT and establish a BCT equal to the currently effective BPT, because the discharge contains no toxic pollutants and because all additional technology options considered for BCT failed the proposed BCT cost test. We did not propose to withdraw the currently effective "no discharge" NSPS, because we believe that the noncontact condensers needed to achieve zero discharge would not cost significantly more than the contact condensers generally in use.

Comment: One commenter recommended we revise the currently effective NSPS, asserting that the cost of noncontact condensers is up to three times the cost of contact condensers, and because there are no toxic pollutants, no improvement in water quality would result.

Response: While the discharge from manufacturing of sodium chloride by the solution brine-mining process does not contain treatable levels of toxic pollutants, it does contain TSS. NSPS is designed to control this pollutant. Thus a zero discharge NSPS prevents any possible degradation of the receiving water quality.

We have reestimated the cost for noncontact condensers versus contact condensers, and estimate that noncontact condensers cost about twice as much as contact condensers. We also identified three existing plants which achieve zero discharge with contact condensers and recycle of the cooling water through cooling towers or cooling ponds. We estimated the additional cost for new plants to use cooling towers or cooling ponds and contact condensers. The economic impact analysis shows that the zero discharge NSPS, whether achieved using noncontact condensors or contact condensors with recycle of cooling water, is not a barrier to entry. The economic impact analysis included the assumption that the commenter's figures were correct.

Therefore, we have made no change to the currently effective NSPS.

(4) Inclusion of Calcium Hypochlorite Production in the Chlor-Alkali Subcategory

We proposed that calcium hypochlorite manufacturing, when conducted at a chlor-alkali manufacturing plant, be subject to the promulgated chlor-alkali guidelines. Our data indicated that the three calcium hypochlorite plants, which also manufactured chlor-alkali, combined the wastewaters for treatment and discharge. The combined discharge was in compliance with the chlor-alkali effluent limitations guidelines and standards. Therefore, we provided no allowance for the amount of calcium hypochlorite manufactured in determining mass-based limitations.

Comment: Three commenters criticized the proposal, asserting that, although the three plants in existence at proposal could comply with the proposed regulation, this would not necessarily be true of new plants or if relative production rates should change at existing plants. No new data was provided by any of the commenters.

Response: We continue to believe that existing plants that produce both calcium hypochlorite and chlor-alkali can meet the effluent limitations and standards for the chlor-alkali subcategory. However, we believe that because the calcium hypochlorite effluent is controlled by the technology on which the chlor-alkali limitations are based, it is more appropriate to exclude the calcium hypochlorite from national regulation, pursuant to paragraph 8(a)(i) of the Settlement Agreement.

(5) Compliance Date for PSES

We proposed compliance with PSES be achieved by 24 months after the effective date.

Comment: One commenter requested additional time for compliance with PSES.

Response: The Clean Water Act requires compliance with PSES not later than 36 months after promulgation. Most inorganic chemical manufacturing Phase II plants are small with low process wastewater flows, and, because the treatment technology is readily available from venders, most could achieve compliance in 2 years. However, some plants, such as the commenter's plant, are more complicated than the average plant and engineering design and construction could take longer than average. Therefore, in the promulgated regulation, the compliance date for PSES is 36 months after the date of promulgation. Plants which also produce products subject to the Phase I guidelines would have to meet the PSES compliance date specified in Phase I for those products.

XII. Best Management Practices

Section 304(e) of the Clean Water Act gives the Administrator authority to prescribe "best management practices" (BMPs).

Although EPA is not proposing them at this time, development of BMPs specific to the Inorganic Chemicals Industry is being considered. The industry has numerous problem areas including leaks and spills, stormwater runoff, and groundwater infiltration from storage areas and onsite solid waste disposal. Most subcategories have problems in some or all of these areas. Sections 11–16 of the Development Document describe possible BMPs for each regulated subcategory. This information can guide the permitting agency in developing case-by-case BMPs for NPDES permits.

Future BMPs may require dikes, curbs, or other measures to contain leaks and spills, as well as the treatment of toxic pollutants in these wastewaters.

XIII. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is an unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations is necessary because such upsets will inevitably occur even with properly operated control equipment. Because technology-based limitations require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have disagreed on whether an explicit upset or excursion exemption is necessary, or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977) with *Weyerhaeuser Co.* v. *Costle*, 590 F.2d 1011 (D.C. Cir. 1978) and *Corn Refiners Association* v. *Costle*, No. 78–1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International Inc.* v. *Train*, 540 F.2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; a bypass, however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. In the past, bypass provisions have been included in NPDES permits.

EPA determined that both upset and bypass provisions should be included in NPDES permits and has promulgated permit regulations that include upset and bypass permit provisions (see 40 CFR 122.41). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the Inorganic Chemicals Industry will be entitled to upset and bypass provisions in NPDES permits, this regulation does not address these issues.

XIV. Variances and Modifications

Upon the promulgation of this regulation, the effluent limitations for the appropriate subcategory must be applied in all Federal and State NPDES permits thereafter issued to direct dischargers in the Inorganic Chemicals Industry. In addition, on promulgation, the pretreatment limitations are directly applicable to any indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E.I. du Pont de Nemours & Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle*, *supra*. This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973–76 industry regulations, it is now included in the NPDES regulations and will not be included in the inorganic chemicals or other industry regulations (see the NPDES regulations at 40 CFR Part 125, Subpart D).

The BAT limitations in this regulation are also subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for nonconventional pollutants are subject to modifications under sections 301(c) and 301(g) of the Act. These statutory modifications do not apply to toxic or conventional pollutants. According to section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitation guidelines.

The economic modification section (301(c)) gives the Administrator authority to modify BAT requirements for nonconventional pollutants (section 301(1) precludes the Administrator from modifying BAT requirements for any pollutants which are on the toxic pollutant list under section 307(a)(1) of the Act) for dischargers who file a permit application after July 1, 1977, upon a showing that such modified requirements will: (1) Represent the maximum use of technology within the economic capability of the owner or operator, and (2) result in reasonable further progress toward the elimination of the discharge of pollutants. The environmental modification section (301(g)) allows the Administrator, with the concurrence of the State, to modify BAT limitations for nonconventional pollutants from any point source upon a showing by the owner or operator of

such point source satisfactory to the Administrator that:

(a) Such modified requirements will result at a minimum incompliance with BPT limitations or any more stringent limitations necessary to meet water quality standards;

(b) Such modified requirements will not result in any additional requirements on any other point or nonpoint source; and

(c) Such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities.

Section 301(j)(1)(B) of the Act requires that application for modifications under section 301 (c) or (g) must be filed within 270 days after the promulgation of an applicable effluent guideline. Initial applications must be filed with the Regional Administrator and, in those States that participate in the NPDES program, a copy must be sent to the Director of the State program. Initial applications to comply with 301(j) must include the name of the permittee, the permit and outfall number, the applicable effluent guideline, and whether the permittee is applying for the 301(c) or 301(g) modification or both. Applicants interested in applying for both must do so in their initial application (for further details, see 43 FR 40859, September 13, 1978).

