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# federal register

Wednesday
February 27, 1985

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Personnel Management Office

**Household Appliances**
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Immigration and Naturalization Service

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# Presidential Documents

Title 3—

The President

## Presidential Determination No. 85–8 of February 16, 1985

## International Military Education and Training for Yugoslavia

**Memorandum for the Honorable George P. Shultz, the Secretary of State**

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

I hereby find pursuant to section 620(f) of the Act that the furnishing of assistance to Yugoslavia under chapter 5 of part II of the Act is vital to the security of the United States, that Yugoslavia is not controlled by the international communist conspiracy, and that such assistance will further promote the independence of Yugoslavia from international communism.

Pursuant to section 614(a)(1) of the Act—

(a) I hereby determine that the furnishing of such assistance to Yugoslavia is important to the security interests of the United States; and

(b) I hereby authorize the furnishing of such assistance to Yugoslavia without regard to section 620(f) of the Act in the amount of $130,000 in the fiscal year 1985.

This determination shall be reported to the Congress and published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
*Washington, February 16, 1985.*

cc: The Secretary of Defense

[FR Doc. 85–4902
Filed 2–25–85; 3:30 pm]
Billing code 3195–01–M

# Rules and Regulations

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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.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 870, 871, 872, and 873

### Basic Life Insurance, Standard Optional Life Insurance, Additional Optional Life Insurance and Family Optional Life Insurance

**AGENCY:** Office of Personnel Managemenmt.

**ACTION:** Final rules.

**SUMMARY:** OPM is revising its regulations to specify the time period following loss of group life insurance coverage during which employees and family members, in the case of family optional insurance, may convert their coverage under the Federal Employees' Group Life Insurance (FEGLI) Program to an individual policy. Further, agencies will be required to provide a notice of the loss of group coverage to affected individuals.

**EFFECTIVE DATE:** March 29, 1985.

**FOR FURTHER INFORMATION CONTACT:** John Ray, (202) 632-9677.

**SUPPLEMENTARY INFORMATION:** On August 30, 1984, OPM published in the Federal Register (49 FR 34364) proposed regulations to extend the timeframe for conversion of life insurance to 31 days after the event which caused the employee to lose coverage or 31 days from the date the employee received notice of the right to convert, whichever is later. In addition, agencies would be required to notify employees of the loss of group coverage and the right to convert to an individual policy either before or immediately following the event causing the loss of coverage. In the event of death, agencies would be required to furnish the decedent's family members covered by family optional insurance with a notice of loss of group coverage and the right to convert to individual policies. An exception to the normal conversion period is provided when employees can demonstrate they would have converted but were prevented from doing so because of circumstances beyond their control.

One labor organization and two agencies sent written comments during the comment period. All commenters supported the change.

One commenter asked what evidence will be required for a person to show their failure to convert was for causes beyond the individual's control. A written statement signed by the individual which presents facts that are not contradictory to evidence of record may be sufficient in some situations. However, the Office of Federal Employees' Group Life Insurance (OFEGLI) may request whatever evidence it deems appropriate to make a decision on the person's right to convert. The burden of proof rests with the individual seeking the late conversion.

This commenter also pointed out that the term "paying agency" was used in Part 873 and he or she was uncertain if it meant the OPM, OFEGLI, the employing agency or the Office of Workers' Compensation Programs. We have dropped the term "paying agency" and provided explicit language.

The final concern from this commenter was that an unreasonable burden could be placed on the agency because of the requirement to notify family members of their conversion right. They envisioned situations where the existence, or whereabouts, of eligible family members are unknown. Agencies will only need to address the notice to family members and send it to the last known address of the employee. We will explain this in a Federal Personnel Manual issuance.

Another commenter asked if the individual policy is retroactive when the request for conversion is within 31 days of the date the employee received notice but after the expiration of the 31 days following the date of the terminating event. The commenter also asked whether premiums are retroactive when coverage is retroactive. The proposed regulations stated that when the conversion was late for cause beyond the individual's control, coverage is retroactive and premiums must be paid for the retroactive period. We have clarified the final regulations to say that in such a situation coverage and premiums are retroactive to the date coverage stopped.

### E.O 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

### Regulatory Flexibility Act

I certify that, within the scope of the Regulatory Flexibility Act, these regulations will not have a significant economic impact on a substantial number of small entities.

### List of Subjects in 5 CFR Parts 870, 871, 872, and 873

Administrative practice and procedure, Government employees, Life insurance, Personnel Management Office, Retirement.

Office of Personnel Management.

**Donald J. Devine,**

*Director.*

Accordingly, OPM is revising Title 5 of the Code of Federal Regulations as follows:

## PART 870—BASIC LIFE INSURANCE

1. The authority for Part 870 is as follows:

**Authority:** 5 U.S.C. 8716.

2. In § 870.501, paragraph (e) is revised to read as follows:

**§ 870.501 Termination and conversion of insurance coverage.**

* * * * *

(e)(1) After termination of group coverage for any reason other than voluntary cancellation, an employee may, upon application and without medical examination, convert all or any part of his/her basic life insurance to an individual policy. The rates of the individual policy are the rates applicable to the employee's attained age and class of risk. An employee is eligible to convert the policy only if he/she does not return, within 3 calendar days from the terminating event, to a position allowing coverage under the group plan.

(2) The employing agency must notify the employee of the loss of group coverage and the right to convert to an individual policy either prior to or immediately following the event causing the loss of coverage.

(3) The employee's request for conversion information must be submitted to the Office of Federal Employees' Group Life Insurance and postmarked within 31 days following the date of the terminating event or within 31 days of the date the employee received notice of loss of the group coverage and right to convert, whichever is later.

(4) When an agency fails to provide the notification described in paragraph (e)(2) of this section, or the employee fails for other reasons beyond his/her control to request conversion as described in paragraph (e)(3) of this section, he/she may request conversion to an individual policy by writing to the Office of Federal Employees' Group Life Insurance. Such a request must be filed within six months after an employee becomes eligible to convert basic life insurance. The employee must show that he/she was not notified of the loss of coverage and the right to convert, and was not otherwise aware of it, or that he/she was unable, for cause beyond his/her control, to convert the basic life insurance. The Office of Federal Employees' Group Life Insurance will determine if the employee is eligible to convert, and when the determination is affirmative, the employee may convert within 31 days of that determination.

(5) When an employee converts his/her basic life insurance coverage anytime after the group coverage has ended, the individual plan coverage is retroactive to the day following the day the group coverage ended. The employee must pay the premiums due for the retroactive period.

(6) An employee who fails to exercise his/her right to convert to an individual policy within 31 days after receiving notice of the right to convert or within 31 days of the terminating event, whichever is later, is deemed as having declined coverage unless OFEGLI determines the failure was for cause beyond his/her control as described in paragraph (e)(4) of this section.

* * * * *

## PART 871—STANDARD OPTIONAL LIFE INSURANCE

3. The authority for Part 871 is as follows:

**Authority:** 5 U.S.C. 8716.

4. In § 871.501, paragraph (e) is revised to read as follows:

**§ 871.501 Termination and conversion of insurance.**

* * * * *

(e)(1) After termination of group coverage for any reason other than voluntary cancellation, an employee may, upon application and without medical examination, convert all or any part of his/her standard optional insurance to an individual policy. The rates of the individual policy are the rates applicable to the employee's attained age and class of risk. An employee is eligible to convert the policy only if he/she does not return, within 3 calendar days from the terminating event, to a position allowing coverage under the group plan.

(2) The employing agency must notify the employee of the loss of coverage and the right to convert to an individual policy either prior to or immediately following the event causing the loss of coverage.

(3) The employee's request for conversion information must be submitted to the Office of Federal Employees' Group Life Insurance and postmarked within 31 days following the date of the terminating event or within 31 days of the date the employee received notice of loss of the group coverage and right to convert, whichever is later.

(4) When an agency fails to provide the notification described in paragraph (e)(2) of this section, or the employee fails for other reasons beyond his/her control to request conversion as described in paragraph (e)(3) of this section, he/she may request conversion of an individual policy by writing to the Office of Federal Employees' Group Life Insurance. Such a request must be filed within six months after an employee becomes eligible to convert the standard optional insurance. That employee must show that he/she was not notified of the loss of coverage and the right to convert, and was not otherwise aware of it, or that he/she was unable, for cause beyond his/her control, to convert the standard optional insurance. The Office of Federal Employees' Group Life Insurance will determine if the employee is eligible to convert, and when the determination is affirmative, the employee may convert within 31 days of that determination.

(5) When an employee converts his/her standard optional insurance anytime after the group coverage has ended, the individual plan coverage is retroactive to the day following the day the group coverage ended. The employee must pay the premiums due for the retroactive period.

(6) An employee who fails to exercise his/her right to convert to an individual policy within 31 days after receiving notice of the right to convert or within 31 days of the terminating event, whichever is later, is deemed as having declined coverage unless OFEGLI determines the failure was for cause beyond his/her control as described in paragraph (e)(4) of this section.

## PART 872—ADDITIONAL OPTIONAL LIFE INSURANCE

5. The authority for Part 872 is as follows:

**Authority:** 5 U.S.C. 8716.

6. In § 872.501, paragraph (e) is revised to read as follows:

**§ 872.501 Termination and conversion of insurance.**

* * * * *

(e)(1) After termination of group coverage for any reason other than voluntary cancellation, an employee may, upon application and without medical examination, convert all or any part of his/her additional optional insurance to an individual policy. The rates of the individual policy are the rates applicable to the employee's attained age and class of risk. An employee is eligible to convert the policy only if he/she does not return, within 3 calendar days from the terminating event, to a position allowing coverage under the group plan.

(2) The employing agency must notify the employee of the loss of group coverage and the right to convert to an individual policy either prior to or immediately following the event causing the loss of coverage.

(3) The employee's request for conversion information must be submitted to the Office of Federal Employees' Group Life Insurance and postmarked within 31 days following the date of the terminating event or within 31 days of the date the employee received notice of loss of group coverage and right to convert, whichever is later.

(4) When an agency fails to provide the notification described in paragraph (e)(2) of this section, or the employee fails for other reasons beyond his/her control to request conversion as described in paragraph (e)(3) of this section, he/she may request conversion to an individual policy by writing to the Office of Federal Employees' Group Life Insurance. Such a request must be filed within six months after an employee becomes eligible to convert the additional optional insurance. The employee must show that he/she was not notified of the loss of coverage and the right to convert, and was not otherwise aware of it, or that he/she was unable, for cause beyond his/her control, to convert the additional optional insurance. The Office of Federal Employee's Group Life Insurance will determine if the employee is eligible to convert, and when the

determination is affirmative, the employee may convert within 31 days of that determination.

(5) When an employee converts his/her additional optional insurance anytime after the group coverage has ended, the individual plan coverage is retroactive to the day following the day the group coverage ended. The employee must pay the premiums due for the retroactive period.

(6) An employee who fails to exercise his/her right to convert to an individual policy within 31 days after receiving notice of the right to convert or within 31 days of the terminating event, whichever is later, is deemed as having declined coverage unless OFEGLI determines the failure was for cause beyond his/her control as described in paragraph (e)(4) of this section.

## PART 873—FAMILY OPTIONAL LIFE INSURANCE

7. The authority for Part 873 is as follows:

Authority: 5 U.S.C. 871.6

8. In § 873.501, paragraphs (e) and (f) are revised to read as follows:

**§ 873.501 Termination and conversion of insurance.**

* * * * *

(e)(1) After termination of group coverage for any reason other than voluntary cancellation, an employee may, upon application and without medical examination, convert all or any part of his/her family optional insurance to an individual policy. The rates of the individual policy are the rates applicable to the employee's attained age and class of risk. An employee is eligible to convert the policy only if he/she does not return, within 3 calendar days from the terminating event, to a position allowing coverage under the group plan.

(2) The employing agency must notify the employee of the loss of group coverage and the right to convert to an individual policy either prior to or immediately following the event causing the loss of coverage.

(3) The employee's request for conversion information must be submitted to the Office of Federal Employees' Group Life Insurance and postmarked within 31 days following the date of the terminating event or within 31 days of the date the employee received notice of loss of group coverage and right to convert, whichever is later.

(4) When an agency fails to provide the notification described in paragraph (e)(2) of this section, or the employee fails for other reasons beyond his/her control to request conversion as described in paragraph (e)(3) of this section, he/she may request conversion to an individual policy by writing to the Office of Federal Employees' Group Life Insurance. Such a request must be filed within six months after an employee becomes eligible to convert the family optional insurance. The employee must show that he/she was not notified of the loss of coverage and the right to convert, and was not otherwise aware of it, or that he/she was unable, for cause beyond his/her control, to convert the family optional insurance. The Office of Federal Employees' Group Life Insurance will determine if the employee is eligible to convert, and when the determination is affirmative, the employee may convert within 31 days of that determination.

(5) When an employee converts his/her family optional insurance anytime after the group coverage has ended, the individual plan coverage is retroactive to the day following the day the group coverage ended. The employee must pay the premiums due for the retroactive period.

(6) An employee who fails to exercise his/her right to convert to an individual policy within 31 days after receiving notice of the right to convert or within 31 days of the terminating event, whichever is later, is deemed as having declined coverage unless OFEGLI determines the failure was for cause beyond his/her control as described in paragraph (e)(4) of this section.

(f)(1) Following the death of an insured employee, annuitant or compensationer, or following the termination of group coverage of an employee for any reason other than voluntary cancellation, family members as defined by 5 U.S.C. 8701(d) may, upon application and without medical examination, convert their family optional insurance coverage to an individual policy. The rates of the individual policy are the rates applicable to the family member's attained age and class of risk. A family member is eligible to convert the policy only if the employee does not return, within 3 calendar days from the terminating event, to a position allowing coverage under the group plan.

(2) The employing agency must notify the employee of the loss of group coverage and the right to convert to an individual policy either prior to or immediately following the event (except in the event of death) causing the loss of coverage. A family member can not convert to an individual policy if the employee or former employee exercises his/her right of conversion under paragraph (e)(1) of this section. In the event of death, the employing office (for employees), the office which administers a retirement system for Federal employees (for annuitants), or the Office of Workers' Compensation Programs (for compensationers) will furnish the decedent's family members with a notice of loss of group coverage and the right to convert to an individual policy.

(3) The family member's request for conversion information must be submitted to the Office of Federal Employees' Group Life Insurance and postmarked within 31 days following the date of the terminating event or within 31 days of the date the family member received notice of the loss of group coverage and right to convert, whichever is later.

(4) When the employing office (for employees), the Office which administers the retirement system for Federal employees (for annuitants), or the Office of Workers' Compensation Programs (for compensationers) fails to provide the notification described in paragraph (f)(2) of this section, or the family member fails for other reasons beyond his/her control to request conversion as described in paragraph (f)(3) of this section, he/she may request conversion to an individual policy by writing to the Office of Federal Employee's Group Life Insurance. Such a request must be filed within six months after a family member becomes eligible to convert the family optional life insurance. The family member must show that he/she was not notified of the loss of coverage and the right to convert, and was not otherwise aware of it, or that he/she was unable, for cause beyond his/her control, to convert the family optional insurance coverage. The Office of Federal Employees' Group Life Insurance will determine if the family member is eligible to convert, and when the determination is affirmative, the family member may convert within 31 days of that determination.

(5) When a family member converts his/her coverage anytime after the group coverage has ended, the individual plan coverage is retroactive to the day following the day the group coverage ended. The family member must pay the premiums due for the retroactive period.

(6) A family member who fails to exercise his/her right to convert to an individual policy within 31 days after receiving notice of the right to convert or within 31 days of the terminating event, whichever is later, is deemed as having declined coverage unless OFEGLI determines the failure was for cause

beyond his/her control as described in paragraph (f)(4) of this section.

[FR Doc. 85-4723 Filed 2-26-85; 8:45 am]

BILLING CODE 6325-01-M

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### 7 CFR Parts 2 and 601

### Delegations of Authority by the Secretary of Agriculture and General Officers of the Department; Coastal Zone Management Assistance

**AGENCY:** USDA.

**ACTION:** Final rule.

**SUMMARY:** This document delegates to the Chief of the Forest Service authority for coordinating Department of Agriculture input and assistance to the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce. It also deletes from the functions of the Soil Conservation Service a similar authority.

**EFFECTIVE DATE:** February 27, 1985.

**FOR FURTHER INFORMATION CONTACT:** John A. Vance, Director, Area Planning and Development, Forest Service, P.O. Box 2417, Washington, D.C. 20013, telephone: (202) 447-7767 or Joseph W. Haas, Deputy Chief for Programs, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, telephone: (202) 447-4527.

**SUPPLEMENTARY INFORMATION:** Authority for coordination of Departmental input and assistance to the NOAA, Department of Commerce, was assigned to the Soil Conservation Service along with responsibility to provide input and assistance to qualifying states and localities in the development, review, and implementation of coastal management programs prepared in accord with the act. It has become apparent that Forest Service functions are directly affected by actions of the Department of Commerce, the Congress, and states and local governments relating to the Coastal Zone Management Act of 1972. It has also been found that Soil Conservation Service functions are not directly affected by such actions. Therefore, authority for coordinating Departmental input and assistance to the Department of Commerce and other Federal agencies and for coordinating Departmental review of qualifying state and local government coastal management plans or programs prepared in accordance with the act is now delegated to the Chief of the Forest Service. Authority for providing input and assistance to qualifying states and localities in development and implementation of coastal management plans or programs prepared under the act remains with the Soil Conservation Service.

This rule relates to internal agency management and organization. Therefore, pursuant to 5 U.S.C. 553, it is found impractical and contrary to the public's interest to give preliminary notice or engage in public rulemaking. Since this rule relates to internal agency management and organization, it is exempt from provisions of Executive Order 12291 and Secretary's Memorandum 1512-1.

### List of Subjects in 7 CFR Parts 2 and 601

Organization and functions (Government agencies).

### PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7 of the Code of Federal Regulations, is amended as follows:

### Subpart G—Delegation of Authority by the Assistant Secretary for Natural Resources and Environment

Section 2.60 is amended by adding a new paragraph (a)(23) to read as follows:

**§ 2.60 Chief, Forest Service.**

* * * * *

(a) * * *

(23) Coordinate Departmental input and assistance to the Department of Commerce and other Federal agencies consistent with section 307 of the Coastal Zone Management Act of 1972 and coordinate Department of Agriculture review of qualifying state and local government coastal management plans or programs prepared under the act and submitted to the Secretary of Commerce, consistent with section 306 (a) and (c).

* * * * *

### PART 601—FUNCTIONS

Part 601, Title 7, Code of Federal Regulations, is amended as follows:

In § 601.1, paragraph (h) is revised to read as follows:

**§ 601.1 Functions assigned.**

* * * * *

(h) Assistance to qualifying states and local governments in the development and implementation of coastal management plans or programs prepared under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.) consistent with section 303(d) of that act.

* * * * *

Dated: February 22, 1985.

Douglas W. MacCleery,

*Deputy Assistant Secretary for Natural Resources and Environment.*

[FR Doc. 85-4722 Filed 2-26-85; 8:45 am]

BILLING CODE 3410-01-M

## Federal Crop Insurance Corporation

### 7 CFR Ch. IV

**[Docket No. 1899S]**

### General Amendment; Claim for Indemnity; Interest Payments

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) hereby amends all crop insurance regulations (7 CFR Part 400 *et seq.*), effective with the 1985 and succeeding crop years, to incorporate a provision for payment of interest on indemnity payments not made within a specified time. The intended effect of this action is to amend the Claim for Indemnity section of all FCIC crop insurance regulations to prescribe procedures for such interest payments. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

**EFFECTIVE DATE:** March 1, 1985.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1 (December 15, 1983). This action does not constitute a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for the regulations amended by this rule is contained in the preamble to the **Federal Register** publication of each of the regulations amended.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region:

or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

**Background**

Although FCIC attempts to make all indemnity payments within 30 days of the filing of a proper claim, Data Processing backlog and the need for further investigation have on some occasions, delayed payment past the targeted date. FCIC believes, on those occasions where the delay is due to procedural requirements of FCIC and through no fault of the insured, that FCIC should pay interest on the net amount eventually found to be due the insured.

The system of compensation of interest payments, as outlined herein, will be effective for all claims for payment of indemnity initially filed on or after March 1, 1985, and will be based on the following procedure:

When an insured has properly completed, signed, dated, and submitted a claim for indemnity form, FCIC will consider a formal claim to exist. The past due date of the payment will be the 60th day after a formal claim exists. Payment will be made as soon as possible. In the event FCIC does not make payment within the 60-day period, interest will be included with the payment computed from the 61st day through the date of payment.

The interest rate established by the Secretary of the Treasury pursuant to section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** will be applicable. This interest rate is published semi-annually on or about January 1 and July 1.

On December 14, 1983, the Board of Directors of the Federal Crop Insurance Corporation approved for publication as a notice of proposed rulemaking, the payment of interest whenever indemnity payments are not made timely and for implementation of that concept by the Manager of the Corporation, effective March 1, 1985.

On Wednesday, August 8, 1984, FCIC published a notice of proposed rulemaking in the **Federal Register** at 49 FR 31696, proposing to amend all crop insurance regulations, effective with the 1985 and succeeding crop years, to incorporate a provision for payment of interest on indemnity payments not made within a specified time. The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule.

One comment was received from the Office of Inspector General, Washington, D.C., suggesting that the Corporation consider a formal claim to exist when the claim for indemnity is signed by the loss adjuster, instead of the insured as had been proposed. The rationale offered was that it is the adjuster who submits the form to FCIC for processing and that a formal claim does not exist until so determined by the adjuster. For this reason the commentator suggested that FCIC use the date when the adjuster signs the claim form to determine when a claim exists for the purpose of establishing the 60-day time frame.

FCIC considered this comment and has determined that in almost all cases, the insured and the loss adjuster sign the claim form on the same date. Barring any unforeseen circumstances, those claims are normally dealt within 30 days. Approximately 1 percent of the landlords are absentees and in these cases a slight mail delay may occur. In the case of contested claims, the insured has the option of submitting a signed claim form containing the FCIC determined loss or of submitting a separate signed claim form. In such contested cases, where the insured's claim for indemnity is upheld, the procedures contained herein provide for payment of interest beginning with the 61st day from the date the insured properly completes, signs, dates and submits the claim form to FCIC. FCIC has determined that changing the effective date from the date of the insured's signature to that of the loss adjuster would remove the determination of that date from the control of the insured to FCIC. By requiring that the form be not only properly completed and signed but also dated and submitted, FCIC assumes that the claim is completed and FCIC has the full amount of time in which to make payment.

In the notice of proposed rulemaking published on August 4, 1984 (49 FR 31696), reference was made to the "Renegotiation Board" interest rate as being the applicable rate of interest paid. The Renegotiation Board previously published the rate of interest determined by the Secretary of the Treasury pursuant to section 105(b)(2) of the Renegotiation Act of 1951 (Pub. L. 92–41), as amended. Since the Renegotiation Board is no longer in existence, the Department of the Treasury now publishes the current rate of interest pursuant to section 2(b)(1) of the Prompt Payment Act (Pub. L. 97–177), and Section 12 of the Contract Disputes Act. The Secretary of the Treasury is responsible for computing and publishing the interest rate. For the purposes of this final rule, the reference to "Renegotiation Board interest rate" in the amendment is changed to refer to Section 12 of the Contract Disputes Act.

**List of Subjects in 7 CFR Parts 402–404, 408–411, 413–425, and 427–447**

Crop insurance, Indemnity payments, Interest rate.

**Final Rule**

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the crop insurance regulations contained in 7 CFR Part 400 *et seq.*, effective with the 1985 and succeeding crop years, in the following instances:

1. The Authority Citation for 7 CFR 402.7(d)9.n., 403.7(d)9.h., 404.7(d)9.h., 408.7(d)9.h., 409.7(d)9.i., 410.7(d)9.o., 411.7(d)9.h., 413.7(d)9.h., 414.7(d)9.k., 415.7(d)9.h., 416.7(d)9.h., 417.7(d)9.h., 418.7(d)9.h., 419.7(d)9.h., 420.7(d)9.j., 421.7(d)9.h., 422.7(d)9.h., 423.7(d)9.h., 424.7(d)9.h., 425.7(d)9.k., 427.7(d)9.h., 428.7(d)9.j., 429.7(d)9.h., 430.7(d)9.j., 431.7(d)9.j., 432.7(d)9.k., 433.7(d)9.k., 434.7(d)9.h., 435.7(d)9.g., 436.7(d)9.h., 437.7(d)9.h., 438.7(d)9.h., 439.7(d)9.h., 440.7(d)9.j., 441.7(d)9.h., 442.7(d)9.g., 443.7(d)9.h., 444.7(d)9.k., 445.7(d)9.k., 446.7(d)9.h., and 447.7(d)9.j., is:

**Authority:** Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 402.7(d)9.n., 403.7(d)9.h., 404.7(d)9.h., 408.7(d)9.h., 409.7(d)9.i., 410.7(d)9.o., 411.7(d)9.h., 413.7(d)9.h., 414.7(d)9.k., 415.7(d)9.h., 416.7(d)9.h., 417.7(d)9.h., 418.7(d)9.h., 419.7(d)9.h.,

420.7(d)9.j., 421.7(d)9.h., 422.7(d)9.h., 423.7(d)9.h., 424.7(d)9.h., 425.7(d)9.k., 427.7(d)9.h., 428.7(d)9.j., 429.7(d)9.h., 430.7(d)9.j., 431.7(d)9.j., 432.7(d)9.k., 433.7(d)9.k., 434.7(d)9.h., 435.7(d)9.g., 436.7(d)9.h., 437.7(d)9.h., 438.7(d)9.h., 439.7(d)9.h., 440.7(d)9.j., 441.7(d)9.h., 442.7(d)9.g., 443.7(d)9.h., 444.7(d)9.k., 445.7(d)9.k., 446.7(d)9.h., and 447.7(d)9.j., are revised to read as follows:

We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fee, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date your sign, date and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semi-annually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury. Interest will be paid in accordance with this section beginning with all claims for payment of indemnity initially filed on or after March 1, 1985.

Done in Washington, D.C., on January 23, 1985.

**Diana Moslak,**

*Acting Secretary, Federal Crop Insurance Corporation.*

Dated: February 20, 1985.

**Michael A. Bronson,**

*Acting Manager.*

[FR Doc. 85-4606 Filed 2-26-85; 8:45 am]

BILLING CODE 3410-08-M

## Agricultural Marketing Service

### 7 CFR Part 927

### Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau Varieties of Pears Grown in Oregon, Washington, and California; Increase in Expenses and Rate of Assessment

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Finalization of interim rule.

**SUMMARY:** The Department of Agriculture (USDA) issued an interim rule on December 24, 1984, to increase the assessment rate authorized under Marketing Order No. 927 for the period December 1, 1984, through June 30, 1985. The rule also increased authorized expenditures for the entire year from $267,500 to $1,301,026. The increases were necessary to permit expenditures for market promotion and paid advertising for winter pears, the authority for which was provided by a recent amendment to the order.

**EFFECTIVE DATES:** July 1, 1984, through June 30, 1985.

**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 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, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The interim rule was published in the **Federal Register** (49 FR 50598) on December 31, 1984, and became effective for the period July 1, 1984, through June 30, 1985. The rule provided for public comment through January 30, 1985. No comments were received during the 30 days provided.

The increase in assessment rate and authorized expenditures was based upon recommendations of the Winter Pear Control Committee and was issued under the marketing agreement, as amended, and order No. 927 as amended (7 CFR Part 927). The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended. It is hereby found that this action will tend to effectuate the declared policy of the act.

**List of Subjects in 7 CFR Part 927**

Agricultural marketing agreement service , Marketing agreements and orders, Oregon, Washington, California, Pears, Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau.

**PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA**

Accordingly, the interim final rule published in the **Federal Register** (49 FR 50598) on December 31, 1984, amending § 927.224 is adopted as a final rule.

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

Dated: February 21, 1985.

**Thomas R. Clark,**

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

[FR Doc. 85-4721 Filed 2-26-85; 8:45 am]

BILLING CODE 3410-02-M

## FEDERAL TRADE COMMISSION

### 16 CFR Part 305

### Rules for Using Energy Costs and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Refrigerators, Refrigerator-Freezers and Freezers

**AGENCY:** Federal Trade Commission.

**ACTION:** Rule related notice.

**SUMMARY:** Under the Federal Trade Commission's Appliance Labeling Rule, each required label or fact sheet for a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. These ranges show the highest and lowest energy costs or efficiencies for the various size or capacity groupings of the appliances covered by the rule. The Commission publishes the ranges annually in the **Federal Register** if the upper or lower limits of the range change by 15 percent or more from the previously published range. If the Commission does not publish a revised range, it must publish a notice that the prior range is still applicable for the next year.

The ranges of efficiencies for refrigerators, refrigerator-freezers and freezers have not changed by as much as 15 percent since the last publication. Therefore, the ranges published on April 1, 1983 remain in effect until new ranges are published.

**EFFECTIVE DATE:** February 27, 1985.

**FOR FURTHER INFORMATION CONTACT:** James Mills or Lucerne D. Winfrey, Attorneys, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580, (202) 376-8934.

**SUPPLEMENTARY INFORMATION:** Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA) [1] required the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances: (1) Refrigerators and refrigerator-freezers;

[1] Pub. L. 94-163, 89 Stat. 871, 42 U.S.C. 6201 (1975).

(2) freezers; (3) dishwashers; (4) clothes dryers; (5) water heaters; (6) room air conditioners; (7) home heating equipment, not including furnaces; (8) television sets; (9) kitchen ranges and ovens; (10) clothes washers; (11) humidifiers and dehumidifiers; (12) central air conditioners; and (13) furnaces. Under the statute, the Department of Energy (DOE) is responsible for developing test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule [1] covering seven of the thirteen appliance categories: refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces.

The rule requires that energy efficiency ratings or energy costs and related information be disclosed on labels, fact sheets and in retail sales catalogs for all covered products manufactured on or after May 19, 1980. Certain point-of sale promotional materials must disclose the availability of energy cost or energy efficiency rating information. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of the DOE test procedures.

Pursuant to § 305.8 of the rule, manufacturers submitted reports to the Commission by January 21, 1980. These reports contained the estimated annual cost or energy efficiency rating, derived from tests performed pursuant to the DOE test procedures, for all models of the seven categories of appliances. The reports also contained the model, the number of tests performed on each model, and the capacity of each model. From the information, the Commission compiled and published [2] ranges of comparability for each product, as required by § 305.10 of the rule.

Section 305.8(b) of the rule requires that manufacturers, after filing this initial report, shall report the same information annually by specified dates for each product type.[3] If an analysis of the new data indicates that the upper or lower limits of any of the ranges have changed by more than 15%, the Commission must, under § 305.10 of the rule, publish a revised version of the new range or ranges. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect for the next year.

The annual reports for refrigerators, refrigerator-freezers and freezers have been received and analyzed and it has been determined that neither the upper nor lower limits of the ranges for these product categories have changed by 15% or more since the last publication of the ranges on April 1, 1983.

In consideration of the foregoing, the present ranges for refrigerators, refrigerator-freezers and freezers will remain in effect for the next year.

**List of Subjects in 16 CFR Part 305**

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

**Authority:** Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95–619) (1978), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

By direction of the Commission.

**Emily H. Rock,**

*Secretary.*

[FR Doc. 85–4718 Filed 2–26–85; 8:45 am]

BILLING CODE 6750–01–M

[1] 44 FR 66466, 16 CFR Part 305 (November 19, 1979).

[2] 45 FR 13998 (March 3, 1980), 45 FR 19520 (March 25, 1980), 45 FR 26036 (April 17, 1980), 46 FR 3829 (January 16, 1981).

[3] Reports for clothes washers are due by March 1; reports for water heaters, room air conditioners and furnaces are due by May 1; reports for dishwashers are due by June 1; reports for refrigerators, refrigerator-freezers and freezers are due by August 1.

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 270 and 274

**[Release No. IC–14390; File No. S7–6–85]**

### Exemption From Section 22(d) to Permit the Sale of Redeemable Securities at Prices That Reflect Different Sales Loads

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Adoption of final rule revision; rescission of rules; amendment of forms; solicitation of comment on rule rescission.

**SUMMARY:** The Securities and Exchange Commission is adopting a rule revision that permits a registered investment company, its principal underwriter and dealers in the company's shares to sell any redeemable security issued by the company with scheduled variations in its sales load, subject to certain conditions. The rule eliminates the need for investment companies to file applications requesting exemptive relief from the Commission in many circumstances where applications must now be filed and permits increased competition in the pricing of mutual fund shares. The Commission is also rescinding certain rules which are superseded by adoption of this rule and is amending certain forms to include related disclosure requirements. Comment is requested on rescission of a rule which permits variations in sales loads by registered separate accounts.

**EFFECTIVE DATE:** February 27, 1985. Comments with respect to rescission of redesignated rule 22d–2 must be received on or before April 29, 1985.

**ADDRESS:** Comments with respect to the rule rescission should be submitted in triplicate to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7–6–85. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

**FOR FURTHER INFORMATION CONTACT:** With respect to the new rule, rule rescissions and form amendments, Elizabeth M. Knoblock, Special Counsel, (202) 272–2048, or Elizabeth K. Norsworthy, Chief, (202) 272–2048, Office of Regulatory Policy, Division of Investment Management Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549 and with respect to the proposed rule rescission, Jeffrey S. Puretz, Staff Attorney, (202) 272–3010, Office of Insurance Products and Legal Compliance, Division of Investment Management, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549.

After the effective date, questions should be directed to the Office of Chief Counsel, (202) 272–2030, Division of Investment Management, 450 5th Street, NW., Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Commission is adopting revised rule 22d–1 (17 CFR 270.22d–1) (proposed as rule 22d–6) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) ("Act") which provides an exemption from the requirement of section 22(d) of the Act (15 U.S.C. 80a–22(d)) that redeemable securities of registered investment companies be sold to the public only at a current public offering price described in the

prospectus.[1] This exemption enables a company to sell its shares at prices which reflect different sales loads, subject to certain conditions. The Commission is simultaneously amending the disclosure requirements relating to sales charges in form N–1A (17 CFR 274.11A), the registration statement for open-end management investment companies, and form N–8B–2 (17 CFR 274.12), the registration statement for unit investment trusts. The Commission is also rescinding rules 22d–2 (17 CFR 270.22d–2), 22d–4 (17 CFR 270.22d–4) and 22d–5 (17 CFR 270.22d–5) which are superseded by the new rule.[2] The Commission is temporarily retaining rule 22d–3 (17 CFR 270.22d–3) pending adoption of new registration statement forms for separate accounts,[3] and requesting specific comment on whether the rule should be rescinded at the time that the new forms are adopted.

## Background

Rule 22d–1 was proposed as rule 22d–6 in Investment Company Act Release No. 13183 (May 3, 1983) (48 FR 19887) and would have offered registered investment companies that sell redeemable securities ("funds") the opportunity of setting sales loads by schedules, by negotiation or by a combination of those methods. The Commission received twenty comment letters on the proposal. The majority of commentators expressed opposition to the negotiation aspect of the proposal. Specifically, commentators addressed whether adoption of the proposal would injure the investment company industry, whether the Commission has statutory authority to permit negotiated loads, and whether permitting negotiation would eliminate antitrust immunity for fixed pricing of fund shares. Only a few commentators addressed the concept of scheduled variations in sales loads. Of those, most supported that aspect of the proposal, but one commentator offered substantive criticism of the proposed provisions.

As discussed in more detail below, the final rule permits scheduled variations subject to compliance with certain conditions intended to protect investors. The Commission has decided, however, that the rule should not permit negotiated loads. Items relating to sales charges in the registration statement forms for open-end companies and unit investment trusts also are amended to reflect the rule's adoption.

## Discussion

The Commission believes, as discussed in more detail in the appendix to the release proposing rule 22d–6, that a fund should be permitted to sell its securities with scheduled variations in its sales load. In particular, the Commission's adoption of rule 22c–1 (17 CFR 270.22c–1) to require forward pricing of fund shares largely dispelled concerns about share dilution which had been caused by backward pricing.[4] The volume of applications for exemptive relief which have been filed and which the Commission has granted even after the adoption of rules 22d–1 through 22d–5 indicates that funds need more latitude to establish variations in the sales loads which they charge. Moreover, it appears that the sales load variations that have been instituted have improved the competitive environment for the sale of fund shares without disrupting the distribution system for the sale of those shares. In light of these circumstances, the Commission believes that it is appropriate to permit a broader range of scheduled variations.

The final rule conditions exemptive relief for scheduled variations upon compliance with the requirement that any variations be applied uniformly to all offerees in the class specified. In addition, a fund offering sales load variations must: (i) Furnish adequate information concerning those variations, as prescribed by applicable registration statement form requirements; (ii) revise its prospectus and statement of additional information to furnish adequate information with respect to any new sales load variation available to purchasers of the fund's shares;[5] and (iii) advise existing shareholders of any new sales load variation within one year after the variation is first made available.[6]

The registration statement forms for investment companies that issue redeemable securities, *i.e.*, form N–1A for open-end investment companies and form N–8B–2 for unit investment trusts, are amended to require disclosure concerning any scheduled variations that are available and to delete references to the rescinded rules.[7] With respect to form N–1A, the amendments require an open-end company to disclose in its prospectus (part A of the registration statement): A list of any special purchase plans established pursuant to rule or exemptive order;[8] the identity of each class of individuals or transactions to which such plans apply; and the amount of each applicable sales charge available as a percentage of the public offering price and as a percentage of the net amount invested. The statement of additional information (part B of the registration statement) is amended to require a full explanation of the reasons for any difference in the price at which the registrant's securities are offered generally to the public and the prices at which securities are offered for any class of transactions or to any class of individuals.[9] Form N–8B–2 is amended to require that all of the above information be disclosed in the prospectus.[10]

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[1] Former rule 22d–1 exempted from the uniform price requirement certain volume discounts and discounts associated with dividend reinvestment and employee benefit plans.

[2] Under rule 22d–2, reinvestment of the proceeds of redeemed securities without payment of a sales load was permitted under limited circumstances. Rule 22d–4 exempted the sale of redeemable securities issued in connection with mergers and acquisitions subject to certain conditions. Rule 22d–5 exempted the sale of redeemable securities pursuant to certain offers of exchange.

[3] Rule 22d–3 allows registered separate accounts to sell variable annuity contracts, units or participations at prices that reflect variations in sales loads or other administrative charges subject to certain requirements. The Commission has decided to retain this rule for registered separate accounts until proposed form N–3, the registration statement form for separate accounts registered as management investment companies offering variable annuity contracts and proposed form N–4, the registration statement form for separate accounts registered as unit investment trusts offering variable annuity contracts, are adopted. *See infra* note 10.

[4] Rule 22c–1 requires the sale of fund shares at a price based on net asset value determined after purchase orders are received, usually at the close of business on the day of sale. This requirement eliminates the possibility of anyone taking unfair advantage of any discrepancy between the last computed net asset value and the price at which shares will be offered at the next computed net asset value.

[5] The fund is required to file copies of the revised prospectus and statement of additional information with the Commission pursuant to rule 497 (d) or (e) (17 CFR 230.497 (d) or (e)) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*).

[6] The fund can advise shareholders by mailing them a copy of the revised prospectus and statement of additional information, or by including the same information added to the prospectus and statement of additional information in a periodic report or in a special mailing.

[7] Registrant may rely on either the rule or prior exemptive orders in offering price variations. Reliance on an exemptive order, however, does not relieve a registrant of complying with the amended disclosure requirements.

[8] In view of the breadth of the rule, it is anticipated that few, if any, applications for exemptive relief will be filed in the future.

[9] Pending adoption of a merger form for open-end investment companies, the amended items in form N–1A will govern disclosure by such companies of sales charges for shares issued in connection with mergers, acquisitions or reorganizations.

[10] Although a unit investment trust ("UIT") will have to disclose all sales load information in its prospectus, the Commission intends to propose a new registration statement for UITs in the near future that would follow the N–1A format and divide the registration statement into three parts: Part A (the prospectus), part B (the statement of additional information), and part C (exhibits). The new form, as in form N–1A, would require only a

Continued

The proposed rule would have made exemptive relief a function solely of adequate disclosure. As proposed, the rule would have required any fund to disclose in its prospectus the amounts of any sales loads payable or the method by which an investor could readily determine such amounts and the circumstances under which such sales loads would be charged.

As noted above, most of the commentators on the proposal did not address the scheduled variations portion of the proposal. Of those who did, all supported the concept of scheduled variations, but one commentator specifically criticized the proposed version of scheduled variations on the ground that it failed to provide sufficient notice to prospective purchasers of the price or prices at which they might be able to purchase a fund's shares and lacked conditions to protect investors against unfair discrimination.

The amendments to the sales load items in forms N–1A and N–8B–2 should enable prospective investors to ascertain from a fund's prospectus exactly what sales load variations the fund offers and whether they are eligible for any of these variations. If investors are interested in obtaining a fuller explanation of the available variations, they will be able to request a copy of the fund's statement of additional information. Further, as outlined above, the final version of the rule conditions exemptive relief not only upon adequate disclosure, but also upon three other conditions that are designed to protect investors within the class specified and to ensure that prospective investors and existing shareholders are adequately apprised of any new sales load variations which may be applicable to them.

*Adoption of Amendments to the Registration Statement Forms Without Prior Notice and Comment, and Adoption of Amendments and Final Rule Revision Effective Upon Publication*

The Administrative Procedure Act (5 U.S.C. 551 et seq.) ("APA") generally requires that any agency publish a notice of proposed rulemaking that provides adequate opportunity for comment by interested persons. Section 553(b)(B) of the APA provides an exception from this requirement in situations where the agency for good cause finds that prior notice and comment are "impractical, unnecessary, or contrary to the public interest." These standards are incorporated in rule 4(b) of the Commission's Rules of Practice (17 CFR 201.4(b)), which requires publication and prior notice of proposed rules "[e]xcept where the Commission finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest."

The Commission is adopting amendments to the registration statement forms for open-end investment companies and unit investment trusts to implement the disclosure requirements of the rule. The notice of proposed rulemaking for rule 22d–6 solicited and received substantial comment upon the proposed disclosure provisions of the rule. Accordingly, the Commission has determined that prior notice and comment on the registration statement form amendments is unnecessary.

The Commission is adopting the registration statement form amendments and the revision of rule 22d–1 effective upon publication. The APA generally requires that publication of a substantive rule be made not less than 30 days before its effective date. Section 533(d) of the APA provides an exception from this requirement in situations where a substantive rule "grants or recognizes an exemption or relieves a restriction" (5 U.S.C. 553(d)(1)). The revision of rule 22d–1 and the amendments to the registration statement forms are being adopted to provide exemptive relief with regard to scheduled variations in sales loads.

**List of Subjects in 17 CFR Parts 270 and 274**

Investment companies, Reporting and recordkeeping requirements, Securities.

**Text of Final Rule, Rule Rescissions and Form Amendments**

Parts 270 and 274 of Chapter II of Title 17 of the Code of Federal Regulations is amended to read as follows:

## PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

**§ 270.0–1 [Amended]**

1. By amending § 270.0–1(e)(2) to redesignate the reference to 22d–3 as 22d–2.

**§ 270.22c–1 [Amended]**

2. By amending § 270.22c–1(a)(2) to delete the reference to § 270.22d–4.

3. By revising § 270.22d–1 to read as follows:

**§ 270.22d–1 Exemption from section 22(d) to permit sales of redeemable securities at prices which reflect sales loads set pursuant to a schedule.**

A registered investment company that is the issuer of redeemable securities, a principal underwriter of such securities or a dealer therein shall be exempt from the provisions of section 22(d) to the extent necessary to permit the sale of such securities at prices that reflect scheduled variations in, or elimination of, the sales load. These price schedules may offer such variations in or elimination of the sales load to particular classes of investors or transactions, *Provided that:*

(a) The company, the principal underwriter and dealers in the company's shares apply any scheduled variation uniformly to all offerees in the class specified;

(b) The company furnishes to existing shareholders and prospective investors adequate information concerning any scheduled variation, as prescribed in applicable registration statement form requirements;

(c) Before making any new sales load variation available to purchasers of the company's shares, the company revises its prospectus and statement of additional information to describe that new variation; and

(d) The company advises existing shareholders of any new sales load variation within one year of the date when that variation is first made available to purchasers of the company's shares.