Indirect dischargers subject to PSES and PSNS are eligible for credits for toxic pollutants removed by POTW. See 40 CFR 403.7. New sources subject to NSPS are not eligible for any other statutory or regulatory modifications. See *E.I. du Pont de Nemours & Co.* v. *Train, supra.*

Indirect dischargers subject to PSES have, in the past, been eligible for the "fundamentally different factors" variance. See 40 CFR 403.13. However, on September 20, 1983, the U.S. Court of Appeals for the Third Circuit held that "FDF variances for toxic pollutants are forbidden by the Act," and remanded § 403.13 to EPA. *NAMF* v. *EPA, 719* F.2d *624* (3d Cir., 1983), *cert granted,* —— US —— (April 30, 1984).

Pending a ruling by the Supreme Court in the *NAMF* case, EPA will not grant FDF variances to pretreatment standards. However, in a few cases, information which would affect these PSES may not have been available to EPA or affected parties in the course of this rulemaking. As a result it may be appropriate to issue specific categorical standards for such facilities, treating them as a separate subcategory with more, or less, stringent standards as appropriate. This will only be done if a different standard is appropriate because of unique aspects of the factors listed in section 301(b)(2)(A) of the Act: The age of equipment and facilities involved, the process employed, the engineering aspects of applying control techniques, nonwater quality environmental impacts (including energy requirements) or the cost of required effluent reductions (but not of ability to pay that cost).

After promulgation of this final rule, indirect dischargers and other affected parties may petition the Administrator to examine those factors and determine whether these PSES are properly applicable in specific cases or should be revised. Such petitions *must* contain specific and detailed support data, documentation, and evidence indicating why the relevant factors justify a more, or less, stringent standard, and must also indicate why those factors could not have been brought to the attention of the Agency in the course of this rulemaking. The Administrator will consider such rulemaking petitions and determine whether a rulemaking should be initiated.

Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. NSPS are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications (see *E.I. du Pont de Nemours and Co.* v. *Train, supra*).

XV. Relationship to NPDES Permits

The BPT, BAT, and BCT limitations and NSPS in this regulation will be applied to individual inorganic chemicals manufacturers through NPDES permits issued by EPA or approved State agencies under section 402 of the Act. As discussed in the preceding section of this preamble, these limitations must be applied in all Federal and State NPDES permits, except to the extent that variances and modifications are expressly authorized. Other aspects of the interaction between these limitations and NPDES permits are discussed below.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit-issuing authorities. The promulgation of this regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit such pollutant on a case-by-case basis when limitations are necessary to carry out the purposes of the Act. In addition, to the extent that State water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

A second topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which were considered in developing this regulation. It is emphasized that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts.

XVI. Availability of Technical Information

The basis for this regulation is detailed in four major documents. Analytical methods are discussed in "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants". EPA's technical conclusions are detailed in "Development Document for Effluent Guidelines, New Source Performance Standards and Pretreatment Standards for the Inorganic Chemicals Manufacturing Point Source Category (Phase II)" EPA 440/1–84–007 (June 1984). The Agency's economic analysis is presented in "Economic Impact Analysis of Pollution Control Technologies for Segments of the Inorganic Chemicals Manufacturing Industry", EPA 440/2–84–013. A summary of the comments received on the proposed regulation and our detailed responses to all comments are included in a report "Responses to Public Comments, Proposed Inorganic Chemicals Manufacturing Effluent Guidelines and Standards (Phase II)", which is a part of the rulemaking record for the regulation. A contractor's report on treatability studies is presented in "Treatability Studies for the Inorganic Chemical Manufacturing Point Source Category" (EPA 440/1–80–103). The Development Document for Phase I, EPA

440/1–82–007, was also used extensively.

Technical information may be obtained by writing to Dr. Thomas E. Fielding, Effluent Guidelines Division (WH–552), EPA, 401 M Street, SW, Washington, D.C. 20460, or through calling 202/426–2582.

The Record will be available for public review [14 days after publication] in EPA's Public Information Reference Unit, Room 2004 (Rear) (EPA Library), 401 M Street, SW, Washington, D.C. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

XVII. Public Participation

Numerous agencies and groups have participated during the development of these effluent guidelines and standards. Following publication of the proposed rules on October 25, 1983 in the **Federal Register**, we provided the development document supporting the proposed rules to industry, Government agencies, and the public sector for comments. One workshop was held on the Phase II Inorganic Chemicals Rulemaking in Dallas, TX on December 8, 1983. On December 15, 1983, a public hearing was held on the proposed pretreatment standards.

The following organizations responded with comments: Chemicals Manufacturers Association; Cadmium Council, Inc.; The Chlorine Institute, Inc.; Ciba-Geigy Corp.; E. I. DuPont de Nemours & Company; Harshaw Chemical Company-Louisville; Harshaw Chemical Co.—Filtrol Div.; Morton-Thiokol, Inc.; Olin Chemicals, Inc.; Pfizer, Inc.; PPG Industries, Inc.; Uniroyal Chemical; United Catalysts, Inc.; Vulcan Chemicals; and SCM Corporation.

All comments received have been carefully considered, and appropriate changes have been made whenever available data and information supported those changes. Major issues raised by the comments received are addressed under Section XI of this preamble. A summary of the comments received and detailed responses to all comments are included in a report "Responses to Public Comments, Proposed Inorganic Chemical Manufacturing Effluent Guidelines and Standards (Phase II)", which is part of the public record for this regulation. This report, along with the rest of the public record, will be available for public review three weeks after the effective date in EPA's Public Information Reference Unit, Room 2004 (Rear), (EPA Library), 401 M St. (SW.), Washington, D.C.

The regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. This final rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980. 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 415

Inorganic chemicals, Water pollution control, Waste treatment and disposal.

Dated: July 27, 1984.

William D. Ruckelshaus,

Administrator.

XVIII. Appendices

Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act.

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act.

BMPs—Best management practices under Section 304(e) of the Act.

BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act.

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.),* as amended by the Clean Water Act of 1977 (Pub. L. 95–217).

Direct Discharger—A facility which discharges or may discharge pollutants into waters of the United States.

Indirect Discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works.

NPDES permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act.

NSPS—New source performance standards under Section 306 of the Act.

POTW—Publicly owned treatment works.

PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act.

PSNS—Pretreatment standards for new sources of indirect discharges under section 307 (b) and (c) of the Act.

RCRA—Resource Conservation and Recovery Act (Pub. L. 94–580) of 1976, Amendments to Solid Waste Disposal Act.

Appendix B—Toxic Pollutants Excluded In All Subcategories Under Paragraph 8(a)(iii)

Under Paragraph 8(a)(iii) of the Settlement Agreement, EPA is excluding certain toxic pollutants from regulation in all subcategories, for one or all of the following reasons:

(a) The pollutant is not detectable in the effluent with the use of analytical methods approved pursuant to 304(h) of the Act or other state of the art methods.

(b) The pollutant is present only in trace amounts and is neither causing nor likely to cause toxic effects.

(c) The pollutant is present in amounts too small to be effectively reduced by technologies known to the Administrator.

(d) The pollutant will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, standards of performance, or pretreatment standards.

The reason(s) for each of the following exclusions is keyed to the above list.

Acenaphthene (a)
Acrolein (a)
Acrylonitrile (c)
Benzene (b)
Benzidine (a)
Carbon Tetrachloride (Tetrachloromethane) (b)
Chlorobenzene (c)
1,2,4-Trichlorobenzene (a)
Hexachlorobenzene (a)
1,2-Dichloroethane (c)
1,1,1-Trichloroethane (a)
Hexachloroethane (a)
1,1-Dichloroethane (d)
1,1,2-Trichloroethane (c)
1,1,2,2-Tetrachloroethane (a)
Chloroethane (c)
Bis(2-Chloroethyl) Ether (b)
2-Chloroethyl Vinyl Ether (Mixed) (a)
2-Chloronaphthalene (a)
2,4,6-Trichlorophenol (b)
Parachlorometa Cresol (a)
Chloroform (Trichloromethane) (d)
2-Chlorophenol (c)
1,2-Dichlorobenzene (a)
1,3-Dichlorobenzene (a)
1,4-Dichlorobenzene (c)
3,3'-Dichlorobenzidine (a)
1,1-Dichloroethylene (c)
1,2-Trans-Dichloroethylene (c)
2,4-Dichlorophenol (c)
1,2-Dichloropropane (c)
1,2-Dichloropropylene (a)
(1,3-Dichloropropene)
2,4-Dimethylphenol (a)
2,4-Dinitrotoluene (a)
2,6-Dinitrotoluene (a)
1,2-Diphenylhydrazine (c)
Ethylbenzene (a)
Fluoranthene (c)
4-Chlorophenyl Phenyl Ether (a)
4-Bromophenyl Phenyl Ether (a)
Bis(2-Chloroisopropyl) Ether (a)
Bis(2-Chloroethoxy) Methane (a)
Methylene Chloride (c, d)
Methyl Chloride (Chloromethane) (b)
Methyl Bromide (Bromomethane) (a)

Bromoform (Tribromomethane) (c)
Dichlorobromoethane (c)
Chlorodibromomethane (c)
Hexachlorobutadiene (a)
Hexachlorocyclopentadiene (a)
Isophorone (c)
Naphthalene (a)
Nitrobenzene (c)
2-Nitrophenol (a)
4-Nitrophenol (c)
2,4-Dinitrophenol (c)
4,6-Dinitro-O-Cresol (c)
N-Nitrosodimethylamine (a)
N-Nitrosodiphenylamine (c)
N-Nitrosodi-N-Propylamine (a)
Pentachlorophenol (c)
Phenol (c)
Bis(2-ethylhexyl)Phthalate (c)
Butyl Benzyl Phthalate (c)
Di-N-Butyl Phthalate (c)
Di-N-Octyl Phthalate (c)
Diethyl Phthalate (c)
Dimethyl Phthalate (c)
1,2-Benzanthracene (Benzo(A)Anthracene) (c)
Benzo (A) Pyrene (3,4-Benzo-Pyrene) (a)
3,4-Benzofluoranthene (Benzo (B) Fluoranthene) (a)
11,12-Benzofluoranthene (Benzo (K) Fluoranthene) (a)
Chrysene (c)
Acenaphthylene (a)
Anthracene (a)
1,12-Benzoperylene (Benzo(GHI)-Perylene) (a)
Fluorene (a)
Phenanthrene (a)
1,2,5,6-Dibenzathracene (Dibenzo(A,H) Anthracene) (a)
Ideno(1,2,3-CD)Pyrene(2,3-O-Phenylene Pyrene) (a)
Pyrene (a)
Tetrachloroethylene (c)
Toluene (c)
Trichloroethylene (c)
Vinyl Chloride (Chloroethylene) (c)
Aldrin (c)
Dieldrin (c)
Chlordane (Technical Mixture and Metabolites) (c)
4,4'-DDT (c)
4,4'-DDE (P,P'-DDX) (c)
4,4'-DDD (P,P-TDE) (c)
Alpha-Endosulfan (c)
Beta-Endosulfan (c)
Endosulfan Sulfate (c)
Endrin (c)
Endrin Aldehyde (a)
Heptachlor (c)
Heptachlor Epoxide (c)
(BHC-Hexachlorocyclohexane)
Alpha-BHC (c)
Beta-BHC (c)
Gamma-BHC (c)
Delta-BHC (a)
PCB-1242 (Arochlor 1242) (a)
PCB-1254 (Arochlor 1254) (a)
PCB-1221 (Arochlor 1221) (a)
PCB-1232 (Arochlor 1232) (a)
PCB-1248 (Arochlor 1248) (a)
PCB-1260 (Arochlor 1260) (a)
PCB-1016 (Arochlor 1016) (a)
Toxaphene (a)
Asbestos (c)
Beryllium (a)
Cyanide (a)
Mercury (a)
Silver (c)
Thallium (b)
2,3,7,8-Tetrachlorodibenzo-P-Dioxin (TCDD) (a)

Appendix C—Toxic Pollutants Excluded in Particular Subcategories

Under Paragraph 8(a)(iii) of the Settlement Agreement, EPA is excluding certain toxic pollutants from regulation in particular subcategories, for one or all of the following reasons:

(a) The pollutant is not detectable in the effluent with the use of analytical methods approved pursuant to 304(h) of the Act or other state of the art methods.

(b) The pollutant is present only in trace amounts and is neither causing nor likely to cause toxic effects.

(c) The pollutant is present in amounts too small to be effectively reduced by technologies known to the Administrator.

(d) The pollutant will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, standards of performance, or pretreatment standards.

The reason(s) for each of the following exclusions is keyed to the above list.

Cadmium Pigments and Salts Subcategory (Subpart BL):

Antimony (a)	Copper (c)
Arsenic (a)	Lead (c)
Chromium (a)	Nickel (c)

The toxic pollutants limited are cadmium, selenium, and zinc.

Cobalt Salts Subcategory (Subpart BM):

Antimony (a)	Lead (c)
Arsenic (a)	Selenium (a)
Cadmium (a)	Zinc (c)

The toxic pollutants limited are copper and nickel. The nonconventional pollutant cobalt is also limited.