4. By removing § 270.22d–2.

5. By redesignating § 270.22d–3 as § 270.22d–2.

6. By removing § 270.22d–4.

7. By removing § 270.22d–5.

## PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

8. By amending form N–1A by revising paragraph (c) of item 7, paragraph (a) of item 8 and instruction number 4 to paragraph (b) of item 19 and by removing paragraph (d) of item 19 as follows:

**§ 270.11A Form N–1A, registration statement of open-end management investment companies.**

* * * * *

summary of sales load variations in the prospectus, with a fuller explanation of those variations to be provided in the statement of additional information. The final version of forms N–3 and N–4, which were proposed for insurance company separate accounts in Investment Company Act Release No. 13669, dated December 23, 1983, will follow a similar format and will specify the disclosure requirements that apply to sales loads charged by registered separate accounts. Pending adoption of forms N–3 and N–4, rule 22d–3 will govern disclosure of sales charges by these issuers.

*Item 7. Purchase of Securities Being Offered*

* * * * *

(c) Unless set forth in response to paragraph (b), list any special purchase plans or methods established pursuant to a rule or an exemptive order that reflect scheduled variations in, or elimination of, the sales load (*e.g.*, letters of intent, accumulation plans, dividend reinvestment plans, withdrawal plans, exchange privileges, employee benefit plans, redemption reinvestment plans, or the terms of a merger, acquisition or exchange offer made pursuant to a plan of reorganization); identify each class of individuals or transactions to which such plans apply; state each different sales charge available as a percentage of the public offering price and as a percentage of the net amount invested; and state from whom additional information may be obtained.

* * * * *

*Item 8. Redemption or Repurchase*

(a) Describe briefly in the prospectus all procedures for redeeming the Registrant's shares, any restrictions thereon, and any charges that may be attendant upon redemption, except redemptions made pursuant to rule 18f-1 (17 CFR 270.18f-1). Information concerning methods of redemption pursuant to that rule may be provided by the Registrant, at its discretion, in either the prospectus or the Statement of Additional Information. If Registrant, under normal circumstances, intends to redeem in kind, that fact should be disclosed.

* * * * *

*Item 19. Purchase, Redemption and Pricing of Securities Being Offered*

* * * * *

*Instructions*

* * * * *

(b) * * *

4. Explain fully the reasons for any difference in the price at which securities are offered generally to the public, and the prices at which securities are offered for any class of transactions or to any class of individuals, including officers, directors, or employees of the Registrant, its adviser or principal underwriter.

* * * * *

9. By amending form N-8B-2 by revising paragraph (c) of item 13, by adding new paragraph (d) to item 13 and by redesignating paragraphs (d), (e) and (f) of item 13 as (e), (f) and (g) as follows:

**§ 274.12 Form N-8B-2, registration statement of unit investment trusts which are currently issuing securities.**

* * * * *

*Item 13. Information Concerning Loads, Fees, Charges and Expenses*

* * * * *

(c) State the amount of total deductions as a percentage of the net amount invested for each type of security issued by the trust. State each different sales charge available as a percentage of the public offering price and as a percentage of the net amount invested. List any special purchase plans or methods established by rule or exemptive order that reflect scheduled variations in, or elimination of, the sales load; and identify each class of individuals or transactions to which such plans apply.

(d) Explain fully the reasons for any difference in the price at which securities are offered generally to the public, and the price at which securities are offered for any class of transactions to any class or group of individuals, including officers, directors, or employees of the depositor, trustee custodian or principal underwriter.

* * * * *

**Final Regulatory Flexibility Analysis**

In accordance with 5 U.S.C. 604, the Commission has prepared a Final Regulatory Flexibility Analysis with regard to the adoption of revised rule 22d-1 under the Investment Company Act. A summary of the corresponding Initial Regulatory Flexibility Analysis was included in the release proposing the rule at 48 FR 19887 (May 3, 1983). Anyone who wishes to obtain a copy of the Final Regulatory Flexibility Analysis should contact Elizabeth M. Knoblock in the manner specified above.

**Statutory Basis**

The Commission adopts revised rule 22d-1 and rescinds rules 22d-2, 22d-4 and 22d-5 pursuant to the authority granted the Commission in sections 6(c) (15 U.S.C. 80a-6(c)) and 38(a) (15 U.S.C. 80a-37(a)) of the Act. The Commission amends forms N-1A and N-8B-2 pursuant to the authority granted to the Commission in sections 7, 10, and 19 of the Securities Act of 1933 (15 U.S.C. 77g, 77j and 77s) and in sections 24(a) (15 U.S.C. 80a-24(a)) and 38(a) of the Act.

Dated: February 22, 1985.

By the Commission.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4789 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 122, 123, and 125

**[OW-FRL-2780-1]**

### National Pollutant Discharge Elimination System; Permit Regulations

*Correction*

In FR Doc. 85-3990 beginning on page 6939 in the issue of Tuesday, February 19, 1985, make the following corrections:

1. On page 6940, in the third column, in the paragraph designated 16, in the second line, "§ 122.44(1)(l)" should read "§ 122.44(l)(1)".

2. On page 6941, in the first column, in the paragraph designated 26, the second and third lines should read "§ 123.25(a)(1) '(Prohibitons)' is corrected to read '(Prohibitions)'.".

3. On the same page, in the second column, in the paragraph designated 36, in the fourth line, the sentence beginning "48 FR 39611" should have begun a new paragraph.

4. On the same page, in the third column, in the corrected paragraph following the paragraph designated 51, in the seventh line, "column 2-C" should read "column 2-c".

5. On page 6942, in the first column, in the paragraph designated 53, in the fifth line, "trichlorophnol" should read "trichlorophenol".

BILLING CODE 1505-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

### 42 CFR Part 55a

### Program Grants for Black Lung Clinics

**AGENCY:** Public Health Service, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Public Health Service hereby revises the regulations governing the grants program for black lung clinics established under section 427(a) of the Federal Mine Safety and Health Act of 1977. The revision is in keeping with the Department of Health and Human Services' desire to remove as many programmatic burdens and restrictions from grantees as possible, while maintaining program integrity.

**DATE:** The regulations are effective on February 27, 1985, except for §§ 55a.201 and 55.301. For additional information

concerning this effective date, see the discussion of the Information Collection Requirements below.

**FOR FURTHER INFORMATION CONTACT:** Mr. James J. Corrigan, Associate Bureau Director for Legislation and Policy, Bureau of Health Care Delivery and Assistance, Room 7-05, 5600 Fishers Lane, Rockville, Maryland 20857.

**SUPPLEMENTARY INFORMATION:** The Public Health Service published a notice of proposed rulemaking (NPRM) for the Black Lung Clinics Program in the Federal Register on November 1, 1983 (48 FR 50363). This program, established by section 427(a) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 937(a)), assists public and private entities in constructing, purchasing and operating clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in coal miners.

Two comments were received on the NPRM, one from a State health department and the other from a Black Lung Clinics program grantee.

The State health department comment addressed a statement which appeared in the preamble of the NPRM which assumed that the cost of most of the services provided to eligible miners would be recovered under reimbursements from the Black Lung Benefits Program of the Department of Labor (DOL). The State health department's comment questioned whether the level of the DOL reimbursements would ever be sufficient to pay for the ongoing costs of Black Lung Clinic projects. The comment also stated that DOL does not reimburse for costs of outreach, tracking home visits and education of family members.

The Department's regulation is designed to give States a greater role in administration of the Black Lung Clinics program, and thus the level of DOL reimbursements is not directly related to this rulemaking proceeding. Nevertheless, it is hoped that through increased State involvement in the program the Department resources put into this program can be more effectively administered and coordinated with other State resources, and DOL reimbursements. The issue of whether DOL reimbursements are sufficient is one the commenter may wish to raise with DOL.

The health department comment also objected to the NPRM's proposed change to the existing regulations (see 42 CFR 55a.4(c)) to omit the requirement that a clinic have a policy board or an advisory committee to the policy board in order to "* * * assure consumer participation in the development of policy * * *" Although the Department agrees that such consumer participation may be valuable, it nevertheless believes that program integrity is not harmed and grantee flexibility is enhanced by eliminating the board requirement from the regulations. Therefore, the Secretary has decided not to restore that requirement. However, should grantees wish to establish such policy boards or advisory committees, they will be free to do so.

The Black Lung Clinic Grantee commenter objected to the fact that the NPRM would establish a preference for States which apply for a Black Lung Clinic grant over applicants which are not States. In addition, the commenter objected to the fact that States would be subject to less stringent application and operating requirements than non-State grantees. As explained in the preamble to the NPRM, the proposed regulations were designed to foster broadened participation by States, consistent with Administration policy. The Department's position is based on a recognition that States have the administrative capabilities and resources to appropriately manage these programs and to report on and audit the results of their activities. Consequently, less is required of States in applying for grants because the States' financial soundness, management and audit capabilities and financial and program resources to perform the grant are known and do not have to be reviewed in detail. The Department's position on this issue remains unchanged and no change has been made in the final regulations.

Attached as an appendix to this Supplementary Information is a table which shows black lung clinics grantees by State, with information on budget period expiration and grant amounts. States which are awarded grants under this regulation will be required to assume responsibility for miners presently served by all grantees in their States on a phase-in basis, based on the renewal dates for grants in their States. (See § 55a.201(e).)

### Information Collection Requirements

Sections 55a.201 and 55a.301 of this rule contain information collection requirements. We will be submitting an information collection request to the Office of Management and Budget (OMB) for approval of these requirements under Section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). These requirements will not be effective until the Department obtains OMB approval. A notice will be published in the Federal Register when approval is obtained.

### Regulatory Impact and Regulatory Flexibility Analyses

For the reasons stated in the preamble of the NPRM to the proposed rules, the Secretary certifies that the final rule does not require preparation of a Regulatory Flexibility Analysis under the Regulatory Flexibility Act, Pub. L. 96-354, or a regulatory impact analysis under Executive Order 12291.

### List of Subjects in 42 CFR Part 55a

Black lung benefits, Grant programs—Health care, Health facilities, Miners, Occupational safety and health.

Accordingly, Part 55a of Title 42, Code of Federal Regulations, is revised as set forth below.

(Catalog of Federal Domestic Assistance Program No. 13.965 Coal Miners, Respiratory Impairment Treatment, Clinic and Services (Black Lung Clinic))

Dated: December 11, 1984.

**Margaret M. Heckler,**

*Secretary.*

## PART 55a—PROGRAM GRANTS FOR BLACK LUNG CLINICS

### Subpart A—General Provisions

Sec.

55a.101 Definitions.
55a.102 Who is eligible to apply for a Black Lung clinics grant?
55a.103 What criteria has HHS established for deciding which grant application to fund?
55a.104 What confidentiality requirements must be met?
55a.105 How must grantees carry out their projects?
55a.106 Provision for waiver by the Secretary.
55a.107 What other regulations apply?

### Subpart B—Grants to States

55a.201 What is required for a State application?

### Subpart C—Grants to Entities Other Than States

55a.301 What is required for an application from an entity other than a State?

**Authority:** Sec. 427(a), Federal Mine Safety and Health Act of 1977, 92 Stat. 100 (30 U.S.C. 937(a)).

### Subpart A—General Provisions

#### § 55a.101 Definitions.

"Act," as used in this part, means the Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 801 *et seq.*).

"Secretary" means the Secretary of Health and Human Services and any other officer or empolyee of the Department of Health and Human

Services to whom the authority involved has been delegated.

"Miner" or "coal miner" means any individual who works or has worked in or around a coal mine or coal preparation facility in the extraction or preparation of coal. The term also includes an individual who works or has worked in coal mine construction or transportation in or around a coal mine, to the extent that the individual was exposed to coal dust as a result of employment.

**§ 55a.102 Who is eligible to apply for a Black Lung clinics grant?**

Any State or public or private entity may apply for a grant under this part.

**§ 55a.103 What criteria has HHS established for deciding which grant applications to fund?**

(a) The Secretary will give preference to a State, which meets the requirements of this part and applies for a grant under this part, over other applicants in that State.

(b) Within the limits of funds available for these purposes the Secretary may award grants to assist in the carrying out of those programs which will in the Secretary's judgment best promote the purposes of section 427(a) of the Act, taking into account:

(1) The number of miners to be served and their needs; and

(2) the quality and breadth of services to be provided.

**§ 55a.104 What confidentiality requirements must be met?**

All information as to personal facts and circumstances obtained by the grantee's staff about recipients of services shall be held confidential and shall not be disclosed without the individual's consent except as may be required by law or as may be necessary to provide service to the individual or to provide for audits with appropriate safeguards for confidentiality of patient records. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.

**§ 55a.105 How must grantees carrry out their projects?**

Grantees must carry out their projects in accordance with their applications and the provisions of this part.

**§ 55a.106 Provision for waiver by the Secretary.**

The Secretary may, for good cause shown, waive provisions of these regulations.

**§ 55a.107 What other regulations apply?**

Other regulations which apply to the Black Lung Clinics Program include, but are not limited to, the following:

42 CFR Part 50, Subpart D—Public Health Service grant appeals procedure;
42 CFR Part 50, Subpart E—Maximum allowable cost for drugs;
45 CFR Part 16—Procedures of the Departmental Grant Appeals Board;
45 CFR Part 19—Limitations on payment or reimbursement for drugs;
45 CFR Part 74—Administration of grants;
45 CFR Part 75—Informal grant appeals procedures;
45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964;
45 CFR Part 81—Practice and procedure for hearings under Part 80;
45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance; and
45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance.

## Subpart B—Grants to States

**§ 55a.201 What is required for a State application?**

An approvable State application must contain assurances that the State will:

(a) Provide the following services for active and inactive miners in the State:

(1) Primary care;

(2) Patient and family education and counseling;

(3) Outreach;

(4) Patient care coordination, including individual patient care plans for all patients;

(5) Antismoking advice; and

(6) Other symptomatic treatments.

(b) Provide medical services in consultation with a physician with special training or experience in the diagnosis and treatment of respiratory diseases.

(c) Meet all criteria for approval and designation by the Department of Labor under 20 CFR Part 725 to perform disability examination and provide treatment under the Act.

(d) Use grant funds under this part to supplement and not supplant existing services of the State.

(e) Provide the services described above for those miners previously served by a Black Lung Clinic in the State for which grant support expires during the funding period of the State's grant.

(f) Provide services described above regardless of a person's ability to pay.

(g) Audit its expenditures from amounts received under this part in accordance with the provisions of Attachment P, Audit Requirements, of Office of Management and Budget Circular A-102, Uniform Requirements for Assistance to State and Local Governments, as adopted for the Department of Health and Human Services by 45 CFR Part 74.

## Subpart C—Grants to Entities Other Than States

**§ 55a.301 What is required for an application from an entity other than a State?**

An approvable application must contain the following:

(a) A plan for the provision of the services required by § 55a.201(a), consistent with the requirements of § 55a.201 (b) and (c). The plan must also contain at least the following elements:

(1) A description of the target population to whom services are to be provided, including a statement of the need for services;

(2) An assurance that charges shall be made for services rendered as follows:

(i) A schedule shall be maintained listing fees or payments for the provision of services, designed to cover reasonable costs of operations;

(ii) A schedule of discounts adjusted on the basis of a patient's ability to pay shall be maintained. The schedule of discounts must provide for a full discount to individuals and families with annual incomes at or below the poverty line established in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), (except that nominal fees for service may be requested, but not required, from individuals and families with annual incomes at or below the poverty line). No discounts shall be provided to individuals and families with annual incomes greater than twice the poverty line; and

(iii) Where third-party payors (including Government Agencies) are authorized or under a legal obligation to pay all or a portion of such charges, all services covered by that reimbursement plan will be billed and every reasonable effort will be made to obtain payment.

(b) An assurance that no person will be denied services because of inability to pay.

(c) An assurance that grant funds received under this part will be used to supplement and not supplant existing services of the grantee.

APPENDIX.—BLACK LUNG CLINICS (FISCAL YEAR 1983 PROFILE)

| State | Grantee organization | Fiscal year 1983 award | |
|---|---|---|---|
| | | Budget expiration date | Grants amounts |
| Alabama | Alabama Department of Public Health | Apr. 30, 1984 | $52,795 |
| | Jefferson Health Foundation | Sept. 30, 1984 | 97,823 |
| Colorado | National Jewish Hospital | Dec. 31, 1984 | 48,503 |
| Illinois | Cook County Hospital | Mar. 31, 1984 | 87,975 |
| | Shawnee Health Services and Development Corporation | Sept. 30, 1984 | 74,475 |
| Indiana | Vincennes Good Samaritan Hospital | June 30, 1984 | 65,957 |
| Kentucky | Mountain Comprehensive Community Health Center | Mar. 30, 1984 | 130,568 |
| | Muhlenburg Community Hospital | Aug. 31, 1984 | 86,358 |
| Michigan | Henry Ford Hospital | Sept. 30, 1984 | 30,000 |
| New Mexico | Miner's Hospital | Sept. 30, 1984 | 42,578 |
| Ohio | Ohio Department of Health | Sept. 30, 1984 | 229,153 |
| Pennsylvania | Commonwealth of Pennsylvania | Sept. 30, 1984 | 716,825 |
| Tennessee | Tennessee Department of Health | Dec. 31, 1984 | 505,838 |
| Utah | Utah S.E. Health District | Nov. 30, 1984 | 62,266 |
| Virginia | Lonesome Pine Hospital | Aug. 31, 1984 | 170,000 |
| West Virginia | West Virginia Department of Health | Sept. 30, 1984 | 657,655 |
| Wyoming | Nowcap Black Lung Clinic | Sept. 30, 1984 | 61,231 |
| Totals | (17 grantees) | | $3,120,000 |

Note.—This appendix will not appear in the Code of Federal Regulations.

[FR Doc. 85-4668 Filed 2-26-85; 8:45 am]
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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 74

[Gen. Docket No. 82-335, et al]

### Frequency Allocation for Aural Broadcast Studio Transmitter Links and Intercity Relay Stations; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** A clarification of a rule change in General Docket No. 82-335 concerning Frequency Allocation for Aural Broadcast Studio Transmitter Links and Intercity Relay Stations (published on February 1, 1985, 50 FR 4655) is required to retain part of an amended rule section.

**FOR FURTHER INFORMATION CONTACT:** Sam Tropea, Spectrum Management Division, Office of Science and Technology, Federal Communications Commission, Washington, D.C. 20554, (202) 653-8167.

**SUPPLEMENTARY INFORMATION:**

Erratum

In the matter of amendment of Parts 2, 21, 74 and 94 of the Commission's Rules and Regulations to Expand the Frequencies Available for use by Aural Broadcast STL and Intercity Relay stations, (Gen. Docket No. 82-335); and amendment of Parts 2, 21, 74 and 90 of the Commission's Rules and Regulations to Make Available to Aural Broadcast STL and Intercity Relay Stations the 942-947 MHz Band on a Primary Basis, (RM-2697); and amendment of Parts 2, and 74 of the Commission's Rules to permit broadcast aural studio-transmitter links to operate on a secondary, non-interfering basis in unassigned UHF television channels, (RM-3246); and amendment of Parts 2, and 74 of the Commission's Rules to permit Aural Broadcast STL operations in the band 2150-2160 MHz and to accommodate STL, Intercity Relay Stations and certain low power broadcast auxiliary stations within the frequency band 947-952 MHz, (Docket No. 19130); and amendment of Parts 2 and 74 of the Commission's Rules to permit Aural Broadcast STL operations in the band 2110-2113 MHz, (Docket No. 19494); and amendment of Parts 2 and 74 of the Commission's Rules to expand frequencies available to the Auxiliary Broadcast Service in Puerto Rico (RM-4712);

Released: February 19, 1985.

The Commission's *Report and Order*, in General Docket No. 82-355, FCC 84-557, released January 18, 1985 is corrected by revising the instruction in Appendix B, amendatory language item 1, under Part 74, page 4658, column 2, regarding § 74.502(a) of the Commission's Rules. Only the first paragraph and the table immediately following that paragraph in paragraph (a) is amended and the rule part following the table should be retained. The corrected language is as follows:

B. Part 74 Experimental, Auxiliary and Special Broadcast, and other Program Distributional Services:

1. In § 74.502, paragraph (d) is deleted and the first paragraph and the table immediately following that paragraph in § 74.502(a) is revised to read as follows:

**§ 74.502 Frequency assignment.**

(a) The frequency band 944-952 MHz [1] is divided into fifteen 500 kHz channels for assignment to aural broadcast STL and intercity relay stations. Each of the following frequencies is the center frequency of a channel.

(MHz)

| | | |
|---|---|---|
| 944.5 | 947.0 | 949.5 |
| 945.0 | 947.5 | 950.0 |
| 945.5 | 948.0 | 950.5 |
| 946.0 | 948.5 | 951.0 |
| 946.5 | 949.0 | 951.5 |

* * * * *

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

[FR Doc. 85-4621 Filed 2-26-85; 8:45 am]
BILLING CODE 6712-01-M

### 47 CFR Part 76

[MM Docket No. 84-439; RM-4602; RM-4823; RM-4843; FCC 85-59]

### Major Television Markets; Fresno-Visalia, CA.

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action amends the list of major television markets, § 76.51 of the Commission's rules, by adding Visalia, Hanford and Clovis, California, to the existing Fresno, California, designation in response to requests from Pappas Telecasting, Inc.; Spanish International Communications Corp., and North Star Communications, Ltd.

**DATE:** Effective March 25, 1985.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20544.

**FOR FURTHER INFORMATION CONTACT:** Arthur D. Scrutchins, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 47 CFR 76.**

Cable Television.

**Report and Order Proceeding Terminated**

In the matter of amendment of Section 76.51, Major Television Markets. (Fresno-Visalia, California); MM Docket No. 84-439, RM-4602, RM-4823, RM-4843, FCC 85-59.

Adopted January 30, 1985.

Released February 14, 1985.

[1] Note: In addition to this band, stations in Puerto Rico may continue to be authorized on 942.5, 943.0, 943.5, 944.0, MHz in the band 942-944 MHz on a primary basis to stations and services operating in accordance with the Table of Frequency Allocations.

By the Commission: Commissioner Patrick dissenting and issuing a statement; Commissioner Rivera issuing separate statement at a later date.

**Introduction**

1. The Commission has before it the *notice of proposed rule making* (49 FR 20315, published May 14, 1984) issued in response to a petition for rule making filed by Pappas Telecasting, Inc. (Pappas) proposing to amend the list of Major Television Markets set forth in § 76.51 of the Commission's cable television rules by adding Visalia, California, to the existing Fresno, California (#72) designation. Spanish International Communications Corporation (SICC), licensee of television Station KFTV, Hanford, California, filed supporting comments and a counterproposal requesting that Hanford be included with Visalia to create a Fresno-Hanford-Visalia, California, hyphenated market designation. North Star Communications, Ltd. (North Star), permittee of UHF TV Channel 43, Clovis, California, filed supporting comments proposing that Clovis also be included in the Fresno, California, market designation. Pappas filed reply comments to the SICC and North Star proposals. No oppositions to the requests were filed.

**Visalia**

2. Pappas, licensee of television Station KMPH, Visalia, California, contends that the Commission's current designation of Fresno, California, in the Commission's list of major television markets (§ 76.51) fails to reflect the fact that the television stations in the communities of Fresno and Visalia compete in a single television market even though the stations are licensed to two different communities. Pappas claims that because the Commission has not included Visalia in the Fresno market and because the distance between the two cities is greater than thirty-five (35) miles, Pappas is unable to obtain non-network program exclusivity against other Fresno market stations even though Pappas must pay for programming at Fresno market rates. See § 73.658(m) of the Commission's rules.

3. Pappas argues that the Commission should recognize that Station KMPH initiated service after the major television markets list was established in § 76.51. Pappas notes that the presence of this station has been recognized by the television industry in grouping the Fresno and Visalia stations together for marketing purposes and that the two communities are jointly considered by Arbitron and Nielsen. It submits that Visalia is within the Grade B contour of the four other commerical stations licensed to Fresno and that KMPH delivers a measured city grade signal over Fresno. Pappas states that due to the coverage of KMPH's signal, the station holds a dual-city identification authorization of Visalia-Fresno. In further support of its position, Pappas notes that the Commission revised its cable television rules to include KMPH on the list of "significantly viewed" stations, and to require carriage of KMPH on the Fresno county cable system. *Fresno Cable Television Company, Inc.*, 57 F.C.C. 2d 34 (1975). Pappas concludes that by virtue of the inclusion of KMPH in the Fresno-Visalia market by the rating services and due to their proximity and common economic interest, § 76.51 should be modified to correctly identify the market as "Fresno-Visalia."

**Hanford**

4. SICC contends that by adoption of a Fresno-Hanford-Visalia market designation, competition among the stations would be equalized and cable subscribers would be assured access to all stations in the market, citing the *Cable Television Report and Order*, 36 F.C.C. 2d 143, 176, (1972), for support. SICC argues that Hanford is part of a television market that includes Fresno and Visalia. In support SICC notes that Hanford is located approximately 30 miles from Fresno and 15 miles from Visalia. It further indicates that Arbitron and Nielsen group the Fresno-Hanford-Visalia markets together as a single market and that the Fresno stations also rely on Hanford, as well as Fresno and Visalia, for advertising revenue.

5. SIC states that its station, KFTV, shares a common transmitter site, Bald Mountain, with other Fresno stations from which it places a predicted city grade signal over Fresno. SICC further states that because of the unusual terrain of the San Joaquin Valley, KFTV and KMPH place a city grade signal over all three cities in the market. SICC claims that the Fresno-Hanford-Visalia market is comparable to the San Franciso-Oakland-San Jose market, which the Commission has found to be a single television market because of the substantial similarity of the signal coverages of the stations licensed to those cities, citing, *Ralph C. Wilson Industries, Inc.*, 91 F.C.C. 2d 127, 136 (1982). SICC argues that when the Commission adopted the Table of Major Television markets, Hanford and Visalia were not combined with Fresno to form a hyphenated market because neither station was in operation. Lastly, SICC contends that since Hanford is not currently included in the Fresno market, KFTV does not enjoy mandatory carriage rights on cable systems located within its market even though its competitors in Fresno are required to be carried on those systems. In conclusion, SICC argues that since the adoption of § 76.51, the Fresno market has expanded and § 76.51 should be amended to include Hanford and Visalia, in order to put all stations on an equal competitive footing.

**Clovis**

6. North Star argues that Clovis should be included in the proposed Fresno-Visalia designation. It states that Clovis is located approximately 10 miles from Fresno in Fresno County. The Grade B contours of all television stations licensed to Fresno and Visalia encompass Clovis. North Star further states that its predicted signal contour places a city grade signal over both Fresno and Visalia. North Star notes that because of the close proximity between Fresno and Clovis, they share common social, cultural, trade and economic interests. North Star asserts that its station will also derive significant revenue from Fresno and Visalia.

**Reply Comments**

7. In reply comments Pappas alleges that in their comments, SICC and North Star raise questions which are unrelated to the issues raised in the *Notice*. Pappas claims that SICC and North Star's comments go beyond the scope of the *Notice* in that the Commission only requested comments concerning Visalia. In this regard, Pappas claims that the public and interested parties have not been apprised of the possibility of a "Fresno-Visalia-Hanford-Clovis" market designation. Pappas argues that § 553(b)(3) of the Administrative Procedure Act and § 1.413(c) of the Commission's Rules require that notice of the Clovis and Hanford requests be contained in a rule making proposal. Pappas further argues that North Star's comments should be disregarded, because it is merely an applicant for Channel 43 in Clovis and any perceived impact from the present designation on North Star is speculative.

**Discussion**

8. Before addressing the substantive issues regarding the addition of Hanford and Clovis to the Fresno market designation, we will first address the procedural issues raised by Pappas' reply comments. Pappas asserts that there was inadequate notice of the

Hanford and Clovis issues and that the comments filed by North Star Communications and Spanish International Communications Corporation should be stricken from the record. Pappas' assertion and request are denied for the following reasons. First, Pappas may not complain about inadequate notice because it has actual notice of the Hanford and Clovis proposals. Pappas was served with copies of both the Hanford and Clovis comments and, as evidenced by its reply comments, had opportunity to comment on the additional city designations. Second, the Commission issued Public Notices regarding the Hanford and Clovis proposals dated, respectively July 13 and August 27, 1984, and specifically incorporated them into this rule making proceeding. The Public Notices cross-referenced this proceeding and directed parties to file comments accordingly. Third, because the very purpose of this proceeding was to consider additions to the Fresno market designation, given the nexus of Hanford and Clovis to Fresno, it was not unreasonable to expand the proceeding to include these related communities.

9. The initial issue to be determined here is whether Visalia and Fresno constitute a single major television market. The major market list is used to determine whether a station can obtain syndicated program exclusivity pursuant to § 73.658(m) of the Commission's rules as well as the scope of a station's mandatory cable television carriage rights. The Commission originally based its major market list on Arbitron's 1970 prime time household ranking. *Cable Television Report and Order, supra.* Regarding "hyphenated markets," the Commission noted that certain markets were characterized by more than one major population center supporting all stations in the market but with different stations licensed to different cities within the market. See also *New York, New York-Linden-Paterson, New Jersey and Newark, New Jersey,* 47 F.C.C. 2d 752 (1974).

10. An analysis of the circumstances here reveal that Visalia should be included in the Fresno television market designation. Our studies confirm that Visalia is within the predicted Grade B contours of the four commercial television stations licensed to Fresno. One Fresno television station (KSEE) covers Visalia with a city grade signal. On the other hand, KMPH covers Fresno with a city grade signal and its Grade A signal extends beyond Fresno's city limits. According to the Television and Cable Factbook (1984), pg. 88, 90–92, the net weekly circulation of KMPH exceeds that of any of the three network affiliates in Fresno and is far greater than 50% in the counties that make up the Fresno market. It should also be noted that Arbitron and Nielsen include KMPH with the Fresno stations in its ratings for the Fresno market. While the Arbitron and Nielsen ratings are not alone sufficient to prompt an amendment to § 76.51, see *Cable Television Report and Order, supra.*, when viewed in light of the above factors, it appears that KMPH and the Fresno stations compete in the same market. From information submitted it appears that the market stations rely on both Visalia and Fresno for advertising revenues. Thus, we believe the communities do comprise a single market.

11. The remaining question of whether Visalia should be added to the Fresno market designation should be viewed in light of our prior decisions. *Television Muscle Shoals,* 48 R.R. 2d 1191 (1980), *recon. denied,* 87 F.C.C. 2d 507 (1981). See also *Melbourne, Florida,* 50 F.R. 2565, published January 17, 1985. In those cases the Commission considered four factors applicable to a request to add a community to an existing television market designation: (1) The distance between the proposed community and existing designated communities; (2) whether a station would be afforded expanded carriage rights beyond its Grade B contour; (3) the presence of a clear showing of particularized need by a station requesting a change of designation; and (4) an indication of benefit to the public from the proposed change. In the instant proceeding, Visalia is slightly more than 35 miles from Fresno. This distance is considerably less than that in *Television Muscle Shoals* and in the *Melbourne-Orlando* proceeding. The geographic area in which Station KMPH has its off-air audience is situated entirely within areas encompassed by the Grade B or *better* contours of the Fresno stations. In addition it does not appear that Pappas' station will gain expanded carriage rights outside its Grade B contour. Pappas' particularized need for inclusion in the Fresno market designation is demonstrated by its inability to obtain non-network program exclusivity against the other Fresno stations even though Pappas pays Fresno rates for programming. In this regard we are mindful of the purpose of § 73.658(m) to help smaller independent stations compete in their market. We believe the action taken here is consistent with that purpose. Finally, KMPH is an independent station and the requested designation will permit the Visalia station to be more competitive in the Fresno market. Therefore, we have determined that Visalia qualifies for inclusion as a designated community in the Fresno television market.

12. The factual situations concerning the additional communities, Hanford and Clovis, are sufficiently similar to those concerning Visalia to warrant inclusion in the Fresno-Visalia designation. Specifically, Hanford is located closer to Fresno (approximately 30 miles) than Visalia, while Clovis is located less than 10 miles from Fresno. KFTV, in Hanford, shares a common transmitter site with three Fresno stations. North Star's predicted signal contour places a city grade signal over Fresno. The Grade B contours of all the television stations licensed to either Fresno or Visalia encompass both Hanford and Clovis. SICC and North Star both state a particularized need for inclusion in the market evidence by the fact that both stations would be placed at a competitive disadvantage as against other stations in the same market. SICC is an independent Spanish language station which will provide additional programs unique to the area. North Star, a proposed independent, plans to provide programming of benefit to the area. Therefore, based on our stated policy considerations, we believe the cities of Fresno, Hanford and Clovis comprise a single television market and should be designated to the same television market.

13. Accordingly, it is ordered, that effective March 25, 1985, the list of Major Television Markets in § 76.51 of the Commission's Rules is amended as follows as concerns the communities shown below:

(72) Fresno-Visalia-Hanford-Clovis, California

14. Authority for the action taken herein is contained in sections 4(i), and 303(g) and (r) of the Communications Act of 1934, as amended.

15. The Commission has certified that the provisions of the Regulatory Flexibility Act do not apply to rule making proceedings to amend § 76.51 of the Commission's Rules. See *Melbourne, Florida, supra.*

16. The amendment contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new modified form, information collection and/or record keeping, labeling, disclosure or record retention requirements, and will not increase or decrease burden hours imposed on the public.

17. It is further ordered, that this proceeding is terminated.

18. For further information concerning this proceeding, contact Arthur Scrutchins, Mass Media Bureau, (202) 634–6530.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

Accordingly, 76.51 is amended by revising paragraph (a)(72) to read as follows:

**§ 76.51 Major television markets.**

* * * * *

(a) * * *

(72) Fresno-Visalia-Hanford-Clovis, California.

* * * * *

**Dissenting Statement of Commissioner Dennis R. Patrick**

*In re: Amendment of Section 76.51, Major Television Markets List, to add Visalia, Hanford and Clovis to the Fresno designation (MM Docket No. 84–439).*

I dissent from the Commission's decision to amend the list of 100 major television markets, as set forth in Section 76.51 of the Commission's rules, by adding the cities of Visalia, Hanford and Clovis to the Fresno major TV market. As I stated in more detail in my dissent to the Commission's recent decision to amend the Orlando-Daytona Beach market to include Melbourne and Cocoa,[1] the Commission in 1972 specifically decided that we should *not* amend the major market list except in rare circumstances to prevent anomalies. I start, therefore, with a strong presumption in favor of retaining the current list. Although the facts of this case are somewhat more persuasive than those in Melbourne, I do not find them sufficiently compelling to warrant amendment of the list. Moreover, I find the majority's ad hoc method of changing the list and its continued failure to include a regulatory flexibility analysis troubling.

In my opinion, a petitioner in case like this has the burden of proving *first*, that the stations in fact compete in a single market, so that amending the list would mean a change in name only, and, *second*, that failure to hyphenate (and receive the corresponding cable carriage) would result in a substantial competitive disadvantage that would have a material, adverse impact on the station's operation. Such competitive concerns underlie the policy justifications for the must carry rules. Accordingly, we should hyphenate and thereby extend must carry rights only to the extent that to do so would further this underlying purpose of must carry.

I find that the petitioners in this case have not met this two-fold burden. The Visalia petitioner has asked for hyphenation for a purpose unrelated to cable carriage, *viz.*, expanding the degree to which it can enter into network exclusivity agreements. Under these circumstances, amending the list would be inappropriate because it would have concomitant effects on cable carriage without the requisite showing of competitive disadvantage. I would prefer to deal with the Visalia petitioner's request on a waiver basis.

The Hanford and Clovis stations have pled facts that give some indication that each may be operating in a single market with Fresno.[2] Neither, however, has met its burden of proving substantial competitive disadvantage. Rather, they have simply made unsupported allegations of financial disadvantage.

Accordingly, based on the evidence in the record, I must dissent.

[FR Doc. 85–4624 Filed 2–26–85; 8:45 am]

BILLING CODE 6712–01–M

[1] Dissenting Statement of Commissioner Dennis R. Patrick in the Matter of Amendment of § 76.51, Major Television Markets List, to add Melbourne and Cocoa, Florida, to Orlando-Daytona Beach, Florida designation (MM Docket No. 84–111).

[2] *See*, generally, dissenting statement at n.1, *supra*. I do not reach the issue here of whether these petitioners have in fact met their burden of proving a single market.

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### 49 CFR Part 217

**[Docket No. RSOR–6, Notice No. 2]**

### Railroad Operating Rules

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This notice amends the Railroad Operating Rules (49 CFR Part 217) to eliminate the annual report requirement (49 CFR 217.13) for railroads with fewer than 400,000 total annual manhours. This action, a result of FRA's Special Safety Inquiry on small railroads, will reduce the burden of Federal regulation and associated paperwork requirements on small entities, in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–611).

**EFFECTIVE DATE:** February 28, 1985.

**FOR FURTHER INFORMATION CONTACT:**

*Principal Program Person:* Phil Olekszyk, Office of Safety, FRA, Washington, D.C. 20590; Telephone (202) 426–0897

*Principal Attorney:* Michael E. Chase, Office of Chief Counsel, FRA, Washington, D.C. 20590; Telephone (202) 426–8285

**SUPPLEMENTARY INFORMATION:**

**Paperwork Reduction Act**

Information collection requirements contained in this regulation (§§ 217.7, 217.9, 217.11, and 217.13) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2130–0035.

In late 1981, FRA initiated a Special Safety Inquiry on small railroads to assist in evaluating and improving its safety regulatory program as it applies to small railroads (46 FR 39461, August 3, 1981). One focus of the inquiry was identification of regulatory requirements that could be modified or eliminated for small railroads.

As a result of the inquiry, FRA identified several areas for immediate action. One area involves the recordkeeping requirements in the Railroad Operating Rules (49 CFR Part 217). On May 11, 1984, FRA issued a notice of proposed rulemaking (NPRM) to revise the annual report filing requirement of 49 CFR 217.13.

The rules in Part 217 are designed to ensure that the procedures for moving trains provide a high level of safety. This is accomplished two ways. First, railroads are required to file their operating rules with FRA, to have a program of instruction on their rules, and to conduct periodic operational tests and inspections to determine the extent of compliance with the rules. Second, FRA reviews the operating rules of railroads, their programs of instruction, and their operational tests and inspections.

FRA's review of a railroad's operational tests and inspections is made possible because a written record of each such test and inspection is required. These records are required to be retained for one year. In addition, an annual report must be filed that includes the railroad's total train miles, a summary of the operational tests and inspections, and the number of operational tests and inspections per 10,000 train miles.

The NPRM proposed to eliminate the annual report requirement for those railroads that have 15 or fewer employees subject to the Hours of Service Act (45 U.S.C. 61–64b). The

proposed rule was based on FRA's belief that the annual report requirement is unnecessary for small railroads. Moreover, the burden of filling out the report is disproportionate for small railroads given their size. The annual report is essentially a summary of the records of the individual tests and inspections. While such a summary is critical for FRA to review the operating practices of larger railroads where a large number of tests and inspections are involved, a review of the operating practices of smaller railroads can be efficiently accomplished by simply visiting the railroads.

Comments on the proposed rule were submitted by the American Short Line Railroad Association, the Norfolk Southern Corporation, the Indiana and Ohio Railroad, and the Detroit and MacKinac Railway Company. All four commenters support FRA's belief that the annual report requirement is an unnecessary burden on small railroads. Three of the four commenters suggest revising the definition of "small railroad" to expand the scope of relief. Two commenters suggest that all Class III railroads be excluded from the requirement and one commenter suggests that railroads with 50 or fewer Hours of Service employees be excluded. One commenter identified a potential problem with using the number of Hours of Service employees as a dividing line, namely, that the number of such employees may vary widely depending on the time of year.

After reviewing the comments, FRA concludes that the scope of the relief should be expanded; FRA agrees that the 15 or fewer Hours of Service employees criterion in the NPRM is too restrictive. FRA also agrees that using an Hours of Service approach presents unnecessary problems. Hence, the final rule adopts a 400,000 total annual manhours standard for defining small railroads for purposes of relief from the annual report requirement. The final rule provides that railroads with fewer than 400,000 total annual manhours are not required to file the report.

FRA is not adopting Class III as a dividing line for several reasons. Class of railroad is a revenue-based definition not directly related to volume of activity or other operating characteristics. Second, approximately a dozen Class III railroads are quite large and have total manhours exceeding 1,000,000. Finally, several of the large Class III railroads are involved in providing passenger service. Adoption of the 400,000 manhour standard reflects an assessment by FRA of the general scope of operations warranting relief from the annual report requirement. Moreover, an annual manhour approach provides a single and easily determined measure.

In addition, the final rule includes a new section, section 217.15, that sets forth the OMB control number for the information collection requirements contained in Part 217.

This addition does not impose any burden on any person. It merely provides notice of the OMB approval number. Paragraph (a) of § 217.15 displays the current control number assigned by OMB, 2130–0035, for the information collection requirements in Part 217, and paragraph (b) lists the sections in Part 217 that contain information collection requirements.

**Notice of Public Procedure**

This final rule is being made effective less than 30 days after publication in the **Federal Register**, on February 28, 1985. FRA is doing so because it relieves an unnecessary burden on small railroads.

**List of Subjects in 49 CFR Part 229**

Railroad safety.

**Regulatory Impact**

This final rule has been evaluated in accordance with existing regulatory policies. It will not have an adverse or significant economic impact on any entity, including small entities, because it relieves a burden on the public and because the changes will have only a minor economic impact for any small entity. The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. Accordingly, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 95–354, 94 Stat. 1164, September 13, 1980). It does not constitute a major Federal action significantly affecting the quality of the environment and, therefore, an environmental impact statement is not required. The amendment is considered to be non-major under Executive Order 12291 and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

**Final Rule**

In consideration of the foregoing, Part 217 of Title 49, Code of Federal Regulations, is amended as follows:

**PART 217—[AMENDED]**

1. 49 CFR 217.13 the introductory text is revised to read as follows:

**§ 217.13 Annual report.**

Before March 1 of each year, each railroad to which this part applies, except for a railroad with fewer than 400,000 total manhours, shall file with the Federal Railroad Administrator, Washington, D.C. 20590, a written report of the following with respect to its previous year's activities.

* * * * *

2. A new § 217.15, is added to read as follows:

**§ 217.15 Information collection.**

(a) The information collection requirements in this part have been reviewed by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511, and have been assigned OMB control number 2130–0035.

(b) The information collection requirements are found in the following sections:

(1) §217.7
(2) §217.9
(3) §217.11
(4) §217.13

(Sec. 202, 84 Stat. 971 (45 U.S.C. 431); sec. 1.49(m) of the Regulations of the Secretary of Transportation (49 CFR 1.49(m)))

Issued in Washington, D.C. on February 21, 1985.

**John H. Riley,**

*Administrator.*

[FR Doc. 85–4653 Filed 2–26–85; 8:45 am]

BILLING CODE 4910-06-M

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## INTERSTATE COMMERCE COMMISSION

**49 CFR Part 1033**

**[Service Order No. 1500]**

## Soo Line Railroad Company/SLRCO, Inc. Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie, Trustee)

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Service Order No. 1500.

**SUMMARY:** Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes Soo Line Railroad to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, (Richard B. Ogilvie), Trustee, and to use such tracks and facilities as are necessary for operations. This order permits carrier to continue to provide service to shippers which would

otherwise be deprived of essential rail transportation.

**EFFECTIVE DATE:** 12:01 a.m., February 22, 1985, and continuing in effect until 11:59 p.m., May 22, 1985, unless otherwise modified, amended or vacated by order of this Commission.

**FOR FURTHER INFORMATION CONTACT:** M.F. Clemens, Jr., (202) 275–7840 or 275–1559.

**List of Subjects in 49 CFR Part 1033**

Railroads.

Decided February 21, 1985.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing the temporary provision of interim service over Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee), (MILW) and the use of such tracks and facilities as are necessary for those operations.