Copper Salts Subcategory (Subpart AJ):

Antimony (a)	Chromium (a)
Arsenic (c)	Lead (a)
Cadmium (a)	Zinc (c)

The toxic pollutants limited are copper, nickel, and selenium.

Nickel Salts Subcategory (Subpart AU):

Antimony (a)	Lead (a)
Arsenic (a)	Selenium (a)
Cadmium (c)	Zinc (c)
Chromium (a)	

The toxic pollutants limited are copper and nickel.

Sodium Chlorate Subcategory (Subpart BN):

Arsenic (c)	Nickel (c)
Cadmium (a)	Selenium (a)
Copper (c)	Zinc (c)
Lead (c)	

The toxic pollutants limited are antimony and chromium. The nonconventional pollutant total residual chlorine is also limited.

Zinc Chloride Subcategory (Subpart BO):

Antimony (a)	Copper (c)
Cadmium (c)	Nickel (c)
Chromium (c)	Selenium (c)

The toxic pollutants limited are arsenic, lead, and zinc.

Appendix D—Subcategories Excluded

1. The products in the subcategory are regulated by existing guidelines (8a(i)):

Chromium Oxide (Chrome Pigments)
Whiting (Calcium Carbonate)
Aluminum Oxide (Bauxite Refining Subcategory of Nonferrous Metals Manufacturing)
Aluminum Hydroxide (Bauxite Refining Subcategory of Nonferrous Metals Manufacturing)
Hydrogen Sulfide (Petroleum Refining)
Sulfur (Petroleum Refining)
Calcium Hypochlorite (Chlor-Alkali)
Bleaching Powder—another name for Calcium Hypochlorite

2. The subcategory is identified by a class name, and each commercial product included under the class name has been covered individually (8a(i) or 8a(iv)):

Sulfides and Sulfites*—covered as the metal hydrosulfide or metal sulfite, i.e., sodium hydrosulfide (8a(iv)), barium sulfide (8a(iv)), sodium sulfite (8a(i)), zinc sulfide (8a(iv)).

Thiocyanates*—covered as the metal thiocyanate, i.e., sodium thiocyanate (8a(iv)), potassium thiocyanate (8a(iv)).

Sulfocyanides*—another name for thiocyanate.

Reagent Grade Chemicals—a particular grade or quality of chemical. The term can apply to any chemical. The individual chemicals are each addressed separately (8a(i) and 8a(iv)).

3. The subcategory is deferred for coverage under another guideline:

Beryllium Oxide—Beryllium Manufacturing Subcategory of Nonferrous Metals Manufacturing Phase II.

4. The product is no longer produced in the United States (Paragraph 8a(iv)):

Lead Arsenate	Oxidation Catalyst Porcelain
Ultramarine Pigment	Potassium Hypochlorite
Borosilicate	Radium Chloride
Hydrophosphites	Radium Luminous Compounds
Luminous Compounds (Radium)	

5. There are no discharges in the subcategory (Paragraph 8a(iv)):

Sodium Antimoniate	Manganese Dioxide
Lead Dioxide, Brown	Peroxides*
Lead Dioxide, Red	Potash Alum
Alums	Potassium Aluminum Sulfate
Ammonium Alum	Soda Alum
Ammonium Perchlorate	Potash Magnesia
Cobalt 60 (Radioactive)	Sodium Hydrosulfite
Heavy Water	Isotopes, Radioactive
Hydrated Aluminum Silicate	Sodium Silicofluoride
Inorganic Acids*	

6. There are no toxic pollutants discharged at treatable levels from plants included in the subcategory (Paragraphs 8a(iv) and 8b(ii)):

Industrial Gases*	Brine Chemicals
Nitrous Oxide	Chlorosulfonic Acid
Iron Oxide, Black	Oleum
Iron Oxide, Magnetic	Potassium Bromide
Iron Oxide, Yellow	Strontium Carbonate
Ochers	Tin Compounds*
Siennas	Silver Nitrate
Umbers	Silica, Amorphous
Ammonium Thiosulfate	Silica Gel

7. There is only one plant or only one discharger in the subcategory (Paragraphs 8a(iv) and 8b(ii)):

Chromium Sulfate	Satin White Pigment
Mercury Chloride	Ammonium Molybdate
Mercury Oxide	Indium Chloride
Nickel Ammonium Sulfate	Perchloric Acid
Potassium Cyanide	Potassium Chlorate
Sodium Cyanide	Potassium Nitrate
Zinc Sulfide	Potassium Sulfate
Iron Colors	Sulfur Chloride

8. The discharges are too insignificant (based on very low production or very low flow) to justify developing a national regulation (8a(iv) and 8b(ii)):

Silver Bromide	Boron Compounds*
Silver Carbonate	Calcium Compounds*
Silver Cyanide	Cerium Salts
Silver Iodide	Sulfur Hexafluoride
Silver Oxide	Aluminum Chloride
White Lead Pigments	Lead Silicate
Barium Sulfate	Iodides*
Sodium Compounds*	Lithium Compounds
Stannic and Stannous Chloride	Magnesium Compounds*
Strontium Nitrate	Potassium Compounds
Barytes Pigments	Rare Earth Metals Salts
Aluminum Compounds*	Salts of Rare Earth Metals
Ammonium Compounds*	Silver Chloride
Barium Compounds*	Potassium Carbonate

9. The pollutant is a nuclear source material, nuclear by-product material, or special nuclear material, as these terms are defined at 10 CFR 20.3(a) (3), (15), and (16). All aspects of the production of the products, including wastewater discharges, are controlled by licenses issued by the Nuclear Regulatory Commission (NRC). The Supreme Court decided, in *Train* v. *Colorado PIRG*, 426 U.S. 1 (1976) that these materials, at least when regulated by the NRC, are not "pollutants" under the Clean Water Act.

Fissionable Material Production
Nuclear Cores, Inorganic
Nuclear Fuel Reactor Cores, Inorganic
Nuclear Fuel Scrap Reprocessing
Uranium Slug, Radioactive

Notes.—(a) All subcategories marked with an asterisk (*) are identified by class names (i.e., Aluminum Compounds). All products included under that class name are either regulated separately, excluded separately or were considered individually in this project and are recommended for exclusion at this time. We also considered addressing several products in one subcategory, but the individual products are too dissimilar in pollutant characteristics for that to be technically feasible.

(b) In many cases, a subcategory could have been listed above under different exclusion categories. For example, Nickel Ammonium Sulfate is produced in small quantities at only one plant, which has a direct discharge, through a BAT equivalent treatment system. Data from the plant shows that toxic metal pollutants in the treated effluent are below treatable levels.

Appendix E—Exclusion of Subcategories from PSES

1. The following subcategories are excluded from further national PSES regulation development under Paragraph 8(b) of the Settlement Agreement because there are no existing indirect dischargers in the subcategory:

Borax	Calcium Oxide
Bromine	Potassium Chloride
Calcium Carbide	Potassium Metal
Calcium Chloride	Potassium Sulfate
Chromic Acid	Sodium Chloride
Fluorine	Stannic Oxide

2. The following subcategories are excluded from further national PSES regulation development under Paragraph 8(b) of the Settlement Agreement because the discharge of toxic pollutants from all existing indirect dischargers in the subcategory is too insignificant to justify developing a national regulation:

Iodine (discharge to POTW by the one existing indirect discharger is only 200 gallons per day (gpd)).

Calcium Hydroxide (discharge to POTW by the one existing indirect discharger is only 200 gpd).

Sodium Bicarbonate (data from the one existing indirect discharger shows that all toxic metal pollutants are below treatable levels).

Sodium Sulfite (the one existing indirect discharge introduces only 19.3 kg/yr of toxic metal pollutants into the POTW).

Zinc Sulfate (the discharge to POTW by both existing indirect dischargers amounts to a total of 4200 gpd).

3. The currently existing PSES provides adequate control of toxic metal pollutants for the following five subcategories because the technologies necessary to control the toxic metal or non-conventional pollutants regulated by the PSES also controls all other toxic metal pollutants that may be in the wastewater.

Aluminum Sulfate	Potassium Dichromate
Ferric Chloride	Sodium Fluoride
Lead Monoxide	

PART 415—[AMENDED]

For the reasons set out in the preamble, EPA is amending Part 415 of Chapter I of Title 40 of the Code of Federal Regulations as set forth below:

1. The authority for Part 415 reads as follows:

Authority: Sections 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

2. A new § 415.01 is added to read as follows:

§ 415.01 Compliance Dates for Pretreatment Standards for Existing Sources.

The compliance dates for the pretreatment standards for existing sources (PSES) established in this part are as follows:

(a) The compliance date for Subparts A, B, L, AL, AR, BA, and BC is July 20, 1980.

(b) The compliance date for Subparts AJ, AU, BL, M, BN and BO, except for discharges from copper sulfate or nickel sulfate manufacturing operations, is August 22, 1987.

(c) The compliance date for discharges from copper sulfate and nickel sulfate manufacturing operations and for all Subparts in Part 415 not listed in paragraphs (a) and (b) of this section is June 29, 1985.

§ 415.163 [Amended]

3. Section 415.163 is amended by removing and reserving paragraph (b).

4. Section 415.203 is revised to read as follows:

§ 415.203 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART T—SODIUM SULFITE

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
Chromium (T)	0.0020	0.00063
Zinc (T)	0.0051	0.0015
COD	3.4	1.7

5. Section 415.205 is revised to read as follows:

§ 415.205 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

SUBPART T—SODIUM SULFITE

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
TSS	0.032	0.016
Chromium (T)	0.0020	0.00063
Zinc (T)	0.0051	0.0015
COD	3.4	1.7
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

6. Section 415.206 is revised to read as follows:

§ 415.206 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS).

SUBPART T—SODIUM SULFITE

Pollutant or pollutant property	PSNS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Chromium (total)	1.3	0.42
Zinc (total)	3.4	1.2
COD	1,260	630

In cases when POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations on chromium (total), zinc (total), and COD are the same as specified in § 415.205.

7. A new § 415.207 is added to read as follows:

§ 415.207 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations for TSS and pH are the same as specified in § 415.202.

§§ 415.273 through 415.275 [Reserved]

8. Sections 415.273, 415.274, and 415.275 are added and reserved.

9. A new § 415.276 is added to read as follows:

§ 415.276 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.272.

§§ 415.293 through 415.295 [Reserved]

10. Sections 415.293, 415.294, and 415.295 are added and reserved.

11. A new § 415.296 is added to read as follows:

§ 415.296 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.292.

§§ 415.313 through 415.315 [Reserved]

12. Sections 415.313, 415.314, and 415.315 are added and reserved.

13. A new § 415.316 is added to read as follows:

§ 415.316 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.312.

§§ 415.353 through 415.355 [Reserved]

14. Sections 415.353, 415.354, and 415.355 are added and reserved.

15. A new § 415.356 is added to read as follows:

§ 415.356 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.352.

16. Subpart AJ is revised to read as follows:

* * * * *

Subpart AJ—Copper Salts Production Subcategory

Sec.

415.360 Applicability; description of the copper salts production subcategory.
415.361 Specialized definitions.
415.362 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.363 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.364 Pretreatment standards for existing sources (PSES).
415.365 New source performance standards (NSPS).
415.366 Pretreatment standards for new sources (PSNS).
415.367 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Authority: Sections 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

Subpart AJ—Copper Salts Production Subcategory

§ 415.360 Applicability; description of the copper salts production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of copper salts, including (a) copper sulfate,

copper chloride, copper iodide, and copper nitrate, and (b) copper carbonate.

§ 415.361 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean copper salts.

(c) The term "copper" shall mean the total copper present in the process wastewater stream exiting the wastewater treatment system.

(d) The term "selenium" shall mean the total selenium present in the process wastewater stream exiting the wastewater treatment system.

(e) The term "nickel" shall mean the total nickel present in the process wastewater stream exiting the wastewater treatment system.

§ 415.362 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

SUBPART AJ—COPPER SULFATE, COPPER CHLORIDE, COPPER IODIDE, COPPER NITRATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
TSS	0.069	0.023
Copper (T)	0.0030	0.0010
Nickel (T)	0.0060	0.0020
Selenium (T)	0.0015	0.00050
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing copper carbonate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AJ—COPPER CARBONATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
TSS	4.2	1.4
Copper (T)	0.19	0.064
Nickel (T)	0.37	0.12
Selenium (T)	0.093	0.031
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.363 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for copper (T), nickel (T), and selenium (T) are the same as specified in § 415.362(a).

(b) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing copper carbonate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for copper (T), nickel (T) and selenium (T) are the same as specified in § 415.362(b).

§ 415.364 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART AJ—COPPER SULFATE, COPPER CHLORIDE, COPPER IODIDE, COPPER NITRATE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Copper(T)	3.2	1.1
Nickel(T)	6.4	2.1
Selenium(T)	1.6	0.53

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for copper (T), nickel (T), and selenium (T) are the same as specified in § 415.362(a).

(b) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing copper carbonate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART AJ—COPPER CARBONATE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Copper (T)	3.2	1.1
Nickel (T)	6.4	2.1
Selenium (T)	1.6	0.53

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for copper (T), nickel (T), and selenium (T) are the same as specified in § 415.362(b).

§ 415.365 New source performance standards (NSPS).

(a) Any new source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate must achieve the following new source performance standards (NSPS): The limitations for pH, TSS, copper (T), nickel (T), and selenium (T), are the same as specified in § 415.362(a).