In view of the continued urgent need for rail service over certain MILW lines pending the implementation of long-range solutions or abandonment, this order permits Soo Line Railroad Company/SLRCO, Inc. (Soo) named in Appendix A to this order, to provide service to shippers which might otherwise be deprived of essential rail transportation.

On February 19, 1985, the Milwaukee's reorganization court approved the purchase, by Soo, of the Milwaukee core properties, and that sale was consummated on the same date. The line segments which are the subject of this decision, were retained by the Trustee as non-operating properties of the MILW. Soo has indicated its willingness to operate the lines described in Appendix A for (90) ninety days, or until a determination is made by the Reorganization Court regarding abandonment.

It is the opinion of the Commission that an emergency exists requiring that the railroad listed in the attached appendix be authorized to conduct operations using MILW tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

*It is ordered:*

**§ 1033.1500 Soo Line Railroad Company/SLRCO, Inc. authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee)**

(a) Soo Line Railroad Company/SLRCO, Inc. is authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), as listed in Appendix A to this order, to provide interim service over the MILW.

(b) The Trustee shall permit the named carrier to enter upon the property of the MILW to conduct service essential to these interim operations.

(c) The Trustee will be compensated on terms established between the Trustee and the named carrier; or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) The interim operator, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) The interim operator, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the MILW Trustee of those facilities it believes are necessary or reasonably related to the authorized operations.

(f) During the period of these operations over the MILW Lines, the interim operator shall be responsible for preserving the value of the lines associated with each interim operation to the MILW estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as this operation by an interim operator over tracks previously operated by the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via MILW, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, the interim operator involved shall proceed even though no contracts, agreements, or arrangements may now exist with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) *Employees.* In providing service under this order the interim operator, to the maximum extent practicable, shall use the employees who normally would have performed work in connection with the traffic moving over the lines subject to this Service Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., February 22, 1985.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 22, 1985, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

**James H. Bayne,**

*Secretary.*

**Appendix A.—MILW Lines Authorized To Be Operated by Soo Line Railroad Company/SLRCO, Inc.**

A. The Chicago and Evanston Line between Engineering Station 128+67 at C&E Junction near Clybourn Avenue and Engineering Station 177+82 near Diversey Parkway, a total distance of 0.93 mile in Chicago, Illinois.

B. In Rockford, Illinois, between milepost 0.24, near 9th Avenue and 8th Street, and milepost 2.26, near Harrison Avenue, a total distance of 2.02 miles.

C. The Chestnut Street Line between Engineering Station 155+21 at west line of Richard's Street and Engineering

Station 14+65.7 at north line of Highland Avenue, a total distance of 2.66 miles in Milwaukee, Wisconsin.

[FR Doc. 85-4820 Filed 2-26-85; 8:45 am]
BILLING CODE 7035-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 250

[Docket No. 50220-5020]

### Fisheries Loan Fund Procedures

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

**ACTION:** Final rule.

**SUMMARY:** NOAA issues this rule amending regulations implementing the Fisheries Loan Fund program authorized by the Fish and Wildlife Act of 1956 as amended by the American Fisheries Promotion Act. This action is consistent with the President's 1986 budget that proposes to rescind budget authority with limited exceptions for the Fisheries Loan Fund for reasons of fiscal policy.

**EFFECTIVE DATE:** February 22, 1985.

**FOR FURTHER INFORMATION CONTACT:** Michael Grable, Chief Division of Financial Services, Office of Industry Services; 202 634-4697.

**SUPPLEMENTARY INFORMATION:** The Fisheries Loan Fund (Fund) was created by section 4(c) of the Fish and Wildlife Act of 1956, as amended by the American Fisheries Promotion Act, 16 U.S.C. 742c. In recent years the Fund has been used exclusively to assist owners or operators of commercial fishing vessels to avoid default on vessel mortgages which financed the construction, reconstruction, or reconditioning of their fishing vessels. $2.5 million was appropriated to the Fund by Pub. L. 98-411 on August 30, 1984. The authority to make loans from the Fisheries Loan Fund expires on September 30, 1986; Pub. L. 98-498, sec. 430. For reasons of fiscal policy, the President is seeking rescission of fiscal year 1985 budget authority to make such loans. Pending Congressional action on the President's rescission proposal, the Office of Management and Budget has limited the funds apportioned to the program to insure that any loan granted is consistent with the President's 1986 budget proposal.

### Classification

The NOAA Administrator determined that this final rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. It is not major within that context because it does not significantly affect the economy, costs or prices, competition, employment, investment or productivity.

This rule is not subject to the notice-and-comment or delayed effectiveness requirements of the Administrative Procedure Act, 5 U.S.C. 553, because it relates to loans. Matters "relating to loans * * *" are excepted from the Act (5 U.S.C. § 553(a)(2)). For this reason, this suspension is effective immediately.

The Regulatory Flexibility Act does not apply to this rule because the rule was not required to be promulgated as a proposed rule before issuance as a final rule by section 553 of the Administrative Procedure Act.

Neither an initial nor a final regulatory flexibility analysis was prepared.

This rule imposes no new collection of information requirement for the purposes of the Paperwork Reduction Act.

This action does not require an environmental impact analysis because it is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02-10.

The Agency has determined that this rule does not directly affect the coastal zone of any state with an approved coastal zone management program.

### List of Subjects in 50 CFR Part 250

Fisheries, Fishing vessels, Loan program, Financing business.

Dated: February 22, 1985.

**Joseph W. Angelovic,**

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

### PART 250—[AMENDED]

For reasons stated in the preamble, § 250.3 (a)(4) of title 50 CFR Part 250 is amended effective February 22, 1985 to read as follows:

**§ 250.3 Loan authorization and priority.**

* * * * *

(a) * * *

(4) To the extent funds are available and consistent with any limitations on apportionments made by the Office of Management and Budget, the first priority for loans is paragraph (a)(1) of this section, and the second priority for loans is paragraph (a)(2) of this section. Any monies not required for paragraphs (a)(1) and (a)(2) will be used for paragraph (a)(3) of this section.

* * * * *

[FR Doc. 85-4796 Filed 2-22-85; 4:38 pm]
BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 50, No. 39
Wednesday, February 27, 1985

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.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 630

### Absence and Leave

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Personnel Management is proposing to amend its leave regulations in 5 CFR Part 630 so they conform with the District of Columbia (D.C.) Comprehensive Merit Personnel System. D.C. government employees are no longer subject to the leave provisions of chapter 63 of title 5, United States Code. This amendment should eliminate the confusion caused by the current regulations.

**DATE:** Comments must be received on or before April 29, 1985.

**ADDRESS:** Send comments to Jean M. Barber, Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044, or deliver to OPM, Room 4351, 1900 E Street, NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** June Goodell, (202) 632–4634.

**SUPPLEMENTARY INFORMATION:** Under the authority of Pub. L. 93–198, the D.C. government enacted D.C. Law 2–139 to establish the D.C. Government Comprehensive Merit Personnel System. D.C. Law 2–139 ended title 5, United States Code, leave coverage for D.C. government employees by superseding the various sections of chapter 63, 5 U.S.C., relating to leave provisions for D.C. government employees. While this law applied only to people hired by the D.C. government after December 31, 1979, D.C. Law 3–109 extended the provisions to all D.C. government employees, effective September 26, 1980.

For leave purposes employment under the D.C. Comprehensive Merit Personnel System is a break in service, the same as employment with a local government or the private sector. Agencies cannot accept the transfer of leave from the D.C. government for individuals hired by the D.C. government after December 31, 1979. For individuals who were D.C. government employees on December 31, 1979, and separated from the D.C. government before September 26, 1980, agencies should have credited or recredited the employees' leave balance, to the extent appropriate for Federal employees. For individuals who were D.C. government employees on December 31, 1979, and separated after September 25, 1980, agencies cannot accept the transfer of leave from the D.C. government but should have recredited the employees' sick leave balance as of September 25, 1980, if the individuals were employed in a position under the chapter 63 leave system before September 26, 1983.

Agencies cannot transfer annual or sick leave to the D.C. government for individuals appointed by that government after December 31, 1979. Agencies must pay a lump sum for annual leave when the employees separate and recredit their sick leave if they return to positions under the chapter 63, 5 U.S.C., leave system within 3 years after separation from Federal service.

Section 6301(2), 5 U.S.C., still makes reference to an individual employed by the government of the District of Columbia in the definition of "employee" for the purpose of the chapter 63, 5 U.S.C., leave system. Nevertheless, D.C. government employees are no longer covered by chapter 63 for the statutory reasons explained above. D.C. government employees are instead covered by a leave system established by law specifically for the D.C. government. Therefore, we are proposing to amend our leave regulations to reflect this change by deleting references to D.C. government employees.

We are also removing obsolete references in 5 CFR 630.202(b) and 630.502(b)(2) to the U.S. Postal System and the Regional Action Planning Commissions (established under 42 U.S.C. 3182 and abolished by Pub. L. 97–35).

### E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will affect only Federal employees.

### list of Subjects in 5 CFR Part 630

Government employees.

Office of Personnel Management
**Donald J. Devine,**
*Director.*

## PART 630—ABSENCE AND LEAVE

Accordingly, it is proposed to amend 5 CFR Part 630 as follows:

1. The authority citation for Part 630 continues to read as follows:

**Authority:** 5 U.S.C. 6311, unless otherwise noted.

2. In § 630.201, paragraph (b)(4) is revised to read as follows:

**§ 630.201 Definitions.**

* * * * *

(b) * * *

(4) "Employee" means an employee to whom subchapter I of chapter 63, 5 U.S.C., applies, except an individual employed by the government of the District of Columbia.

3. In § 630.202, paragraph (b) is revised to read as follows:

**§ 630.202 Full biweekly pay period; leave earnings.**

* * * * *

(b) *Part-time employees.* Hours in a pay status in excess of an agency's basic working hours in a pay period are disregarded in computing the leave earnings of a part-time employee.

**§ 630.211 [Amended]**

4. In § 630.211, paragraph (a) is amended by removing the words "or the government of the District of Columbia".

5. In § 630.502, paragraphs (b)(1) and (b)(2) are revised to read as follows:

**§ 630.502 Sick leave recredit.**

* * * * *

(b)(1) Except as provided in paragraph (b)(2), employees who are separated from the Federal Government for other than retirement purposes are entitled to a recredit of their sick leave if reemployed in the Federal Government within 3 years after separation is effected.

(2) Employees who are employed by the Appalachian Regional Commission established under 40 U.S.C. 101, App. A, within 4 calendar days after their

separation from the Federal Government are entitled to a recredit of their sick leave if—

(i) Reemployed by the Federal Government within 6 months after separation from the Commission; and

(ii) Their employment with the Commission exceeded 2 years and 6 months without a break or more than 3 calendar days.

6. The authority citation for Subpart H—Funeral Leave is revised to read as follows:

Authority: 5 U.S.C. 6326.

7. Section 630.802 is revised to read as follows:

**§ 630.802 Coverage.**

This subpart applies to an employee as defined in section 2105 of title 5, United States Code, who is employed by an executive agency as defined in section 105 of title 5, United States Code.

8. In § 630.803, paragraph (c) is revised to read as follows:

**§ 630.803 Definitions.**

* * * * *

(c) "Employee" means an employee covered by § 630.802.

[FR Doc. 85-4724 Filed 2-26-85; 8:45 am]

BILLING CODE 6325-01-M

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 58

### Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes revisions of §§ 58.101(k), 58.132, 58.133, 58.134 (a) and (b), 58.135 (a) and (b) and 58.322 of the General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service. The major revisions would:

1. Lower the maximum allowable bacterial estimate for manufacturing grade producer milk for 3 million bacteria to 1 million bacteria per milliliter.

2. Lower the maximum allowable somatic cell count from 1.5 million cells to 1 million cells per milliliter.

3. Provide a definition for goat milk so that the milk can be used in products where legally provided.

4. Provide for use of the current USDA tuberculosis and brucellosis program requirements.

5. Delete the requirements for farm separated cream.

6. Make editorial changes in the sediment content classification.

These proposed revisions have been developed in cooperation with the National Association of State Departments of Agriculture, State regulatory agencies, and dairy trade associations and producer groups.

**DATE:** Comments are due on or before July 1, 1985.

**ADDRESS:** Comments should be sent to Director, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Richard W. Webber, Head, Standardization Section, Dairy Division, Agricultural Marketing Service, Washington, D.C. 20250 (202) 447-7473.

**SUPPLEMENTARY INFORMATION:** This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified a "non-major" rule under criteria contained therein. Also, pursuant to this Executive Order it has been determined that there would be no effect on trade sensitive activities.

William T. Manley, Acting Administrator, Agricultural Marketing Service, has determined that the revisions proposed herein would not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act. Pub. L. 96-354 (5 U.S.C. 601), because it is a voluntary standard and the revision will not increase costs to those utilizing the standard.

In 1983 the National Association of State Departments of Agriculture passed a resolution recommending that the manufacturing grade producer milk quality requirements be tightened. After coordination with State regulatory agencies, and major dairy trade associations and producer groups, it was determined that the proposed changes would accurately describe the minimum quality requirements for this grade of producer milk. The major revisions are described below.

1. Lower the maximum allowable bacterial estimate for producer milk from 3 million to 1 million bacteria per milliliter.

USDA has an ongoing surveillance program to evaluate sanitation and production practices and physical facilities of producers of manufacturing grade milk. Based on this surveillance program, it has been determined that sufficient progress has been made in the production of better quality milk so that a satisfactory producer would not have any difficulty in meeting the proposal.

2. Lower the maximum allowable somatic cell count from 1.5 million cells to 1 million cells per milliliter.

The Department's policy has been that the requirements for abnormal milk should be applied equally to all grades of milk. The National Conference on Interstate Milk shipments has lowered the somatic cell count for Grade A milk. Therefore, a similar change is being proposed for manufacturing grade milk.

3. Provide a definition for goat milk so that the milk can be used in products where legally provided.

Goat milk is being produced and utilized for the manufacture of cheese, ice cream, evaporated milk and other products. The proposal will recognize the production and use of goat milk, which will aid in its marketing.

4. Provide for the use of the current USDA tuberculosis and brucellosis program requirements.

In 1982 the Department revised its Uniform Methods and Rules for these two programs. The manufacturing milk requirements cover herd health; therefore, the updated rules need to be referenced.

5. Delete the requirements for farm separated cream.

The production of farm-separated cream has greatly declined over the years. In 1970 the price support of butterfat in farm-separated cream was repealed. The U.S. grade standard for butter was amended in 1977 to delete the U.S. Grade C, which provided the quality criteria that were generally used to grade butter made from this type of cream. Since these changes have been made in the Department's programs, there is no need to retain requirements for farm-separated cream. This proposal will not prevent the commercial use of this cream in the production of butter.

6. Make editorial changes in the sediment content classification.

The editorial changes will simplify the language concerning the requirement for sediment testing so that it will be clearer.

In addition to the major revisions outlined above, other revisions are being proposed for consistency. The basis for the classification or raw milk quality is being amended to clarify that producer milk shall be tested on an individual producer basis for somatic cell count and antibiotics. Additional recognized test methods for somatic cell count are being adopted and the compliance procedures are changed to conform to current practices. Also, the requirement

concerning the appearance of acceptable raw milk has been expanded to require that the milk be free of excessive coarse sediment when examined visually or by an acceptable test. Such a test as the Sani-Guide would be an acceptable test for determination of "free of excessive coarse sediment." When determining the somatic cell count of producer milk using the Wisconsin Mastitis Test as a screening test, a value of 19 mm. is being established. Since the acceptable level for bacterial estimate of producer milk is being lowered, only those test methods that can accurately reflect this level are being specified.

The current milk quality requirements have been in effect since October 10, 1975. With the changes proposed herein, they will continue to aid in the orderly marketing of quality manufacturing grade milk from the appropriately 74,000 producers in 30 states. It is the Department's intention to make the proposals effective July 1, 1986.

The Department is proposing parallel revisions in the document "Milk for Manufacturing Purposes and its Production and Processing; Recommended Requirements for Adoption by State Regulatory Agencies." This document is offered to the States to assist in bringing about uniformity of State regulatory requirements.

USDA standards are voluntary standards that are developed to assist the orderly marketing process. Dairy plants are free to choose whether or not to use the standards. When dairy products are graded, the regulations governing the grading services of manufactured or processed dairy products, which require all graded dairy products to be produced in a USDA approved plant, would be in effect. These regulations also require a charge for grading services provided by USDA.

All written submissions made pursuant to this notice will be made available for public inspection at the Dairy Division, Agricultural Marketing Service, Washington, DC, 20250, during regular business hours.

**List of Subjects in 7 CFR Part 58**

Food grades and standards, Dairy products.

**PART 58—[AMENDED]**

In consideration of the foregoing, it is proposed that 7 CFR Part 58, Subpart B, be amended as follows:

1. In § 58.101, paragraph (k) is revised to read as follows:

**§ 58.101 Meaning of words.**

* * * * *

(k) *Milk.* The term "milk" shall include the following:

(1) Milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. The cows shall be located in a Modified Accredited Area, an Accredited Free State, or an Accredited Free Herd for tuberculosis as determined by the Department. In addition, the cows shall be located in States meeting Class B status or Certified-free Herds or shall be involved in a milk ring testing program or blood testing program under the current USDA Brucellosis Eradication Uniform Methods and Rules.

(2) Goat milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy goats. The goats shall be located in States meeting the current USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication or an Accredited Free Goat Herd. Goat milk shall only be used to manufacture dairy products that are legally provided for in 21 CFR or recognized as non-standardized traditional products normally manufactured from goats milk.

* * * * *

2. Section 58.132 is revised to read as follows:

**§ 58.132 Basis for classification.**

The quality classification of raw milk for manufacturing purposes from all individual producers shall be based on the following: Organoleptic examination (appearance and odor), quality control tests for sediment content, bacterial estimate, somatic cell count, and antibiotics. All milk received from producers shall not exceed the Food and Drug Administration's established limits for pesticide and herbicide residues. Producers shall be promptly notified of any shipment or portion thereof of their milk that fails to meet any of these quality specifications.

3. Section 58.133 is revised to read as follows:

**§ 58.133 Methods for quality and wholesomeness determination.**

(a) *Appearance and odor.* The appearance of acceptable raw milk shall be normal and free of excessive coarse sediment when examined visually or by an acceptable test procedure. The milk shall not show any abnormal condition (including, but not limited to, curdled, ropy, bloody or mastitic condition), as indicated by sight or other test procedures. The odor shall be fresh and sweet. The milk shall be free from objectionable feed and other off-odors that adversely affect the finished product.

(b) *Abnormal milk.* (1) A laboratory examination for the presence of somatic cells shall be made on all patrons' milk at least 4 times in each 6-month period at irregular intervals.

(2) A confirmatory test for somatic cells shall be done when a herd milk sample exceeds any of the following screening test results:

(i) California Mastitis Test—Weak Positive (CMT 1+).

(ii) Modified Whiteside Test—Positive (1+).

(iii) Wisconsin Mastitis Test—WMT value of 19 mm.

(3) The confirmatory test for somatic cells shall be performed by using one of the following procedures:

(i) Direct Microscopic Somatic Cell Count (Single Strip Procedure). Pyronin Y—methyl green stain shall be used for goat milk.

(ii) Electronic Somatic Cell Count.

(iii) Optical Somatic Cell Count.

(iv) Membrane Filter DNA Somatic Cell Count.

(4) The results of the confirmatory test for somatic cells shall be the official result.

(5) Whenever the confirmatory somatic cell count indicates the presence of more than 1,000,000 somatic cells per ml., the following procedures shall be applied:

(i) The producer shall be notified with a warning of the excessive somatic cell count.

(ii) Whenever two of the last four consecutive somatic cell counts exceed 1,000,000 per ml., the appropriate state regulatory authority shall be notified and a written notice given to the producer. This notice shall be in effect as long as two of the last four consecutive samples exceed 1,000,000 per ml.

(6) An additional milk sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (b)(5)(ii) of this section. If this sample also indicates a high somatic cell count, the patron's milk shall be rejected until satisfactory compliance is obtained. A temporary status may be approved by the appropriate state regulatory agency whenever an additional sample of herd milk is tested and found satisfactory. The producer may be fully reinstated when three out of four consecutive tests have counts of 1,000,000 or less somatic cells per ml. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

(c) *Antibiotics.* At least 4 times in 6 months, at irregular intervals, each producer's milk or commingled sample representing all producers shall be

tested for antibiotic residues using an officially recognized test procedure. All individual samples shall be tested when the commingled sample is positive. When an individual producer shows a positive test, the milk shall be immediately rejected from all markets and shall not be accepted until a subsequent test is negative.

4. In § 58.134, paragraphs (a) and (b) are revised to read as follows:

**§ 58.134 Sediment content.**

(a) *Method of testing.* Methods for determining the sediment content of the milk of individual producers shall be those described in the latest edition of Standard Methods for the Examination of Dairy Products. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products, Subpart T, §§ 58.2728 through 58.2732, of this part.

(b) *Sediment content classification.* Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination required in § 58.133(a), as follows:

**USDA Sediment Standard**

No. 1 (acceptable)—not to exceed 0.50 mg. or equivalent.

No. 2 (acceptable)—not to exceed 1.50 mg. or equivalent.

No. 3 (probational, not over 10 days)—not to exceed 2.50 mg. or equivalent.

No. 4 (reject)—over 2.50 mg. or equivalent.

* * * * *

5. In § 58.135, paragraphs (a) and (b) are revised to read as follows:

**§ 58.135 Bacterial estimate.**

(a) *Method of testing.* Methods for determining the bacterial estimate of the milk of individual producers shall be those described in the latest edition of Standard Methods for the Examination of Dairy Products.

(b) *Bacterial estimate classification.* Milk shall be classified for bacterial estimate by one of the following methods:

| Bacterial estimate classification | Direct microscopic count, standard plate count or plate loop count |
|---|---|
| No. 1 | Not over 500,000 per ml. |
| No. 2 | Not over 1,000,000 per ml. |
| Undergrade | Over 1,000,000 per ml. |

* * * * *

6. Section 58.322 is revised to read as follows:

**§ 58.322 Cream.**

Cream separated at an approved plant and used for the manufacture of butter shall have been derived from raw material meeting the requirements as listed under §§ 58.132 through 58.138 of this subpart.

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, and 1090, as amended; 7 U.S.C. 1622, 1624)

Signed at Washington, D.C., on: February 22, 1985.

**William T. Manley,**

*Deputy Administrator, Marketing Programs.*

[FR Doc. 85-4785 Filed 2-26-85; 8:45 am]

BILLING CODE 3410-02-M

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Part 245

### Adjustment of Status to That of Persons Admitted for Permanent Residence

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the regulation to provide that Form I-643, Health and Human Services Statistical Data Sheet and local police clearance letters for applicants over 14 years of age, be submitted as part of the adjustment of status application under section 1 of the Act of November 2, 1966. Technical changes would also be included to comply with the Refugee Act of 1980.

**DATE:** Comments must be received on or before March 29, 1985.

**ADDRESS:** Please submit written comments in duplicate to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Room 2011, Washington, D.C. 20536.

**FOR FURTHER INFORMATION CONTACT:**

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

For Specific Information: Joseph D. Cuddihy, F. Gerard Heinauer, Immigration Examiners, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. Telephone: (202) 633-5014

**SUPPLEMENTARY INFORMATION:** The Attorney General, under Title IV of the Refugee Act of 1980, is required to provide information to the Director of the Office of Refugee Resettlement, Department of Health and Human Services, regarding applicants for permanent residency under section 209 of the Immigration and Nationality Act. This data is currently captured on Form I-643. This requirement is extended to Cuban-Haitian Entrants under section 501(a)(1) of the Refugee Education Assistance Act of 1980. This rule would add Form I-643 to the application forms to be submitted in connection with adjustment of status under the Cuban Refugee Adjustment Act of 1966.

In addition, the rule would require a local police clearance to be submitted in connection with the adjustment of status application from every jurisdiction in the United States in which the applicant has lived for six months or more. The applicant will be responsible for obtaining these local police clearances and submitting them to the Service. Local police clearances would only be required of applicants who have reached their fourteenth birthday. This requirement is identical to the requirement contained in the Act of October 28, 1977. The purpose of the requirement is to obtain more complete information concerning the possible exclusion of the applicant under section 212(a)(9), 212(a)(10), or 212(a)(23) of the Act. The Service will also evaluate the results of this added requirement to determine if it should be extended to applicants under section 245 of the Act.

In an effort to alleviate much of the burden on applicants and police agencies in obtaining these local clearances, the Service is presently discussing the possibility of conducting automated checks, thereby waiving individual checks, with the States of Florida, New York, New Jersey, Illinois, California, Nevada, and Texas. In the final rule, the Service would identify which states, if any, have agreed with the service to conduct checks in this manner.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This order would not be a major rule within the definition of section 1(b) of E.O. 12291.

**List of Subject in 8 CFR Part 245**

Aliens, Immigration and Nationality Act, Immigration, Passports and visas.

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations would be amended as follows:

## PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR PERMANENT RESIDENCE

In § 245.2, paragraph (a)(2) would be revised to read as follows:

**§ 245.2 Application.**

(a) * * *

(2) *Filing application.* Before an application for adjustment of status under section 245 of the Act may be considered properly filed, a visa must be immediately available. If a visa would be immediately available only upon approval of a visa petition, the application will not be considered properly filed unless such petition has first been approved. If a visa petition is submitted simultaneously with the adjustment application, the adjustment application shall be retained for processing only if approval of the petition when reached for adjudication would make a visa immediately available at the time of filing of the adjustment application. If such petition is subsequently approved, the date of filing the adjustment application shall be deemed the date on which the accompanying petition was filed. If the applicant is claiming that the provisions of section 212(a)(14) of the Act do not apply because he/she is within the exemption described in § 212.8(b)(4) of this chapter, the application shall not be considered properly filed unless it is accompanied by Form I–526. An application for adjustment of status under section 245 of the Act as a nonpreference alien shall not be considered properly filed unless the applicant establishes that he/she is entitled to a priority date for allotment of a nonpreference visa number in accordance with § 245.1(e)(2) and that a visa is immediately available within the contemplation of § 245.1(e)(1). A nonpreference alien for whom a visa is not immediately available may not file an application for adjustment of status, but may seek to establish a nonpreference priority date through an application for an immigrant visa at a United States consular office. The application under section 245 of the Act shall be made on Form I–485, while the application under section 1 of the Act of November 2, 1966 shall be made on Form I–485A, and the application under section 101 or 104 of the Act of October 28, 1977 shall be made on Form I–485C. A separate application shall be filed by each applicant. If the applicant has reached his/her 14th birthday, each application shall be accompanied by executed Form G–325A, which shall be considered as part of the application. An application for adjustment of status under section 1 of the Act of November 2, 1966 shall also include a clearance from the local police jurisdiction for any area in the United States where the applicant has lived for six months or more since his/her 14th birthday, and Form I–643, Health and Human Services Statistical Data Sheet. An application under this part shall be accompanied by the documents specified in the instructions which are attached to the application. No fee shall be required for filing an application for the benefits of the Act of November 2, 1966 or the Act of October 28, 1977. An application for adjustment of status under section 101 or 104 of the Act of October 28, 1977 shall not be considered properly filed for acceptance and processing unless filed on or before October 28, 1983. An alien is ineligible for the benefits of the Act of October 28, 1977 or the Act of November 2, 1966 unless he/she has been physically present in the United States for one year. An applicant is considered to have been physically present in the United States for one year within the meaning of the Act of October 28, 1977 only if he/she has been actually physically present in the United States for a period or periods in the aggregate of at least one year subsequent to March 11, 1975 and prior to the date of filing of the application. An application for adjustment of status under the Act of October 28, 1977, by the spouse or child of a native or citizen of Vietnam, Laos or Cambodia shall not be processed under the provisions of section 104 of that Act unless the applicant is ineligible for adjustment under the provisions of section 101 of that Act. For the purpose of section 104 of the Act of October 28, 1977, a spouse or child, regardless of nationality, of a native or citizen of Vietnam, Laos or Cambodia shall, upon approval of an application for adjustment of status, be accorded permanent residence as of the date accorded the alien through whom such spouse or child derives eligibility under section 104 or the date of such spouse or child's arrival in the United States whichever is later.

* * * * *

(Secs. 103 and 245 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1103 and 1255))

Dated: February 13, 1985.

**Andrew J. Carmichael, Jr.,**

*Associate Commissioner, Examinations, Immigration and Naturalization Service.*

[FR Doc. 85–4729 Filed 2–26–85; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Part 94

[Docket No. 85–014]

## Swine, Pork, and Pork Products Imported From Norway; Addition to List

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

**ACTION:** Proposed rule.

**SUMMARY:** This documents proposes to amend the regulations concerning the importation into the United States of swine, pork, and pork products by adding Norway to the list of countries in which hog cholera is not known to exist. It has been determined that hog cholera has now been eradicated from Norway. The effect of the adoption of this proposal would be to relieve certain restrictions on the importation into the United States of swine, pork, and pork products from Norway.

**DATE:** Written comments must be received on or before March 29, 1985.

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

**FOR FURTHER INFORMATION CONTACT:** Dr. Dan Sheesley, Import-Export Animals and Product Staff, VS, APHIS, USDA, Room 844AAA, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8170.

**SUPPLEMENTARY INFORMATION:**

### Background

The regulations in 9 CFR Part 94 (the regulations) regulate the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases, including hog cholera.

Section 94.9 of the regulations restricts the importation into the United States of pork and pork products from countries where hog cholera is known to exist. The restrictions include cooking, heating, or curing and drying procedures designed to ensure that the pork or pork products have been treated in a manner adequate to destroy organisms which could spread hog cholera. Section 94.10 of the regulations, with certain

exceptions, probibits the importation of swine which originate in or are shipped from or transit any country in which hog cholera is known to exist. Sections 94.9 and 94.10 indicate that the disease is known to exist in all countries of the world except for certain countries listed in those sections. Currently, Norway is not included in the list. However, Norway has requested that the Department amend the regulations to include Norway in the lists of countries in §§ 94.9 and 94.10 in which hog cholera is not known to exist.

Based on surveys conducted by the government of Norway, it has been determined that there is no reason to believe that hog cholera exists in Norway. No cases of hog cholera has been reported in Norway since 1963.

Therefore, it is proposed to amend §§ 94.9 and 94.10 by adding Norway to the lists of countries in which hog cholera is not known to exist. The effect of the adoption of this proposal would be to relieve restrictions on the importation of swine, pork, and pork products from Norway.

**Executive Order 12291 and Regulatory Flexibility Act**

This proposed rule has been reviewed in accordance with Executive Order 12291 and has been classified as not a "major rule." Based on information compiled by the Department, it has been determined that this action would not result in a significant annual effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would have no significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Managment and Budget has waived it review process required by Executive Order 12291.

It is anticipated that the amount of swine, pork, or pork products imported into the United States from Norway as a result of the adoption of this proposal would be less than one percent of the amount of these items imported into the United States annually. Further, the importation of any of these items from Norway is not the primary business activity of any business in the United States.

Under the circumstances explained above, the Administrative of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 9 CFR Part 94**

Animal Diseases, Import, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products Hog cholera.

**PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS.**

Accordingly, it is proposed to amend 9 CFR Part 94 as follows:

1. The authority citations for §§ 94.9 and 94.10 would have revised to read:

**Authority:** 21 U.S.C. 111, 134a, 134b, 134c, 134f, 7 CFR 2.17, 2.51, and 371.2(d).

**§ 94.9 [Amended]**

2. In § 94.9, paragraph (a) would be amended by adding "Norway," after "Northern Ireland," both times it appears.

**§ 94.10 [Amended]**

3. Section § 94.10, would be amended by adding "Norway," after "Northern Ireland,"

Done at Washington, D.C., this 21st day of February, 1985.

J. K. Atwell,

*Deputy Administrator Veterinary Services.*

[FR Doc. 85-4810 Filed 2-26-85; 8:45 am]

BILLING CODE 3410-34-M

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**9 CFR Parts 102, 108, and 114**

**[Docket No. 84-117]**

**Viruses, Serums, Toxins, and Analogous Products; Unlicensed Products in Licensed Establishments**

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

**ACTION:** Proposed rule.

**SUMMARY:** With limited exceptions, the present regulations prohibit the preparation of unlicensed veterinary biological products in establishments licensed under the Virus-Serum-Toxin Act. Under this proposal, an establishment preparing unlicensed veterinary biological products for intrastate distribution which wishes to obtain a USDA establishment and product license could do so for an interim period without being required to cease production of such unlicensed products. Under the provisions of such proposed licensure, an establishment meeting the requirements of the regulation could be issued an establishment license and one or more U.S. Veterinary Biological Product Licenses for an interim period of up to 4 years. Such interim establishment and product licenses would automatically expire at the end of the period for which they were granted. Upon expiration the establishment would be eligible for indefinite licensure if proper application is made and if the applicant is found to be in full compliance with the Act and regulations. This proposed licensing procedure would allow establishments which meet USDA requirements and in which at least one product is prepared which qualifies for a product license to become licensed under the Virus-Serum-Toxin Act. Only USDA licensed product could be shipped or delivered for shipment interstate.

**DATE:** Comments must be received on or before April 29, 1985.

**ADDRESS:** Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. David F. Long, Chief Staff Veterinarian, Veterinary Biologics Staff, VS. APHIS, USDA, Rom 834, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8674.

**SUPPLEMENTARY INFORMATION:**

**Paperwork Reduction Act**

This proposed rule contains no new or amended recordkeeping, reporting, or application requirements or any type of information collection requirements subject to the Paperwork Reduction Act of 1980.

**Executive Order 12291**

This proposed action has been reviewed under USDA procedures extablished in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The proposed rules would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the

ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

**Certification under the Regulatory Flexibility Act**

The Administrator of the Animal and Plant Health Inspection Service, has determined that this action would not result in an adverse economic impact on a substantial number of small entities. Small entities are defined as independently owned businesses not dominant in the field of veterinary biologics manufacturing.

**Background**

With the exception of experimental products covered under 9 CFR Part 103 and products for disease eradication and control programs exempted by 9 CFR Part 106, present regulations prohibit a licensed establishment from producing or otherwise handling an unlicensed veterinary biological product. Parts 102 and 114 contain provisions which require a product license for each veterinary biological product prepared in a licensed establishment and prohibit introduction of a product which is not licensed onto the premises of a licensed establishment. Such requirements and prohibitions were imposed to assure adequate control over the activities of establishments licensed under the Virus-Serum-Toxin Act. Presently, there are a number of unlicensed establishments which could meet licensing requirements and which prepare at least one product which could qualify for licensure. However, they also prepare other products for intrastate distribution which have not been fully evaluated for USDA licensure. Many of these establishments would find it difficult, if not impossible, to become licensed by USDA to prepare only one product while discontinuing all others.

For some time now, the Department has been receiving requests to consider an amendment to its regulations which would allow some flexibility in this matter. Therefore, 9 CFR 102.4(h) would be added to provide for the issuance of a U.S. Veterinary Biologics Establishment License for an interim period not to exceed 4 years to those establishments which meet USDA standards and which desire to continue producing unlicensed products for intrastate distribution while also producting at least one USDA-licensed product. Appropriate safeguards would be established to assure the safety and purity of the licensed product. Such licenses for an interim period would be issued with a specified date of expiration which would be not more than 4 years from the date of issuance. During this 4-year period of interim licensure, the establishment would be required to: obtain U.S. Veterinary Biological Product Licenses as provided in 9 CFR Part 102.3(b) for all veterinary biological products produced in the establishment; comply with the specific provisions of their U.S. Veterinary Biologics Establishment License as provided in proposed amendment to 9 CFR 114.2(b); and comply with the Act and regulations in 9 CFR Parts 101–117. Provided that an established has complied with the above provisions, including the licensure of all veterinary biological products being produced (or the discontinuation of any unlicensed veterinary biological products) it could them qualify for a U.S. Veterinary Biologics Establishment License for an indefinite period upon proper application. Establishments achieving such compliance before expiration of the interim period could apply for an indefinite license at this time. The proposed amendment to 9 CFR 114.2 which would allow preparation of unlicensed products in establishments licensed for an interim period would limit such unlicensed products to those being prepared in the establishment within the 12 months prior to issuance of the establishment license for the interim period. Establishments would also be subject to the limitations specified in section 151 of the Act with respect to preparation of products in the District of Columbia, or in the Territories, or in any place under the jurisdiction of the United States, and to other applicable laws.

The regulation in 9 CFR 102.1 states that the Deputy Administrator shall issue a U.S. Veterinary Biologics Establishment License for each qualified establishment maintained to produce biological products and a U.S. Veterinary Biological Product License for each biological product authorized to be produced in a licensed establishment. For the purpose of this amendment 9 CFR 102.1 would be revised and clarified and would make reference to 9 CFR 103.6, 102.4(h), and 106 concerning experimental products, products for disease control programs, and licenses for an interim period. Section 102.3 would be amended to require that an application for an indefinite license be made prior to the expiration of the interim licensing period. In case of unusual circumstances or in an emergency, the Deputy Administrator would have the authority to issue an Establishment License for an additional limited interim period.

In order to ensure that unlicensed products continued in production after issuance of an establishment license for an interim period are compatible with preparation of licensed products, it is considered essential to list all products prepared in the establishment whether licensed or unlicensed. Therefore, it is proposed to revise 9 CFR 102.5(d)(3) by deleting the word "licensed" from the statement concerning the list of products to be submitted when requested by the Deputy Administrator.

Current regulations do not address the problem of cross contamination from agents used to prepare unlicensed products in licensed establishments. Therefore, the proposed revision of 9 CFR 108.5(b)(1) would require that both licensed and unlicensed products be listed on blueprint legends which would be evaluated to determine risks of cross contamination. A requirement that decontamination procedures and other precautions against cross-contamination be submitted would also be added with regard to room or work areas where products are most likely to be at risk.

All establishments wishing to be licensed under these proposed revisions would be expected to be in full compliance with the Act, the regulations, and any other applicable law and would be subject to inspection in accordance with sections 156 and 157 of the Act and with 9 CFR 115.1. These provisions would be only applicable to establishments wishing to become newly licensed. There would be no relaxation of the Standard Requirements applicable to any licensed product. At the end of the 4-year interim period of licensure, all veterinary biological products prepared or brought into the establishment would be required to be licensed unless they are subject to the experimental use provisions of 9 CFR Part 103 or exempted in accordance with 9 CFR Part 106.

**Alternatives**

The alternatives considered are:

1. Do not revise the regulations. This would continue the prohibition against preparation of unlicensed products in licensed establishments. Some manufacturers now preparing several unlicensed products would find it very difficult, if not impossible, to achieve licensure because they need an interim phase-in period while continuing to produce a number of these products. Certain products needed to meet special local needs would either be unavailable or would continue to be prepared in unlicensed establishments. Some firms would be forced to continue the practice of maintaining two separate

establishments in order to comply with the regulations. Therefore, this alternative was not adopted.

2. Revise the regulations. This would make licensure feasible for firms that have limited resources. They could then continue production of unlicensed products with the eventual goal of licensure of all products. Therefore, this alternative was selected.

**List of Subjects in 9 CFR Parts 102, 108, and 114**

Animal biologics.

## PART 102—LICENSES FOR BIOLOGICAL PRODUCTS

Section 102.1 would be revised to read:

**§ 102.1 Licenses issued by the Deputy Administrator.**

Each establishment qualified to produce biological products under the Virus-Serum-Toxin Act shall hold an unexpired and unrevoked U.S. Veterinary Biologics Establishment License issued by the Deputy Administrator and a U.S. Veterinary Biological Product License for each product prepared in such establishment unless the establishment is licensed for an interim period as provided in § 102.4(h) of this Subchapter or unless the product is subject to the provisions of section 103 or 106 of this Subchapter.

Section 102.3(a)(6) would be revised to read:

**§ 102.3 License applications.**

(a) * * *

(6) A new application shall be made when a change of ownership, operation, or location of an establishment occurs; or when a U.S., Veterinary Biologics Establishment License, issued for an interim period of time, expires.

* * * * *

Section 102.4 would be amended by adding paragraph (h) as follows:

**§ 102.4 U.S. Veterinary Biologic Establishment License.**

* * * * *

(h) An establishment preparing unlicensed veterinary biological products for intrastate distribution which qualifies for the issuance of a U.S. Veterinary Biologics Establishment License and one or more U.S. Veterinary Biological Product Licenses and which desires to continue producing the unlicensed products, may be issued a U.S. Veterinary Biologics Establishment Licenses by the Deputy Administrator for an interim period of time, subject to the provisions of § 114.2(b).

(1) The U.S. Veterinary Biologics Establishment License for such purpose shall be restricted to a period not to exceed 4 years; *Provided*: That for good cause and when deemed necessary the Deputy Administrator may authorize the issuance of an Establishment License for an additional limited interim period. The termination date for such licenses shall be established at the time of issuance.

(2) Prior to the termiation date, the licensee may request issuance of an establishment license for an indefinite period by application as provided in § 102.3(a).

(3) Before a U.S Veterinary Biologics Establishment License will be issued for an indefinite period to an establishment previously issued a U.S. Veterinary Biologics Establishment License for an interim period, the licensee shall demonstrate compliance with provisions of the Act and regulations.

Paragraph 102.5(d)(3) would be revised to read:

**§ 102.5 U.S. Veterinary Biological Product License.**

* * * * *

(d) * * *

(3) When requested by the Deputy Administrator, a licensee shall submit a list of all biological products prepared in the licensed establiishment.

* * * * *

## PART 108—FACILITY REQUIREMENTS FOR LICENSED ESTABLISHMENTS

Paragraph 108.5(b)(1) would be revised to read:

**§ 108.5 Preparation of legends.**

* * * * *

(b) * * *

(1) A listing of all rooms by identifying letters or numbers and the fractions prepared in each. Exceptions may be listed for general purpose areas or rooms. Functions performed in each area and room shall be described, whether with licensed or unlicensed products. In rooms where products are exposed to the surroundings, a description of decontamination procedures and other precautions against cross contamination shall be included.

* * * * *

## PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

Section 114.2(b) would be revised to read:

**§ 114.2 Products not prepared under license.**

* * * * *

(b) When an establishment license is issued for an interim period not to exceed 4 years, the establishment may continue preparing certain specified unlicensed biological products with the approval of the Deputy Administrator; *Provided*, That:

(1) Such unlicensed products have been prepared in the establishment within the 12 months prior to issurance of the establishment license.

(2) Such unlicensed products are not distributed interstate, do not bear a U.S. Veterinary license number, and are not otherwise represented in any manner as having met the requirements for licensure.

(3) All products, whether licensed or unlicensed, are prepared in locations indicated in legends filed in accordance with Part 108 of this Subchapter.

(4) A description of methods of preparation and testing of each unlicensed product are filed with Veterinary Services.

(5) Records are maintained in accordance with § 116.1 and 116.2 and include all products, whether licensed or unlicensed.

(6) Reports prescribed in §§ 116.5 are submitted for all products, whether licensed or unlicensed.

(7) No new unlicensed biological products are prepared in the licensed establishment after issuance of the establishment license except as provided in § 103.1.

(8) The licensee either achieves licensure of all unlicensed products by the close of the interim period or discontinues producing and removes from the licensed establishment any product which is not licensed.

* * * * *

(37 Stat. 832–833 (21 U.S.C. 151–158))

Done at Washington, D.C. this 22nd day of February 1985.

**G.P. Pierson,**

*Acting Deputy Administrator Veterinary Services.*

[FR Doc. 85–4777 Filed 2–26–85; 8:45 am]

BILLING CODE 3410-34-M

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## DEPARTMENT OF THE TREASURY

### Customs Service

### 19 CFR Part 177

### Leaded Naphtha; Change of Tariff Classification

**AGENCY:** U.S. Customs Service, Treasury.

**ACTION:** Proposed change of practice; solicitation of comments.

**SUMMARY:** Customs has determined that there exists a uniform and established practice to classify certain imported leaded naphtha for tariff purposes as

motor fuel. Because this petroleum product, as imported, is not chiefly used as motor fuel, it cannot be classified as such, nor can it be classified as naphtha in view of the added lead content. Accordingly, Customs believes the classification practice is clearly wrong and should be changed. The most appropriate tariff provision for the classification of leaded naphtha is for mixtures not specifically provided for, i.e., mixtures that are in whole or in part of hydrocarbons derived in whole or in part from petroleum, shale oil, or natural gas.