(b) Any new source subject to this subpart and producing copper carbonate must achieve the following new source performance standards (NSPS): The limitations for pH, TSS, copper (T), nickel (T), and selenium (T) are the same as specified in § 415.362(b).

§ 415.366 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): the limitations for copper (T), nickel (T), and selenium (T) are the same as specified in § 415.364(a).

(b) Except as provided in 40 CFR 403.7, any new source subject to this subpart and producing copper carbonate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for copper (T), nickel (T), and selenium (T) are the same as specified in § 415.364(b).

§ 415.367 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing copper sulfate, copper chloride, copper iodide, or copper nitrate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.362(a).

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing copper carbonate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.362(b).

§ 415.385 [Reserved]

17. Section 415.385 is added and reserved.

18. A new § 415.386 is added to read as follows:

§ 415.386 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.382.

§§ 415.403 through 415.405 [Reserved]

19. Sections 415.403, 415.404, and 415.405 are added and reserved.

20. A new § 415.406 is added to read as follows:

§ 415.406 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.402.

§§ 415.433 through 415.435 [Reserved]

21. Sections 415.433, 415.434, and 415.435 are added and reserved.

22. A new § 415.436 is added to read as follows:

§ 415.436 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.432.

§ 415.445 [Reserved]

23. Section 415.445 is added and reserved.

24. A new § 415.446 is added to read as follows:

§ 415.446 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.442.

25. Subpart AU is revised to read as follows:

* * * * *

Subpart AU—Nickel Salts Production Subcategory

Sec.

415.470 Applicability; description of the nickel salts production subcategory.
415.471 Specialized definitions.
415.472 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.473 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.474 Pretreatment standards for existing sources (PSES).
415.475 New source performance standards (NSPS).
415.476 Pretreatment standards for new sources (PSNS).
415.477 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Authority: Sections 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

Subpart AU—Nickel Salts Production Subcategory

§ 415.470 Applicability; description of the nickel salts production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of nickel salts, including (a) nickel sulfate, nickel chloride, nickel nitrate, and nickel fluoborate, and (b) nickel carbonate.

§ 415.471 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean nickel salts.

(c) The term "nickel" shall mean the total nickel present in the process wastewater stream exiting the wastewater treatment system.

(d) The term "copper" shall mean the total copper present in the process wastewater stream exiting the wastewater treatment system.

§ 415.472 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing nickel sulfate, nickel chloride, nickel nitrate, or nickel fluoborate must achieve the following effluent

limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AU—NICKEL SULFATE, NICKEL CHLORIDE, NICKEL NITRATE, NICKEL FLUOBORATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	0.096	0.032
Nickel (T)	0.0060	0.0020
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing nickel carbonate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AU—NICKEL CARBONATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	17.	5.6
Nickel (T)	1.1	0.35
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.473 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing nickel sulfate, nickel chloride, nickel nitrate, or nickel fluoborate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART AU—NICKEL SULFATE, NICKEL CHLORIDE, NICKEL NITRATE, NICKEL FLUOBORATE

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
Copper (T)	0.00074	0.00024
Nickel (T)	0.00074	0.00024

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing nickel carbonate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART AU—NICKEL CARBONATE

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) or product	
Copper (T)	0.13	0.042
Nickel (T)	0.13	0.042

§ 415.474 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing nickel sulfate, nickel chloride, nickel nitrate, or nickel fluoborate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART AU—NICKEL SULFATE, NICKEL CHLORIDE, NICKEL NITRATE, NICKEL FLUOBORATE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Copper(T)	1.1	0.36
Nickel(T)	1.1	0.36

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for copper (T) and nickel (T) are the same as specified in § 415.473(a).

(b) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing nickel carbonate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART AU—NICKEL CARBONATE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Copper(T)	1.1	0.36
Nickel(T)	1.1	0.36

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for copper (T) and nickel (T) are the same as specified in § 415.473(b).

§ 415.475 New source performance standards (NSPS).

(a) Any new source subject to this subpart and producing nickel sulfate, nickel chloride, nickel fluorobate or nickel nitrate must achieve the following new source performance standards (NSPS):

SUBPART AU—NICKEL SULFATE, NICKEL CHLORIDE, NICKEL NITRATE, AND NICKEL FLUOBORATE

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	0.096	0.032
Copper	0.00074	0.00024
Nickel	0.00074	0.00024
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Any new source subject to this subpart and producing nickel carbonate must achieve the following new source performance standards (NSPS):

SUBPART AU—NICKEL CARBONATE

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) or product	
TSS	17.	5.6
Copper	0.13	0.042
Nickel	0.13	0.042

SUBPART AU—NICKEL CARBONATE—Continued

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.476 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart and producing nickel sulfate, nickel chloride, nickel fluoborate or nickel nitrate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for copper (T) and nickel (T) are the same as specified in § 415.474(a).

(b) Except as provided in 40 CFR 403.7, any new source subject to this subpart and producing nickel carbonate which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for copper (T) and nickel (T) are the same as specified in § 415.474(b).

§ 415.477 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing nickel sulfate, nickel chloride, nickel fluoborate or nickel nitrate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.472(a).

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing nickel carbonate must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.472(b).

§§ 415.503 through 415.505 [Reserved]

26. Sections 415.503, 415.504, and 415.505 are added and reserved.

27. A new § 415.506 is added to read as follows:

§ 415.506 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.502.

§ 415.555 [Reserved]

28. Section 415.555 is added and reserved.

29. A new § 415.556 is added to read as follows:

§ 415.556 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.552.

§§ 415.603 through 415.605 [Reserved]

30. Sections 415.603, 415.604, and 415.605 are added and reserved.

31. A new § 415.606 is added to read as follows:

§ 415.606 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.602.

§§ 415.633 through 415.635 [Reserved]

32. Sections 415.633, 415.634, and 415.635 are added and reserved.

33. A new § 415.636 is added to read as follows:

§ 415.636 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.632.

34. New subparts BL, BM, BN, and BO are added to read as follows:

* * * * *

Subpart BL—Cadmium Pigments and Salts Production Subcategory

Sec.

415.640 Applicability; description of the cadmium pigments and salts production subcategory.
415.641 Specialized definitions.
415.642 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.643 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.644 Pretreatment standards for existing sources (PSES).
415.645 New source performance standards (NSPS).
415.646 Pretreatment standards for new sources (PSNS).
415.647 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart BM—Cobalt Salts Production Subcategory

415.650 Applicability; description of the cobalt salts production subcategory.
415.651 Specialized definitions.
415.652 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.653 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.654 Pretreatment standards for existing sources (PSES).
415.655 New source performance standards (NSPS).
415.656 Pretreatment standards for new sources (PSNS).
415.657 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart BN—Sodium Chlorate Production Subcategory

415.660 Applicability; description of the sodium chlorate production subcategory.
415.661 Specialized definitions.
415.662 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.663 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Sec.

415.664 Pretreatment standards for existing sources (PSES). [Reserved]
415.665 New source performance standards (NSPS).
415.666 Pretreatment standards for new sources (PSNS).
415.667 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart BO-Zinc Chloride Production Subcategory

415.670 Applicability; description of the zinc chloride production subcategory.
415.671 Specialized definitions.
415.672 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.673 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.674 Pretreatment standards for existing sources (PSES).
415.675 New source performance standards (NSPS).
415.676 Pretreatment standards for new sources (PSNS).
415.677 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT)

Authority: Sections 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

Subpart BL—Cadmium Pigments and Salts Production Subcategory

§ 415.640 Applicability; description of the cadmium pigments and salts production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of cadmium pigments and salts including cadmium chloride, cadmium nitrate, and cadmium sulfate salts.

§ 415.641 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean cadmium pigment or cadmium salt.

(c) The term "cadmium" shall mean the total cadmium present in the process wastewater stream exiting the wastewater treatment system.

(d) The term "selenium" shall mean the total selenium present in the process wastewater stream exiting the wastewater treatment system.

(e) The term "zinc" shall mean the total zinc present in the process wastewater stream exiting the wastewater treatment system.

§ 415.642 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing cadmium pigments must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

SUBPART BL—CADMIUM PIGMENTS

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
TSS	2.59	1.57
Cadmium (T)	0.078	0.026
Selenium (T)	0.11	0.037
Zinc (T)	0.017	0.0092
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing cadmium salts must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART BL—CADMIUM SALTS

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
TSS	0.0016	0.001
Cadmium (T)	4.87×10^{-5}	1.62×10^{-5}
Selenium (T)	7.0×10^{-5}	2.3×10^{-5}
Zinc (T)	1.04×10^{-3}	5.8×10^{-4}
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.643 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing cadmium pigments must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for Cadmium (T), Selenium (T), and Zinc (T) are the same as specified in § 415.642(a).

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing cadmium salts must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for cadmium (T), selenium (T), and zinc (T) are the same as specified in § 414.642(b).

§ 415.644 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing cadmium pigments which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART BL—CADMIUM PIGMENTS

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Cadmium (T)	0.84	0.28
Selenium (T)	1.1	0.40
Zinc (T)	0.18	0.10

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for cadmium (T), selenium (T), and zinc (T) are the same as specified in § 415.642(a).

(b) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and producing cadmium salts which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART BL—CADMIUM SALTS

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Cadmium (T)	0.84	0.28
Selenium (T)	1.1	0.40
Zinc (T)	0.18	0.10

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for cadmium (T), selenium (T), and zinc (T) are the same as specified in § 415.642(b).

§ 415.645 New source performance standards (NSPS).

(a) Any new source subject to this subpart and producing cadmium pigments must achieve the following new source performance standards (NSPS): The limitations for pH, TSS, cadmium (T), selenium (T), and zinc (T), are the same as specified in § 415.642(a).

(b) Any new source subject to this subpart and producing cadmium salts must achieve the following new source performance standards (NSPS): The limitations for pH, TSS, cadmium (T), selenium (T), and zinc (T), are the same as specified in § 415.642(b).

§ 415.646 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart and producing cadmium pigments which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for cadmium (T), selenium (T), and zinc (T), are the same as specified in § 415.644(a).

(b) Except as provided in 40 CFR 403.7, any new source subject to this subpart and producing cadmium salts which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for cadmium (T), selenium (T), and zinc (T) are the same as specified in § 415.644(b).

§ 415.647 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing cadmium pigments must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.642(a).

(b) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart and producing cadmium salts must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.642(b).

Subpart BM—Cobalt Salts Production Subcategory

§ 415.650 Applicability; description of the cobalt salts production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of cobalt salts.

§ 415.651 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean cobalt salts.

(c) The term "cobalt" shall mean the total cobalt present in the process wastewater stream exiting the wastewater treatment system.

(d) The term "copper" shall mean the total copper present in the process wastewater stream exiting the wastewater treatment system.

(e) The term "nickel" shall mean the total nickel present in the process wastewater stream exiting the wastewater treatment system.

§ 415.652 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART BM—COBALT SALTS

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
TSS	0.0023	0.0014
Cobalt (T)	0.0003	0.00012
Copper (T)	2.7×10^{-4}	8.3×10^{-5}
Nickel (T)	2.7×10^{-4}	8.3×10^{-5}
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.653 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for cobalt (T), copper (T), and nickel (T), are the same as specified in § 415.652.

§ 415.654 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART BM—COBALT SALTS

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Cobalt (T)	3.6	1.4
Copper (T)	3.3	1.0
Nickel (T)	3.3	1.0

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for cobalt (T), copper (T), and nickel (T), are the same as specified in § 415.652.

§ 415.655 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

The limitations for pH, TSS, cobalt (T), copper (T), and nickel (T) are the same as specified in § 415.652.

§ 415.656 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for cobalt (T), copper (T), and nickel (T), are the same as specified in § 415.654.

§ 415.657 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.652.

Subpart BN—Sodium Chlorate Production Subcategory

§ 415.660 Applicability; description of the sodium chlorate production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of sodium chlorate.

§ 415.661 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean sodium chlorate.

(c) The term "chromium" shall mean the total chromium present in the process wastewater stream exiting the wastewater treatment system.

(d) The term "chlorine" shall mean the total residual chlorine present in the process wastewater stream exiting the wastewater treatment system.

(e) The term "antimony" shall mean the total antimony present in the process wastewater stream exiting the wastewater treatment system.

§ 415.662 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

SUBPART BN—SODIUM CHLORATE

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
TSS	0.12	0.068
Antimony (T)	0.0086	0.0043
Chromium (T)	0.0027	0.0014
Chlorine (total residual)	0.0041	0.0024
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.663 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

SUBPART BN—SODIUM CHLORATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
Antimony (T)	0.0043	0.0022
Chromium (T)	0.0017	0.00086
Chlorine (total residual)	0.0041	0.0024

§ 415.664 Pretreatment standards for existing sources (PSES). [Reserved]

§ 415.665 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

SUBPART BN—SODIUM CHLORATE

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 lb) of product	
TSS	0.076	0.046
Antimony (T)	0.0043	0.0022
Chromium (T)	0.0017	0.00086
Chlorine (total residual)	0.0041	0.0024
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.666 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

SUBPART BN—SODIUM CHLORATE

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Antimony (T)	1.6	0.8
Chromium (T)	0.64	0.32

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for antimony(T) and chromium(T) are the same as specified in § 415.663.

§ 415.667 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.662.