Because this matter is of sufficient importance to involve the interests of the domestic industry, this notice invites public comments on it before any change is made.

**DATE:** Comments must be received on or before April 29, 1985.

**ADDRESS:** Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** John G. Hurley, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. (202-566-8181).

**SUPPLEMENTARY INFORMATION:**

**Background**

In Treasury Decision 83-173, dated August 17, 1983, and published in the Customs Bulletin of September 7, 1983, new standards were established to aid Customs in classifying petroleum products which are chiefly used as motor fuels under the provision for motor fuel in item 475.25, Tariff Schedules of the United Statese (TSUS) (19 U.S.C. 1202). It was further stated in T.D. 83-173 that classification under item 475.25, TSUS, would be indicated if the imported petroleum product met the current American Society for Testing and Materials (ASTM) standards set out in D439 for automotive gasoline; D1655 for aviation turbine fuels; or D910 for aviation gasoline.

T.D. 83-173 revoked T.D. 66-23(13), dated January 19, 1966, which set out critical properties for petroleum products chiefly used as motor fuels at that time. Although this guide was widely used both by Customs and importers for the classification of products claimed to be motor fuel, it had long been recognized that the standards set out in T.D. 66-23(13) were outmoded and required updating. Nonetheless, it should be noted that T.D. 66-23(13) itself stated that the critical properties listed were to be used only as a guide and that it was intended that to be classified as a motor fuel, a product should meet the requirements of Headnote 2(b), Part 10, Schedule 4, TSUS.

Despite this requirement, which has been recognized by the court in *United States* v. *Exxon Corp.*, 607 F.2d 985 (1979) C.A.D. 1233, Customs found that reliance has been placed on T.D. 66-23(13) to establish whether a particular petroleum importation was classified as motor fuel in 475.25, TSUS. In view of the change in the critical properties of gasoline in the intervening years, as necessitated by the higher performance engines developed, the standards for automotive fuel as stated in T.D. 66-23(13) are no longer valid. Petroleum products which meet the criteria set out in T.D. 66-23(13) cannot be said to be chiefly used as motor fuel, as imported.

Customs has learned that petroleum products entered as motor fuel and which met the standards of T.D. 66-23(13) generally were not intended to be used as gasoline, as imported, but were used as blending stock; that is, products made into finished gasoline subsequent to importation. The gasoline blending industry imports hydrocarbon distillate mixtures, such as low octane, off-specification motor gasoline, petroleum naphtha, leaded naphtha and similar products for the purpose of blending them into a final product which meets specifications for modern gasoline engines.

A review of entries made over the past few years shows that, based on liquidations, a uniform and established practice exists to classify leaded naphtha, which met the criteria set out in T.D. 66-23(13), as motor fuel in item 473.25, TSUS.

**Proposed Change of Practice**

On the basis of the above information, Customs has determined that the established and uniform practice of classifying leaded naphtha, which met the criteria set out in T.D. 66-23(13), as motor fuel in item 475.25, TSUS, is clearly wrong. Nor can it be classified as naphtha in item 475.35, TSUS, in view of the added lead content.

Accordingly, the most appropriate provision for classification is that for mixtures not specially provided for, i.e., mixtures that are in whole or in part of hydrocarbons derived in whole or in part from petroleum, shale oil, or natural gas, in item 432.10, TSUS. The current rate of duty is 5 percent ad valorem, but not less than the highest rate applicable to any component material. The component material with the highest rate would be tetraethyl lead in item 429.70, TSUS, with a current rate of 9.8 percent ad valorem.

It should be noted that this notice pertains to certain leaded naphtha only and not to petroleum naphtha classifiable in item 475.35, TSUS, or catalytic naphtha containing by weight over 5 percent synthetically produced dutiable benzenoids, classifiable as a benzenoid mixture in item 407.16, TSUS.

**Authority**

Inasmuch as the proposed change of practice, if implemented, will result in higher duties being assessed on the merchandise, Customs is giving this notice and opportunity for comment as provided by § 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), and § 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

**Comments**

Before taking any further action on this matter, consideration will be given to any written comments submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during the hours of 9:00 a.m. to 4:30 p.m. on regular business days, at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

**List of Subjects in 19 CFR Part 177**

Administrative practice and procedures, Customs duties and inspections.

**Drafting Information**

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

**George C. Corcoran, Jr.,**

*Acting Commissioner of Customs.*

Approved: February 12, 1985.

**Edward T. Stevenson,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 85-4753 Filed 2-26-85; 8:45 am]

BILLING CODE 4820-02-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 31, 32 and 33

[CC Docket No. 78-196]

### Revision of the Uniform System of Accounts and Financial Reporting Requirements for Class A and Class B Telephone Companies; Order Extending Time for Filing Comments and Reply Comments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of comment/reply comment period.

**SUMMARY:** This action extends the time for interested parties to file comments in response to the Further Notice of Proposed Rulemaking in CC Docket No. 78-196. In that proposal, the Commission proposed to revise the Uniform System of Accounts for Class A and Class B telephone companies. This action is being taken in response to several petitions filed by parties who assert that they need more time to make the analysis requested of them by the Commission.

**DATES:** The comment period is extended to May 3, 1985. The reply comment period is extended to June 3, 1985.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Clifford M. Rand, Accounting and Audits Division, Common Carrier Bureau, (202) 634-1861.

**SUPPLEMENTARY INFORMATION:** The Further Notice of Proposed Rule Making was published in the **Federal Register** on January 11, 1985 (50 FR 1590).

#### Order

In the matter of revision of the Uniform System of Accounts and Financial Reporting Requirements for Class A and Class B Telephone Companies (Parts 31, 33, 42 and 43 of the FCC's Rules) (CC Docket No. 78-196).

Adopted: February 7, 1985.
Released: February 11, 1985.

By the Chief, Common Carrier Bureau.

1. On January 3, 1985, the Commission released a Further Notice of Proposed Rulemaking in the above-captioned proceeding. We invited interested parties to file their comments by March 4, 1985, and their reply comments by April 3, 1985.

2. We have received several motions for an extension of the comment period. The National Association of Regulatory Utility Commissioners (NARUC) requests a sixty day extension of time for both comments and reply comments. Continental Telecom, Inc. requests that the comment period be extended to May 3, 1985 and that the reply comment period be extended to July 2, 1985. The Southern New England Telephone Company requests that the comment period be extended to July 1, 1985 and reply comments to September 3, 1985. Both the New Jersey Board of Public Utilities and the Colorado Public Utilities Commission request a sixty day extension of the comment period. The Alabama Public Service Commission requests that the comment period be extended to April 26, 1985. Sixteen telephone companies filing jointly request an extension of the comment period to May 4, 1985. Both the United Telephone Systems, Inc. and the Minnesota Department of Public Service request an extension of the comment period to May 6, 1985.[1]

3. The major reasons for the extension of time set forth by the various petitioners are: (1) The complexity of the Commission's proposal to revise the Uniform System of Accounts; (2) the Commission's request in the Further Notice that respondents make every attempt to provide the Commission with cost estimates that are fully substantiated; (3) the time needed to assemble key personnel and data; and (4) the time needed to coordinate with other organizations. Mentioned specifically by some of the petitioners was the scheduled March, 1985 meeting of the NARUC Subcommittee on Accounting.

4. We believe that good cause has been shown for an extension of the comment period. The Commission is aware of the complexity of the proposal and seeks informed advice from the affected parties. However, we believe it is premature to extend the reply comment period beyond a thirty day period. If, after the comment period has ended, an interested party believes that good cause exists for an extension of the reply comment period, it may file a motion at that time.

5. Accordingly, it is ordered that the time for filing comments in CC Docket No. 78-196 is extended to May 3, 1985, and that the time for filing reply comments is extended to June 3, 1985.

6. It is further ordered that this Order shall be published in the **Federal Register.**

[1] These are the requests that were received as of January 25, 1985. We are aware that other parties intend to file similar requests. However, we found that good cause for an extension of the comment period was sufficiently established by the above-mentioned petitions, and in the interest of informing the public of our decision as soon as possible, we decided not to wait for the receipt of the other requests.

Federal Communications Commission.
**Albert Halprin,**
*Chief, Common Carrier Bureau.*

[FR Doc. 85-4622 Filed 2-26-85; 8:45 am]
BILLING CODE 6712-01-M

### 47 CFR Part 73

[MM Docket No. 85-37; RM-2564; RM-2571; RM-4680; FCC 85-65]

### Broadcast of Telephone Conversations

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rule making.

**SUMMARY:** This Notice of Proposed Rule Making consolidates three petitions for rule making seeking to change the requirement that notification be made before either recording a telephone conversation for broadcast or broadcasting it live. One petition proposes a requirement that notification be given before the recording for broadcast of any conversation, telephone or otherwise. The other two petitions propose to permit the recording and broadcasting of a telephone conversation if consent is obtained before the broadcast instead of before the recording of the conversation. The proposals contained in the instant Notice will provide greater flexibility to licensees in obtaining consent to broadcast recorded telephone conversations, while ensuring the privacy of telephone conversations.

**DATES:** Comments are due on or before April 29, 1985 and replies by May 29, 1985.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Brian F. Fontes, Mass Media Bureau (202)-632-6302.

#### List of Subjects in 47 CFR Part 73

**SUPPLEMENTARY INFORMATION:**

Radio broadcast, Television broadcast.

#### Notice of Proposed Rule Making

In the matter of amendment of § 73.1206: Broadcast of Telephone Conversations (MM Docket No. 85-37, RM-2564, RM-2571, RM-4680).

Adopted: February 12, 1985.
Released: February 19, 1985.

By the Commission: Commissioners Rivera and Patrick concurring in the result.

#### Introduction

1. This *Notice of Proposed Rule Making* begins an evaluation of § 73.1206 of the Commission's rules

governing the broadcast of telephone conversations. Section 73.1206 requires that consent be acquired before recording a telephone conversation for later broadcast or before broadcasting the conversation live.[1] This *Notice* proposes rule changes to provide a balance between the needs of listening audiences to obtain information and the privacy needs of individuals as to recorded telephone conversations.

**Background**

2. Adoption of § 73.1206 can be traced to a 1947 proceeding, *Use of Recording Devices in Connection with Telephone Service*, Docket No. 6787, 11 FCC 1033 (1947). There the Commission concluded that "a real need and demand exist[ed] * * * for the use of recording devices in connection with interstate and foreign message toll telephone." However, the use of these devices would not be authorized unless adequate notice to all parties was given that the telephone conversation was being recorded. Adequate notice was deemed provided by the operation of an automatic tone warning (beep-tone) device which produced a distinct signal repeated at regular intervals during the telephone conversation when the recording device was in use. In effect, it was not the use of recording devices as such that was the concern; rather it was the need to provide adequate notice before any recording took place. The requirement of giving beep-tone warning to a party whose conversation was being recorded applied, with certain exceptions, to all recordings.[2] Presently, the Commission has under consideration a *Further Notice of Proposed Rule Making* in Docket No. 20840, *Use of Recording Services in Connection with Telephone Service*, 48 FR 51650 (November 10, 1983), which proposes to eliminate the current beep-tone/all party consent requirement.[3]

3. Regulation of the broadcast of recorded telephone conversations took a parellel but distinct track. In 1970 the Commission adopted § 73.1206.[4] *See Broadcast of Telephone Conversations*, Docket No. 18601, 23 FCC 2d 1 (1970). This rule requires that consent be obtained before recording and was promulgated as an exception to the beep-tone requirement, as a result of the *Carterfone* decision.[5] Apart from general privacy concerns that arise when telephone conversations are recorded, the Commission here was primarily concerned about the heightened privacy considerations that arise when telephone conversations are broadcast without consent. So long as consent was obtained in accordance with § 73.1206, broadcast of the beep-tone was unnecessary and the requirement for this signal was eliminated in 1972, in *Use of Recording Devices in Connection with Telephone Service*, 38 FCC 2d 579 (1972).

4. The Commission has received three petitions to amend § 73.1206. The petitioners are: Edith Martindale, Don Martindale and Herbert Terry, RM–2564 (Martindale); Doubleday Broadcasting Company, Inc., RM 2571 (Doubleday); and the National Association of Broadcasters, RM–4680 (NAB). NAB specifically requested that its petition be considered along with that of Doubleday in a consolidated proceeding.

**Petitions for Rule Making**

5. *Martindale (RM–2564)*—The thrust of Martindale's petition is concern that § 73.1206 does not bar the recording of face-to-face conversations with a concealed recorder and the broadcasting of the conversation or excerpts therefrom without the person's consent. The petitioner relates such an occurrence involving an investigative news report by Station WCCO–TV, Minneapolis-St. Paul, Minnesota. The petitioner states that a WCCO–TV reporter used another person with a fictitious identity, a false story, and a concealed tape recorder to interview Edith Martindale and subsequently used, without her consent, excerpts from the tape in a report on WCCO–TV. The petitioner further states that the "licensee of WCCO–TV defends the techniques here employed and reports that they are a general tool in WCCO–TV's investigative journalism." It is the petitioner's observation that such practices can be found in other broadcast stations and that the matter should be considered "in the context of rule making."

6. The petitioner seeks to have the Commission amend Section 73.1206 to prohibit the secret recording of all conversations for broadcast purposes, arguing that the rule of prior consent should not be limited to telephone recording, but should apply to all recording of conversations intended for later broadcast. Martindale contends that, if the Commission requires prior consent for all such recording, it would be taking great strides in protecting the public's right to privacy while imposing minimal limits on the exercise of broadcast licensee discretion over its programming.[6] Martindale also requests that additional safeguards be included in Section 73.1206 of the rules.

7. *Doubleday (RM 2571)*—In its petition, Doubleday asserts that the present rule is clumsy and impractical. Doubleday states that in order to broadcast a telephone conversation, a broadcaster must place a preliminary call to the intended party for the purpose of obtaining consent to a second call which it wishes to record in full. It notes that the only alternative would be to commence the recording of the conversation only after the greeting portion was concluded and after it had obtained permission to record. In either case, Doubleday contends that spontaneity would be destroyed and freely expressed opinions would be suppressed. Therefore, Doubleday seeks to amend the rule by adding the following language to § 73.1206.

*Provided*, That a licensee may broadcast a telephone conversation which is first recorded if (a) before broadcasting the conversation the licensee's representative shall clearly and sufficiently identify himself and the station and notify all parties to the conversation that the conversation has been recorded and shall expressly request the

[1] The exception is where such party is aware, or may be presumed to be aware from the circumstances of the conversation, that it is being or likely will be broadcast.

[2] These exceptions include the recording by the U.S. Secret Service of conversations for the protection of the President of the U.S. and his family, *McCann* v. *A.T.&T.*, 50 FCC 2d 905 (1975), and by the U.S. Department of Defense Command Centers to record emergency communications transmitted over its private line network. *Use of Recording Devices in Connection with Telephone Service*, 12 FCC 1005 (1947).

[3] The current beep-tone/all party consent requirement was adopted in a *Memorandum Opinion and Order* in Docket No. 20840, *Use of Recording Devices in Telephone Service*, 86 FCC 2d 313 (1981), *Recon. granted in part*, 48 FR 51773.

[4] This single provision replaced the separate §§ 73.126, 73.296, 73.592 and 73.644, which applied to AM, FM, educational FM and TV stations respectively.

[5] *Carter* v. *AT&T Co.*, 13 FCC 2d 420 (1968) provided that broadcast stations may use devices other than a recorder to interconnect their facilities to exchange and toll telephones, and thereby may broadcast live two-way telephone conversations without the use of a beep-tone. The Commission required advance notice to a party called by requesting consent to a recording and later broadcast of the conversation before using the interconnecting device.

[6] Filings in response to the Martindale petition were submitted by Juanita Dobmeyer, of Normandale Community College, Bloomington, Minnesota; David Easling, of St. Paul, Minnesota; Norman S. Goldner of Detroit, Michigan; Raj P. Mohan, of Auburn, Alabama; David W. Peaslee, of St. Paul; Arnold E. Olson, of Menomonie, Wisconsin; John L. Duffy, of St. Paul; Fred B. Wilson, of St. Paul; and Arthur S. Wilke, of Grand Forks, North Dakota. All commenters supported the Martindale petition and urged the adoption of the proposal as a means of relieving concern as to possible invasion of privacy.

consent of all parties both to the recording and the later broadcast of the conversation, (b) parties shall expressly consent to both the recording and later broadcast of the conversation, and (c) the licensee shall retain a copy of the recording for at least thirty days. If such consent is not obtained the recording shall not be retained or the conversation broadcast.

8. In the petitioner's opinion, such a rule would avoid the "staging" and awkwardness of recorded conversations as they are now broadcast. Moreover, the petitioner argues that it makes no sense to maintain an assertedly rigid and unrealistic rule which inhibits broadcasters not only in conducting what it says are harmless telephone contests but also in the presentation of vital public affairs materials.[7]

9. *NAB (RM–4680)*—In its petition, NAB petition asserts that the present rule does not go to the heart of privacy interests but, instead, hampers broadcasters' freedom and program discretion by destroying spontaneity. The telephone-broadcast rule, according to NAB, limits broadcaster programming flexibility. To remedy the situations, NAB proposes the following modifications to § 73.1206:

*Modification A*

Broadcasters may broadcast live telephone conversations *provided that immediately* after the parties answer the telephone, and without any intervening conversation, the broadcasters making the calls identify themselves and the stations they represent, and *inform* the parties to the calls that they are "on-the-air;"

*Modification B*

When telephone conversations are recorded for later broadcast, broadcasters may record the initial greeting *provided that immediately* after the parts answer the telephone, and without any intervening conversation, broadcasters must identify themselves and the stations they represent, and *inform* the parties to the calls that the telephone calls are being recorded for later broadcast; *or*

*Modification C*

Broadcasters may record the conversation *without* immediately identifying themselves and informing the parties to the call that the telephone calls are intended for later broadcast *provided that* at some point during the recording of the conversation, the broadcasters obtain *explicit consent* for the subsequent broadcast of the recorded conversation.

10. In general, NAB's Modifications A and B are similar to the current rule. Modification C, however, would not require licensees to notify parties at the beginning of a telephone conversation that the conversation is being recorded and is intended for broadcast. According to petitioner, the above proposed modifications would shield individuals from embarrassing invasions of privacy and allow broadcasters to regain much of the liveliness of their over-the-phone interaction with the public.[8]

**Discussion**

11. After reviewing the issues raised by the petitioners and the commenters, we believe that certain policy and rule changes may be warranted. Nevertheless, we are concerned that any policy or rule change adopted provide a balance between meeting the legitimate needs of the listening public to obtain information from broadcast news and information programs and ensuring the public's right to privacy with respect to the recording of conversations that may be used on the air.

12. Section 73.1206 presently requires that broadcast licensees notify parties of their intention to record and broadcast telephone conversations. This notification must take place before any portion of the conversation is broadcast live or recorded for later broadcast. At issue in this *Notice* is exactly when the broadcaster must notify an individual of its intention to broadcast a recorded telephone conversation. We believe that notification given before recording the telephone conversation or consent obtained before broadcasting the conversation is sufficient to ensure that privacy concerns are met. Accordingly, we propose to amend § 73.1206 so that a licensee may record telephone conversations before informing the parties to the conversations that they intend to broadcast them; [9] provided, that the broadcast obtain consent for the subsequent broadcast of the conversation. This proposal would not affect the obligations of broadcast licensees to comply with other federal and state laws pertaining to the recording of telephone conversations.

13. In making this proposal, we recognize that there are significant privacy and other First Amendment concerns involved in the broadcasting of recorded material. We note there may be a general expectation of privacy with regard of telephone conversations. At the same time, we are concerned about inhibiting the free flow of information. We are also aware that the recording of telephone conversations, their broadcast, and the notification of intent to broadcast such conversations raise related, but conceivably distinct issues. Accordingly, we request comment on these matters, and specifically, whether notification or consent prior to broadcasting a recorded telephone conversation is necessary to protect individuals against the unauthorized broadcasting of their private conversations. We also request comment on the proposal by Doubleday and NBC that broadcasters should retain tapes of telephone conversations for a specific period of time even in cases where consent to braodcast is not granted. We are particularly interested in whether maintaining recorded conversations where consent to broadcast was not granted would conflict with any federal or state statutes.

14. With respect to Martindale's request that the scope of § 73.1206 be expanded to include the broadcasting of any recorded conversation, we do not believe that such action is warranted at this time. Additional restraints proposed in Martindale's petition may infringe on broadcasters obtaining information and may restrict the free flow of information to the public. Therefore, we believe that Commission action can be best applied after the fact to deal with patterns of abuses if they were shown to exist.

15. In light of other significant protections of the privacy rights implicated here, we also want to give significant consideration to elimination of § 73.1206. Such an option was proposed by NBC in their response to the NAB petition. We seek comment on whether other federal and state privacy protections, and in particular in 1968 Omnibus Crime Control Act discussed below, adequately protect telephone conversations from being recorded and used for broadcast purposes without prior consent.

[7] Filings in response to the Doubleday petition were submitted by National Broadcasting Co. (NBC), The National Association of Broadcasters (NAB) and Terry Moss of Station KFOX (AM), Long Beach, California. All parties support the Doubleday petition. NBC argued that where consent is requested but not obtained after the recording, the tape should be retained by the broadcaster to enable the licensee to prove the truth of the report. Doubleday originally called for destruction of the tape if consent were refused, but it later concurred with NBC's position and requested its proposal be amended accordingly.

[8] Filings in response to the NAB petition were submitted by American Broadcasting Companies, Inc. (ABC) and National Broadcasting Company, Inc. (NBC). Although supporting NAB's petition, NBC urges the Commission to go further and eliminate § 73.1206.

[9] We also request comment on whether the current beep-tone/all party consent required for the recording of telephone conversations, discussed in paragraph 2 above, should be reimposed on those broadcasters who intend to obtain consent for a recording after the conversation has taken place. As noted above, the rule was only waived for broadcasters because *prior* consent or notification obviated the need for a beep-tone.

16. Federal and state laws protect telephone privacy on several levels. Although a full review of these protections is not necessary here, it is important to recognize that the Commission has properly played a minor role in the development of the privacy expectation. On the Federal level, the principal privacy protection is found in the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. 2510, *et. seq.*, (Omnibus Act). Section 2511(2)(d) provides protection of the individual's right of privacy inhering in these conversations, by requiring prior one-party consent before recording is permitted. In particular, it provides that it is not unlawful for "a person not acting under color of law to intercept a wire or oral communication where such person is a party to the communication or where one of the parties has consented to the communication has given prior consent to such interception, unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State or for the purpose of committing any other injurious act." This language, not originally in the Omnibus Act, was added to narrow the nonconsent exemption for official parties recording their own telephone calls. The legislative history suggests that this construction was intended to protect the individual's right to privacy against injurious uses of recorded conversations.[10] A person acting with an unlawful motive in violation of the Omnibus Act is subject to both civil and criminal sanctions. *See* 18 US.C. 2520 and 2511(1) respectively. In addition, many states have passed statutes regulating recording both wire and oral communications. While many of those statutes are identical to the Omnibus Act, approximately thirteen states have enacted more stringent provisions requiring all party consent before a conversation is recorded. Like the Omnibus Act, these laws provide for civil and criminal sanctions. Furthermore, some states have codified the right of privacy and provide civil remedies for those who violate those laws.[11] Finally, individuals may be able to bring a civil suit in tort if their conversations are broadcast without their consent. The tort of privacy was perhaps first formally recognized in an 1890 law review article written by Samuel D. Warren and Louis D. Brandeis.[12] Later, William Prosser, identified four kinds of torts under the label "invasion of privacy."[13] One of these, instrusion upon one's physical solitude or seclusion, has been applied to eavesdropping upon private conversations by means of wire tapping or microphones in many jurisdictions and almost all jurisdictions recognize some form of privacy right.

**Conclusion**

17. In this *Notice*, we propose either to amend § 73.1206 to permit obtaining consent to broadcast recorded telephone conversations prior to broadcasting the conversation or to delete § 73.1206. With either proposal, greater flexibility will be given to licensees in obtaining consent to broadcast recorded telephone conversations. We invite the public to comment on all aspects of our proposals and to present alternatives if they so desire.

18. In accordance with section 605(b) of the Regulatory Flexibility Act, the Commission certifies that this amendment, if promulgated, will not have a significant economic impact on a substantial number of small entities. Although the proposed changes contained in the *Notice* provide licensees with greater flexibility as to when consent is obtained prior to broadcasting recorded telephone conversations, consent to broadcast such conversations is still required. Therefore, the proposals listed in the *Notice* will have no measurable impact on the regulatory burden on licensees. In some situations licensees make two telephone calls to a party, one to ask consent to record a conversation for later broadcast and the second call to actually record the conversation. Under the proposed rule changes licensees may need to make only one telephone call to both record a conversation and to obtain consent. Nonetheless, this is not a significant impact because under the current rule licensees could make only one telephone call to obtain consent to broadcast a recorded or live telephone call and to record the telephone conversation.

19. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

20. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a public notice is issued stating that substantial disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments, pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1201 of the Commission's Rules.

21. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before April 29, 1985, and reply comments on or before May 29, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

22. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, an original and 5 copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also wish each Commissioner to

[10] 114 Cong. Rec. S6189 (daily ed. May 23, 1980) (Remarks of Sen. Hart).

[11] *See e.g.*, Va. Code section 19.2-69 (1950).

[12] Warren and Brandeis, "The Right to Privacy," 4 Harvard Law Review 146 (1890).

[13] For fuller treatment, *see* W. Prosser, *Handbook of the Law of Torts* (4th ed. 1971) pp. 802-818.

have a personal copy of the comments may file an additional 6 copies. Members of the general public who wish to express their interest by participating informally in the rule making proceeding may do so by submitting one copy of the comments, without regard to form, provided only that the Docket Number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's Dockets Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, Northwest).

23. For further information concerning this proceeding, contact Alan Stillwell, Mass Media Bureau, (202) 632-6302.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

*Secretary.*

Appendix

## PART 73—RADIO BROADCAST SERVICES

Part 73 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

In § 73.1206, the first sentence of the section is proposed to be revised to read as follows:

**§ 73.1206 Broadcast of telephone conversations.**

Before broadcasting a recorded telephone conversation or broadcasting a telephone conversation simultaneous with its occurrence, a licensee shall inform any party to the call of the licensee's intention to broadcast the conversation, except where such party is aware, or may be presumed to be aware from the circumstances of the conversation, that it is being or likely will be broadcast. * * *

[FR Doc. 85-4820 Filed 2-26-85; 8:45 am]

BILLING CODE 6712-01-M

# Notices

Federal Register
Vol. 50, No. 39
Wednesday, February 27, 1985

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

### Forms Under Review by Office of Management and Budget

February 22, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Public Law 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Reinstatement

• Forest Service.
Requests to National Forest Concessioners in Region 3 for Reconciled Fee-base Financial Reports
RS–2700–20, RS–2700–21
Recordkeeping, Annually
Businesses or other for-profit; Small businesses of organizations; 35 responses; 105 hours; not applicable under 3504(h)
Frank Pickle (505) 474–2432

Jane A. Benoit,
*Departmental Clearance Officer.*
[FR Doc. 85–4809 Filed 2–26–85; 8:45 am]
BILLING CODE 3410–01–M

## Agricultural Marketing Service

### Notice To Revise the Requirements Recommended for Adoption by State Regulatory Agencies Regarding Milk for Manufacturing Purposes and Its Production and Processing

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This document proposes revisions of sections B2(l), C1, C2, C3, C3(a), C4, C11 (a) and (d), and D1 (b) and (c) of the recommended manufacturing milk requirements for State adoption. The major revisions would:

1. Lower the maximum allowable bacterial estimate for manufacturing grade producer milk from 3 million bacteria to 1 million bacteria per milliliter.

2. Lower the maximum allowable somatic cell count from 1.5 million cells to 1 million cells per milliliter.

3. Provide a definition for goat milk so that the milk can be used in products where legally provided.

4. Provide for use of the current USDA tuberculosis and brucellosis program requirements.

5. Make editorial changes in the sediment content classification.

These proposed revisions have been developed in cooperation with the National Association of State Departments of Agriculture, State regulatory agencies and dairy trade associations and producer groups.

**DATE:** Comments are due on or before July 1, 1985.

**ADDRESS:** Comments should be sent to Director, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Richard W. Webber, Head, Standardization Section, Dairy Division, Agricultural Marketing Service, Washington, DC 20250, (202) 447–7473.

**SUPPLEMENTARY INFORMATION:** Since 1969 there has been a continuing effort by the U.S. Department of Agriculture to assist in providing uniform quality, production, and sanitation requirements for the production of manufacturing grade milk at the farm level. In 1972, USDA published the recommended requirements for manufacturing grade milk for State adoption. These recommendations are to promote, through State adoption and enforcement, uniformity in State dairy laws and regulations as well as national uniformity in the sanitary manner in which manufacturing grade milk is produced and processed. USDA has continuously assisted the States in an advisory and interpretive capacity in order to promote the purpose and intent for which these requirements have been published.

In 1983 the National Association of State Departments of Agriculture passed a resolution recommending that the manufacturing grade producer milk quality requirements be tightened. After coordination with State regulatory agencies, and major dairy trade associations and producer groups, it was determined that the proposed changes would accurately describe the minimum quality requirements for this grade of producer milk.

The major revisions are described below.

1. Lower the maximum allowable bacterial estimate for producer milk from 3 million to 1 million bacteria per milliliter.

USDA has an ongoing surveillance program to evaluate sanitation and production practices and physical facilities of producers of manufacturing grade milk. Based on this surveillance program, it has been determined that sufficient progress has been made in the production of better quality milk so that a satisfactory producer would not have any difficulty in meeting the proposal.

2. Lower the maximum allowable somatic cell count from 1.5 million cells to 1 million cells per milliliter.

The Department's policy has been that the requirements for abnormal milk should be applied equally to all grades of milk. The National Conference on Interstate Milk Shipments has lowered the somatic cell count for Grade A milk. Therefore, a similar change is being proposed for manufacturing grade milk.

3. Provide a definition for goat milk so that the milk can be used in products where legally provided.

Goat milk is being produced and utilized for the manufacture of cheese, ice cream, evaporated milk and other products. The proposal will recognize the production and use of goat milk, which will aid in its marketing.

4. Provide for the use of the current USDA tuberculosis and brucellosis requirements.

In 1982 the Department revised its Uniform Methods and Rules for these two programs. The manufacturing milk requirements cover herd health; therefore, the updated rules need to be referenced.

5. Make editorial changes in the sediment content classification.

The editorial changes will simplify the language concerning the requirement for sediment testing so that it will be clearer.

In addition to the major revisions outlined above, other revisions are being proposed for consistency. The basis for classification is being amended to clarify that producer milk shall be tested for somatic cell count and antibiotics. Additional recognized test methods for somatic cell count are being included and the compliance procedures are changed to conform to current practices. Also, the requirement concerning the appearance of acceptable raw milk has been expanded to require that it be free of excessive coarse sediment when examined visually or by an acceptable test. Such a test as the Sani-Guide would be an acceptable test for determination of "free of excessive coarse sediment." When determining the somatic cell count of producer milk using the Wisconsin Mastitis Test as a screening test, a value of 19 mm is being established. Since the acceptable level for bacterial estimate of producer milk is being lowered, only those test methods that can accurately reflect this level are being specified.

The current milk quality requirements have been in effect since October 10, 1975. With the changes proposed herein, they will continue to aid in the orderly marketing of quality manufacturing grade milk from the approximately 74,000 producers in 30 states. It is the Department's intention to make the proposals effective July 1, 1986.

The Department is proposing parallel revisions in the document "General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service." This document is utilized in the voluntary USDA program to approve plants for official grading service.

All written submissions made pursuant to this notice will be made available for public inspection at the Dairy Division, Agricultural Marketing Service, Washington, D.C. 20250, during regular business hours.

In consideration of the foregoing, it is proposed that the Recommended Requirements for Manufacturing Milk be amended as follows:

1. In section B2, paragraph (l) is revised to read as follows:

Sec. B2. Terms defined.

(l) *Milk.* The term "milk" shall include the following:

(1) Milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows.

(2) Goat milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy goats. Goat milk shall only be used to manufacture dairy products that are legally provided for in 21 CFR or recognized as non-standardized traditional products normally manufactured from goat milk.

(3) The word "milk" used herein includes only milk and goat milk for manufacturing purposes.

2. Section C1 through C3(a) is revised to read as follows:

Sec. C1. *Basis.* The quality classification of raw milk for manufacturing purposes from all individual producers shall be based on the following: organoleptic examination (appearance and odor), quality control tests for sediment content, bacterial estimate, somatic cell count, and antibiotics.

Sec. C2. *Appearance and odor.* The appearance of acceptable raw milk shall be normal and free of excessive coarse sediment when examined visually or by an acceptable test procedure. The milk shall not show any abnormal condition (including, but not limited to curdled, ropy, bloody or mastitic condition), as indicated by sight or other test procedures. The odor shall be fresh and sweet. The milk shall be free from objectionable feed and other off-odors that would adversely affect the finished product.

Sec. C3. *Sediment content classification.* Milk shall be classified for sediment content, regardless of the results of the appearance and odor examination described in Sec. C2, as follows:

The USDA Sediment Standard:

No. 1 (acceptable)—not to exceed 0.50 mg or equivalent.

No. 2 (acceptable)—not to exceed 1.50 mg. or equivalent.

No. 3 (probational, not over 10 days)—not to exceed 2.50 mg. or equivalent.

No. 4 (reject)—over 2.50 mg. or equivalent.

(a) *Method of testing.* Methods for determining the sediment content of the milk of individual producers shall be those described in the latest edition of Standard Methods for the Examination of Dairy Products. Sediment content shall be based on comparison with applicable charts of the United States Sediment Standards for Milk and Milk Products, 7 CFR Part 58, Subpart T, §§ 58.2728 through 58.2732.

3. Section C4 is revised to read as follows:

Sec. C4. *Bacterial estimate classification.* Milk shall be classified for bacterial estimate by one of the following methods:

| Bacterial estimate classification | Direct microscopic count, standard plate count or plate loop count |
|---|---|
| No. 1 | Not over 500,000 per ml. |
| No. 2 | Not over 1,000,000 per ml. |
| Undergrade | Over 1,000,000 per ml. |

4. Section C11 (a) and (d) are revised to read as follows:

Sec. C11. *Abnormal milk.*

(a) Mastitic milk.

(1) A laboratory examination for the presence of somatic cells shall be made on all patrons' milk at least 4 times in each 6-month period at irregular intervals. Samples shall be analyzed at an official laboratory or at a laboratory approved by the State regulatory agency.

(2) A confirmatory test for somatic cells shall be done when a herd sample exceeds any of the following screening test results:

(i) California Mastitis Test—Weak Positive (CMT 1+).

(ii) Modified Whiteside Test—Positive (CMT 1+).

(iii) Wisconsin Mastitis Test—WMT value of 19 mm.

(3) The confirmatory test for somatic cells shall be performed by using one of the following procedures:

(i) Direct Microscopic Somatic Cell Count (Single Strip Procedure). Pyronin Y-methyl green stain shall be used for goat milk.

(ii) Electronic Somatic Cell Count.

(iii) Optical Somatic Cell Count.

(iv) Membrane Filter DNA Somatic Cell Count.

(4) The results of the confirmatory test for somatic cells shall be the official result.

(5) Whenever the confirmatory somatic cell count indicates the presence of more than 1,000,000 somatic cells per ml., the following procedures shall be applied:

(i) The producer shall be notified with a warning of the excessive somatic cell count.

(ii) Whenever two of the last four consecutive somatic cell counts exceed 1,000,000 per ml. the appropriate regulatory authority shall be notified and a written notice given to the producer. This notice shall be in effect so long as two of the last four consecutive samples exceed 1,000,000 per ml.

(6) An additional sample shall be taken after a lapse of 3 days but within 21 days of the notice required in paragraph (a)(5)(ii) of this section. If this sample also indicates a high somatic cell count, the patron's milk shall be rejected until satisfactory compliance is obtained. A temporary permit may be approved by the regulatory agency whenever an additional sample of herd milk is tested and found satisfactory. The producer shall be fully reinstated when three out of four consecutive tests have counts of 1,000,000 or less somatic cells per ml. The samples shall be taken at a rate of not more than two per week on separate days within a 3-week period.

(d) *Pesticides and herbicides.* Composite milk samples should be tested for pesticides and herbicides at a frequency which the regulatory agency determines to be adequate to protect the consumer. The samples shall not exceed established Food and Drug Administration limits.

5. Section D1 (b) and (c) are revised as follows:

Sec. D1. *Health of herd.*

(b) Tuberculin test. The cows shall be located in a Modified Accredited Area, an Accredited Free State, or an Accredited Free Herd as determined by the U.S. Department of Agriculture. The goats shall be located in States meeting the current USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication or an Accredited Free Goat Herd. If the animals are not located in such areas, they shall be tested annually under the jurisdiction of the foresaid program. All additions to the herd shall be from an area or from herds meeting those same requirements.

(c) *Brucellosis test.* The cows shall be located in States meeting Class B status, or Certified-Free Herds, or shall be involved in a milk ring test program or blood testing program under the current USDA Brucellosis Eradication Uniform Methods and Rules. All additions to the herd shall be from a State or from herds meeting these same requirements.

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, and 1090, as amended; 7 U.S.C. 1622, 1624)

Signed at Washington, D.C. on: February 22, 1985.

**William T. Manley,**

*Deputy Administrator, Marketing Programs.*

[FR Doc. 85-4786 Filed 2-26-85; 8:45 am]

BILLING CODE 3410-02-M

## Farmers Home Administration

### Natural Resource Management Guide Meeting; Indianapolis, Indiana

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Farmers Home Administration (FmHA) State Office located in Indianapolis, Indiana, is announcing a public information meeting to discuss its draft Natural Resource Management Guide.

**DATES:** Meeting on March 15, 1985, 10:00 a.m. to 12:00 noon. Comments must be received no later than April 14, 1985.

**ADDRESS:** Meeting location at FmHA Conference Room, 5610 Crawfordsville Road, Suite 1700, Indianapolis, Indiana 46224.

Written Comments and Further Information Will be Addressed To: State Director, FmHA, 5610 Crawfordsville Road, Suite 1700, Indianapolis, Indiana 46224 (317)-248-4449.

All written comments will be available for public inspection during regular work hours at the above address.

**SUPPLEMENTARY INFORMATION:** FmHA's Indiana State Office has prepared a draft Natural Resource Mangement Guide. The Guide is a brief document describing the major environmental standards and review requirements that have been promulgated at the Federal and local levels and that affect the financing of FmHA activities in Indiana. The purpose of the meeting is to discuss the Guide as well as to consider comments and questions from interested parties. Copies of the Guide can be obtained by writing or telephoning the above contact.

Any person or organization desiring to present formal comments or remarks during the meeting should contact FmHA in advance, if possible. It will also be possible at the start of the meeting to make arrangements to speak. Time will be available during the meeting to informally present brief, general remarks or pose questions. Additionally, a 30-day period for the submission of written comments will follow the meeting.

Dated: February 21, 1985.

**David J. Howe,**

*Director, Program Support Staff.*

[FR Doc. 85-4726 Filed 2-26-85; 8:45 am]

BILLING CODE 3410-07-M

## Soil Conservation Service

### Gilmer Township Critical Area Treatment Measure; Illinois

**AGENCY:** Soil Conservation Service.

**ACTION:** Notice of a Finding of No Significant Impact.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental statement is not being prepared for the Gilmer Township Critical Area Treatment Measure, Adams County, Illinois.

**FOR FURTHER INFORMATION CONTACT:** John J. Eckes, State Conservationist, Soil Conservation Service, 301 North Randolph Street, Champaign, Illinois, 61820, Telephone (217) 398-5267.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, John J. Eckes, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns are a critically eroding road ditch, sedimentation, water quality, resource base degradation, and safety. The planned works of improvement include, terraces, grassed waterways, grade stabilization structures, and diversions.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and Local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above

address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting John J. Eckes.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and Local clearinghouse review of Federal and federally assisted programs and project is applicable)

John J. Eckes,

*State Conservationist.*

February 19, 1985.

[FR Doc. 85-4759 Filed 2-26-85; 8:45 am]

BILLING CODE 3410-16-M

## Deer Creek Watershed, OK; Finding of No Significant Impact

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of a finding of no significant impact.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Deer Creek Watershed, Blaine, Caddo, Custer, and Dewey Counties, Oklahoma.

**FOR FURTHER INFORMATION CONTACT:** Roland R. Willis, State Conservationist, Soil Conservation Service, USDA Agricultural Center Building, Stillwater, Oklahoma, 74074, telephone (405) 624-4360.

**SUPPLEMENTARY INFORMATION:** The environmental assessment for this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for erosion control and watershed protection. The planned work includes a combination of sediment basins, grade stabilization structures, diversions, and associated mechanical and vegetative measures.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Roland R. Willis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: February 19, 1985.

**Donald R. Vandersypen,**

*Assistant State Conservationist (WR).*

[FR Doc. 85-4757 Filed 2-26-85; 8:45 am]

BILLING CODE 3410-16-M

# COMMISSION ON CIVIL RIGHTS

## Hawaii Advisory Committee; Agenda and 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 Hawaii Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 6:00 p.m., on March 20, 1985, at the Cooke Office Building, Honolulu, Hawaii. The purpose of the meeting is to receive updated data and general information in followup to the State Advisory Committee's report: *Policy* v. *Results: Affirmative Action in the Hawaii Department of Education.*

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Helen Nagtalonmiller or Philip Montez of the Western Regional Office at (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 21, 1985.

**Bert Silver,**

*Assistant Staff Director for Regional Programs.*

[FR Doc. 85-4739 Filed 2-26-85; 8:45 am]

BILLING CODE 6335-01-M

## Hawaii Advisory Committee; Agenda and 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 Hawaii Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 5:00 p.m. on March 18, 1985, at the Mitchell Center, Pauole Room, Molokai-Kaunakakai, Hawaii. The purpose of the meeting is to receive and review information regarding the present status of implementation of the Hawaiian Homes Land act.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Helen Nagtalonmiller or Philip Montez in the Western Regional Office (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 21, 1985.

**Bert Silver,**

*Assistant Staff Director for Regional Programs.*

[FR Doc. 85-4738 Filed 2-26-85; 8:45 am]

BILLING CODE 6335-01-M

## Hawaii Advisory Committee; Agenda and 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 Hawaii Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 8:00 p.m., on March 21, 1985, at the Ala Moana American Hotel Authurium, 410 Atkinson Drive, Honolulu, Hawaii. The purpose of the meeting is to conduct a public forum for discussing civil rights issues in education, employment and the administration of justice.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Helen Nagtalonmiller or Philip Montez in the Western Regional Office (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 21, 1985.

**Bert Silver,**

*Assistant Staff Director for Regional Programs.*

[FR Doc. 85-4741 Filed 2-26-85; 8:45 am]

BILLING CODE 6335-01-M

### Maryland Advisory Committee; Agenda and 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 Maryland Advisory Committee to the Commission will convene at 2:30 p.m. and will end at 4:30 p.m. on April 16, 1985, at the Saratoga Street Municipal Building, 222 East Saratoga Street, 8th Floor, Baltimore, Maryland. The purpose of the meeting is to provide an orientation for new members and to discuss program plans.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Loretta Johnson or Edward Rutledge of the Mid-Atlantic Regional Office at (202) 254–6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 20, 1985.

**Bert Silver,**

*Assistant Staff Director for Regional Programs.*

[FR Doc. 85–4737 Filed 2–26–85; 8:45 am]

BILLING CODE 6335–01–M

### Missouri Advisory Committee; 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 Missouri Advisory Committee to the Commission will convene at 10:30 a.m. and will end at 3:00 p.m., on March 15, 1985, at the Forest Park Hotel, 4910 West Pine, The Italian Room, St. Louis, Missouri. The purpose of the meeting is to develop program plans and activities for FY 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Franklin M. Freeman or Melvin Jenkins of the Central States Regional Office at (816) 374–5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 20, 1985.

**Bert Silver,**

*Assistant Staff Director for Regional Programs.*

[FR Doc. 85–4742 Filed 2–26–85; 8:45 am]

BILLING CODE 6335–01–M

### Texas Advisory Committee; 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 Texas Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 5:00 p.m. on March 22, 1985, at the Marriott Hotel, 6121 IH 35 North, Salon C, Austin, Texas. The purpose of the meeting is to plan monitoring activities and for State officials to brief members on civil rights enforcement in block grants.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Dr. Denzer Burke or J. Richard Avena of 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., February 20, 1985.

**Bert Silver,**

*Assistant Staff Director for Regional Programs.*

[FR Doc. 85–4736 Filed 2–26–85; 8:45 am]

BILLING CODE 6335–01–M

### Virginia Advisory Committee; 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 Virginia Advisory Committee to the Commission will convene at 4:00 p.m. and will end at 6:00 p.m. on March 11, 1985, at City Hall, Office of the City Council, 301 King Street, Alexandria, Virginia. The purpose of the meeting is to plan Committee activities related to housing discrimination complaints, compliance, and enforcement in the Commonwealth of Virginia.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Curtis Harris or Edward Rutledge of the Mid-Atlantic Regional Office (202) 254–6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 21, 1985.

**Bert Silver,**

*Assistant Staff Director for Regional Programs.*

[FR Doc. 85–4743 Filed 2–26–85; 8:45 am]

BILLING CODE 6335–01–M

### Wyoming Advisory Committee; 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 Wyoming Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 12:00 p.m., on March 9, 1985, at the AFL–CIO Hall meeting room, 1904 Thomes Avenue, Cheyenne, Wyoming. The purpose of the meeting is for an update on Commission activities, a briefing on Wyoming High School Athletics and Title XI and to review plans for future activities.

Persons desiring additional information, or planning a presentation to the committee, should contact Advisory Committee Chairperson Fuji Adachi or William Muldrow of the Rocky Mountain Regional Office at (303) 844–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington D.C., February 20, 1985.

**Bert Silver,**

*Assistant Staff Director for Regional Programs.*

[FR Doc. 85–4735 Filed 2–26–85; 8:45 am]

BILLING CODE 6335–01–M

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Docket No. 3–85]**

### Foreign-Trade Zone 90, Onondaga County, NY; Application for Subzone; Smith-Corona Typewriter Plant, Cortland County, NY; Correction

On February 11, 1985 notice was given (50 FR 5653) concerning the application of Onondaga County, New York. In referring to the product made at the plant in para 3, line 6, the notice is amended to substitute the word "electronic" for the word "electric".

Dated: February 21, 1985.

**John J. Da Ponte, Jr.,**

*Executive Secretary, Foreign-Trade Zones Board.*

[FR Doc. 85–4734 Filed 2–26–85; 8:45 am]

BILLING CODE 3510–DS–M

## International Trade Administration

### Proposed Study of Foreign Country of Origin Markings on Imitation Native American Jewelry and Artifacts

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

**ACTION:** Proposed Study of Foreign Country of Origin Markings on Imitation Native American Jewelry and Artifacts.

**SUMMARY:** This notice describes a proposed study regarding foreign country of origin markings on imitation Native American jewelry and artifacts which are imported into the United States and either sold domestically or exported. Public comment is being requested concerning such imports, domestic sales and exports in order to assist in carry out this study.

Comments: Comments should be submitted by March 29, 1985, to John M. Harris at the address listed below.

**FOR FURTHER INFORMATION CONTACT:** John M. Harris, Room 4312, Office of Consumer Goods, U.S. Department of Commerce, 14th St. and Constitution Ave., NW., Washington, D.C. 20230, (202) 377–1178. This is not a toll free number.

**SUPPLEMENTARY INFORMATION:** The U.S. Congress in its Conference Report 98–1159, accompanying H.J. Res. 648, expressed concern about the importation into the United States, domestic sale and exportation of imitation Native American jewelry and artifacts which lack foreign country of origin markings. The conferees have requested the Department of Commerce, in cooperation with the Secretary of the Treasury and the Chairman of the Federal Trade Commission, to conduct a study and submit a report on this subject by April 15, 1985, to the Appropriations Committees of the House and Senate, the Senate Governmental Affairs Committee, and the House Energy and Commerce Committee.

The Department of Commerce is requesting public comment to help ascertain the extent of this problem. Possible problem areas might include, but are not limited to, importation and domestic sale of imitation Native American Jewelry and artifacts which lack foreign country or origin markings, removal of foreign country of origin markings, and the exportation of mislabeled jewelry and artifacts. Artifacts would include such items as pottery, baskets, rugs, paintings and dolls.

Information submitted in response to this request may be subject to production under the Freedom of Information Act.

Dated: February 21, 1985.

Richard H. Shay,

*Acting General Counsel.*

[FR Doc. 85-4711 Filed 2-26-85; 8:45 am]

BILLING CODE 3510-DR-M

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[A-588-401]

### Calcium Hypochlorite From Japan; Final Determination of Sales at Less Than Fair Value

**SUMMARY:** We have determined that calcium hypochlorite from Japan is being sold in the United States at less than fair value. The United States International Trade Commission (ITC) will determine within 45 days of publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a United States industry.

**EFFECTIVE DATE:** February 27, 1985.

**FOR FURTHER INFORMATION CONTACT:** William D. Kane, Office of Investigations, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 Telephone: (202) 377–1766.

**SUPPLEMENTARY INFORMATION:**

#### Case History

On April 25, 1984, we received a petition filed by Olin Corporation, on behalf of the U.S. industry producing calcium hypochlorite. In compliance with the filing requirements of § 353.36 of our Regulations (19 CFR 353.36), the petition alleged that imports of calcium hypochlorite from Japan are being sold, or are likely to be sold, in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The petition also alleged that critical circumstances exist under section 733(e) of the Act.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 21, 1984 (49 FR 21390). The ITC subsequently found, on June 11, 1984, that there is a reasonable indication that imports of calcium hypochlorite are materially injuring, or are threatening to materially injure, a United States industry.

The petitioner alleged that at least three Japanese companies produce calcium hypochlorite for export to the United States. We found that two of these companies, Nippon Soda (Nisso) and Nissin Denka (Nissin), accounted for 99 percent of imports and 100 percent of sales to the United States during the period of investigation. Questionnaires were presented to these companies in Japan on May 31, 1984. Nissin responded to the questionnaire on June 29, 1984. Nisso responded on July 2, 1984.

On October 2, 1984, we preliminarily determined that calcium hypochlorite from Japan was being, or was likely to be, sold in the United States at less that fair value, and that critical circumstances did not exist (49 FR 39590).

Our notice of preliminary determination provided interested parties an opportunity to submit views orally and in writing. Verifications were conducted at Sakata and Tokyo, Japan at the corporate offices of Nisso, Nissin and Toyo Soda Co., an affiliate of Nissin, on October 16 thru 25, 1984. Further verification of expenses incurred in the U.S. was conducted at the offices of Whitman & Ransom in New York City on November 19, 1984.

On November 15, 1984, we published a notice extending the period for making the final determination until February 21, 1985, at the request of an exporter who accounted for a significant proportion of exports of this merchandise in accordance with section 735(a)(2)(A) of the Act (49 FR 45204).

On December 7, 1984, we held a public hearing.

#### *Scope of Investigation*

The product covered by the investigation is calcium hypochlorite, currently provided for in item 418.2200 of the *Tariff Schedules of the United States, Annotated* (TSUSA).

Since Nisso and Nissin produced and exported approximately 99 percent of the calcium hypochlorite shipped from Japan to the United States during the period of investigation, we limited our investigation to these companies.

We investigated sales of calcium hypochlorite by these respondents during the period from April 1, 1983, to April 30, 1984.

#### *Fair Value Comparison*

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

#### *United States Price*

As provided in section 772 of the Act, we used the purchase price of calcium hypochlorite to represent the United

States price for sales by the Japanese producers because the merchandise was sold prior to the date of importation to unrelated United States purchasers.

We calculated the purchase price on the ex-go-down, FOB, or CIF, duty paid, packed price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, foreign brokerage and handling charges, ocean freight, marine insurance, U.S. Customs duties, and U.S. brokerage and handling charges.

*Nisso*

Sales prices to one customer through a related selling company did not reflect a commission paid to the related company. The prices of these sales were corrected to reflect the full amount charged to the customer.

*Nissin*

Verification revealed that, on certain sales, amounts reported for foreign inland freight, foreign brokerage and handling, and credit expenses were either overstated or understated due to computation errors. Verified amounts were deducted. Amounts for U.S. inland freight for two sales were found to have been borne by the U.S. purchaser. No deductions were made for these amounts.

A quantity of merchandise was found to have been misallocated to the wrong sale. This was corrected, and the quantity has been applied to the correct sale at the proper price. One date of sale was found to the erroneous. We corrected this to reflect the true date.

*Foreign Market Value*

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market FOB factory, C&F, or CIF, packed prices to unrelated purchasers. From these prices we deducted, where appropriate, foreign inland freight, foreign inland insurance and rebates. We adjusted for credit expenses, technical service expenses, advertising expenses, and handling charges in accordance with § 353.15 of the Commerce Regulations. We adjusted for the costs associated with physical differences in merchandise compared in accordance with § 353.16 of the Commerce regulations. We deducted the home market packing cost and added the packing cost incurred on sales to the United States. For comparisons of the granulated product we considered only sales to one customer who is a repackager because these sales were most similar in quantities and level of trade to sales of that product to the United States. We found the volume of sales to that customer to be sufficient for fair value comparisons.

For our preliminary determinations we compared brand-name sales in the United States to sales of identical brand-name products in the home market. We verified that merchandise sold in the home market, with one exception, was identical regardless of brand-name applied. One product sold in the home market was found to be a highly concentrated product, not such or similar to the merchandise under investigation. Sales of this product were not included in our calculations. Therefore, for this final determination we included in our calculations all such or similar products sold in the home market, under whatever brand-name sold.

We disallowed the following claims in calculating foreign market value. Nissin claimed an amount for indirect selling expenses as an offset to indirect selling expenses in the U.S. Since we used purchase price as the basis for United States price, we did not deduct any indirect selling expenses. Nissin's calculations of credit expenses were based on the number of days from the date of shipment to receipt of payment by Nissin. Verification revealed that these calculations did not reflect the actual dates of payment to Nissin's related selling company. An average of the verified numbers of days between shipment and receipt of payment by the related selling company was used to recalculate the amount of credit expense to be deducted.

Nisso claimed an amount for inland freight which included pre-sale freight costs to the warehouses of their branch sales offices. Only that portion reflecting inland freight costs from the sales branch to the customer was allowed. Nisso claimed an amount for technical service expenses which included salaries, benefits and travel expenses of 14 technical service employees. As the salaries and benefits of these employees would have been incurred regardless of sales, only that portion of the claim reflecting travel expenses for customer service was allowed. Nisso claimed deductions for "other rebates." The payments of these amounts to customers could not be verified, and were not allowed. Other rebates reflecting post-sale price adjustments were verified and allowed. Nisso claimed a level of trade adjustment based on differences in indirect selling expenses in the U.S. and home markets. Such an adjustment would have required the unsupported assumption that the indirect selling expenses in one market would have been incurred in the other market if sales at the same level of trade had existed there. This adjustment was not allowed.

*Verification*

In accordance with section 776(a) of the Act, we verified all the information used in making this determination. We were granted access to the books and records of the companies involved. We used standard verification procedures, including examination of accounting records, financial statements and selected documents containing relevant information.

*Critical Circumstances*

We find no history of dumping of calcium hypochlorite from Japan in the United States or elsewhere in the world, nor is there any indication that importers of the merchandise knew or should have known it was being sold at less than fair value. Therefore, we determine that critical circumstances do not exist.

*Results of Investigation*

We made fair value comparisons on all the reported calcium hypochlorite sold in the United States by the two Japanese companies during the investigative period. We found margins on 76.5 percent of sales. The margins ranged from .43 percent to 48.05 percent. The overall weighted average margin on these sales was 12.29 percent.

**Petitioner's Comments**

*Comment 1:* Petitioner claims that Nisso has failed to establish a factual basis upon which a level of trade adjustment can be made based on differences in amounts of indirect selling expenses.

*DOC Position:* The Department agrees. Granting an adjustment would have required the unsupported assumption that the indirect selling expenses incurred in selling to the United States represent the expenses which would have been incurred in Japan if sales at the same level of trade existed there.

*Comment 2:* Petitioner claims that rebates claimed by Nisso, which have not been verified, cannot be allowed.

*DOC Position:* The Department agrees that those amounts claimed as "other rebates," the payment of which could not be verified, cannot be allowed. Rebates in the form of post-sale price adjustments were verified and have been allowed.

*Comment 3:* Petitioner claims that Nisso is not entitled to an adjustment for physical differences between its 65 percent and 70 percent calcium hypochlorite because there is no

physical difference in the end products it sells.

*DOC Positions:* The Department disagrees. The very nature of the "percent" label refers to the physical difference in chlorine content of the two products. Technical information presented in the company's response and cost information reviewed at verification established this difference.

*Comment 4:* Petitioner claims that Nisso has overstated the extent of the adjustment claimed for technical services expenses.

*DOC Position:* The Department agrees that the amount included in this claim for the salaries and welfare benefits of Nisso's technical service personnel cannot be directly related to sales and would have been incurred regardless of sales. Only that portion of the adjustment reflecting travel expenses for after-sale customer services has been allowed.

*Comment 5:* Petitioner claims that Nisso's claimed adjustment for advertising expenses cannot be allowed because Nisso failed to provide English language translations for their advertising in Japan.

*DOC Position:* The Department disagrees. The lack of translations caused the adjustment to be disallowed in our preliminary determination. However, at the time of verification a survey of this advertising, with the assistance of a Department translator, verified its applicability as a circumstance of sale adjustment, since it was directed at ultimate purchasers and could be attributed to later sales of the merchandise in question.

*Comment 6:* Petitioner expressed concern that Nisso's claim for an adjustment for post-sale loading expenses might be the double-counting of an expense included under packing costs.

*DOC Position:* The amounts for post-sale loading expenses were verified as separate and distinct from packing costs through review of the contracts and records of the sub-contractor responsible for this function.

*Comment 7:* Petitioner claims that an affirmative critical circumstances determination should be made because U.S. importers should have known the Japanese producers were dumping their product in the United States by virtue of price reductions and the common knowledge that there is a lack of price competition in the producers' United States and home markets.

*DOC Position:* The Department cannot assess the equation of price reductions to dumping in the minds of importers, nor can't it expect importers to be cognizant of all the market factors infuencing the price policies of foreign producers. At the time of our preliminary determination we felt that the level of margins was not sufficient to imply knowledge of dumping on behalf of the importers. Our final calculations have provided no basis to change that determination.

*Comment 8:* Petitioner claimed that Nisso used two separate short-term interest rates in calculating home market and United States credit expenses.

*DOC Position:* Nisso applied the same interest rate to both home market and United States credit expense calculations. This rate was verified.

*Comment 9:* Petitioner claims that Nissin shows a substantially higher foreign inland freight expense than Nisso, for which there is no apparent basis.

*DOC Position:* The inland freight expenses of both companies were verified individually. While a comparative analysis was not made, at least two factors undoubtedly effect the differences: physical location of the companies, and the fact that Nisso employs a number of strategically located sales and stocking branches from which deliveries are made.

*Comment 10:* Petitioner claims that Nissin's amounts for rebates on home market sales seem excessively high.

*DOC Position:* The amounts claimed as rebates by Nissin were confirmed at the time of verification.

*Comment 11:* Petitioner questions whether a product adjustment for tableting costs does not reflect the double-counting of expenses claimed elsewhere as packing costs.

*DOC Position:* Expenses for the tableting of merchandise were verified apart from packing costs. The tableting operation is distinct in both physical location and cost accountability within the plant.

**Respondents' Comment**

*Nisso Comment 1:* Nisso claims a level of trade adjustment should be allowed to reflect the difference in distribution channels on sales in the home market and to the U.S., respectively. They claim, alternatively, that such an adjustment should be based either on the difference in indirect sales costs between the two markets, or by limiting home market comparison sales to only those sales to their sole repackager/and user customer.

*DOC Position:* As stated in response to petitioner's comment number 1, an adjustment based on differences in indirect selling expenses would not quantify the effect on home market prices of a distribution system which does not exist in the home market. We agree, however, with Nisso's alternate claim that sales to their one customer who is a repackager would more closely approximate the sales quantities and distribution system of sales to the United States where granular product is concerned. We find the volume of sales to this one customer sufficient and have used them for fair value comparisons of granular product sold to the United States.

*Nisso Comment 2:* Nisso claims that certain sales in the home market to their one repackager customer were omitted in the Department's preliminary sales comparision calculations, and should be included in any final determination.

*DOC Position:* At the time of our preliminary determination it was unclear from the product descriptions provided whether certain product codes should properly be included as such or similar merchandise. Pending further clarification of product specifications, these product codes were not incorporated in our preliminary calculations. Thus, the elimination of sales to a particular customer was based not on customer, but on product. At the time of verification such products were found to be such or similar to those sold to the United States, and these sales have been included in our final calculations.

*Final Determination*

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that calcium hypochlorite from Japan is being sold in the United States at less than fair value within the meaning of section 731 of the Act.

*Continuation of Suspension of Liquidation*

Liquidation will continue to be suspended on all entries of calcium hypochlorite from Japan that are entered into the United States, or withdrawn from warehouse, for consumption. The United States Customs Service will continue to require the posting of a cash deposit, bond, or other security in amounts based on the following weighted average margins. The security amounts established in our preliminary determinations of October 2, 1984, will no longer be in effect.

| Company | Weighted-average margin (percent) |
|---|---|
| Nippon Soda Co, Ltd | 20.01 |
| Nissin Denka Co., Ltd | .9 |
| All other manufacturers/producers/exporters | 12.29 |

*ITC Notification*

We are notifying the ITC and making available to it all nonprivileged and nonconfidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping order directing Customs officers to assess an antidumping duty on calcium hypochlorite from Japan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d).

**Alan F. Holmer,**

*Acting Assistant Secretary for Trade Administration.*

February 21, 1985.

[FR Doc 85-4763 Filed 2-26-85; 8:45 am]

BILLING CODE 3510-DS-M

## Applications for Duty-Free Entry of Scientific Instruments; Environmental Protection Agency et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85-079. Applicant: U.S. Environmental Protection Agency, 6201 Congdon Boulevard, Duluth, MN 55804. Instrument: Gas Chromatograph/Mass Spectrometer/Data System, Model 8230. Manufacturer: Finnigan MAT, GmbH, West Germany. Intended use: The instrument is intended to be used for the identification and quantification of anthropogenic chemical residues in biological fluids for analysis of hazardous chemicals in soils, water and fish samples from throughout the United States. Application recieved by Commissioner of Customs: January 29, 1985.

Docket No. 85-083. Applicant: Texas A&M Research Foundation, P.O. Box 3578, College Station, TX 77843. Instrument: Gas Isotope Ratio Mass Spectrometer System Model 251 PM. Manufacturer: Finnigan Corporation, West Germany. Intended use: The instrument will be used to study carbon, oxygen, and sulfur isotope composition of a variety of naturally occurring materials including oils, sediments, gases, seawater, and tissue from organisms. The objectives of the investigation are:

i. Determine the source of hydrocarbons found in the marine environment.

ii. Relate the geochemical properties of sedimentary organic carbon, including isotopic composition, to source and diagenesis.

iii. Determine the extent of hydrocarbon uptake by marine benthic and planktonic macrofauna in selected areas.

iv. Correlate hydrocarbons found in marine sediments.

v. Determine the source of, and fractionation processes associated with the generation of naturally occurring gases and gas hydrates.

In addition, the instrument will be used for educational purposes in Marine Isotope Geochemistry a course to provide an understanding of how stable isotopes may be applied to marine geochemical problems, the assumptions to be made and the limitations of the data. Application received by Commissioner of Customs: February 1, 1985.

Docket No. 85-084. Applicant: University of Wyoming, University Station, Laramie, WY 82071. Instrument: Thermal Ionization Mass Spectrometer, Model IS 117. Manufacturer: VG-Isotopes, Ltd., United Kingdom. Intended use: Isotopic analyses of a wide variety of elements extracted from geologic specimens for the purpose of research in the fields of geochronology, geochemistry, and isotope geology. Experiments will be conducted to obtain accurate and precise crystallization ages and thermal histories of continental crustal rocks and to understand the times and mechanisms involved in producing geochemical variations within the earth's crust and mantle. In addition, the instrument will be used in the upper-level undergraduate and graduate courses, Isotope Geology (GEOL 708), Advanced Geochemistry (GEOL 849) and Geochemical Analytical Methods (GEOL 846D). Application received by Commissioner of Customs: February 1, 1985.

Docket No. 85-085. Applicant: Microelectronics Center of North Carolina, 3021 Cornwallis Road, Research Triangle Park, NC 27709. Instrument: Electron Microscope, Model JEM 200CX with Accessories. Manufacturer: JEOL, Ltd., Japan. Intended use: Experiments involving high resolution studies of semiconductor defects, segregation of dopants, identification of undesirable impurities, electorn beam lithography studies, oxidation studies, silicide formation studies and contact metallurgy, silicon on insulator studies and ion implantation induced defect investigations. The objectives of these investigations are the understanding and development of advanced semiconductor devices by the manipulation of defects and microstructrual characterists and parameters that will allow thieir fabrication. The article will also be used for reeducational purposes in the courses MAT 610 X-ray Diffraction, MAT 615 Electron Microscopy, and MAT 503 Ceramic Microscopy. Application received by Commissioner of Customs: February 4, 1985.

Docket No. 85-087. Applicant: New York Medical College, Biochemistry Department, Valhalla, NY 10595. Instrument: Automatic Recording Spectropolarimeter, Model J-500. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use: Obtain circular dichroism spectra of plasma proteins in experiments to develop quantitative methods of assessing the structure of the plasma proteins, to study subtle changes of the environment of aromatic groups and to compare the predicted and experimental structures. Application received by Commissioner of Customs: February 5, 1985.

Docket No. 85-088. Applicant: Kent State University, Chemistry Department, Williams Hall, Summit Street, Kent, OH 44242. Instrument: Automatic Recording Spectropolarimeter, Model J-500A with Accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use: Studies of optical active polymers and biopolymers such as polynucleotides, polypeptides, and polynucleotide-drug complexes. Circular

dichroism spectra of optical active substances such as nucleic acids, amino acids, proteins, and nucleic acid-drug complexes will be investigated. These studies will be conducted to determine absolute configuration, conformation of molecules and polymers, change of conformation and the interaction between molecules. Application received by Commissioner of Customs: February 5, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Leonard E. Mallas,

*Acting Director, Statutory Import Programs Staff.*

[FR Doc. 85-4767 Filed 2-26-85; 8:45 am]

BILLING CODE 3510-DS-M

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[Case No. 662]

## Goris Christiaan Grandia; Order Temporarily Denying Export Privileges

In the matter of: Goris Christiaan Grandia, individually and doing business as both R. Grandia Project Service B.V., Laurier Strant 59, 1016 PH Amsterdam, The Netherlands and Grandia Project Services GmbH Gudrunstrasse 121, A1100 Vienna, Austria.

The U.S. Department of Commerce (Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Parts 368-399) (1984)) (the Regulations), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Goris Christiaan Grandia, individually and doing business as R. Grandia Project Service B.V. and Grandia Project Services GmbH.

The Department states that its investigation shows that Goris Christiaan Grandia owns both the Netherlands company, R. Grandia Project Service B.V. (Grandia-Netherlands), and its Austrian subsidiary, Grandia Project Services GmbH (Grandia-Austria). The investigation further shows that on October 5, 1984 a shipment of U.S.-origin integrated circuits, destined for Sofia, Bulgaria, was seized at Schipol Airport in the Netherlands. The Department states that its investigation gives it reason to believe: that Grandia-Austria had purchased the equipment in Austria and reexported it to Grandia-Netherlands, without the required reexport authorization from the Department; and that Grandia-Netherlands had then attempted to divert the integrated circuits to Bulgaria, again without the required reexport authorization from the Department.

Based on the representations made by the Department, I find that an order temporarily denying all export privileges to the respondents, and to parties related to them, is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1982)), and the Regulations,[1] and to permit completion of the investigation and of any subsequent judicial or administrative proceeding that might result from the investigation.

Anyone who is now or may in the future be dealing with any of the above-named respondents, or with anyone who is now or may be subsequently named as a related party, in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provision set forth in Paragraph IV.

Accordingly, it is hereby ordered.

I. All outstanding validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) In the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) In the obtaining or using of any validated or general export license or other export control document. (d) In the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) In the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, any respondent or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief and may also request an oral hearing thereon, which, if requested, shall be held before

[1] The authority granted by the Act terminated on March 30, 1984. The Regulations have been continued in effect by Executive Order 12470, 49 FR 13099, April 3, 1984, under the authority of the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (1982)).

the Hearing Commissioner at the earliest convenient date.

VI. This Order is effective immediately. It remains in effect until the conclusion of the investigation and any judicial or administrative proceeding that might be initiated against the respondents as a result of the investigation. A copy of this Order and Parts 387 and 388 of the Regulations shall be served upon each respondent.

Dated: February 21, 1985.

**Thomas W. Hoya,**

*Hearing Commissioner.*

[FR Doc. 85-4766 Filed 2-26-85; 8:45 am]

BILLING CODE 3510-DT-M

## National Oceanic and Atmospheric Administration

### North Pacific Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

**SUMMARY:** The North Pacific Fishery Management Council's Subcommittee on amendments to the Magnuson Fishery Conservation and Management Act (MFCMA), will convene a public meeting to discuss proposed amendments to the MFCMA, March 5, 1985, at the Council's offices, 411 West Fourth Avenue, Suite 2D, Anchorage, AK. For further information contact Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274-4563.

Dated: February 21, 1985.

**Roland Finch,**

*Director, Office of Fisheries Management, National Marine Fisheries Service.*

[FR Doc. 85-4715 Filed 2-26-85; 8:45 am]

BILLING CODE 3510-22-M

### Receipt of Application for Marine Mammal Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name Ms. Susan Shane (P127B).

b. Address 250 Cottini Way, Santa Cruz, California 95060.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Atlantic bottlenose dolphins (*Tursiops truncatus*) Unspecified number.

4. Type of Take: Potential harassment while observing and recording data in order to study the behavioral ecology of the animals.

5. Location of Activity: Sanibel Island, Florida.

6. Period of Activity: 3 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: February 15, 1985.

**Richard B. Roe,**

*Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.*

[FR Doc. 85-4824 Filed 2-26-85; 8:45 am]

BILLING CODE 3510-22-M

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the People's Republic of China

February 22, 1985.

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 February 28, 1985. For further information contact Diana Bass Solkoff, International Trade Specialist (202) 377-4212.

**Background**

On February 28, 1984, a notice was published in the **Federal Register** (49 FR 7272), which established import restraint limits of 38,771,418 square yards for cotton sheeting in Category 313 and 6,211 dozen for men's and boys' wool suit-type coats in Category 433, produced or manufactured in China and exported during the twelve-month period which began on February 28, 1984 and extends through February 27, 1985. Both of these limits are filled.

On December 24, 1984 a further notice was published in the **Federal Register** (49 FR 49879) announcing that, as of January 1, 1985, the Committee for the Implementation of Textile Agreements, in order to prevent market disruption, would direct the U.S. Customs Service, as appropriate, to permit entry into the United States for consumption, or withdrawal from warehouse for consumption, of such goods which were exported during a prior restraint period in excess of the restraint limit at a prescribed rate per month during each of the first five months of the following period. CITA has decided, in the case of imports in Categories 313 and 433, exported from China on and after February 28, 1984, to direct Customs to permit entry in amounts not to exceed 7,754,284 square yards in Category 313 and 1,242 dozen in Category 433 during each of the thirty-day periods beginning on February 28, 1985 and extending through July 27, 1985. The thirty-day periods are stipulated in the letter to the Commissioner of Customs which 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), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff

Schedules of the United States Annotated (1985).

**Ronald I. Levin,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

February 22, 1985.

**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 (U.S.C. 1854), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed, effective on February 28, 1985, to permit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in Categories 313 and 433, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on February 28, 1984 and extended through February 27, 1985 which were in excess of the restraint limits established for that period, the following amounts per thirty day period:

| Category | Amount to be entered per 30-day period |
|---|---|
| 313 | 7,754,234 square yards. |
| 433 | 1,242 dozen. |

The thirty-day periods shall be as follows:

February 28, 1985 through March 29, 1985
March 30, 1985 through April 28, 1985
April 29, 1985 through May 28, 1985
May 29, 1985 through June 27, 1985
June 28, 1985 through July 27, 1985

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 85-4764 Filed 2-26-85; 8:45 am]

BILLING CODE 3510-DR-M

## Establishing an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

February 22, 1985.

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 February 28, 1985. For further information contact Diana Bass Solkoff, International Trade Specialist (202) 377-4212.

### Background

On December 17, 1984 a notice was published in the **Federal Register** (49 FR 48954) which established an import limit for men's and boys' suits of man-made fibers in Category 643, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on November 30, 1984 and extends through February 27, 1985. The notice also stated that the Government of the People's Republic of China is obligated under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, if no mutually satisfactory solution is reached on levels for this category during consultations, to limit its exports during the twelve-month period following the ninety-day consultation period to the following:

| Category | 12-mo. restraint level February 28, 1985—February 27, 1986 |
|---|---|
| 643 | 18,899 dozen. |

The United States Government has decided to control imports of man-made fiber textile products in Category 643 exported during the twelve-month period at the level described above. The United States remains committed to finding a solution concerning Category 643. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register**.

In the event the limit established for the ninety-day period has been exceeded, such excess amounts, if allowed to enter, will be charged to the level 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), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

**Ronald I. Levin,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

February 22, 1985.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,
*Department of the Treasury, Washington, D.C.*

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854) pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 23, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 643, produced or manufactured in the People's Republic of China and exported during the twelve-month period beginning on February 28, 1985 and extending through February 27, 1986, in excess of 18,899 dozen.[1]

Textile products in Category 643 in excess of the 90-day limit which have been exported to the United States during the ninety-day period which began on November 30, 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), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

[1] The level has not been adjusted to account for any imports exported after November 29, 1984.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 85-4765 Filed 2-26-85; 8:45 am]

BILLING CODE 3510-DR-M

## COMMODITY FUTURES TRADING COMMISSION

### Agricultural Advisory Committee Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(a) and 41 CFR 101-6.1-15(b), that the Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, D.C., headquarters located at Room 532, 2033 K Street, N.W., Washington, D.C. 20581, on March 14, 1985 beginning at 9:30 a.m. and lasting until 4:00 p.m. The agenda will consist of:

Agenda

1. Welcoming Remarks, Introduction of Commissioners West, Seale and Davis—Susan M. Phillips, Chairman, CFTC.
2. Introduction of Committee Members, Discussion of Goals of Committee—Kalo A. Hineman, Chairman of the Advisory Committee and Commissioner, CFTC.
3. Briefing on the Functions of the CFTC—Staff of CFTC Divisions of Economic Analysis, Trading and Markets, Enforcement.
4. Discussion of Agricultural Trade Options.
5. Discussion of CFTC Proposed Rules on Audit Trails for Futures and Options Transactions.
6. Scheduling and Organization of Future Committee Meetings.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on agricultural issues. The purposes and objectives of the Advisory Committee are more fully set forth in the January 29, 1985 amended charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Kalo A. Hineman, 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 to the attention f: The Commodity Futures Trading Commission Agricultural Advisory Committee c/o Charles O. Conrad, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should also inform Mr. Conrad in writing at the latter address at least three business days before the meeting. Reasonable provision will be made, if time permits for an oral presentation of no more then five minutes each in duration.

Issued by the Commission in Washington, D.C. on February 22, 1985.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 85-4732 Filed 2-26-85; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, April 2, 1985, Tuesday, April 9, 1985; Tuesday, April 16, 1985 and Tuesday, April 23, 1985 and Tuesday, April 30, 1985 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Installations and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privleged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy and Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, D.C. 20301.

**Patricia H. Means,**

*OSD Federal Register Liaison Officer, Department of Defense.*

February 22, 1985.

[FR Doc. 85-4717 Filed 2-26-85; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### Federal Acquisition Regulation; Information Collection Activities Under OMB Review

**AGENCY:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulations (FAR) Secretariat plans to request the Office of Management and Budget (OMB) to review and approve an extension of a currently approved information collection.

**ADDRESSES:** Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Victoria Moss, Office of Federal Acquisition and Regulatory Policy, 202-523-4799.

**SUPPLEMENTARY INFORMATION:**

a. *Purpose:* This request covers all recordkeeping and information collection requirements in the FAR that have not yet been submitted to OMB for approval, primarily FAR Part 27, Patents, Data, and Copyrights, and FAR Part 30, Cost Accounting Standards.

b. *Annual reporting burden:* This is estimated as follows: Respondents 11,000; recordkeepers, 10,000; responses 3,000; and reporting and recordkeeping hours 33,000.

Obtaining copies of proposals: Requestors may obtain copies from the FAR Secretariat (VR), Room 4041, GS Building, Washington, DC 20405, telephone 202–523–4755. Please cite OMB Control No. 9000–0063.

Dated: February 21, 1985.

Roger M. Schwartz,

*Director, FAR Secretariat.*

[FR Doc. 85–4704 Filed 2–26–85; 8:45 am]

BILLING CODE 6820–61–M

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## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services

### Rehabilitation Training Program; Discretionary Grant Programs Under the Rehabilitation Act of 1973, as Amended; Application Notice Establishing Closing Dates for Transmittal of Fiscal Year 1985 New Applications

**AGENCY:** Department of Education.

**ACTION:** Application notice establishing closing dates for transmittal of Fiscal Year 1985 new applications.

**SUMMARY:** The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new projects under certain grant programs awarded by the Department of Education under the Rehabilitation Act of 1973, as amended.

#### Organization of Notice

This notice covers certain discretionary grant programs administered by the Rehabilitation Services Administration within the Department of Education under which there will be competition for new projects in Fiscal Year 1985.

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

#### Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

*Transmittal of applications:* Applications for all projects must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

*Applications Delivered by Mail:* Except where otherwise specified immediately below and in the individual program announcements, applications for new projects sent by mail must be addressed to the Department of Education, Application Control Center, Attention: (Appropriate CFDA No.) 400 Maryland Avenue, SW., Washington, D.C. 20202.

**Note.**—Applicants for programs under 84.129D (Rehabilitation Continuing Education Program) and 84.129Z (State Vocational Rehabilitation Unit In-Service Training Program) are required to send applications to the Regional Offices of the U.S. Department of Education. The individual program announcements for these programs specifically direct applicants to transmit applications to the appropriate Regional Office. In these cases, applications must be mailed or hand delivered to, or for further information contact should be made with, the appropriate individual at the address below:

**Region I**

Mr. John Szufnarowski, RSA Regional Commissioner, Department of Education, OSERS, John F. Kennedy Federal Building, Room E–400, Boston, Massachusetts 02203, Telephone: (617) 223–6820

**Region II**

Mr. Richard C. Englehardt, RSA Regional Commissioner, Department of Education, OSERS, 26 Federal Plaza, Room 4106, New York, New York 10278, Telephone: (212) 264–4016

**Region III**

Dr. Ralph N. Pacinelli, RSA Regional Commissioner, Department of Education, OSERS, 3535, Market Street, Room 3550, Philadelphia, Pennsylvania 19101, Telephone: (215) 596–0317

**Region V**

Mr. Terry Conour, Acting RSA Regional Commissioner, Department of Education, OSERS, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606, Telephone: (312) 353–5372

**Region VI**

Mr. Robert L. Davis, RSA Regional Commissioner, Department of Education, OSERS, 1200 Main Tower Building, Room 1400, Dallas, Texas 75202, Telephone: (214) 767–2961

**Region VII**

Mr. Isaac K. Johnson, RSA Regional Commissioner, Department of Education, OSERS, 324 E. 11th Street, 11 Oak Building, 10th Floor, West, Kansas City, Missouri 64106, Telephone: (816) 374–2381

**Region VIII**

Mr. James Ballantyne, RSA Regional Commissioner, Department of Education, OSERS, Federal Office Building, Room 982, 1961 Stout Street, Denver, Colorado 80294, Telephone: (303) 844–2135

**Region IX**

Mr. Anthony S. DeSimone, RSA Regional Commissioner, Department of Education, OSERS, Federal Office Building, Room 480, 50 United Nations Plaza, San Francisco, California 94102, Telephone: (415) 556–7333

**Region X**

Dr. William J. Bean, RSA Regional Commissioner, Department of Education, OSERS, 2901 Third Avenue, Room 120, Seattle, Washington 98121, Telephone: (206) 442–5331

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

*Applications Delivered by Hand:* An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

OR

to the appropriate Regional Office at the address given above.

The Application Control Center will accept hand delivered applications between 8:30 a.m. and 4:30 p.m. (Washington, D.C. time) daily, execpt Saturdays, Sundays and Federal holidays.

The Regional Offices will accept hand delivered applications between 8:30 a.m. and 4:30 p.m. (local time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted by the Application Control Center (or, where applicable, the appropriate Regional Office) after 4:30 p.m. on the closing date.

*Available funds:* In each program announcement under the paragraph on availability of funds, these estimates of funding levels do not bind the Department to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

**Part I—Programs Listed in Chronological Order**

| CFDA No. and program | Closing date |
|---|---|
| 84.129, Rehabilitation Long-Term Training Program. | Apr. 29, 1985. |
| 84.129D, Rehabilitation Continuing Education Program. | Apr. 29, 1985. |
| 84.129Z, State Vocational Rehabilitation Unit In-Service Training Program. | Apr. 29, 1985. |

**Part II—Application Announcements for Each Program**

*84.129—Rehabilitation Long-Term Training Program*

Closing date: April 29, 1985.

New Projects

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

The purpose of the Rehabilitation Long-Term Training Program is to support projects designed for training personnel available for employment in public or private agencies involved in the rehabilitation of severely physically and mentally disabled individuals, especially those who are the most severely disabled.

Historically Black colleges and universities are encouraged to participate in this program.

Applicants are notified that the Secretary will be collecting data to enable him, in accordance with the Rehabilitation Amendments of 1984 (Pub. L. 98–221), to target more closely awards made in future years to areas of personnel shortages.

*Available funds:* It is estimated that $4,337,000 will be available for Rehabilitation Long-Term Training Program new projects in the categories listed below in Fiscal Year 1985. The range of funded projects is expected to be from $15,000 to $175,000.

It is estimated that the following funds will be available for new projects in these Rehabilitation Long-Term Training Program categories:

| | Dollars (rounded) |
|---|---|
| Rehabilitation Medicine | $1,061,000 |
| Prosthetics-Orthotics | 474,000 |
| Vocational Evaluation and Work Adjustment | 144,000 |
| Rehabilitation Nursing | 123,000 |
| Physical Therapy | 282,000 |
| Occupational Therapy | 178,000 |
| Rehabilitation of the Blind | 462,000 |
| Rehabilitation of the Deaf | 385,000 |
| Job Development and Job Placement | 383,000 |
| Rehabilitation of the Mentally Ill | 455,000 |
| Undergraduate Education in the Rehabilitation Services | 107,000 |
| Other | 273,000 |
| Total | 4,337,000 |

These long-term training categories are included in the list of training fields set forth in the program regulations in 34 CFR 386.1 and are considered annual funding priorities in accordance with 34 CFR 75.105(b)(2)(ii).

*Application forms:* Application forms and program information packages for new awards are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW. (Mary E. Switzer Building, Room 3329–M/S 2312), Washington, D.C. 20202.

Application forms and program information packages will be mailed to grantees who are completing rehabilitation long-term training projects during the 1984–1985 academic year.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the applications for new awards not exceed 25 pages in length. The Secretary further urges that only the information required be submitted.

(Approved by the Office of Management and Budget under control number 1820–0018)

*Applicable regulations:* Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Long-Term Training Program (34 CFR Parts 385 and 386); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

*Further information:* Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW. (Mary E. Switzer Building, Room 3319–M/S 2312), Washington, D.C. 20202. Telephone: (202) 732–1352.

*84.129D—Rehabilitation Continuing Education Program*

Closing date: April 29, 1985.

New Projects (Regions I, II, III, VI, VII, VIII, IX and X)

Authority for this program is contained in section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support training centers that serve either a Federal region or another multi-State geographical area and provide for a broad integrated sequence of training activities that focus on meeting recurrent training needs of rehabilitation personnel employed in public and nonprofit programs providing rehabilitation services to severely physically and mentally disabled individuals

*Available funds:* The total amount of funds available for rehabilitation training in Fiscal Year 1985 is $22,000,000. Of this approximately $1,693,281 is available under the Rehabilitation Continuing Education Program, for the support of new projects in Regions I, II, III, VI, VII, VIII, IX and

X. In order to achieve a geographical distribution of projects as provided for in 34 CFR 385.33, funds will be distributed for the support of new projects under this program in Fiscal Year 1985 as follows:

| | |
|---|---|
| Region I | $188,846 |
| Region II | 215,353 |
| Region III | 254,904 |
| Region VI | 251,238 |
| Region VII | 225,920 |
| Region VIII | 170,939 |
| Region IX | 213,098 |
| Region X | 172,963 |
| Total | 1,693,281 |

*Applications forms:* Application forms and program information packages will be mailed to grantees who are completing Rehabilitation Continuing Education Programs during Fiscal Year 1984. Additional forms and instructions may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW. (Mary E. Switzer Building, Room 3329-M/S 2312), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1820-0018)

All applicants for new projects under this program must submit their applications to the appropriate Regional Office

*Applicable Regulations:* Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Continuing Education Program (34 CFR Parts 385 and 389); and

(b) Education Department General Administration Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

*Further information:* Appropriate RSA Regional Commissioner and addresses are listed above in this notice.

*84.129Z—State Vocational Rehabilitation Unit In-Service Training Program*

Closing Date: April 29, 1985.

New Projects (Regions I, II, III, V, VI, VII, VIII, IX and X)

Authority for this program is contained in section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support special projects for training personnel employed by State vocational rehabilitation units in program areas essential to the effective management of the State unit program of vocational rehabilitation services or in skill areas which will enable State unit personnel to improve their ability to provide vocational rehabilitation services to severely disabled individuals.

*Available funds:* The total amount of funds available for rehabilitation training in Fiscal Year 1985 is $22,000,000. Of this amount approximately $2,098,242 will be available for the support of new projects under the State Vocational Rehabilitation Unit In-Service Training Program in Regions I, II, III, V, VI, VII, VIII, IX and X in Fiscal Year 1985.

In order to achieve a geographical distribution of projects as provided for in (34 CFR 385.33), funds for new projects under this program are expected to be distributed in Fiscal Year 1985 to the following Federal Regions:

| | |
|---|---|
| Region I | $224,469 |
| Region II | 236,212 |
| Region III | 370,917 |
| Region V | 196,870 |
| Region VI | 335,932 |
| Region VII | 187,951 |
| Region VIII | 155,095 |
| Region IX | 243,831 |
| Region X | 146,965 |
| | 2,098,242 |

*Application forms:* Application forms and program information packages will be mailed to grantees who are completing State Vocational Rehabilitation Unit In-Service Training projects during Fiscal Year 1984.

Additional forms and program information packages for new awards are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW. (Mary E. Switzer Building, Room 3329-M/S 2312), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that only the information required be submitted.

(Approved by the Office of Management and Budget under control number 1820-0018)

All applicants for new projects under this program must submit their applications to the appropriate Regional Office.

*Applicable regulations:* Regulations applicable to this program include the following:

(a) Regulations governing the State Vocational Rehabilitation Unit In-Service Training Program (34 CFR Parts 385 and 388); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

*Further Information:* Appropriate RSA Regional Commissioners and addresses are listed above in this notice.

(Catalog of Federal Domestic Assistance No. 84.129 Rehabilitation Training)

Dated: February 22, 1985.