Subpart BO—Zinc Chloride Production Subcategory

§ 415.670 Applicability; description of the zinc chloride production subcategory.

The provisions of this subpart are applicable to discharges and to the

introduction of pollutants into treatment works which are publicly owned resulting from the production of zinc chloride.

§ 415.671 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean zinc chloride.

(c) The term "arsenic" shall mean the total arsenic present in the process wastewater stream exiting the wastewater treatment system.

(d) The term "zinc" shall mean the total zinc present in the process wastewater stream exiting the wastewater treatment system.

(e) The term "lead" shall mean the total lead present in the process wastewater stream exiting the wastewater treatment system.

§ 415.672 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

SUBPART BO—ZINC CHLORIDE

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
TSS	43	25
Arsenic (T)	3.0	1.0
Zinc (T)	11.4	3.8
Lead (T)	1.8	0.6
pH	(1)	(1)

[1] Within the range 6.0 to 10.0

§ 415.673 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

SUBPART BO—ZINC CHLORIDE

BAT effluent limitations	Pollutant or pollutant property	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Arsenic (T)	3.0	1.0
Zinc (T)	2.3	0.76
Lead (T)	0.6	0.2

§ 415.674 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART BO—ZINC CHLORIDE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Arsenic (T)	3.0	1.0
Zinc (T)	2.3	0.76
Lead (T)	0.6	0.2

§ 415.675 New source performance standards (NSPS):

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

SUBPART BO—ZINC CHLORIDE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
TSS	28	17
Arsenic (T)	3.0	1.0.
Zinc (T)	2.3	0.76
Lead (T)	0.6	0.2
pH	(1)	(1)

[1] Within the range 6.0 to 10.0.

§ 415.676 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations for arsenic (T), zinc (T), and lead (T) are the same as specified in § 415.674.

§ 415.677 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must acheive the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.672.

[FR Doc. 84–22145 Filed 8–21–84; 8:45 am]

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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, DC 20402 (phone 202-275-3030).

H.R. 4325 / Pub. L. 98-378

Child Support Enforcement Amendments of 1984 (August 16, 1984; 98 Stat. 1305) Price: $3.00

H.R. 4952 / Pub. L. 98-379

To authorize the Secretary of Defense to provide assistance to certain Indian tribes for expenses incurred for community impact planning activities relating to the planned deployment of the MX missile system in Nevada and Utah in the same manner that State and local governments were provided assistance for such expenses. (August 16, 1984; 98 Stat. 1331) Price: $1.50

S.J. Res. 302 / Pub. L. 98-380

To designate the month of September 1984 as National Sewing Month (August 17, 1984; 98 Stat. 1332) Price: $1.50

S. 268 / Pub. L. 98-381

Hoover Power Plant Act of 1984. (August 17, 1984; 98 Stat. 1333) Price: $2.00

S. 1145 / Pub. L. 98-382

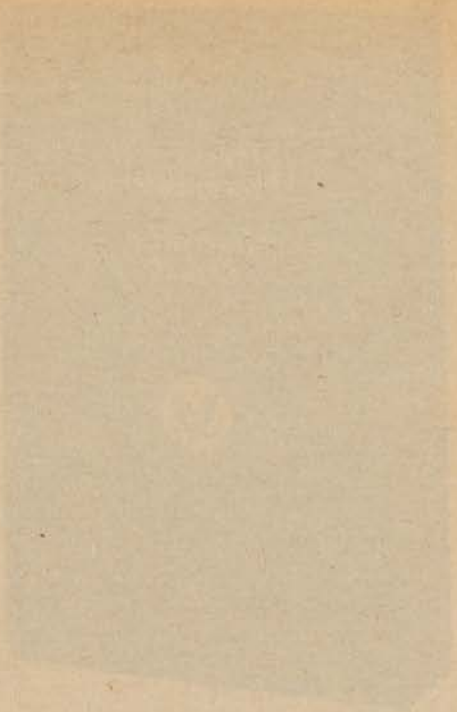
To recognize the organization known as the Catholic War Veterans of the United States of America, Incorporated. (August 17, 1984; 98 Stat. 1343) Price: $1.50

S.J. Res. 248 / Pub. L. 98-383

Designating August 21, 1984, as "Hawaii Statehood Silver Jubilee Day". (August 17, 1984; 98 Stat. 1347) Price: $1.50

S.J. Res. 272 / Pub. L. 98-384

Recognizing the anniversaries of the Warsaw uprising and the Polish resistance to invasion of Poland during World War II. (August 17, 1984; 98 Stat. 1349) Price: $1.50



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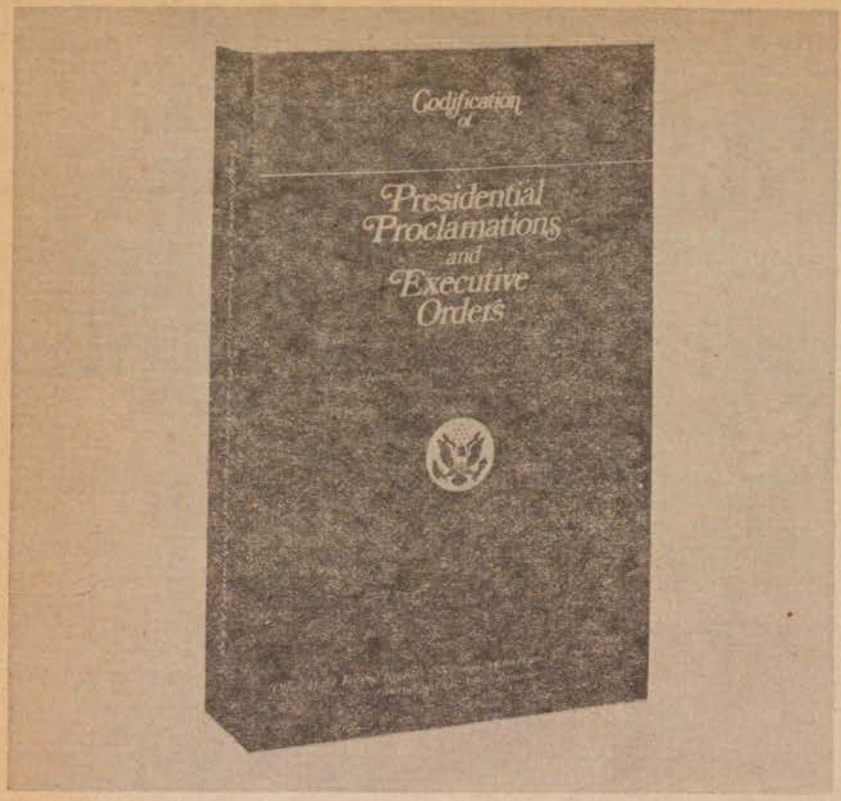

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