**William J. Bennett,**

*Secretary of Education.*

[FR Doc. 85-4811 Filed 2-26-85; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 7771-001]**

### Big Sage Associates; Surrender of Preliminary Permit

February 22, 1985

Take notice that Big Sage Associates, Permittee for the Randall L. Rigby Hydropower Project, FERC No. 7771, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 7771 was issued on June 7, 1984, and would have expired on November 30, 1985. The project would

have been located on Rattlesnake Creek, in Modoc County, California.

The Permittee filed the request on February 1, 1985, and the preliminary permit for Project No. 7771 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

**Kenneth F. Plumb,**

*Secretary.*

[FR 85-4795 Filed 2-26-85; 8:45 am]

BILLING CODE 6717-01-M

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**[Project No. 8029-001]**

## CFS Hydroelectric Associates; Surrender of Preliminary Permit

February 22, 1985

Take notice that CFS Hydroelectric Associates, Permittee for the proposed Burk Childers Project No. 8029, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 19, 1984, and would have expired on November 30, 1985. The project would have been located on Long Ravine, a tributary of the West Branch Feather River, near Stirling City, in Butte County, California.

The Permittee filed the request on February 1, 1985, and the preliminary permit for Project No. 8029 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

**Kenneth F. Plumb,**

*Secretary.*

[FR 85-4797 Filed 2-26-85; 8:45 am]

BILLING CODE 6717-01-M

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**[Project No. 8002-001]**

## CFS Hydroelectric Associates; Surrender of Preliminary Permit

February 22, 1985.

Take notice that CFS Hydroelectric Associates, Permittee for the Gabrielle Parkinson Hydroelectric Project, FERC No. 8002, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8002 was issued on July 31, 1984, and would have expired on December 31, 1985. The project would have been located on Indian Valley Creek, in Trinity County, California.

The Permittee filed the request on February 1, 1985, and the preliminary permit for Project No. 8002 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 85-4798 Filed 2-26-85; 8:45 am]

BILLING CODE 6717-01-M

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**[Project No. 8205-001]**

## CFS Hydroelectric Associates; Surrender of Preliminary Permit

February 22, 1985.

Take notice that CFS Hydroelectric Associates, Permittee for the proposed Janis Childers Project No. 8205, has requested that its preliminary permit be terminated. The preliminary permit was issued on November 13, 1984, and would have expired on April 30, 1986. The project would have been located on Sulphur Creek, near Paskenta, in Tehama County, California.

The Permittee filed the request on February 1, 1985, and the preliminary permit for Project No. 8205 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 85-4799 Filed 2-26-85; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. CP84-456-001, et al.]**

## Columbia Gas Transmission Corp. et al; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission.

### 1. Columbia Gas Transmission Corporation

[Docket No CP84-456-001]

Take notice that on January 30, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-456-001 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to continue to transport natural gas on behalf of Vulcan Materials (Vulcan) under the certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia proposes to continue to transport gas to Vulcan's Old Street plant in Ohio and its Pittsburgh, Pennsylvania, plant through June 30, 1985, under the same terms as authorized in Docket No. CP84-456-000 under the prior notice procedure by notice issued June 8, 1984.

Columbia also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Vulcan. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Columbia would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportaton quantities herein not to increase those quantities.

Comment date: April 8, 1985, in accordance with Standard Paragraph G at the end of this notice.

### 2. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-242-000]

February 20, 1985.

Take notice that on January 23, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-242-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Georgia-Pacific Corporation (Georgia-Pacific), a low priority end-user, under the certificate issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file

with the Commission and open to public inspection.

Northern states that the proposed transportation service would be performed on an interruptible basis, in accordance with the gas transportation agreement dated October 26, 1984, for a term not to extend beyound June 30, 1985, and pursuant to the requirements of § 157.209(b)(2) and 157.205(b) of the Commission's regulations. The estimated volumes to be transported during the term of service are stated to be 2,000 Mcf on a peak day, 1,200 Mcf on an average day, and 432,000 Mcf on an annual basis. Northern submits that, under a gas purchase contract dated October 22, 1984, the subject gas would be purchased by Georgia-Pacific from Williams Gas Supply Company, an eligible seller, and would be used as 100 percent process and boiler fuel at Georgia-Pacific's paper mill.

It is stated that Georgia-Pacific would deliver or cause delivery of gas to Norther at the existing interconnection between Northern and Northwest Central Pipeline Company in Barton County, Kansas. Commencing with said deliveries, Northern proposes to transport equivalent Btu's to Georgia-Pacific at the existing interconnection between Northern and Panhandle Eastern Pipe Line Compahy (PEPL) in Kiowa County, Kansas (Northern Delivery Point). As further stated, PEPL transports the gas to an existing interconnection between PEPL and Central Illinois Public Service Company (CIPS) in Christian County, Illinois, for direct delivery by CIPS to Georgia-Pacific at its paper mill located in Taylorville, Illinois.

Northern proposes to charge Georgia-Pacific 2.88 cents per Mcf for gas transported on Northern's system and delivered at the Northern Delivery Point (71 miles back-haul and 5 miles of forward-haul). Northern submits that its rate for the transportation service is derived from Rate Schedule EUT-1 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 (4.65 cents per Mcf per 100 miles of forward-haul plus 1 cent per Mcf for general and administrative expenses).

Northern further states that transportation commenced on October 30, 1984, for a term not to exceed 120 days.

Comment date: April 8, 1985, in accordance with Standard Paragraph G at the end of this notice.

**3. Transcontinental Gas Pipe Line Corporation; Northern Natural Gas Company, Division of InterNorth, Inc.; Northern Natural Gas Company, Division of InterNorth, Inc.; Transcontinental Gas Pipe Line Corporation**

[Docket Nos. CP81-75-007, CP85-247-000, CP85-248-000, CP85-249-000, CP85-250-000.]

February 20, 1985.

Take notice that on January 25, 1985, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, and Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 67102, filed in Docket No. CP81-75-007, a joint petition to amend the Commission's order issued September 30, 1981, in Docket No. CP81-75-000 pursuant to section 7(c) of the Natural Gas Act so as to authorize a modification of an existing gas exchange, all as more fully set forth in the petition to amend which is on file and open to public inspection. On January 25, 1985, Northern filed in Docket No. CP85-247-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing acquisition of Transco's interest in certain pipeline lateral and appurtenant facilities and operations and transportation of natural gas for Transco in the offshore Texas area, all as more fully set forth in the application which is on file and open to public inspection. On January 25, 1985, Transco filed in Docket Nos. CP85-248-000, CP85-249-000, and CP85-250-000 applications pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to Northern certain pipeline lateral and appurtenant facilities in the offshore Texas area as well as to abandon two related transportation services performed for Northern involving offshore reserves, all as more fully set forth in the applications which are on file and open to public inspection.

In Docket No. CP81-75-007, Transco and Northern jointly request amendment of the order issued September 30, 1981, as amended August 16, 1983, and May 11, 1984, to increase the firm exchange quantity of gas to 75,000 Mcf per day, and to add Northern's gas in South Pelto Blocks 8 and 13 and Vermilion Block 331, offshore Louisiana, as new sources under the exchange. It is stated that the points of exchange in connection with the South Pelto 8 and 13 gas would be Ship Shoal Blocks 65 and 70, offshore Louisiana, and the exchange point for the Vermilion 331 gas would be South Marsh Island Block 66, offshore Louisiana. It is further stated that the proposed changes in the exchange are related to a March 19, 1984, agreement to buy and sell between Northern and Transco wherein Transco has agreed to sell and Northern has agreed to purchase Transco's ownership interest in the Mustang Island Block 758 lateral (the 758 lateral), a part of the Matagorda Offshore Pipeline System (MOPS). Transco and Northern explain that at such time as Transco has paid certain transportation charges equal to the price Northern pays for the purchase of Transco's interest in the 758 lateral, Transco and Northern herein request authority to add Mustang Island 758 and Vermilion 331 as points of exchange and to delete Matagorda Island 686 and South Marsh Island Block 66 as points of exchange.

In Docket No. CP85-247-000, Northern proposes to acquire Transco's 37.8787 percent interest in the 758 lateral, a 16.7-mile 24-inch pipeline lateral which extends from Mustang Island Block 758 to an interconnection with the mainline of MOPS in Matagorda Island 686. Northern states that the acquisition would be consistent with its desire, as operator of MOPS and its major connecting laterals, to own an interest in the 758 lateral which is roughly equivalent to its majority ownership interest in the remainder of MOPS. In connection with the acquisition Northern also proposes to transport natural gas for Transco in the 758 lateral which Transco fomerly transported by means of its ownership interest in the 758 lateral and to abandon such transportation service once aggregate transportation charges paid by Transco to Northern equal the purchase price paid by Northern to Transco for its interest in the 758 lateral.

In Docket No. CP84-248-000, in an application complementary to that in Docket No. CP85-247-000, Transco proposes to abandon by sale to Northern its 37.8787 percent interest in the 758 lateral. It is stated that Transco, along with Northern, Southern Natural Gas Company, and Florida Gas Transportation Company, was authorized by order issued September 30, 1981, in Docket No. CP81-215-000 to construct and operate the 758 lateral. It is further stated that the abandonment by sale would be in accordance with a March 19, 1984, agreement to buy and sell between Northern and Transco.

In Docket Nos. CP85-249-000 and CP85-250-000, Transco proposes to abandon two firm transportation services performed for Northern; the former, it is stated, a service from Ship Shoal Blocks 65 and 70 to an interconnection between Transco and

Columbia Gulf Transmission Company (Columbia Gulf) in Terrebonne Parish, Louisiana (or certain alternative redelivery points) and the latter, a service from Vermilion 331 to the Terrebonne Parish interconnection of Transco and Columbia Gulf (or certain alternative redelivery points). The former service, it is stated, covers firm transportation of 12,000 Mcf of gas per day as authorized in Docket No. CP79–297, and the latter service covers firm transportation of 8,700 Mcf of gas per day as authorized in Docket No. CP79–282.

It is further stated that as part of the consideration for Northern's agreeing to acquire Transco's interest in the 758 lateral, Transco has agreed to convert certain existing transportation arrangements to exchange arrangements upon approval by the Commission of the entire transaction and the completion of the sale of Transco's interest in the 758 lateral to Northern. The subject applications for authorization to abandon transportation services for Northern are part of the implementation of such conversion from transportation arrangements to exchange arrangements. In such connection, as noted above, it is indicated that Transco and Northern have filed a joint petition to amend the certificate in Docket No. CP81–75–000 to revise the points of exchange thereunder from time to time. It is stated that among other things, such petition requests authority to add Ship Shoal Blocks 65 and 70 and Vermilion 331 as new exchange points under such exchange arrangement, thereby replacing the transportations services proposed to be abandoned in the subject applications.

It is further stated that Transco requests that the abandonment of transportation services sought by the subject applications be effective as of the closing of the sale of Transco's interest in the 758 lateral to Northern.

This notice should not be construed as consolidating the proceedings in these dockets.

Comment date: March 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

**4. Texas Gas Transmission Corporation**

[Docket No. CP85–265–000]

February 20, 1985.

Take notice that on February 5, 1985, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP85–265–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate two sections of pipeline facilities necessary to connect reserves committed to Texas Gas under a gas purchase contract with Pel-Tex Oil Company, Inc., in the Deep Saline Field, Terrebonne Parish, Louisiana, under the certificate issued in Docket No. CP82–407–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to construct and operate 11.86 miles of 10¾-inch O.D. pipeline and 2,150 feet of 6⅝-inch O.D. pipeline to be located in Terrebonne Parish, Louisiana. It is explained that such facilities would interconnect with Texas Gas's existing Caillou Bay—Dog Lake 8-inch pipeline located in Terrebonne Parish, Louisiana, and are necessary to attach new gas reserves in the Deep Saline Field, Terrebonne Parish, Louisiana. Texas Gas states that the total estimated cost of the two pipeline sections is $5,700,000 and that the cost would be financed from funds on hand.

Comment date: April 8, 1985, in accordance with Standard Paragraph G at the end of this notice.

**5. Columbia Gas Transmission Corporation; Columbia Gulf Transmission Company**

[Docket No. CP85–257–000]

February 21, 1985.

Take notice that on January 29, 1985, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, hereinafter referred to jointly as Applicants, filed in Docket No. CP85–257–000 a request pursuant to § 157.205 of the Commission's regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Celanese Corporation, Celanese Fibers Operations Division (Celanese), under their certificates issued in Docket Nos. CP83–76–000 and CP83–496–000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in their request on file with the Commission and open to public inspection.

Applicants propose to transport up to 4.5 billion Btu equivalent of natural gas per day on behalf of Celanese through June 30, 1985. It is stated that Columbia Gulf would receive the quantities at existing points of receipt in Lousiana and redeliver to Columbia Transmission which would redeliver to Columbia Gas of Virginia, Inc., the distribution company serving Celanese.

It is stated that the transportation quantities would be used by Celanese in its Narrows, Virginia plant as fuel in its boilers and its anhydride furnaces.

Columbia Transmission states that it would charge rates set forth in its Rate Schedule TS–1; Columbia Gulf states that it would charge rates set forth in its Rate Schedule T–2. Further, Columbia Transmission states that it would retain 2.43 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas as set forth in TS–1; Columbia Gulf states that it would retain the applicable percentage as set forth in T–2.

Applicants also request flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by Vulcan. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points in the market area. Applicants would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein not to increase those quantities.

Comment date: April 9, 1985, in accordance with Standard Paragraph G at the end of this notice.

**6. Transcontinental Gas Pipe Line Corporation**

[Docket No. CP85–256–000]

February 20, 1985.

Take notice that on January 29, 1985, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CPO85–256–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide a transportation service and the operation of an existing tap for Conoco Inc. (Conoco), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that purusant to a transportation agreement dated December 10, 1984, with Conoco, Applicant proposes to transport up to a dt equivalent of 30,000 Mcf of natural gas per day which are produced from Conoco's own gas reserves in West Cameron Block 66, offshore Lousiana. It is explained that Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), would transport such gas to the existing points

of interconnection between the facilities of Applicant and Tennessee at Kinder, Allen Parish, Louisiana (Kinder), and at Crowley, Acadia Paish, Louisiana (Crowley). Applicant states that it would receive such quantities at Kinder and Crowley and would deliver thermally equivalent quantities, less a percentage for gas lost and unaccounted for and fuel and less a reduction in volume and thermal content due to processing, if any, to Longhorn Pipeline Company (Longhorn), an intrastate pipeline which is a wholly-owned subsidiary of Conoco, for Conoco's account at the Victoria plant of E.I. duPont de Nemours & Company (duPont), an affiliate of Conoco, in Victoria County, Texas.

It is stated that, initially, Applicant would charge 6.81 cents per dt equivalent of gas for this transportation service but would retain none of the gas received by Applicant for compressor fuel or line loss make-up. Applicant states that such rate is based on the standard minimum charge for transportation with Applicant's production area, approved by the Commission in Docket No. RP83-30, plus 1.21 cents per dt equivalent for collection of the Gas Research Institute surcharge.

It is stated that the transportaion agreement would remain in force for a primary term of 15 years from the date of initial delivery of gas.

It is further stated that pending certificate authorization herein, Applicant began transporting natural gas produced from Conoco's reserves in West Cameron Block 66 on behalf of Longhorn pursuant to Subpart B of Part 284 of the Commission's regulations. Applicant states that it installed an 8-inch tap on Applicant's 26-inch mainline at approximate milepost 200.1 Victoria County, Texas, to be used solely for such Part 284 transportation. Additionaly, Applicant seeks authorization to operate this existing tap for this transportation service on behalf of Conoco.

Comment date: March 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

### 7. Columbia Gas Transmission Corporation

[Docket No. C85-212-001]

February 20, 1985.

Take notice that on February 8, 1985, Columbia Gas Transmission Corporation (Columbia) 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP 85-212-001 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain storage facilities in Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia requests authorization for the abandonment of Well No. N-647 in the Heard storage field in Washington County, Pennsylvania, because the well has deteriorated to the point where it is no longer useful. Columbia also requests authorization for the abandonment of Well No. 4057 and 0.1 mile of 4-inch associated well line in the Majorsville storage field in Greene County, Pennsylvania, because the well was damaged by a landslide. It is stated that this well was plugged on January 6, 1984, because it was necessary to plug the well immediately following the damage and before plugging became impossible.

Columbia states that it would operate the two storage fields without replacements for the facilities proposed for abandonment. It is stated that if replacement facilities become necessary for turnover and/or peak day deliverability, Columbia would request authorization at that time for replacement wells and well line. It is further stated that the proposed abandonment of facilities would result in no termination of service for Columbian's existing customers.

Comment date: March 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

### 8. Florida Gas Transmission Company

[Docket No. CP85-255-000]

February 20, 1985.

Take notice that on January 29, 1985, Florida Gas Transmission Company (FGT) P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP85-255-000 an application pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing FGT to provide a transporation service for the account of Conoco, Inc. (Conoco), all as more fully set forth in the application on file with the Commission and open for public inspection.

FGT states that Conoco has developed certain supplies of natural gas attributable to its interest in West Cameron Block 66 field area, offshore Louisiana, and was authorized in Docket No. CP84-30-000 to have said reserved quantities transported by Tennessee Gas Transmission Company, division of Tenneco Inc. (Tennessee), for Conoco's account. FGT states that pursuant to a November 19, 1984, transportation agreement (transportation agreement), FGT proposes to receive up to 20 billion Btu of gas per day for Conoco's account from Tennessee at an existing point of interconnection between the facilities of FGT, Tennessee and Transcontinental Gas Pipe Line Corporation (Transco) in Calcasieu Parish, Louisiana, and transport and deliver these quantities of gas to Longhorn Pipeline Company (Longhorn) for Conoco's account at an existing point of interconnection between the facilities of FGT and Longhorn in Jefferson County, Texas.

The transportation agreement is for a term of ten years and year to year thereafter until terminated by either party. FGT proposes to charge Conoco 12.6 cents per million Btu delivered at the existing point of interconnection in Jefferson County, Texas, it is stated.

Comment date: March 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 85-4794 Filed 2-26-85; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TA85-2-51-000 and TA85-2-51-001]**

## Great Lakes Gas Transmission Co.; Revised Tariff Filing

February 21, 1985.

Take notice that on February 19, 1985, Great Lakes Gas Transmission Company (Great Lakes) revised its tariff filing of January 31, 1985 in order to reflect the action of the Canadian Government on February 15, 1985, approving a reduction in Great Lakes' purchased gas cost related to volumes of gas for resale to Natural Gas Pipeline Company of America (Natural). Great Lakes commenced deliveries to Natural on February 15, 1985. In order to implement the reduced cost of gas for Natural, Great Lakes is filing Substitute Forty-Ninth Revised Sheet No. 57, with a proposed effective date of February 15, 1985. Great Lakes also requests any necessary waivers of Commission regulations to permit the above effective date. Great Lakes states that the Canadian National Energy Board has disapproved Great Lakes' proposed price of gas for smaller customers and for its own use.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before March 1, 1985. 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. 85-4800 Filed 2-26-85; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER85-204-000]**

## South Carolina Generating Co., Inc.; Order Accepting Rates for Filing, Subject to Refund, Granting Intervention, Conditionally Granting Waiver of Notice, and Establishing Hearing Procedures

February 21, 1985.

On December 26, 1984, South Carolina Generating Company, Inc. (GENCO) tendered for filing an executed unit power sales agreement between GENCO and its affiliate, South Carolina Electric and Gas Company (SCE&G).[1] Under the agreement, GENCO proposes to sell the entire output from the 580 MW coal-fired Williams Electric Generating Station to SCE&G under a cost of service formula rate.[2] SCE&G is to be billed for all of GENCO's operating expenses, including a rate of return of 15% on common equity. GENCO requests waiver of the notice requirements ot permit the agreement to become effective as of January 1, 1985 (the effective date of the agreement). GENCO also requests waiver of the Commission's filing requirements to the extent that they are not met by materials included in the filing.

Notice of the filing was published in the **Federal Register**,[3] with comments due on or before January 17, 1985. Central Electric Power Cooperative, Inc. (CEPC) and the Consumer Advocate of the State of South Carolina (Consumer Advocate) each filed a timely motion to intervene. On February 1, 1985, the Public Service Commission of South Carolina filed a late motion to intervene which raises no substantive issues. The South Carolina Commission asserts that it acted with due diligence in filing its motion, once it had received notice of GENCO's filing.

CEPC, a partial requirements customer of SCE&G, also moves to reject the filing, based on GENCO's alleged failure to substantially comply with the Commission's filing requirements.[4] In addition, CEPC requests a hearing on various cost of service issues.[5] Finally, CEPC asserts that this proceeding should not be subject to the current Rule 717 expedited procedural schedule, because it raises unique issues and is not the "routine" case contemplated in Rule 717 (18 CFR 385.717). The Consumer Advocate oposes GENCO's request for a waiver of the Commission's filing requirements, arguing in particular that the GENCO/SCE&G operating agreement is necessary to review this filing, and requests an evidentiary hearing.

On February 1, 1985, GENCO separately filed timely responses to CEPC's and the Consumer Advocate's pleadings. While not opposing the motions to intervene, GENCO asserts that the contentions of CEPC and the Consumer Advocate are incorrect or without merit. In response to the motions to reject, the company contends that it has provided all information applicable to its formula rate filing.

### Discussion

Pursuant to Rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214), the timely, unopposed motions to intervene serve to make CEPC and Consumer Advocate parties to this proceeding. In addition, given the interests of the constituency represented by the South Carolina Commission, the early stage of this proceeding, and the apparent absence of any undue prejudice or delay, we find that good cause exists to grant the South Carolina Commission's untimely intervention.

Notwithstanding the intervenors' challenges to the cost support suplied by GENCO, we find that the submittal substantially complies with the Commission's filing requirements and that no other basis for rejection has been shown. Specifically, we believe that GENCO's failure to provide its

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[1] *See* Attachment for rate schedule designations.

[2] On December 31, 1984, GENCO became the owner of the existing Williams Station, which was originally an oil-fired plant owned by SCE&G. On the same date, both GENCO and SCE&G became wholly-owned subsidiaries of SCANA Corporation, a new holding company. By order issued on December 28, 1984, in Docket No. EC84-19-000, the Commission disclaimed jurisdiction over the transfer of the Williams Station facilities from SCE&G to GENCO. 29 FERC ¶ 61,350.

[3] 50 FR 998, January 8, 1985.

[4] In support of its motion to reject, CEPC asserts that GENCO has failed to provide: (1) sufficient detail for the derivation of its cash working capital and fuel cost estimates; (2) justification for the rate of return on common equity; (3) formula specificity; and (4) a copy of the GENCO/SCE&G operating agreement.

[5] The cost of service issues raised by CEPC include: (1) the rate of return on common equity; (2) the working capital allowance; and (3) inclusion of advances from associated companies in the cpaital structure.

operating agreement with SCE&G is not grounds ot reject the filing. It has not been the practice of the Commission to require that operating agreements be submitted with a proposed rate schedule, since such agreements usually cover matters ancillary to sales transactions, such as which party's personnel will operate the facilities and how the personnel will be compensated. However, we note that copies of the GENCO/SCE&G operating agreement may be obtained through the discovery process in the evidentiary hearing ordered in this proceeding and that the parties may make an appropriate motion to the presiding administrative law judge if they believe, after examination, that this operating agreement is a contract required to be filed pursuant to § 35.1 of the Commission's regulations. Accordingly, we shall deny the motion to reject.

We note, however, that pages 3 and 4 of GENCO's suporting Schedule 8 contain a provision that would allow the company to add any expense, plant, or other account that may become applicable in the future. We here inform GENCO that any changes pursuant to this provision, any modification of the formula methodology, or any change in return on equity or depreciation rates will require a timely filing pursuant to part 35 of the Commission's regulations.

Our preliminary review of GENCO's submittal and the pleadings indicates that the proposed formula rate has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall conditionally grant waiver of the notice requirements, as requested, to permit GENCO's submittal to become effective on January 1, 1985, only if GENCO agrees, within 10 days of the date of this order: (1) to collect the cost of service formula rate subject to refund; [6] and (2) to bear the burden of proof in the evidentiary proceeding directed by this order.[7]

With respect to CEPC's request regarding the applicability of Rule 717 procedures, we will leave that decision to the discretion of the Chief Administrative Law Judge.

*The Commission orders:*

(A) The untimely motion to intervene filed by the Public Service Commission of South Carolina is hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) The Motions to reject GENCO's filing are hereby denied.

(C) GENCO's request for waiver of the notice requirements is hereby conditionally granted, provided that, within ten [10] days of the date of this order, GENCO agrees: (1) to collect the cost of service formula rate subject to refund; and (2) to bear the burden of proof in the hearing directed by this order.

(d) GENCO's submittal is hereby accepted for filing, subject to refund, to become effective on January 1, 1985, contingent on the company's acceptance of the condition imposed in paragraph (B).

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of GENCO's formula rate.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days from the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

[6] We note that this filing is somewhat similar to the filing in *Middle South Energy, Inc.*, Docket No. ER82-616-000, where the question of whether a unit sales agreement filed by a newly-formed affiliate of the purchaser constitutes an initial rate schedule or a change in rates is still pending before this Commission on remand. *Middle South Energy, Inc. v. FERC*, XX F.2d XX Nos. 83-1634 and 83-1772 (D.C. Cir. 1984). Therefore, in the event that GENCO does not accept the refund condition stated above, we shall treat GENCO's filing as a change in rates and suspend it for a nominal period, to become effective on February 25, 1985, subject to refund, pending our determination of the initial/changed rate issue in *Middle South Energy, Inc.*

[7] See *Minnesota Power & Light Company*, 23 FERC ¶ 61,393 (1983).

**South Carolina Generating Company, Inc., Docket No. ER85-204-000, Rate Schedule Designations**

*Designation and Description*

(1) Rate Schedule FERC No. 1—Unit Power Sales Agreement, Dated: December 18, 1984.
(2) Supplement No. 1 to Rate Schedule FERC No. 1—Schedule 8, Cost of Service Billing Format.
(3) Supplement No. 1 to Rate Schedule FERC No. 1—Schedules 2 through 7, Sample Calculations.
(4) Supplement No. 2 to Rate Schedule FERC No. 1—Williams Station, Depreciation Study.

[FR Doc. 85-4801 Filed 2-26-85; 8:45 am]

BILLING CODE 6717-01-M

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**[Project No. 8014-000]**

## Sterling Enterprises, Inc.; Notice Suspending 120-day Period for Action on Small Hydro Exemption

February 22, 1985

Sterling Enterprises Inc. filed an application for exemption from licensing for the Slack Dam Project No. 8014, to be located at Slack Dam, in Windsor County, Vermont. The application was filed pursuant to Section 408 of the Energy Security Act of 1980 and Part 4, Subpart K (§ 4.101 *et seq.*) of the Commission's regulations.

Additional time is necessary for action on the application in order to ensure full consideration of all information and comments that have been received. The 120-day period for Commission action is suspended pursuant to 18 CFR 4.105(b)(5)(iv).

By direction of the Commission.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 85-4802 Filed 2-26-85; 8:45 am]

BILLING CODE 6717-01-M

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**[Project No. 7999-002]**

## Timothy F. and Pamela L. Holt and Ben J. Barbot; Surrender of Preliminary Permit

February 22, 1985.

Take notice that Timothy F. and Pamela L. Holt and Ben J. Barbot, Permittees for the proposed Woodfords Power Plant Project No. 7999, have requested that their preliminary permit be terminated. The preliminary permit was issued on June 5, 1984, and would have expired November 30, 1985. The project would have been located on the West Fork Carson River in Alpine County, California.

The Permittees filed the request on January 28, 1985, and the preliminary permit for Project No. 7999 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 85-4803 Filed 2-26-85; 8:45 am]

BILLING CODE 6717-01-M

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP-30241B; PH-FRL 2783-2]**

### Elanco Products Co.; Approval of Pesticide Product Registration

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

**ACTION:** Notice.

**SUMMARY:** This notice announces Agency approval of an application submitted by Elanco Product Co., to register the pesticide product Rubigan® E.C. containing an active ingredient not included in any previously registered product pursuant to the provision of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**FOR FURTHER INFORMATION CONTACT:**

By mail: Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 229, TS-767C, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703-557-1900).

**SUPPLEMENTARY INFORMATION:** EPA issued a notice, published in the Federal Register of June 6, 1984 (49 FR 23442), which announced that Elanco Products Co., 740 S. Alabama St., Indianapolis, IN 46285, had submitted an application to register the pesticide product Rubigan® E.C. containing the active ingredient fernarimol [alpha-(2-chlorophenyl)-alpha-(4-chlorophenyl)-5-pyrimidinemethanol] at 12.5 percent; an active ingredient not included in any previously registered product.

The application was approved on November 13, 1983 as Rubigan® E.C. for general use on commercially grown field or greenhouses, roses, and field grown ornamentals for control of powdery mildew. The product was assigned EPA Registration No. 1471-146.

The Agency has considered all required data on the risks associated with the proposed use of fenarimol and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of fenarimol, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on fenarimol.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from Registration Division (TS-767C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 401 M St., SW., Washington, D.C. 20460.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703-557-3262). Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(4)(5) FIFRA, as amended)

Dated: February 11, 1985.

**Susan H. Sherman,**

*Acting Director, Office of Pesticide Programs.*

[FR Doc. 85-4355 Filed 2-26-85; 8:45 am]

BILLING CODE 6560-50-M

**[OPP-66118; FRL-2784-6]**

### Certain Pesticide Products; Intent To Cancel Regulations

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

**ACTION:** Notice.

**SUMMARY:** This notice lists the names of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Distribution or sale of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

**EFFECTIVE DATE:** March 29, 1985.

**ADDRESS:**

By mail, submit comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:**

By mail: Lela Sykes, 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. 718C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2126).

**SUPPLEMENTARY INFORMATION:** EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

| Registration No. | Product name | Registrant | Date registered |
|---|---|---|---|
| 59-173 | Coopona Poultry Premise Larvicide | Burroughs Wellcome, 2000 South 11th St., Kansas City, KS 66103 | Mar. 7, 1973. |
| 73-16 | No. 1 Beef Cattle and Hog Oil | Schaefer Manufacturing Co., P.O. Box 12214, St. Louis, MO 63157 | Aug. 10, 1971. |
| 148-604 | De-Pester Malathion, 50 percent EC | Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City, KS 66106. | Apr. 4, 1968. |
| 150-24 | Anderson's Dry Bait Fly Killer | Anderson Chemical Co., P.O. Box 1041, Litchfield, MN 55355 | Mar. 19, 1964. |
| 201-269 | Phosdrin 4EC | Shell Oil Co., 1025 Connecticut Ave., NW., Suite 200, Washington, DC 20036. | Apr. 15, 1971. |
| 257-176 | CTC Liquid Bowl and Porcelain Enamel Cleaner, Disinfectant. | Cello Chemical Co., 1354 Old Post Rd., Havre de Grace, MD 21078. | Jan. 31, 1961. |
| 279-2701 | Niagara Kelthane 5 Trithion 3 Dust | FMC Corp., Agricultural Chemical Division, 2000 Market St., Philadelphia, PA 19103. | Dec. 6, 1968. |
| 358-157 | Nott Kelthane | Nott Manufacturing Co., Inc. Pleasant Valley, NY 12569 | June. 5, 1973. |
| 400-233 | De-Pester Cotton Dust 7.50-0 (Sevin) | Uniroyal Chemical Division of Uniroyal Inc., 74 Amity Rd., Bethany, CT 06525. | Feb. 9, 1966. |
| 400-295 | Cotton Dust, 5-75-0 | do | Apr. 16, 1973. |
| 400-324 | 7½ percent Sevin 60 percent Sulphur Dust | do | Apr. 21, 1972. |
| 400-341 | Sevin Copper Sulfur Dust with Borax for Peanuts | do | Do. |
| 419-163 | Cenol Dry Fly Killer | Acme Burgess, Inc., Route 83, Grayslake, IL 60030 | Oct. 7, 1969. |
| 557-1771 | Vigoro Flower and Ornamental Systemic Insect Spray. | Estech Inc., 30 N. LaSalle St., Chicago, IL 60602 | Feb. 27, 1971. |
| 572-133 | Rockland Sugar Fly Bait | Rockland Chemical Co., Inc., P.O. Box 809, West Caldwell, NJ 07006. | June 24, 1973. |
| 655-311 | Prentox Malathion 95 percent Technical | Prentiss Drug and Chemical Co., Inc., C.B. 2000, 21 Vernon St., Floral Park, NY 11001. | Oct. 20, 1967. |
| 748-162 | 5 Percent Granular Chloro IPC | PPG Industries, Inc., P.O. Box 31, Barberton, OH 44203 | Mar. 9, 1959. |
| 773-45 | Vecto Emulsifiable Concentrate | Pitman-Moore, Inc., P.O. Box 344, Washington Crossing, NJ 08560 | Jan. 1, 1960. |
| 778-32 | Sergeant's Skip-Flea Foam For Cats | A.H. Robins Co., 1407 Cummings Drive, P.O. Box 26609, Richmond, VA 23261. | Aug. 4, 1972. |
| 829-104 | SA-50 Brand 25 percent Phosdrin Emulsible Concentrate. | Southern Agricultural Insecticides, Inc., P.O. Box 218, Palmetto, FL 33561. | Nov. 20, 1959. |
| 804-319 | Malathion 50 percent Concentrate | Pratt-Gabriel Division, Miller Chemical and Fertilizer Corp., 204 21st Ave., Paterson, NJ 07509. | July 10, 1964. |
| 961-127 | Lebanon 50 percent Malathion | Lebanon Chemical Corp., P.O. Box 180, Lebanon, PA 17042 | Feb. 5, 1954. |
| 962-390 | Carbon Disulphide | Los Angeles Chemical Co., 4545 Ardine St., South Gate, CA 90280 | Sept. 5, 1954. |
| 1145-95 | Amoco Premerge Dinitro Weed Killer | The Cropmate Co., 320 Embassy Plaza, Omaha, NE 68114 | Mar. 11, 1965. |
| 1202-186 | Pure Gro Trithion 4E | Pure Gro Co., 1276 Halyard Drive, West Sacramento, CA 95691 | Feb. 25, 1971. |
| 1202-308 | Tolone II Soil Fumigant | do | Dec. 8, 1975. |
| 1269-108 | DeWitt 5D62 Insecticide Contains Malathion | DeWitt Chemical Co., P.O. Box 343, Atlanta, GA 30301 | Jan. 12, 1971. |
| 1270-165 | Zep X-27971 Bin Spray Insecticide | Zep Manufacturing Co., P.O. Box 2015, Atlanta, GA 30301 | Nov. 10, 1972. |
| 1304-48 | McNess Super Cattle Spray | Furst McNess Co., 120 East Clark St., Freeport, IL 61032 | Apr. 2, 1965. |
| 1307-97 | Dog Stop | Magnolia Chemical Co., Inc., 2646 Rodney Lane, Dallas, TX 75220 | Mar. 16, 1967. |
| 1927-25 | Bruce Terminix, Professional House and Garden Insect Killer Concentrate. | Terminix International, Inc., P.O. Box 17167, Memphis, TN 38117 | Oct. 15, 1963. |
| 1980-11 | All Season Livestock Oil | Automatic Equipment Manufacturing, Co., P.O. Box "P" Pender, NE 68047. | June 19, 1973. |
| 1990-472 | Sure Death Brand Malathion 25 percent WP | Farmland Industries Inc., P.O. Box 7305, Kansas City, MO 64116 | Jan. 9, 1968. |
| 2169-33 | Pentachlorophenol Concentrate 1 to 10 Wood Preservative. | Patterson Green-Up Co., 1331 Union Ave., Kansas City, MO 64101 | Dec. 31, 1954. |
| 2169-35 | Pentachlorophenol Preservative | do | Jan. 31, 1955. |
| 2342-803 | Malathion Emulsible Concentrate | Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City, OK 73120. | Aug. 9, 1973. |
| 2342-822 | Malathion 4.5E Emulsifiable Concentrate | do | Sept. 9, 1973. |
| 2349-4 | Mehle's Commercial Liquid Insecticide | Mehle's Insecticides, 3539 Warsaw Ave., Cincinnati, OH 45205 | Feb. 18, 1965. |
| 2800-16 | Humco Brand Carbon Disulfide | Humco Laboratory, Inc., P.O. Box 2550, 1008 Whitaker St., Texarkana, TX 75501. | Jan. 26, 1951. |
| 3215-1 | Nevarot Water Repellent Wood Preservor | Texas Refinery Corp., One Refinery Place, Fort Worth, TX 76101 | Aug. 17, 1950. |
| 4077-17 | Orb Aerosol Insecticide with Methoxychlor | Orb Industries, P.O. Box 544, Media, PA 19063 | Mar. 1, 1957. |
| 4221-5 | Nicotine Sulfate 40 percent | Gallard-Schlesinger Corp., 584 Mineola Ave., Carle Place, Long Island, NY 11514. | June 15, 1953. |
| 4221-7 | Nicotine Alkaloid | do | Nov. 17, 1953. |
| 4581-303 | Decco Food Grade Potato Wax Conc. WT-14 with Sprout Inhibitor. | AgChem Division, Pennwalt Corp., Three Parkway, Philadelphia, PA 19102. | Apr. 22, 1974. |
| 4828-102 | Clish Rapid Control of Fleas and Ticks on Cats and Dogs. | Abco Inc., P.O. Box J, Irwin, PA 15642 | Mar. 24, 1975. |
| 4828-104 | Aero Kill Wasp and Hornet Spray | do | Oct. 16, 1974. |
| 4887-15 | Cube Dust (5 Percent Rotenone) | Stephenson Chemical Co., Inc., P.O. Box 87188, College Park, GA 30337. | Nov. 30, 1956. |
| 4887-139 | 5 percent Rotenone E.C | do | Jan. 21, 1972. |
| 5382-15 | FC-30 Clorofume Grain Fumigant | Vulcan Materials Co., Chemicals Division, P.O. Box 7689, Birmingham, AL 35223. | Apr. 23, 1959. |
| 5421-9 | Pyrethione | My Pets Westwood Division of Lambert Kay, Inc., P.O. Box 416, Cranbury, NJ 08512. | Dec. 11, 1958. |
| 5481-31 | Alco Dairy Cattle Dust | Amvac Chemical Corp., 4100 East Washington Blvd., Los Angeles, CA 90023. | Mar. 19, 1964. |
| 5535-27 | Gro-Well Pro-Tek Liquid Insecticide | J. and L. Adikes, Inc., 182-12 93rd Ave., Jamaica, NY 11423 | Nov. 10, 1959. |
| 5645-6 | Flea Bomb with Malathion | Veterinary Laboratories, Inc., 12340 Santa Fe Drive, Lenexa, KS 66215. | July 12, 1960. |
| 5813-5 | Clorox Disinfectant Cleaner | Clorox Co., P.O. Box 493, Pleasanton, CA 94566 | Oct. 8, 1971. |
| 6079-13 | MSMA 8 | North Louisiana Chemicals, Inc., P.O. Box 127, Gilliam, LA 71029 | June 25, 1973. |
| 6186-5 | Fogger (Combination) | Damon Chemical Co., Inc., P.O. Box 480, Alliance, OH 44601 | July 28, 1959. |
| 6186-21 | Malathion 50 percent Emulsifiable Concentrate | do | Feb. 10, 1967. |
| 6957-2 | Camisa Seria Cucarachicida | Industrias Nacionales, P.O. Box 7866, Santurce, PR 00916 | Sept. 4, 1968. |
| 7401-201 | Hi-Yield Poly-Ban Decimate Herban Surfactant | Voluntary Purchasing Groups, Inc., P.O. Box 460, Bonham, TX | Sept. 13, 1972. |
| 8780-36 | Turf Line Arthro-Ban Triple Action 2 Formula for Established Lawns. | High Point Mills, Inc., 1225 Lehigh Station Rd., Henrietta, NY 14467 | Nov. 12, 1973. |
| 9313-6 | Rose Out-Cide 7/93 Insecticide | Rose Chemical Products, Inc., 545 Stimmel Rd., P.O. Box 23375, Columbus, OH 43223. | June 4, 1971. |
| 9313-7 | Rose Out-Cide 5/50 Insecticide | do | June 3, 1971. |
| 9313-16 | Rose Mallet Insecticide | do | Aug. 3, 1972. |
| 10163-37 | Prokil Perthane Malathion 10-4 Dust | Gowan Co., P.O. Box 5696, Yuma, AZ 85364 | Sept. 2, 1971. |

| Registration No. | Product name | Registrant | Date registered |
|---|---|---|---|
| 10163-42 | Prokil Perthane Malathion 6-10 Dust | do | Sept. 2, 1971. |
| 10163-43 | Prokil Malathion 4 Perthane 4 | do | Apr. 29, 1965. |
| 10226-40 | Malathion—Perthane Dust No. 4-10 | Rockwood Chemical Co., P.O. Box 34, Brawley, CA 92227 | June 5, 1975. |
| 10459-1 | Bio-Checks Crabgrass, Dallisgrass, Johnson-Grass Killer. | Scientific International Research, Inc., P.O. Box 26500, St. Louis Park, MN 55426. | May 9, 1969. |
| 11706-2 | Rink's Green World Premium Lawn Fertilizer and Crabgrass Preventer. | Rink's Bargain City, Washington Distributors Inc., 3115 Frenchmens Rd., Toledo, OH 43607. | June 13, 1972. |
| 12035-1 | Century-Cide Filter Fly Concentrate | Century Laboratories, Inc., P.O. Box 734, Shawnee Mission, KS 66201. | Sept. 14, 1972. |
| 39511-14 | Vertac Atrazine Technical | Vertac Chemical Corp., 5100 Poplar Ave., Memphis, TN 38137 | Aug. 9, 1972. |
| 41942-4 | Malacide 4 Swine Dust | Ag-Mark, Inc., P.O. Box 127 Teachey, NC 28464 | Sept. 30, 1975. |
| 43981-4 | Diuron Technical | Montedison USA, Inc., 1114 Avenue of the Americas, New York, NY 10036. | Jan. 15, 1971. |

The Agency has agreed that each cancellation shall be effective March 29, 1985 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of exisitng stocks have been determined to be consistent with the purposes of FIFRA as amended. Sale or distribution of any quantity of any of these products produced after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued may be submitted in triplicate to the Registration Support and Emergency Response Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M ST., SW., Washington, D.C. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-666118" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in RM. 236, CM# 2, at the above address from 8:00 a.m. to 4:00 P.M., Monday through Friday, excluding legal holidays.

(Sec. 6(A)(1) of FIFRA as amended, 86 stat. 973, 89 Stat. (751, 7 U.S.C. 136))

Dated: February 14, 1985.

**Steven Schatzow,**

*Director, Office of Pesticide Programs.*

[FR Doc. 85-4630 Filed 2-26-85; 8:45 am]

BILLING CODE 6560-50-M

**[OPTS-51557; FRL-2774-4]**

## Certain Chemicals; Premanufacture Notices

*Correction*

In FR Doc. 85-3222 beginning on page 5416 in the issue of Friday, February 8, 1985 make the following correction: in the third column, under the heading P85-446, in the eight line, "4,600" should read "4640".

BILLING CODE 1505-01-M

**[OPTS-44010; FRL-2774-1]**

## TSCA Chemical Testing; Receipt of Data

*Correction*

In FR Doc. 85-3226 beginning on page 5421 in the issue of Friday, February 8, 1985, the docket number in the heading should have appeared as set forth above.

BILLING CODE 1505-01-M

**[OPP-30085; FRL-2739-7]**

## FY 84/85 Pesticide Registration Standards and Special Reviews, and Data Call-In Schedule for Review and/or Issuance

*Correction*

In FR Doc. 84-33119 beginning on page 49544 in the issue of Thursday, December 20, 1984, make the following corrections:

(1) On page 49544, in the first column, in the **SUMMARY,** in the twenty-fifth line, "84P-2956" should be removed.

(2) On page 49546, in the table in the second column, under the NTIS stock No., in the eighteenth entry, "PB 85-122506" should read "PB 85-122505".

BILLING CODE 1505-01-M

**[OPTS-140054; FRL-2785-3]**

## JRB Associates; Transfer of Data to Contractor

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

**ACTION:** Notice.

**SUMMARY:** EPA will transfer to its contractor, JRB Associates, information which has been or will be submitted to EPA under sections 5 and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed as confidential. This firm will review this information and use it to evaluate the potential economic impacts of regulatory actions taken under sections 5 and 8 of TSCA and to conduct other necessary regulatory and general analyses.

**DATE:** The transfer of the confidential data submitted to EPA will occur no sooner than 10 working days after date of publication of this notice in the **Federal Register.**

**FOR FURTHER INFORMATION CONTACT:** Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460. Toll free: (800-424-9065); in Washington, D.C.: (554-1404); outside the USA: (Operator-202-554-1404).

**SUPPLEMENTARY INFORMATION:** The Office of Toxic Substances of the Environmental Protection Agency is responsible for promulgating rules requiring industry to report and keep records of specific information about chemicals. These rules support assessment of the risks that chemicals pose to health and the environment. The rules are promulgated under sections 5 and 8 and other sections of the Toxic Substances Control Act (15 U.S.C. 2607).

Rules under sections 5 and 8, as well as other sections of TSCA, must be well designed to gather information to serve EPA programs, while minimizing the reporting and recordkeeping burden on industry respondents. Their design must

be supported by analyses that implement the policies and requirements of the Regulatory Flexibility Act (Pub. L. 96–354) the Paperwork Reduction Act of 1980, (Pub. L. 96–511) and section 2 of Executive Order 12291, as well as those of TSCA.

Under EPA Contract No. 68–02–4210, JRB Associates, McLean, Virginia, will assist the Chemical Screening Branch (CSB) of the Office of Toxic Substances in performing Chemical Screening regulatory and general analyses for TSCA regulatory programs.

In accordance with 40 CFR 2.306(j), EPA has determined that JRB Associates employees may require access to confidential business information (CBI) submitted to EPA under sections 5 and 8 of TSCA to perform work satisfactorily under the above-noted contract. EPA is issuing this notice to inform all submitters of information under sections 5 and 8 of TSCA that EPA may transfer to this firm, on a need-to-know basis, confidential business information on specific chemicals that are under review or are subjects of possible regulatory actions. Upon completing their review of materials submitted for a specific chemical, the firm receiving confidential business information will return all such materials to EPA.

JRB Associates has been authorized to have access to TSCA confidential business information under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved the security plan of this contractor and will inspect the facility and approve it prior to TSCA information being transmitted to the contractor. Personnel from JRB Associates will be required to sign a disclosure agreement and be briefed on appropriate security procedures before they are permitted access to confidential information, in accordance with the "TSCA Confidential Business Information Security Manual" and the Contractor Requirements manual.

Dated: January 9, 1985.

**Don R. Clay,**

*Director, Office of Toxic Substances.*

[FR Doc. 85–4727 Filed 2–26–85; 8:45 am]

BILLING CODE 6560–50–M

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[A-3-FRL-2785-4]

## Determinations—EPA Region III; Prevention of Significant Air Quality Deterioration

Notice is hereby given that between the period of August 13, 1983 to December 31, 1984, the Environmental Protection Agency (EPA) Region III issued the following final determinations relating to EPA's Prevention of Significant Air Quality Deterioration (PSD) regulations (40 CFR 52.21) as amended in the **Federal Register** on August 7, 1980 (45 FR 52735):

### 1. Permit Modifications

*a. Philadelphia Electric Company/ Allied Chemical Corporation, Claymont, Delaware*

The PSD permit issued on November 18, 1980 was modified by EPA on August 16, 1984 for the construction and operation of a magnesium oxide regeneration facility at the Allied Chemical Corporation's Delaware Valley Works—South Plant in Claymont, Delaware. Based upon the information submitted by the company and in accordance with the provisions of the amended PSD regulations, EPA determined that the changes will not cause a significant increase in emissions.

*b. Consolidated Gas Supply Corporation, Hastings, West Virginia*

The PSD permit issued on September 14, 1981 was modified by EPA on November 14, 1983 for the construction and operation of two natural-gas-fired internal combustion engines at Hastings Compressor Station, Hastings, Wetzel County, West Virginia. Based upon the information submitted by the company and in accordance with the provisions of the amended PSD regulations, EPA determined that the changes will not cause a significant increase in emissions.

### 2. PSD Permits Issued

*a. American Woodmark Corporation, Moorefield, West Virginia*

On April 24, 1984, the EPA issued a PSD permit for approval to modify and operate a furniture coating facility at Moorefield, West Virginia. This permit was subject to certain conditions including the following:

(1) The Volatile Organic Compound (VOC) emissions shall not exceed 3431.29 tons/year and 783.40 lbs/hr.

(2) Within the time limits specified in general condition #3 of this permit, emission testing for volatile organic compounds shall be conducted in accordance with approved EPA test methods as described in 40 CFR 60.313 except as specified.

*b. Proctor & Gamble Paper Products Company, Mehoopany, Pennsylvania*

On August 2, 1984, the EPA issued a PSD permit for approval to construct and operate a Natural Gas Fired Turbine Generator in Washington Township, Pennsylvania. This permit was subject to certain conditions including:

(1) Emissions from the natural gas turbine shall not exceed the limitations specified below:

(a) Oxides of Nitrogen

220 PPMV corrected to 15% $O_2$ (ISO Conditions); 472 lbs/hr; 1612 tons/year.

(b) Carbon Monoxide

24 PPMV; 31 lbs/hr.; 114 tons/year.

(2) Within the time limits specified in general condition #3 of this permit, stack emission test for Carbon Monoxide and Oxides of Nitrogen shall be conducted at the gas turbine in accordance with approved EPA methods as described in 40 CFR Part 60, Appendix A, Methods 10 and 20.

(3) Emissions data and operating parameters shall be monitored in accordance with 40 CFR Part 60 Subpart GG.

### 3. Permit Rescissions

*a. Lynchburg Foundary, Archer Creek, Virginia*

On October 17, 1983, EPA rescinded the PSD permit issued on July 3, 1979 for modification and relocation of machinery at their Archer Creek, Virginia plant. Based upon the information submitted by the Lynchburg Foundary and in accordance with the provisions of the PSD regulations, EPA determined that the potential particulate emissions will be lower than the PSD applicability levels of the EPA regulations.

*b. Miller Asphalt Products, Inc., Hampstead, Maryland*

On December 8, 1983 EPA rescinded the PSD permit issued on March 16, 1979 for the construction and operation of Miller Asphalt Products, Inc. in Finksburg, Maryland. Based on the information submitted by the company and in accordance with the provisions of the PSD regulations, EPA determined that the potential particulate emissions will be lower than the PSD applicability levels of the EPA regulations.

*c. Burlington Industries, Drakes Branch, Virginia*

On July 9, 1984, EPA rescinded the PSD permit issued on May 14, 1979 for the construction of a new coal fired boiler at Burlington Industries in Drakes Branch, Virginia. Based upon the information submitted by the company and in accordance with the provisions of the PSD regulations, EPA determined that the boiler was never installed and that the permit should be rescinded.

These permit rescission determinations do not relieve the reviewed source of the responsibility for complying with all Local, State and Federal regulations which are part of the State Implementation Plan.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the above listed final actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 29, 1985.

Copies of these PSD determinations are available for public inspection upon request at the following location: Air Enforcement Branch (3AM20), Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Attention: Mrs. Estena McGhee (215) 597–9317.

Dated: February 13, 1985.

**Stanley L. Laskowski,**

*Acting Regional Administrator.*

[FR Doc. 85–4728 Filed 2–26–85; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL MARITIME COMMISSION

### Issuance of Certificate (Casualty); Sundance Cruises, Corp., et al.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Sundance Cruises, Corp., Johnson Line AB, and Sundance Cruises, Inc. c/o Sundance Cruises, Inc., 520 Pike Street, Suite 2200, Seattle, Washington 98101.

Dated: February 22, 1985.

**Bruce A. Dombrowski,**

*Assistant Secretary.*

[FR Doc. 85–4745 Filed 2–26–85; 8:45 am]

BILLING CODE 6730–01–M

### Issuance of Certificate (Performance); Sundance Cruises, Corp., et al.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540): Sundance Cruises, Corp., Johnson Line AB, and Sundance Cruises, Inc. c/o Sundance Cruises, Inc., 520 Pike Street, Suite 2200, Seattle, Washington 98101.

Dated: February 22, 1985.

**Bruce A. Dombrowski,**

*Assistant Secretary.*

[FR Doc. 85–4748 Filed 2–26–85; 8:45 am]

BILLING CODE 6730–01–M

## FEDERAL RESERVE SYSTEM

### Consumer Advisory Council; Meetings

The Consumer Advisory Council will meet on Wednesday, March 13, and Thursday, March 14. The meeting, which will be open to public observation, will take place in Terrace Room E of the Martin Building. The March 13 session is expected to begin at 1:00 p.m. and to continue until 5:00 p.m. The March 14 session is expected to begin at 9:00 a.m. and to continue until 5:00 p.m., with a lunch break from 1:00 to 2:00 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

1. **Board's Review of its Equal Credit Opportunity Regulation.** Staff update on the Board's review of Regulation B under its Regulatory Improvement Project.
2. **Service Charges and Fees.** Discussion of the staff study on bank service charges and fees that was undertaken at the request of the Council.
3. **Report of the Task Group on Regulation of Financial Services.** Briefing by Council member on the report of Vice President Bush's Task Group on Regulation of Financial Services.
4. **Extension of the Home Mortgage Disclosure Act.** Discussion of issues about extension of the Home Mortgage Disclosure Act, which is due to expire on October 1, 1985.
5. **U.S. Office of Consumer Affairs Activities.** Briefing by Mrs. Virginia Knauer, Special Assistant to the President for Consumer Affairs, on the two recent conferences sponsored by the U.S. Office of Consumer Affairs dealing with deregulation of the financial services industry, and on other Office initiatives.
6. **Disclosures for Adjustable Rate Mortgages.** Staff briefing on possible revisions in disclosures given to consumers obtaining adjustable rate mortgages.
7. **Status of Staff Proposal to Revise Advertising Rules of Regulation Q.** Update on staff work to revise the Board's regulation governing the advertising of deposit accounts.
8. **Shopping for Financial Services.** Discussion of what the Federal Reserve might do to further educate consumers on the importance of shopping both for credit and for deposit accounts, especially in light of deregulation.
9. **Technological Developments and the Payments Mechanism.** Discussion of the Federal Reserve Board's monitoring of technological developments that may affect the payments mechanism.
10. **Update on Branch Closings.** Staff update on branch closings by commercial banks in 1984.
11. **Regulatory Update.** Status of recent Board regulatory actions in the area of consumer financial services.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit to the Council their views regarding any of the above topics may do so by sending written statements to Ms. Ann Marie Bray, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Comment must be received no later than close of business Friday, March 8, and must be of a quality suitable for reproduction.

Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, February 21, 1985.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 85–4707 Filed 2–26–85; 8:45 am]

BILLING CODE 6210–01–M

### First American Bancorp, et al.; Formations of, Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying a 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 March 22, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First American Bancorp,* Decatur, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of First American Bank, Decatur, Alabama.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Luray Bankshares,* Luray, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples State Bank, Luray, Kansas.

2. *Western Kansas Investment Corporation, Inc.,* Winona, Kansas; to acquire Selden Investment, Inc., Selden, Kansas, thereby indirectly acquiring Selden State Bank, Selden Kansas.

Board of Governors of the Federal Reserve System, February 21, 1985.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 85-4705 Filed 2-26-85; 8:45 am]

BILLING CODE 6210-01-M

## First Jersey National Corporation, et al.; Applications To Engage de Novo In Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts or interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 19, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First Jersey National Corporation,* Jersey City, New Jersey; to engage *de novo* in making, acquiring, and/or servicing loans for itself or for others of the type made by a consumer finance company or a commercial finance company. These activities are to be conducted in the northeastern United States.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *LTC Bancorp,* Cumberland, Maryland; to engage *de novo* through its subsidiary, Community Finance, Inc., Cumberland, Maryland, in consumer and commercial finance activities, including the extension of direct loans to consumers, the discount of retail and installment notes on contracts, the extension of direct loans to dealers for financing of inventory, and the sale of life, accident and health insurance directly related to an extension of credit. These activities are to be conducted in a 90-mile radius of Cumberland, Maryland, including parts of Maryland, Pennsylvania, and West Virginia.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Western Kansas Investment Corporation, Inc.,* Winona, Kansas; to engage *de novo* through its subsidiary, Selden Investment, Inc., Selden, Kansas, thereby indirectly acquiring Selden State Bank Agency, Selden, Kansas, in acting as insurance agent or broker for any insurance sold by a bank holding company or a nonbank subsidiary in a community that has a population not exceeding 5,000, pursuant to § 225.25(B)(8)(II) of Regulation Y. These activities are to be conducted in a geographic scope including a 25-mile radius around the town of Selden, Kansas.

Board of Governors of the Federal Reserve System, February 21, 1985.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 85-4706 Filed 2-26-85; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL TRADE COMMISSION

### Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General Advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to takes any action with respect to these proposed acquisitions during the applicable waiting period:

| Transaction | Waiting period terminated |
|---|---|
| (1) 85-0019—American Can Company's proposed acquisition of assets of Dunham's Inc., (Robert L. Schmalzried and Patricia Schmalzried, UPE's). | Jan. 29, 1985 |

| Transaction | Waiting period terminated |
|---|---|
| (2) 85-0041—Smith & Nephew Associated Companies PLC's proposed acquisition of voting securities of Affiliated Hospital Proudct, Inc., (United Industrial Corporation, UPE). | Do. |
| (3) 85-0045—The Northwestern Mutual Live Insurance Company's proposed acquisition of assets of Baldwin-United Corp. | Do. |
| (4) 85-0055—Kmart Corporation's proposed acquisition of voting securities of Pay Less Drug Stores Northwest, Inc.. | Do. |
| (5) 85-0056—Kmart Corporation's proposed acquisition of voting securities of Pay Less Drug Stores Northwest, Inc.. | Do. |
| (6) 85-0066—Smith & Nephew Associated Companies PLC's proposed acquisition of voting securities of Affiliated Hospital Proudct, Inc., (United Industrial Corporation, UPE). | Do. |
| (7) 85-0058—Nicholas Wallner's proposed acquisition of voting securities of N.A.P. Commercial Electronics Corp., Carolina Coach Company, Seashore Transportation Company, Red Bus Systems, (United States Philips Trust, UPE). | Jan. 30, 1985. |
| (8) 85-0059—Peter Redfield's proposed acquisition of voting securities of N.A.P. Commercial Electronics Corp., Carolina Coach Company, Seashore Transportation Company, Red Bus Systems, (United States Philips Trust, UPE). | Do. |
| (9) 85-0028—Borden, Inc.'s proposed acquisition of voting securities of Purex Corporation, (Purex Industries, Inc. UPE). | Jan. 31, 1985. |
| (10) 85-0029—The Pillsbury Company's proposed acquisition of assets of California Milling Corp. | Feb. 1, 1985. |
| (11) 85-0072—Service Merchandise Company's proposed acquisition of assets of five home improvement stores held by Forest City Enterprises, Inc. | Do. |
| (12) 85-0032—Thrifty Corporation's proposed acquisition of voting securities of The May Department Stores Co. | Feb. 4, 1985. |
| (13) 85-0033—Combined Properties Limited Partnership's proposed acquisition of voting securities of The May Department Stores Co. | Do. |
| (14) 85-0034—Crown Books Corporation's proposed acquisition of voting securities of The May Department Stores Co. | Do. |
| (15) 85-0035—Dart Group Corporation's (Herbert Haft and Gloria Haft, UPE's) proposed acquisition of voting securities of The May Department Stores Co. | Do. |
| (16) 85-0037—Micom Systems, Inc.'s proposed acquisition of voting securities of Interlan, Inc. | Do. |
| (17) 85-0042—Melville Corporation's proposed acquisition of voting securities of This End Up Furniture Company, (Randall Ward, UPE'). | Do. |
| (18) 85-0043—Melville Corporation's proposed acquisition of voting securities of This End Up Furniture Company, (Stephen Robertson, UPE). | Do. |
| (19) 85-0044—Melville Corporation's proposed acquisition of voting securities of T.E.U. Incorporated, (Stewart Brown, UPE). | Do. |
| (20) 85-0048—Masco Corporation's proposed acquisition of voting securities of N. I. Industries, Inc. | Do. |
| (21) 85-0051—Masco Industries Inc., proposed acquisition of voting securities of N. I. Industries, Inc. | Do. |
| (22) 85-0052—The Record Bar, Inc.'s proposed acquisition of voting securities of Licorice Pizza, Inc., (James W. Greenwood, UPE). | Do. |
| (23) 85-0054—PLC Enterprises, Inc.'s proposed acquisition of voting securities of GAI Acquisition Corporation, (Great American Industries, Inc., UPE). | Do. |
| (24) 85-0039—Roxboro Investments (1976) Ltd.'s proposed acquisition of voting securities of Brillion Iron Works Inc., (Mr. Charles Robins, UPE). | Feb. 5, 1985. |
| (25) 85-0053—Competrol Holdings Company's proposed acquisition of voting securities of Occidental Petroleum Corp. | Do. |
| (26) 85-0062—Bergen Brunswig Corporation's proposed acquisition of voting securities of National Intergroup, Inc. | Feb. 11, 1985. |
| (27) 85-0065—Rockwell International Corporation's proposed acquisition of voting securities of Allen-Bradley Co. | Feb. 5, 1985. |
| (28) 85-0068—Bergen Brunswig Corporation's proposed acquisition of voting securities of Iron Ore Company of Canada. | Do. |
| (29) 85-0069—Bell Canada Enterprises' proposed acquisition of voting securities of Dson Development Corp. | Do. |
| (30) 85-0070—Piedmont Natural Gas Company's proposed acquisition of voting securities of Tennessee Natural Resources, Inc. | Do. |
| (31) 85-0073—Crane Company's proposed acquisition of voting securities of Unidynamics Corp. | Do. |
| (32) 85-0074—Crane Company's proposed acquisition of voting securities of Unidynamics Corp. | Do. |
| (33) 85-0078—Royal Dutch Petroleum Company's proposed acquisition of assets of James C. Wallace. | Do. |
| (34) 85-0080—Kenneth M. Good's proposed acquisition of assets of Deltampa, Inc. and Tampa Palms I, (The Deltona Corporation, UPE). | Feb. 7, 1985. |
| (35) 85-0095—Brigham Holdings, Inc.'s (Isidore Pines, UPE) proposed acquisition of voting securities of Alot Meat Company, (Alfred Salmon, UPE). | Do. |
| (26) 85-0096—Brigham Holdings, Inc.'s, (Isidore Pines, UPE) proposed acquisition of voting securities of Alot Meat Company, (Otto Salmon, UPE). | Do. |
| (37) 85-0099—Equity Holdings' proposed acquisition of assets of Kaiser Aluminum & Chemical Corp. | Do. |
| (38) 85-0049—Equity Holdings' proposed acquisition of assets of Evans Products Co. | Feb. 8, 1985. |

**FOR FURTHER INFORMATION CONTACT:** Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580. (202) 523-3894.

By direction of the Commission.

**Emily H. Rock,**

*Secretary.*

[FR Doc. 85-4719 Filed 2-26-85; 8:45 am]

**BILLING CODE 6750-01-M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Consumer Participation; Notice of Open Meetings

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

*New Orleans District Office,* chaired by Robert O. Bartz, District Director. The topic to be discussed is Women's Health Issues.

Date: Thursday, February 28, 1985, 1:30 p.m.

Address: Main Library Auditorium, 7711 Goodwood Blvd., Baton Rouge, LA.

For Further Information Contact: Frances Brysson, Consumer Affairs Officer, Food and Drug Administration, 4298 Elysian Fields Ave., New Orleans, LA 70122, 504-589-2420.

*Los Angeles District Office,* chaired by Abraham I. Kleks, District Director. The topics to be discussed are Health Frauds and Rx to OTC Switch (Switch of Prescription Drugs to Over-the-Counter Status).

Date: Tuesday, March 5, 1985, 1 p.m. to 3 p.m.

Address: Federal Bldg., 880 Front St., Rm. 2S13, San Diego, CA.

For Further Information Contact: Irene Gomez Caro, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213-688-4395.

*Minneapolis District Office,* chaired by John Feldman, District Director. The topic to be discussed is Women's Health Issues: Phenylpropanolamine (PPA) and Diet Products, Postmenopause Estrogen Replacement Therapy and Calcium Replacement Therapy, and Pregnancy/Nursing Warning Labels on Over-the-Counter (OTC) Drugs.

Date: Tuesday, March 5, 1985, 1 p.m. to 3 p.m.

Address: United Way of Dane Cunty, 2059 Atwood Ave., Madison, WI.

For Further Information Contact: Donald W. Aird, Jr., Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612-349-3907.

*Boston District Office,* chaired by Frederick R. Carlson, District Director. The topics to be discussed are Pregnancy/Nursing Warning Labels on Over-the-Counter (OTC) Drugs and Phenylpropanolamine (PPA) and Diet Products.

Date: Thursday, March 7, 1985, 9:30 a.m. to 12 p.m.

Address: Conference Room B, Town Hall, 101 Field Point Rd., Greenwich, CT.

For Further Information Contact: Paula B. Fairfield, Consumer Affairs Officer, Food and Drug Administration, 585 Commercial St., Boston, MA 02109, 617-223-5857.

*Atlanta District Office,* chaired by John Turner, District Director. The topics to be discussed are Rx to OTC Switch (Switch of Prescription Drugs to Over-the-Counter Status), and Women's Health Issues: Pregnancy/Nursing Warning Labels on Over-the-Counter (OTC) Drugs, and Postmenopause Estrogen Replacement Therapy and Calcium Replacement Therapy.

Date: Thursday, March 28, 1985, 10 a.m. to 12 p.m.

Address: Mobile Gas Corp. Conference Room, 554 Dauphin St., Mobile, AL.

For Further Information Contact: Carolyn Hommel, Consumer Affairs Officer, Food and Drug Administration, 1010 West Peachtree St. NW., Atlanta, GA 30309, 404–881–7355.

**SUPPLEMENTARY INFORMATION:** The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: February 20, 1985.

**Joseph P. Hile,**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 85–4708 Filed 2–26–85; 8:45 am]

**BILLING CODE 4160–01–M**

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**[Docket Nos. 78P–0419 et al.]**

## Availability of Approved Variances for Laser Light Shows

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for nine organizations that manufacture and produce laser light shows, light show projectors, or both. The projectors provide laser light displays to produce a variety of special lighting effects. The principal use of these products is to provide entertainment to general audiences.

**DATES:** The effective dates and termination dates of the variances are listed in the table below under **SUPPLEMENTARY INFORMATION.**

**ADDRESS:** The applications and all correspondence on the applications have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

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

**SUPPLEMENTARY INFORMATION:** Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), FDA has granted each of the nine organizations listed in the table below a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product assembled and produced by the manufacturer, which is its particular variety of laser light show, laser light show projector, or both. Each laser product involves levels of accessible laser radiation in excess of Class II levels but not exceeding those required to perform the intended function of the product.

CDRH has determined that suitable means of radiation safety and protection are provided by constraints on the physical and optical design, by warnings in the user manual and on the products, and by procedures for personnel who will operate the products. Therefore, on the effective dates specified in the table below, FDA approved the requested variances by letter to each manufacturer from the Deputy Director, CDRH.

So that each product may show evidence of the variance approved for the manufacturer of that product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010 2(s)) a variance number, which is the FDA docket number appearing in the table below, and the effective date of the variance as specified in the table below.

| Docket No. | Organization granted the variance | Demonstration laser product | Effective date and termination date |
|---|---|---|---|
| 78P-0419 (extension) | Blue Lightning Laser Light Show, 2300 St. Francis Drive Palo Alto, CA 94303. | Laser light shows assembled and produced by Blue Lightning Laser Light Show incorporating Blue Lightning laser projectors Models HS-1, SFP-1, CH-1, S.S. 4000, and/or S.S. 4001. | Dec. 19, 1984 to Dec. 19, 1986. |
| 79P-0055 (amendment) | Audio-Visual Imagineering, Inc., 7953 Twist Lane, Springfiled, VA 22153. | Audio-Visual Imagineering AVI Laser Projection System Model Series S or B and shows produced, assembled, and operated by Audio Visual Imagineering which incorporate these laser projection systems. | Nov. 7, 1984 to May 19, 1986. |
| 80P-0174 (extension) | Laser Artistry, Inc., 9156 North 70th Street, Milwaukee, WI 53223 | Model L-100 laser projector and laser light shows incorporating this projector which are produced by Laser Artistry, Inc. | Dec. 14, 1984 to Oct. 1986. |
| 81P-0278 (extension) | Raytel 137 Second Street, Troy, NY 12180 | Raytel laser light shows containing Raytel projectors which may use HeNe, Ar/Kr, HeCd, Nd YAG, copper vapor or mercury vapor lasers with a maximum peak power of 20 watts. | Nov. 29, 1984 to Nov. 29, 1986. |
| 83V-0204 (amendment) | Laser Optronics, P.O. Box 1776, 1044 North 800 East, Orem, UT 84058. | Laser light shows assembled and produced by Laser Optronics incorporating the Audio-Visual Imagineering AVI S400 laser projection system. | Dec. 11, 1984 to Dec. 11, 1986. |
| 84V-0290 | Locomotive Breath Recordings, 4485 Pennwood Avenue, Number 322, Las Vegas, NV 89102. | Locomotive Breath Recordings laser light show which incorporates the Laser Media LMS laser projection system. | Nov. 29, 1984 to Nov. 29, 1986. |
| 84V-0344 | In Cahoots, 8796 North Central, Dallas, TX 75231 | In Cahoots laser light show incorporating the Laser Media Model LMS laser projection system. | Dec. 12, 1984 to Dec. 12, 1986. |
| 84V-0352 | Catherine Georgia Berbena, P.O. Box 7604, South Lake Tahoe, CA 95731. | Cahterine Georgia Berbena laser light show which incorporates the Laser Media Model LMS laser projection system. | Dec. 12, 1984 to Dec. 12, 1986. |
| 84V-0376 | Shawnee Brittan Productions, 1500 United Founders Tower, Oklahoma City, OK 73112. | Shawnee Brittan Productions Laser Space Threater laser light shows incorporating the laser Presentations Model LP-4 laser light show projector. | Dec. 19, 1984 to Dec. 19, 1985. |

In accordance with § 1010.4, the applications and all correspondence on the applications have been placed on public display under the designated docket numbers in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 21, 1985.

**Joseph P. Hile,**

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 85–4709 Filed 2–26–85; 8:45 am]

**BILLING CODE 4160–01–M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Administration

[Docket No. N-85-1504]

### Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESS:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6050. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION.** The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

### Notice of Submission of Proposed Information Collection to OMB

Proposal: Housing Counseling Program and Recordkeeping Requirements (Funded)
Office: Housing
Form number: HUD-9920 and 9921
Frequency of submission: Monthly and On Occasion
Affected public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 17,185
Status: Extension
Contact: Robert Warner, HUD, (202) 755-6664, Robert Neal, OMB, (202) 395-7316.

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 13, 1985.

**Dennis F. Greer,**

*Director, Office of Information Policies and Systems.*

[FR Doc. 85-4827 Filed 2-26-85; 8:45 am]

BILLING CODE 4210-01-M

### Office of the Regional Administrator—Regional Housing Commissioner

[Docket No. D-85-793; FR-2026]

### Delegation of Authority; Designation of Officials

**AGENCY:** Department of Housing and Urban Development, HUD.

**ACTION:** Designation of Order of Succession.

**SUMMARY:** This designation updates the designation of officials who may serve as Acting Regional Administrator-Regional Housing Commissioner in the Atlanta Regional Office (Region IV).

**EFFECTIVE DATE:** February 27, 1985.

**FOR FURTHER INFORMATION CONTACT:** Ellis M. Brossett, Acting Director, Management and Budget Division, Office of Administration, Atlanta Regional Office, Department of Housing and Urban Development, Room 656, 75 Spring Street, SW., Atlanta, Georgia 30303, (404) 221-5199. (This is not a toll-free number)

### Designation

The employees appointed to the following positions in Region IV (Atlanta) are hereby designated to serve as Acting Regional Administrator-Regional Housing Commissioner, Region IV, during the absence, disability or vacancy of the Regional Administrator-Regional Housing Commissioner, with all powers, functions, and duties redelegated or assigned to the regional Administrator-Regional Housing Commissioner: Provided, that no employee is authorized to serve as Acting Regional Administrator-Regional Housing Commissioner unless all other employees whose titles precede his or her title in this designation are unable to serve by reason of absence, disability, or vacancy in the position:

1. Deputy Regional Administrator.
2. Director, Office of Administration.
3. Director, Office of Housing.
4. Director, Office of Public Housing.
5. Special Assistant to the Regional Administrator.
6. Director, Office of Community Planning and Development.
7. Regional Counsel.
8. Georgia Program Coordinator.
9. Director, Office of Fair Housing and Equal Opportunity.
10. Director, Program Planning and Evaluation Staff.
11. Director, Operational Support Division.

**Authority:** Delegation of Authority, 27 FR 4319 (1962); Sec. 9(c), Department of Housing and Urban Development Act, 42 U.S.C. 3531 note; and Interim Order II, 31 FR 815 (1966).

Dated: February 12, 1985.

**Kenneth E. Williams,**

*Acting Deputy Regional Administrator-Deputy Regional Housing Commissioner, Region IV.*

[FR Doc. 85-4828 Filed 2-26-85; 8:45 am]

BILLING CODE 4210-32-M

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Gateway National Recreation Area; Meeting

**AGENCY:** National Park Service—Gateway Advisory Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the date of the forthcoming meeting of the Gateway Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

**DATE:** March 12, 1985, commencing at 3 p.m.

**ADDRESS:** Javits Federal Office Building, 26 Federal Plaza, New York, New York.

**FOR FURTHER INFORMATION CONTACT:** Robert W. McIntosh, Jr., Superintendent, Gateway National Recreation Area, Headquarters, Building No. 69, Floyd Bennett Field, Brooklyn, New York 11234, (718) 338-3578.

**SUPPLEMENTARY INFORMATION:** The Advisory Commission was established by Pub. L. 92–592, to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area. The agenda for the meeting will include: (1) Presentation, Gas Treatment Facility, Fountain Avenue Landfill; (2) General Update, Summer Special Events; (3) Progress Report, Park Improvement Projects; (4) Other Business as may come before the board.

The meeting will be open to the public. The facility at which the meeting will be held is considered physically accessible. If interpretive services for the deaf or hearing impaired will be needed, they should be requested within five working days before the meeting. Facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis.

Any member of the public may file with the Commission a written statement concerning agenda items to be discussed. The statement should be addressed to the Commission, c/o Gateway National Recreation Area, Building No. 69, Headquarters, Floyd Bennett Field, Brooklyn, New York 11234. Minutes of the meeting will be available for inspection four weeks after the meeting at Gateway National Recreation Area Headquarters Building in Brooklyn, New York.

Dated: February 19, 1985.

**Robert W. McIntosh, Jr.,**

*Superintendent, Gateway National Recreation Area.*

[FR Doc. 85–4733 Filed 2–26–85; 8:45 am]

BILLING CODE 4310–70–M

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–199]**

### Certain Anodes for Cathodic Protection and Components Thereof; Decision Not To Review Initial Determination Terminating Investigation as to One Respondent; Issuance of a Consent Order

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

**ACTION:** Nonreview of initial determination terminating a respondent on the basis of a consent order.

**SUMMARY:** The Commission has determined not to review a Commission administrative law judge's initial determination (ID) granting a joint motion (No. 199–7) for termination of the above-captioned investigation with respect to respondent Farwest Corrosion Control Co., on the basis of a consent order. The Commission also has issued the proposed order, which prohibits Farwest from engaging in certain alleged unfair acts and practices at issue in the investigation (i.e., patent and trademark infringement and false and deceptive advertising in connection with the importation and sale of certain tubular anode products).

**FOR FURTHER INFORMATION CONTACT:** P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0350.

**SUPPLEMENTARY INFORMATION:**

#### Background

Investigation No. 337–TA–199 is being conducted to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation or sale of certain anodes for cathodic protection of metallic structures. The investigation was instituted on the basis of a complaint filed by Duriron Co., Inc., alleging numerous unfair acts and practices by four British and five U.S. companies involved in the importation, distribution, or sale of the accused anodes. (See 49 FR 30023 (July 25, 1984), as amended at 49 FR 45273 (November 15, 1984).)

On Decmber 19, 1984, complainant Duriron, the Commission investigative attorney, and respondent Farwest filed a joint motion (Motion No. 199–7) for termination of the investigation with respect Farwest and the issuance of a consent order. The motion was unopposed, and on January 3, 1985, the presiding administrative law judge issued an ID (Order No. 7) granting the motion.

Although the Commission solicited public and agency written comments on the ID, none were received. The parties did not petition for review of the ID, and the Commission determined that a review on the Commission's own motion was not warranted. The ID thus became the Commission's determination. (See 19 CFR 210.53(h), as amended at 49 FR 46123 (November 23, 1984).)

Termination of the investigation as to respondent Farwest Corrosion Control furthers the public interest by conserving the resources of the Commission and the parties.

#### Public Inspection

Copies of the ID, the consent order, and all other nonconfidential documents on the record of the investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0471.

By order of the Commission.

Issued: February 15, 1985.

**Kenneth R. Mason**

*Secretary.*

[FR Doc. 85–4790 Filed 2–26–85; 8:45 am]

BILLING CODE 7020–02–M

**[Investigation No. 337–TA–194]**

### Certain Aramid Fibers; Denial of Motion To Permit the Administrative Law Judge To Take Evidence on the Remedy and Public Interest Issues

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

**ACTION:** Denial of motion to permit the administrative law judge (ALJ) to take evidence on the remedy and public interest issues.

**SUMMARY:** Notice is hereby given that the Commission has denied the Commission investigative attorney's (IAs) motion to permit the ALJ in the above-captioned investigation to take evidence on the remedy and public interest issues.

**FOR FURTHER INFORMATION CONTACT:** Catherine R. Field, Esq., Office of General Counsel, U.S. International Trade Commission, telephone 202–523–0189.

**SUPPLEMENTARY INFORMATION:** The IAs filed a motion requesting the Commission to permit the ALJ to take evidence on the remedy and public interest issues in the above-captioned investigation and certify that recommendation to the Commission. Motion No. 194–55. Complainant Du Pont opposed the motion, and respondents Akzo concurred in the motion. The ALJ recommended denial of the motion for three reasons (1) the tight time constraints, (2) due process considerations with respect to Du Pont's ability to present its affirmative and rebuttal cases on these issues, and (3) the opportunity that the parties have to present submissions on these issues to the Commission. In addition, the ALJ stated his intention to take a liberal view on admissibility of evidence relating to both violation and public interest issues.

The IAs have not shown that the circumstances of this investigation are so different that the Commission should invoke the extraordinary alternative procedure available under Rule 210.58(b). In the absence of such a

showing the Commission has denied the motion.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

By order of the Commission.

Issued: February 15, 1985.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 85–4792 Filed 2–26–85; 8:45 am]

BILLING CODE 7020–02–M

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**[Investigation No. 337–TA–207]**

## Certain Automotive Transmission Shifters; Decision Not To Review Initial Determination Terminating Three Respondents on the Basis of a Settlement Agreement; Termination of Investigation

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

**ACTION:** Termination of three respondents on the basis of settlement agreement. Termination of the investigation.

**SUMMARY:** The U.S. International Trade Commission has determined not to review an initial determination (ID) terminating respondents Isuzu Motors Ltd., American Isuzu Motors Inc., and Keihin Seimitsu Kogyo Co., Ltd., in the above-captioned investigation on the basis of a settlement agreement. Because there are no remaining respondents, the investigation is terminated. On December 19, 1984, complainant Grand Haven Stamped Products Division of JSJ Corp. and respondent Isuzu Motors, Ltd., on behalf of itself and respondents American Isuzu Motors, Inc. and Keihin Seimitsu Kogyo Co., Ltd., filed a joint motion to terminate the investigation with regard to the aforementioned respondents. The administrative law judge issued an ID granting the motion for termination on January 16, 1985.

**FOR FURTHER INFORMATION CONTACT:** Charles H. Nalls, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0375.

**SUPPLEMENTARY INFORMATION:** This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (19 CFR 210.53). Notice of the ID was published in the **Federal Register** of January 23, 1985 (50 FR 3036). No petitions for review of the ID were filed, nor were any comments received from Government agencies or the public.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

By order of the Commission.

Issued: February 15, 1985.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 85–4793 Filed 2–26–85; 8:45 am]

BILLING CODE 7020–02–M

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**[Investigation No. 731–TA–197 (Final)]**

## Certain Welded Carbon Steel Pipes and Tubes From Brazil

**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 the subject investigation from 10:00 a.m. on March 26, 1985, to 10:00 a.m. on May 22, 1985.

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).

**EFFECTIVE DATE:** February 14, 1985.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Wilson (202–523–0291), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

**SUPPLEMENTARY INFORMATION:**

### Background

Effective December 31, 1984, the Commission instituted the subject investigation and scheduled a hearing to be held in connection therewith for March 26, 1985 (50 FR 5325). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from March 11, 1985, to May 15, 1985. The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule. As provided in 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 in antidumping investigations within 45 days of Commerce's final determination, or in this case by June 28, 1985.

### Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on May 3, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

### Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on May 22, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. 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 May 13, 1985. 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 9:30 a.m. on May 16, 1985, in Room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is May 15, 1985.

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. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, August 15, 1984)).

### Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with section 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provision of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on May 29, 1985. 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 May 29, 1985.

A signed original and fourteen (14) 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 must 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, as amended by 49 FR 32569, August 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: February 19, 1985.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 85-4789 Filed 2-26-85; 8:45 am]

BILLING CODE 7020-02-M

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[Investigation No. 337-TA-205]

## Certain Dialyzers Using Telescoping Connectors for Fluid Lines; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

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

**ACTION:** Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Terumo Corporation.

**SUPPLEMENTARY INFORMATION:** This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on February 19, 1985.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

**DATE:** *Written comments:* Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

**FOR FURTHER INFORMATION CONTACT:** Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: February 19, 1985.

Kenneth R. Mason,

*Secretary*

[FR Doc. 85-4788 Filed 2-26-85; 8:45 am]

BILLING CODE 7020-02-M

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[Investigation No. 337-TA-147]

## Certain Woodworking Machines; Decision Not To Review Initial Determinations Granting Intervention and Termination of Three Parties; Issuance of Consent Orders

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

**ACTION:** Nonreview of initial determinations (IDs) granting intervention and termination of three parties; issuance of consent orders.

**SUMMARY:** The Commission has determined not to review the ID of a Commission administrative law judge granting the motion of three Taiwan companies to intervene in the subject investigation. The Commission also has decided not to review three IDs granting joint motions to terminate the intervenors on the basis of consent orders. By virtue of the Commission's decision not to conduct a review, the IDs have become the Commission's determinations. (See 19 CFR 210.53(h), as amended at 49 FR 46123 (November 23, 1984)). The consent orders requested by the parties have been issued.

**FOR FURTHER INFORMATION CONTACT:** P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0350.

**SUPPLEMENTARY INFORMATION:**

### Background

Investigation No. 337-TA-174 is being conducted to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation of sale of certain woodworking machines, by reason of unfair acts and practices by numerous Taiwan and U.S. companies. (See 48 FR 55786 (December 15, 1983); 49 FR 23464 (June 6, 1984).) The complainant is Delta International Machinery Corp. (See 49 FR 23463 (June 6, 1984).)

On December 3, 1984, complainant Delta and nonrespondent Taiwan companies Tui Industrial Co., Ltd., Mao Shan Machinery Industrial Co., Ltd. and Union Tool Exporters Ltd. filed joint motions for termination of the investigation as to those companies and the entry of consent orders based on their settlement agreements with Delta (Motions Nos. 174-52, 174-56, and 174-61, respectively).

On December 4, 1984, the Commission investigative attorney filed a response opposing the motion on the grounds that (1) the investigation could not be terminated with respect to companies not named as parties, and (2) Tui, Mao Shan, and Union should have moved to intervene in the investigation before asking the Commission to issue consent orders directed to them.

At the prehearing conference on December 5, 1985, Tui, Mao Shan, and Union orally moved to intervene in the investigation. The Commission investigative attorney expressed his support for the oral motion to intervene and for the previously filed motions for consent orders. On December 6, 1985, Tui, Mao Shan, and Union filed a written motion to intervene (Motion No. 174-67). The Commission investigative attorney filed a response supporting that motion.

On January 8, 1985, the presiding administrative law judge issued an ID granting the motion to intervene (Order No. 47). He also issued IDs granting the motions for the consent order termination of the intervenors (Orders Nos. 48-50). Copies of all four IDs were served on other Federal agencies and notice of the consent order IDs was published in the Federal Register of January 16, 1985 (50 FR 2355). Although

written comments were solicited, none were received.

The parties did not file petitions for review, and the Commission determined that reviewing the IDs on the Commission's own motion was not warranted. (See 19 CFR 210.55, as amended at 49 FR 46123 (November 23, 1984).) The IDs thus became the determinations of the Commission. (See 19 CFR 210.53(h), as amended at 49 FR 46123 (November 23, 1984).)

Termination of the investigation as to intervenors Tui, Mao Shan, and Union furthers the public interest by conserving the resources of the Commission and the parties.

**Public Inspection**

The IDs, the consent orders, the settlement agreements, and all other nonconfidential documents on the record of the investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0471.

By order of the Commission.

Issued: February 15, 1985.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 85-4791 Filed 2-26-85; 8:45 am]

BILLING CODE 7020-02-M

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**[Investigation No. 337-TA-196]**

## Certain Apparatus for Installing Electrical Lines and Components Therefor; Commission Decisions

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

**ACTION:** Review and reversal of an initial determination (ID) terminating investigation; nonreview of ID terminating respondent without prejudice by withdrawal of complaint.

**SUMMARY:** The Commission has determined to review and reverse the portion of an ID terminating the investigation and has determined not to review that portion of the ID terminating respondent Ming Chang Carpenter Auger Bit Co., Ltd. without prejudice by withdrawal of the complaint.

**FOR FURTHER INFORMATION CONTACT:** William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0499.

**SUPPLEMENTARY INFORMATION:** On January 15, 1985, the presiding administrative law judge issued an ID granting complainant's motion to withdraw its complaint against respondent Ming Chang Auger Bit Co., Ltd. and then terminating the investigation. The Commission received neither a petition for review of the ID nor comments from other government agencies.

Authority for this action is found in 19 U.S.C. 1337 and Commission rules 210.53-.55 (49 FR 56137-46138), to be codified at 19 CFR 210.53-.55.

By order of the Commission.

Issued: February 19, 1985

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 85-4804 Filed 2-26-85; 8:45 am]

BILLING CODE 7020-02-M

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**[Investigation No. 337-TA-216]**

## Certain Ceramic Drainage Foils; Notice of Investigation

**AGENCY:** International Trade Commission.

**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 25, 1985, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Wilbanks International, Inc., 555 NE. 53rd Avenue, Hillsboro, Oregon 97124. The complaint alleges unfair methods of competition and unfair acts in the importation of certain ceramic drainage foils into the United States, or in their sale, by reason of alleged direct and induced infringement of claims 1, 9, 10, 11, 14, 15, 18, and 19 of U.S. Letters Patent 4,184,915. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that, after a full investigation, the Commission issue a permanent exclusion order and permanent cease and desist orders.

**FOR FURTHER INFORMATION CONTACT:** Juan Cockburn, Esq., or Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-523-1272 or 202-523-1273, respectively.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's rules of practice and procedure (19 CFR 210.12).

**Scope of Investigation**

Having considered the complaint, the U.S. International Trade Commission, on February 20, 1985, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain ceramic drainage foils into the United States, or in their sale, by reason of alleged direct and induced infringement of claims 1, 9, 10, 11, 14, 15, 18, or 19 of U.S. Letters Patent 4,184,915, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complaint is—

Wilbanks International, Inc., 555 N.E. 53rd Avenue, Hillsboro, Oregon 97124

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Feldmuehle Aktiengesellschaft, Fritz Vomfelde Platz 4, Postfach 3029, Dusseldorf, Federal Republic of Germany

American Feldmuehle Corporation, P.O. Box 2090, Hendersonville, North Carolina 28739

Oy Tampella, AB, P.O. Box 267, Lapintie 1 Pl 256, Tampere 10, Finland

TUW Paper Machines, Inc., 180 Interstate North, Atlanta, Georgia 30339

(c) Juan Cockburn, Esq., and Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorneys, party to this investigation; and

(3) The following entities are not named as respondents in this investigation but shall be served with a copy of the notice of investigation, the complaint, and § 210.26 of the rules:

J.M. Voith GmbH, D 7920 Heidenheim, Federal Republic of Germany

Valmet Oy, Pl. 155, SF-00131, Helsinki, Finland

(4) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's rules of practice and procedure (19 CFR § 210.21.

as amended, 49 FR 46123). Pursuant to § 201.16(d) (19 CFR 201.16(d), as amended, 49 FR 32571) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

Issued: February 21, 1985.

By order of the Commission.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 85–4805 Filed 2–26–85; 8:45 am]

BILLING CODE 7020–02–M

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**[Investigation No. 731–TA–165 (Final)]**

## Certain Valves, Nozzles, and Connectors of Brass From Italy for Use in Fire Protection Systems

### Determinations

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that industries in the United States are materially injured by reason of imports from Italy of single and double clapper siamese connections [2] and pressure-restricting valves,[3] all of the foregoing of brass and for use in fire protection systems, provided for in item 680.14 of the Tariff Schedules of the United States (TSUS), which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines that industries in the United States are not materially injured or threatened with material injury, nor is the establishment of an industry in the United States materially retarded, by reason of imports from Italy of fire hose couplings, fog/straight stream nozzles, angle-type hose valves, wedge disc hose gate valves, and pressure-regulating valves,[4] all of the foregoing of brass and for use in fire protection systems, provided for in items 637.35, 680.14, and 680.27 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States as LTFV.

### Background

The Commission instituted this investigation effective July 10, 1984, following a preliminary determination by the Department of Commerce that imports of certain valves, couplings, nozzles,and connections, of brass, from Italy, suitable for use in interior fire protection systems, were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing notices in the Federal Register of July 25, 1984 (49 FR 30029) and January 16, 1985 (50 FR 2354). The hearing was held in Washington, DC, on January 23, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on February 19, 1985. The views of the Commission are contained in USITC Publication 1649, February 1985, entitled "Certain Valves, Nozzles, and Connectors of Brass from Italy for Use in Fire Protection Systems: Determination of the Commission in Investigation No. 731–TA–165 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By Order of the Commission.

Issued: February 19, 1985.

Kenneth R. Mason,

*Secretary.*

[FR Doc. 85–4806 Filed 2–26–85; 8:45 am]

BILLING CODE 7020–02–M

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[1] The record is defined in sec. 207.2(i) of the Commission's rules of practice and procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler determines that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry in the United States materially retarded, by reason of imports from Italy of this product.

[3] Chairwoman Stern and Vice Chairman Liebeler determine that an industry in the United States is not materially injured or threatened with material injury, nor is the establishment of an industry in the United States materially retarded, by reason of imports from Italy of this product.

[4] Commissioner Eckes determines that industries in the United States are materially injured or threatened with material injury, by reason of imports from Italy of these products.

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**[Investigations Nos. 701–TA–237 and 238 (Preliminary) and Investigations Nos. 731–TA–245–247 (Preliminary)]**

## Low-Fuming Brazing Copper Wire and Rod From France, New Zealand, and South Africa

**AGENCY:** International Trade Commission.

**ACTION:** Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with these investigations.

**SUMMARY:** The Commission hereby gives notice of the institution of preliminary countervailing duty investigations Nos. 701–TA–237 and 238 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France and New Zealand of brazing wire and rod, of copper, whether or not flux-coated, provided for in items 612.62, 612.72, and 653.15 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Governments of France and New Zealand. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by April 5, 1985.

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731–TA–245–247 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France, New Zealand, and South Africa of brazing wire and rod, of copper, whether or not flux-coated, provided for in items 612.62, 612.72, and

653.15 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in the case by April 5, 1985.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's rules of practice and procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201, as amended by 49 FR 32569, Aug. 15, 1984).

**EFFECTIVE DATE:** February 19, 1985.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Wilson (202–523–0291), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

**SUPPLEMENTARY INFORMATION:** .

**Background**

These investigations are being instituted in response to petitions filed on February 19, 1985, by counsel on behalf of American Brass of Rolling Meadows, IL, Century Brass of Waterbury, CT, and Cerro Metal Products of Bellefonte, 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 (19 CFR § 201.11), not later than March 6, 1985. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

**Service List**

Pursuant to § 201.11(d) of the Commission's rules (19 CFR § 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR § 201.16(c), as amended by 49 FR 32569, Aug. 15, 1984), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

**Conference**

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on March 13, 1985 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Cynthia Wilson (202–523–0291) not later than March 11, 1985, to arrange for their appearance. Parties in support of the imposition of antidumping and/or countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

**Written Submissions**

Any person may submit to the Commission on or before March 15, 1985, a written statement of information pertinent to the subject of the investigations as provided in § 207.15 of the Commissions's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). 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 must by 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, as amended by 49 FR 32569, Aug. 15, 1984).

**Authority:** These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR § 207.12).

Issued: February 22, 1985.
By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 85–4807 Filed 2–26–85; 8:45 am]

BILLING CODE 7020–02–M

## INTERSTATE COMMERCE COMMISSION

**[Finance Docket No. 30613]**

### Chicago and North Western Transportation Company; Trackage Rights Exemption

On January 24, 1985, the Chicago and North Western Transportation Company (CNW) filed a notice of exemption for trackage rights over a line of track of Union Pacific Railroad Company (UP) between Fremont, NE (milepost 39.29) and Columbus (milepost 84.51) and between Columbus (milepost 0.00) to Norfolk, NE (milepost 48.63), a total distance of 93.46 miles.

CNW presently operates over its own line between Norfolk and Fremont. The trackage rights will permit CNW to transport its overhead traffic over a more efficient route.

This joint project involves the relocation of a line of railroad which does not disrupt service to shippers and falls within the class of transactions identified at 49 CFR 1180.2(d)(5) which the Commission has found to be exempt under 49 U.S.C 10505. See *Railroad Consolidation Procedures*, 366 I.C.C. 75 (1982). The Commission determined that line relocations embrace trackage rights transactions such as the one proposed herein. See *D.T. & I.R.—Trackage Rights*, 363 I.C.C. 878 (1981).

As a condition to the use of this exemption, any employees affected by the trackage rights agreement shall be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: February 15, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

**James H. Bayne,**

*Secretary.*

[FR Doc. 85–4822 Filed 2–26–85; 8:45 am]

BILLING CODE 7035–01–M

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**[Finance Docket No. 30582 (Sub-1)]**

### Norfolk and Western Railway Co.; Southern Railway Co. and Interstate Railroad Co. Contract To Operate and Trackage Rights; Exemption [1]

Norfolk and Western Railway Company (N&W), Southern Railway

[1] The parties filed a petition for exemption that was assigned Finance Docket No. 30582. However, when a specific transaction falls within the scope of 49 CFR 1180.2(d), it too is exempt. See *Railroad Consolidation Procedures*, 366 I.C.C. 200, 203 (1980).

Continued

Company (Southern), and Interstate Railroad Company (Interstate) are controlled by Norfolk Southern Corporation. See *Norfolk Southern Corp.—Control—Norfolk & W. Ry. Co.*, 366 I.C.C. 171 (1982). As a result of the transaction authorized in *Norfolk Southern, supra*, numerous functions of N&W, Southern and Interstate have been consolidated, such as mechanical services. Now, to take advantage of better grades and operating routes for coal traffic moving from origins in southwestern Virginia on the lines of Interstate to points on the lines of N&W and Southern, the three railroads have executed a joint contract that allows N&W and Southern to operate the properties of Interstate. They also have modified a 1982 trackage rights agreement so that N&W may conduct operations over an additional 2.3 miles of Southern's line.

Since N&W, Southern, and Interstate are members of the same corporate family, both the contract to operate and the acquisition of trackage rights fall within the class of transactions that are exempt from the prior review requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(3). The transactions will not result in changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employees affected by the N&W-Southern contract to operate the properties of Interstate will be protected pursuant to *Mendocino Coast Ry., Inc.—Lease and Operate*, 354 I.D.C. 732 (1978) and 360 I.C.C. 653 (1980). Any employees affected by N&W's acquisition of trackage rights over Southern will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast, supra*, 360 I.C.C. 653 (1980). Together, these conditions satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

Decided: February 19, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

*Secretary.*

[FR Doc. 85-4821 Filed 2-26-85; 8:45 am]

BILLING CODE 7035-01-M

Accordingly, to the extent the petition relates to the transactions described here, it is treated as a notice of exemption. Separate action will be taken in Finance Docket No. 30582 to the extent the petition involves matters outside the scope of 49 CFR 1180.2(d).

## NATIONAL COMMISSION ON AGRICULTURAL TRADE AND EXPORT POLICY

### Meeting

The National Commission on Agricultural Trade and Export Policy will hold its next meeting at 9 a.m. on March 8 and 9, 1985, in the Colonial Room of the Mayflower Hotel, Washington, DC.

The meeting is expected to include discussion of major policy issues. The meeting is open to the public.

Kenneth L. Bader,

*Chairman.*

[FR Doc. 85-4731 Filed 2-26-85; 8:45 am]

BILLING CODE 3410-05-M

## NATIONAL SCIENCE FOUNDATION

### Directorate for Science and Engineering Education Program Announcement; Materials Development and Research

The effective date of this Announcement is April 1, 1985. Proposals already submitted to the programs included in this Announcement need not be resubmitted, but this Announcement should be used in preparing all future proposals to these programs.

Other NSF programs directed toward precollege mathematics and science education are included in the *Division of Teacher Enhancement and Informal Science Education*. These programs, described in detail in NSF Brochure NSF 85-9, are: Leadership Activities for Precollege Teachers; Local and Regional Teacher Development; Presidential Awards for Excellence in Science and Mathematics Teaching; Science and Mathematics Education Networks; and Informal Science Education.

Information on related programs in science education may be obtained from the *Office of College Science Instrumentation* (for information on the College Science Instrumentation Program); *Office of Studies and Program Assessment* (for information on the Studies and Analyses Program); or the *Division of Research Career Development* (for information on graduate and minority graduate research fellowships, NATO postdoctoral fellowships, Presidential Young Investigator Awards and other graduate and postdoctoral programs).

### PROGRAM ANNOUNCEMENT—MATERIALS DEVELOPMENT AND RESEARCH

#### I. Introduction

A broad understanding of science and technology on the part of the American citizenry is essential to the strength of our scientific enterprise and to the security and economic vitality of our nation. The necessary basis of understanding can be achieved only if all students in our schools are provided with a firm grounding in science and mathematics. The precollege years—kindergarten through twelfth grade—are particularly critical for establishing a solid base in these areas of study. There is a need for excellent programs taught by well-prepared teachers.

The importance of strengthening science, mathematics, and technology education was recognized by the National Science Board's Commission on Precollege Education. The Commission's report, *Educating Americans for the 21st Century* (September, 1983), identifies the following basic goal that underlies all of its recommendations and many of NSF's programs:

> The improvement and support of elementary and secondary school systems throughout America so that, by the year 1995, they will provide all the Nation's youth with a level of education in mathematics, science, and technology, as measured by achievement scores and participation levels (as well as other non-subjective criteria), that is not only the highest quality attained anywhere in the world but also reflects the particular and peculiar needs of our nation.

The Foundation recognizes that solving the Nation's problems in precollege mathematics and science education requires the combined efforts of local, state and federal governments, as well as the cooperation of all sectors of our society, including industry and professional associations. Because of its close ties with the scientific community, the Foundation is in a unique position to serve as a catalyst in this joint endeavor.

In keeping with its leadership role in maintaining the vitality of American science education, the Foundation has established several programs for development and research in science and mathematics education. Support is provided for projects relevant to all precollege levels, K–12.

Beginning in 1985, the Foundation is focusing especially on projects that will strengthen science and mathematics education for students at the middle/junior high and elementary school level, the critical early years when concepts,

attitudes, and aptitudes are shaped for life. Proposals relating to the high school years, however, will still be welcome. There is no intent to exclude such proposals.

The Foundation's programs in materials development and research are oriented toward the combined objectives of preparing all students for living in a high technology society and of increasing the number of students adequately prepared to pursue higher education in mathematics, science, and technical fields. The attainment of both these objectives is dependent on the widest possible involvement of active and productive scientists and science educators.

Therefore, NSF will make every effort to:

- Cultivate the support and participation of the science, mathematics and engineering research and education communities; and
- Involve scientists and science educators, teachers and administrators, officials of state and local educational agencies, and the private sector in joint efforts whenever possible.

The Foundation has, for some time, also been concerned about the under-representation of women, minorities, and the physically-handicapped in careers in mathematics, science, and technology. Projects involving women, minorities, and/or physically-handicapped persons as part of the staff or as target audience are especially encouraged, particularly if they represent models for increasing the numbers of qualified young people in these groups who are encouraged to choose careers in mathematics, science, and technology.

The Foundation is committed to the principle of cost sharing for the educational projects it supports, especially cost sharing that involves cooperative and collaborative partnerships among local and state education agencies, business and industry, colleges and universities, and cultural and professional institutions and societies. Such partnerships could involve in-kind contributions of space, equipment, computer time, personnel, etc., as well as financial contributions. The Foundation will give preference to projects based on such partnerships. Bearing in mind that it takes time to develop these collaborations, projects that have little initial contribution from such partnerships, but a well-developed plan to organize them as they proceed, and, hence, to reduce the overall NSF share of the project cost, are encouraged as a way to catalyze these cooperative efforts.

This announcement describes the following programs within the Division of Materials Development and Research:

- Instructional Materials Development
- Materials and Methods for Teacher Preparation
- Applications of Advanced Technologies
- Research in Teaching and Learning

Program and division boundaries are not rigid. Projects that cut across such boundaries to help solve well-documented problems efficiently and effectively are welcome as well as projects that address a single program area. Also the examples of possible projects given under program descriptions are intended only as a guide. Other ideas that address program areas are encouraged.

Descriptions of the individual programs in the Materials Development and Research Division are provided in Section II. Section III (Preparation and Submission of Proposals), Section IV (Evaluation of Proposals), Section V (Grant Administration) and Section VII (Appendixes) apply to all programs in Materials Development and Research.

## II. Description of Programs

### *General Characteristics*

The programs in Materials Development and Research attempt to strengthen science, mathematics and technology education for high school, middle/junior high, and elementary level students by supporting the generation of new knowledge and the development of materials, technologies, and model programs.

- Proposals are encouraged that present significant new ideas and that offer innovative approaches for addressing educational problems in science, mathematics and technology.
- Projects funded may range from small to large scale but must demonstrate the potential for national impact or widespread applicability. Projects of primarily local impact should not be submitted under this announcement.
- Individuals with strong subject matter backgrounds are encouraged to participate actively in these programs. Project personnel—either individualy or jointly—are expected to exhibit both strong expertise in the scientific disciplines involved in the project and a knowledge of the needs of teachers and students at the grade level(s) affected.
- The long-term effectiveness of NSF-supported projects depends heavily on the incorporation of their findings into schools and other educational settings. Therefore, preference will be given to projects clearly demonstrating plans or efforts to share widely the information derived from them, including use of state-of-the-art dissemination approaches and information sharing networks among sicentists and educators.

### *Instructional Materials Development*

#### Objective of the Program

This program provides support for the development of new or improved instructional materials in science, mathematics and technology for elementary, middle, and/or secondary level students and their teachers. The program encourages the development of materials that fill content gaps in previously developed curricula, present new approaches to the study of traditional subjects, introduce recent discoveries, or demonstrate applications of scientific and mathematical concepts. An important goal is to involve the most capable scientists and science educators in the Nation in the process of upgrading the quality of the science and mathematics materials used in precollege classrooms.

#### Scope of the Program

Appropriate project activities include, but are not limited to, the following:

- Materials that more effectively present single topics or collections of topics in science, mathematics or technology, including those that exhibit relationships between disciplines;
- Materials that introduce new subjects or that present new applications of science, mathematics or technology;
- Materials that support new or revised curricula, especially curricula designed to raise the level of achievement of the Nation's youth in science, mathematics and technology;
- Materials tailored to the special needs of particular groups of students, such as women, minorities, physically handicapped students, college bound students, those entering the work force immediately following high school graduation, and the gifted and talented;
- Materials that use alternative methods of delivering instruction, such as computer software, computer simulation, television, film, videocassette and videodisc, including those that integrate technology into a particular science curriculum;
- Materials that take into account findings of recent research on how students learn science and mathematics.

#### Characteristics of the Program

In addition to the general characteristics described above for

materials development and research programs, the following points are pertinent.

Projects may include the development of entirely new materials, the updating or revision of existing materials of high quality, and the testing and evaluation of the materials developed. In all cases, projects should lead to instructional materials that are bias-free, scientifically and educationally sound, and suitable for widespread distribution, preferably through the private sector.

In the development of new materials, consideration should be given to the implications for use by teachers, such as the necessity for teacher training or the development of coordinated teacher materials. The materials proposed for development should be suitable for use in may locales throughout the country.

The products developed may be printed materials, computer software, films, videotapes, videodiscs, or laboratory equipment.

All principal investigators should direct their attention to sharing the results of their proposed projects. The involvement of publishers or other relevant organizations early in the process of materials development is encouraged so as to facilitate distribution of the materials and their consideration for adoption. Consultation and negotiation with publishers or distributors may take place prior to proposal submission.

*Materials and Methods for Teacher Preparation*

Objective of the Program

This program supports:

- The development of creative new materials and model programs that are designed to improve the preparation of undergraduate students to become elementary or secondary school teachers of mathematics, science, and technology;
- The development of creative new materials and model programs that are designed to provide effective continuing education to teachers of mathematics, science, and technology throughout their careers;
- The development of creative new materials and model programs that are designed to enable individuals of high ability in mathematics, science, and engineering to enter teaching at the precollege level.

Scope of the Program

Appropriate project activities include, but are not limited to, the following:

- The development of specialized materials, courses and software designed for current or future teachers to provide them with the basic knowledge in science, mathematics and technology necessary to become and remain effective precollege teachers;
- The development of materials or model programs to acquaint current or future teachers with the results of research in the cognitive sciences on effective methods for teaching and learning mathematics, science and technology;
- The development of materials or programs that demonstrate effective science teaching strategies for reaching students with special needs such as those who are gifted and talented, women, minorities, and/or physically handicapped.
- The development of materials or model programs to strengthen the mathematics, science, and technology knowledge of teachers who are currently not certified to teach in these subject areas, or to strengthen the teaching skills of scientists, mathematicians or engineers who wish to become precollege teachers.
- The development of model programs that test, demonstrate, and evaluate innovative approches to the undergraduate preparation and continuing education of precollege teachers of science and mathematics. The design of prototypes suitable for widespread adoption and use by local education agencies is especially encouraged.

Characteristics of the Program

In addition to the general characteristics described above for all materials development and research programs, the following points are pertinent.

The anticipated outcomes from projects funded under this program are materials and model programs that are likely to:

- Provide teachers entering the profession with a strong grounding in mathematics, science, and technology;
- Assure that teachers are cognizant of techniques that are effective for the teaching of science, mathematics, and technology, as well as techniques appropriate to different learning styles and student needs;
- Provide teachers with appropriate mechanisms and materials to assure that their teaching skills and expertise are maintained throughout their careers.

Proposals should address not only the rationale and specific plan for developing materials and model programs, but also the methods that will be used for evaluation and dissemination of the products.

**Note.**—For other NSF programs that relate to teacher development, consult the Program Announcement for *Teacher Enhancement and Informal Science Education* (NSF 85——).

*Applications of Advanced Technologies*

Objective of the Program

This program supports research and development on the application of advanced technologies—particularly the computer—to science and mathematics education. Support is provided for the exploration, development, and proof-of-concept demonstration of advanced computer and telecommunication technologies utilization in education. Projects may focus on technology as a tool, a medium, or an object of study. Among the anticipated products are innovative educational systems, authoring languages, problem solving tools, courseware, microworlds, tutors, and expert systems that increase the efficiency and effectiveness of instruction at all levels.

Scope of the Program

Appropriate project activities include, but are not limited to, the following:

- Development, testing, and evaluation of advanced computer-based systems for precollege mathematics, science, and technology education that augment human intelligence, intuition and problem solving—for example, intelligent videodisc;
- Development of innovative computer applications that offer exceptional promise of educational effectiveness and efficiency;
- Development of mechanisms to facilitate the widespread use of these products and concepts—for example, networks and authoring systems.

Characteristics of the Program

In addition to the general characteristics described above for all materials development and research programs, the folowing points are pertinent.

This program is concerned only with issues at the forefront of technology applications to science and mathematics education. For example, although the computer has been demonstrated to be effective for drill and practice, can it be used to foster deeper cognitive development? Can knowledge-based expert tutorial systems be designed to diagnose and address student conceptual and reasoning difficulties in science and mathematics? Can interactive computer programs be developed to help students acquire the ability to solve problems in different technical contexts?

Projects are particularly encouraged that seek to augment human learning, thinking, and problem solving through application of the most advanced technologies.

*Research in Teaching and Learning*

Objective of the Program

This program supports basic and applied research on significant factors that underlie effective teaching and learning of precollege science, mathematics, and technology. Anticipated outcomes, include knowledge of how students learn complex concepts in science and mathematics, of how they learn to apply these concepts effectively in real problem-solving situations, and of those factors that are most influential in governing their participation and performance in school science and mathematics courses.

Scope of the Program

Appropriate project activities include, but are not limited to, the following:

- Research on teaching and learning in specific disciplinary and knowledge domains (chemistry, physics, mathematics, biology, computer science, etc.);
- Research on the early development of cognitive competence, and on the processes by which students learn to solve problems in logic, mathematics, and science;
- Research on the acquisition of knowledge and its representation in specific areas of science and mathematics;
- Research on information processing models as they relate to science teaching and learning, on the effects of incorporating information processing technology into the traditional school setting, and on the distribution and adoption of new technologies;
- Research on factors that influence the quality and effectiveness of instruction in science and mathematics and the participation and achievement of students at various ages;
- Research on factors that are influential in the development and maintaining of interest, including early development of motivation and talent, in science, mathematics, and technology.

These examples are illustrative only and research proposals on other topics dealing with teaching and learning are also encouraged. This area is being pursued in collaboration with NSF's Directorate for Biological, Behavioral and Social Sciences and is also described in a separate announcement, (NSF–84–74).

Characteristics of the Program

In addition to the general characteristics described above for all materials development and research programs, the following points are relevant.

Projects should focus on critical questions related to teaching, learning and cognitive processes. Research results should add to the cumulative body of knowledge; consequently, proposals should be based upon a sound theoretical foundation and demonstrate an understanding of the relevant literature.

In its support of research in the subject matter domains, the program encourages involvement by scientists, mathematicians and engineers, and wishes to encourage their collaboration with researchers from the behavioral and social sciences and education.

The program especially encourages proposals that combine research with the development of instructional materials and model teacher education programs, as well as the application of new technologies.

**III. Preparation and Submission of Proposals**

This announcement sets forth basic information needed to initiate planning for proposal submission. Proposers should also consult the publication *Grants for Scientific and Engineering Research* (GSER), NSF 83–57, for additional detailed guidance. This publication is available from the Forms and Publications Unit, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550. The GSER should be used with the following understandings:

- For "research" substitute "science education" or "science education project" according to the context;
- The terms "new discoveries" or "fundamental advances" include development of the science and engineering infrastructure directed toward those goals.

Except as modified by the guidelines set forth herein, standard NSF guidelines on proposal preparation (content, format, budget, other sources of support, etc.), proposal submission, evaluation, NSF awards (general information and highlights), declinations, and withdrawals contained in GSER are applicable.

*In the event that the submitting organization has never been the recipient of an NSF award,* it is recommended that appropriate administrative officials become familiar with the NSF policies and procedures contained in the *NSF Grant Policy Manual, Revised,* (NSF 77–47, available through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402) which are applicable to most NSF awards. If a proposal is recommended for an award, the NSF Division of Grants and Contracts *will request* certain organizational, management, and financial information. These requirements are contained in Chapter III of the *Manual.*

*Who May Submit*

Organizations with a scientific or educational mission are eligible to submit proposals. Among these are: colleges and universities; state and local education agencies; professional societies; science museums and zoological parks; research laboratories; private foundations; private industries; and other public and private organizations, whether for profit or non-profit. Proposers are strongly encouraged to involve participation from more than one of these areas. Proposals may be submitted from any field of science in which NSF supports research. These include: astronomy, atmospheric sciences, biological and behavioral sciences, chemistry, computer sciences, earth sciences, engineering, information science, mathematical sciences, materials science, oceanography, physics, and the social sciences. Interdisciplinary proposals spanning two or more science areas are also eligible.

*When To Submit*

Proposals to the Division of Materials Development and Research may be submitted at any time. It should be noted, however that the standard processing time for NSF proposals is 6-9 months. *To ensure the most timely processing of proposals the following target dates for submission are strongly suggested:*

(1) For support beginning October 1, proposals should be received no later than February 1 of the same year.

(2) For support beginning June 1, proposals should be received no later than October 1, of the previous year.

Although proposals may be submitted at other times, the evaluation process is structured primarily around the dates given.

*What To Submit*

By their nature, proposals appropriate for the programs described in this announcement often are one of a kind and may be large and complex, though not necessarily so. Therefore contact with program staff before submitting

formal proposals is strongly encouraged. Written preliminary inquiries that sketch in broad strokes the essential features of the project—its purpose and design, the evaluation plan (if appropriate), the plan for achieving widespread impact, the key personnel and their duties, and estimates of costs and project duration—are frequently the best route for preliminary discussion on large or complex proposals. A brief, preliminary inquiry of this type will enable the staff at the Foundation to determine the proposed project's responsiveness to the Foundation's goals and to make a preliminary assessment of its competitiveness as measured against the criteria listed in the Proposal Evaluation section of this announcement. A preliminary inquiry is treated as an informal document involving no commitment on the part of either the applying organization or the Foundation. No signatures of institutional representatives are required by the Foundation for a preliminary inquiry.

Preliminary inquiries should be addressed to the Division of Materials Development and Research, Science and Engineering Education, National Science Foundation, Washington, D.C., 20550, and should be directed to the program to which the inquiry applies.

Inquiries on proposals that have components in more than one of the programs described in this announcement may be sent to whichever program seems most appropriate.

Please Note.—Only preliminary inquiries are to be sent directly to the Division. Formal proposals, as described in the rest of this section, must be addressed to the Data Support Services Section of the Foundation.

Formal proposals should be prepared in accordance with the guidelines contained in the GSER, pages 1–8. Fifteen (15) copies of the proposal and three (3) additional copies of the Cover Sheet and Project Summary are required. The notes below provide some further interpretation and serve as a guide for *the* required contents of a proposal and its order of assmebly. The necessary forms are contained in Appendix 2 of this Program Announcement. Your may photocopy them.

Supplementary Information Sheet (NSF Form 1153)

Cover Page

In the upper left hand block labeled "For Consideration by NSF Organizational Unit," it is important to identify, if clearly defined, the specific program to which the proposal is directed, e.g., "Applications of Advanced Technologies," or "Materials and Methods for Teacher Preparation." If, after the receipt of a proposal, staff examination suggests that it would be more appropriately and effectively considered in a program other than the one to which it has been submitted, the principal investigator will be contacted to discuss the change.

All required signatures (prinicpal investigator, co-principal investigator(s), and organizational representative), with dates, must appear in the appropirate locations(s) on the cover page of the original copy.

Data Sheet

Table of Contents

Project Summary Form

Use of this form is optional, but a 200-word summary, as well as the rest of the information requested on the form and below are required. The summary should be understandable by an intelligent but nonspecialist reader and should be free of jargon and technical terminology that would obscure its meaning. Indicate what is going to be done, why, who will be affected, and the desired outcomes.

Include on the bottom of the summary page, the following information:

- The major scientific discipline(s) involved in the project;
- The program(s) to which the proposal is submitted; and
- The instructional grade levels (within K–12) that form the principal focus of the project.

Summary Proposal Budget Forms

A budget for each year of support requested, as well as a cumulative budget or the full term of the project, must be presented. The prescribed budget form may be photocopied from Appendix 2. Additional pages for budget explanation and amplification should be attached and must be consistent with the data and categories on the form. All budget requests must be documented and justified. Information on cost-sharing by the grantee institution and any others with which it may have formed partnerships is especially welcomed as an expression of strong commitment to the project.

*Stipends:* A direct stipend to participants in inservice teacher development programs of *up to* $40 per day for *full-time* project activity is allowable from NSF funds or as a cost-sharing contribution. The amount of the stipend should be justified in the proposal. In arriving at the figure, the project director should take into account various factors that may be involved in a particular project, including the answers to questions such as these: Is the level of activity part-time or full-time? Does participation in the project preclude summer employment? Is academic credit being awarded?

Higher stipends for non-study activities, e.g., full-time research participation, may be warranted in certain instances. Such cases will be considered on an individual basis and must be strongly justified.

Funds to defray the costs of participant room and board and travel from home to the project site may be requested from NSF or included as a cost-sharing contribution. Requests for other participant support must be strongly justified.

*Tuition:* Tuition is not allowed as a project cost, if the NSF is already paying instructional costs. Similarly, if the NSF is paying instructional costs, the waiving of tuition may not be counted as an institutional contribution to the project. In no case may participants be charged tuition for credits obtained through project activities.

Current and Pending Support Form

Project Description

This main body of the proposal should be a detailed, but succinct, statement of the project to be carried out. The project description should normally not exceed 15 single-spaced pages. (30 double-spaced pages are also acceptable.) The description may be amplified by material in appendixes, but the body should stand alone to give a complete picture of the project.

The project description should describe the particular and peculiar needs to be met by the project and how they were determined. The solution proposed should be sketched in broad outline together with a rationale for this choice over any others that might be available. A detailed description of the project activities should be presented that shows how each part is related to the overall project and describes the expertise required to carry out each part. A timetable, including personnel time commitments, for the project activities is useful as a summary. There should be concrete statements concerning the expected outcomes of the project and the means that will be used to assess whether they have been achieved.

Use the suggested proposal evaluation criteria provided in Section IV to determine the sort of details that need to be provided to facilitate effective review.

Bibliography of Pertinent Literature

The objective is to determine whether the proposals are familiar with the work of others that has bearing on the proposed project's design, methods, aims, and content.

Biographical Sketches

Complete vitae for the principal investigator and senior personnel should be submitted as well as abbreviated vitae for other personnel who will have roles in the implementation of the project. In the interests of brevity and relevance, only the last five years' activities and publications should be stressed for all personnel, unless activities prior to that time have particular applicability to a person's qualifications for the project.

*How and Where To Submit*

Intergovernmental Review

Pursuant to Executive Order 12372 ("Intergovernmental Review of Federal Programs") and the implementing NSF regulations (**Federal Register**, Volume 48, No. 123, June 24, 1983, pp. 29358–29366), the NSF has established a procedure for ensuring the review of proposals by states when applicable. Programs described in this announcement are eligible for review by electing states under E.O. 12372.

Proposers from states electing to review proposals must submit their proposals to the state's single point of contact (SPOC) for review *prior* to submission to the NSF. (See Appendix 3 of this program announcement for a list of states electing to review and their SPOC.) No grant award will be made by the NSF unless the state has had an opportunity to review the proposal for a maximum period of 60 days. Please supply the number assigned by the state to your proposal at the bottom of the Data Sheet, Appendix 2.

Questions relating to NSF's implementation of E.O. 12372 should be directed to the NSF Intergovernmental Review Officer at (202) 357–7842.

Proposal Submission

Fifteen (15) complete copies of the proposal and three (3) additional copies of the Cover Sheet and Project Summary should be prepared and sent to:

Data Support Services Section, National Science Foundation, Washington, D.C. 20550

**IV. Proposal Evaluation**

NSF evaluates proposals on the basis of four general criteria:

• *Intrinsic merit*—This criterion is used to assess the likelihood that the project will advance or have substantial impact on precollege science, mathematics, and technology education.

• *Performance competence*—This criterion relates to the capability of the proposers, the soundness of the proposed approach, and the adequacy of the resources available to carry out the project.

• *Utility or relevance of the project*—This criterion is used to assess the likelihood that the project can contribute to meeting specific needs in precollege science, mathematics, and technology education.

• *Effect on the infrastructure of science and engineering*—This criterion related to the potential of the proposed project to contribute to better understanding or improvement of the quality, distribution, or effectiveness of the Nation's scientific and engineering research, education, and personnel base.

This last criterion, effect on the infrastructure of science and engineering, permits the evaluation of proposals in terms of their potential for improving the scientific, mathematics, and engineering enterprise and its educational activities in ways other than those encompassed by the first three criteria. Included under this criterion are questions relating to personnel, including participation of women and minorities; the distribution of resources with respect to institutions and geographic area; stimulation of quality activities in important but underdeveloped fields; and the utilization of interdisciplinary approaches to science education in appropriate areas.

Specific criteria that are considered in evaluating most proposals for Materials Development and Research in science, mathematics, and technology education are:

• *Impact*—Does the project address a national or signficant problem? Does the project have potential for significantly strengthening the Nation's science and mathematics education? Is the project likely to deal effectively with the target problem? Does the project employ a particularly creative approach that might serve as a model for others?

• *Plan*—Does the project appear workable, cost-effective and appropriate relative to the target problem and the impact anticipated? Is the approach scientifically and educationally sound? Is the plan integrated with other efforts to improve the quality of mathematics or science education? Are the evaluation plans reasonable? Is the plan for continuation of the project beyond NSF support credible? Does the proposed project include realistic mechanisms which will lead to wide-spread dissemination of instructional materials, models, or other project results?

• *Personnel*—Are the designated personnel such as mathematicians, scientists, engineers, active teachers, science educators, officials of state and local education agencies, and/or persons from the private sector (such as industrial scientists) adequate for a successful project?

• *Products*—Are the expected products or outcomes of the project clearly defined and of high quality?

• *Cooperative relationships*—Has a reasonable working relationship among the cooperating parties been defined? Does the proposal contain letters of agreement or other evidence of workable relationships? Will the project encourage and facilitate better working relationships among cooperating school systems, their teachers, and the scientists and educators of cooperating colleges, universities and industry? Will the project develop long-term relationships with institutions that can supplement and support the quality of precollege mathematics and science teaching?

• *Contributions*—Does the proposal include appropriate contributions from the private sector, state or local educational agencies, colleges or universities, scientific or teaching professional societies, and other sources?

Proposals will be reviewed for scientific and educational merit by scientists, science educators and others knowledgeable in the fields represented by the proposal. Until a decision is announced, no information can be provided on the probability of support. Every effort is made to reach a decision and inform the applicant promptly. Notification of award is made in writing by the Foundation. Organizations whose proposals are unsuccessful will be advised as promptly as possible. Verbatim copies of reviews, not including the identity of the reviewers, will be made available to respective project directors.

The awardee is wholly responsible for the conduct of the project, including the research and development of materials and the preparation of project results for publication. The Foundation does not assume responsibility for such findings or their interpretation, but expects an acknowledgement of its support in all published materials resulting from funded projects.

**V. Grant Administration**

NSF grants are administered in accord with the terms and conditions of NSF Form Letter 200, *Grant General*

*Conditions*, copies of which may be requested from the NSF Forms and Publications Unit.

Because of the nature of some precollege projects, proposers may wish to familiarize themselves with NSF policy in two particular areas:

• Where educational materials are outcomes, the GSER should be consulted with respect to inventions, software, and copyrights.

• Where precollege students are to be involved in research or in the development of materials, awards are subject to the provisions of 42 U.S.C. 1869 (a) and (b) ("Myers Amendment" and "Dornan Amendment"). These provisions of law require appropriate grantee coordination with parents, guardians, and school district officials.

The awardee is wholly responsible for the conduct of the project, including the research and development of materials and the preparation of project results for publication. The Foundation does not assume responsibility for such findings or their interpretation, but expects an acknowledgement of its support in all published materials resulting from funding projects.

**VI. Inquiries**

Questions not addressed in this publication may be directed to the NSF staff by writing to:

Division of Materials Development and Research, Directorate for Science and Engineering Education, National Science Foundation, Washington, D.C. 20550.

Dated: February 22, 1985.

**Alan I. Leshner,**

*Acting Division Director, Materials Development and Research.*

[FR Doc. 85-4751 Filed 2-26-85; 8:45 am]

BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

### Monthly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

**I. Background**

Pursuant to Public Law (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing 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 January 23, 1985 (50 FR 3047) through February 15, 1985.

**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 March 29, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief)*: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

**Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts**

*Date of amendment request:* December 6, 1984.

*Description of amendment request:* The proposed amendment would change the Technical Specifications to reduce the permitted oxygen concentration level in the primary containment from a maximum of 5% to a maximum of 4%.

On May 8, 1984, NRC issued Generic Letter 84–09 which concluded that recombiner capability is not required in BWR plants with Mark I containment for which notices on the construction permits were published before November 5, 1970, if certain criteria were met. The criteria enumerated were as follows: (1) The plant has Technical Specifications (limiting conditions for operation, LCO) requiring that the containment atmosphere be less than four percent oxygen when the containment is required to be inerted, and (2) the plant has only nitrogen or recycled containment atmosphere for use in all pneumatic control systems within containment, and (3) there are no potential sources of oxygen in containment other than that resulting from radiolysis of the reactor coolant.

The present Technical Specifications for Pilgrim Station provide that the oxygen concentration level be less than 5% oxygen by volume in containment during reactor power operation. In order to comply with the criteria in the Generic Letter, the LCO for this Technical Specification must be changed to a maximum of 4% oxygen by volume.

*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 those not likely to involve such considerations is Example (ii) which is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: For example, a more stringent surveillance requirement. The proposed change of the Technical Specifications LCO to reduce the allowable oxygen concentration level in primary containment constitutes an additional limitation on plant operation, that is consistent with Example (ii).

Since the amendment involves a proposed change that is similar to an example for which no significant hazards considerations are likely to exist, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

*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 and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington, South Carolina**

*Date of amendment request:* September 19, 1984.

*Description of amendment request:* The proposed amendment would change the Technical Specifications from requiring the equalizing charge to be performed monthly to performing the change annually. Changing the battery charging requirements is consistent with the manufacturer's recommended interval, reduces unnecessary overcharging of cells and does not degrade the overall operation of the batteries. The decreased frequency for charging of the batteries improves the reliability of voltage sensitive equipment on the same bus in that this equipment (NBFD relays in reactor protection system) will be subjected to the voltage changes seen during charging less often.

The battery parameters will continue to be measured on a monthly basis. This provides adequate indication of battery status and the ability to identify any deterioration long before failure, as discussed in the current basis.

*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 not involve significant hazards considerations is a change which may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria. The attached proposed change falls within the Commission's example (vi) of a change not likely to involve a significant hazards consideration because the change is in accordance with the manufacture's recommendations, reduces unnecessary overcharging and may improve the reliability of voltage sensitive equipment on the same bus.

Therefore, on these bases, the Commission proposes to determine that the proposed change involves no significant hazards considerations.

*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:* December 10, 1984.

*Description of amendment request:* The proposed amendment would revise Section 6, Administrative Controls, of the Technical Specifications to: (1) Change the position of Manager-Operations and Maintenance from a single position to two positions; Manager-Operations and Manager-Maintenance; Reporting to the General Manager as prior to change; and (2) reinsert page 6.5-7 approved by Amendment 84 but inadvertently deleted by Amendment 85.

*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 (April 6, 1983, 48 FR 14870). The proposed change to station organization and the replacement of a previously approved organizational change that was deleted by error during a subsequent amendment are covered by example (i) since they are administrative in nature. The staff, therefore, proposes to determine that this amendment involves no significant hazards consideration.

*Local Public Document Room location:* Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

*Attorney for licensee:* Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* Steven A. Varga.

**Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois**

*Date of amendment request:* February 17, 1983, as supplemented August 23, 1984.

*Description of amendment request:* This submittal supplements the request for amendment dated February 17, 1983 which was noticed in the Federal Register on September 21, 1983 (49 FR 43132). The changes proposed by the licensee reflected both organizational changes and changes necessitated by revisions to 10 CFR. Sections 50.54 and 50.72 of 10 CFR and a new § 50.73, revised the minimum operator staffing requirements, immediate notification requirements and the Licensee Event Reporting system, respectively.

The proposed amendment would incorporate numerous miscellaneous changes to section 6, Administrative Controls, of the Technical Specifications. This section of the Technical Specifications contains, among other things, information and descriptions concerning the licensee's management organization. The licensee proposed to modify these specifications in several places to reflect the current licensee organizations at corporate headquarters and at the station. These changes are changes in title for existing positions and the addition of a new position, Director of Nuclear Safety. In addition, specifications in response to an NRC requests are proposed to require procedures for the control of overtime for certain job classifications at the station. The licensee also proposed to clarify the applicability of the requirement to conduct retraining at two-year intervals as a result of a concern identified during an informal licensee audit. The licensee also proposed changes to specify that emergency procedure drills shall be conducted at the frequency specified in the Generating Station Emergency Plan, and to require audits of the Facility Emergency Plan and Facility Security Plan at lease once per twelve months. These changes are in response to NRC requests. Finally, a proposed change would clarify job qualification requirements for the position of radiation/chemical technician.

*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). These examples of actions involving no significant hazards consideration include: (1) A purely administrative change to the Technical Specifications, correction of an error or a change in nomenclature; (2) a change that consititutes an additional limitation, restriction, or control not presently included in the Technical Specifications; and (3) a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations in keeping with the regulations.

The changes proposed in the application for amendment are encompassed by these examples in the following ways:

(1) Changes to the Technical Specifications have been proposed by the licensee to reflect the current licensee organization by changing the titles for certain positions. These changes do not reflect a significant change in the authority of the position, and are changes in nomenclature and are similar to example (1) above.

(2) Another change proposed which reflects the current organization is the definition and description of a newly created position, Director of Nuclear Safety. This new position has defined powers and authority that exert additional control not presently in the Technical Specifications and is thus similar to example (2) above.

(3) Another change is proposed that defines the qualificatrions and capabilities required for the position of radiation/chemical technician. These qualifications and capabilities were not previously defined in the Technical Specifications, so the change constitutes an additional limitation, restriction, or control not presently included therein and is thus similar to example (2) above.

(4) Other changes are proposed that clarify the requirement to conduct retraining at two-year intervals, that specify that emergency procedure drills shall be conducted at the frequency called out in the Generating Station's Emergency Plan, and that require audits of the Facility Emergency Plan and Facility Security Plan at least once per 12 months. These changes constitute additional limitations, restrictions or controls not presently included in the Technical Specifications, and are thereby similar to example (2) above.

(5) Changes to requirements for minimum operator staffing, and immediate notification requirements,

and changes to the Licensee Event Reporting system are similar to example (3) above, since these are changes to make a license conform to changes in the regulations, with minor changes to facility operations.

Since each of the changes requested by the licensee can be shown to be similar to an example of a kind of change which will be considered not likely to involve a significant hazards consideration, the staff proposes to determine that this proposed amendment involves no significant hazards consideration.

*Local Public Document Room location:* Moline Public Library, 504—17th Street, Moline, Illinois 61265.

*Attorney for licensee:* Mr. Robert G. Fitzgibbons, Jr., Isham, Lincoln, & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

*NRC Branch Chief:* Domenic B. Vassallo.

**Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois**

*Date of amendment request:* October 2, 1984.

*Description of amendment request:* The submittal requests changes in the Technical Specifications for Quad Cities Units 1 and 2 to permit the use of hafnium neutron absorber material in the control rod assemblies. This change will allow NRC-approved state-of-the-art control rod designs, using other than boron carbide neutron absorber material, to be used in these units.

*Basis for proposed no significant hazards consideration determination:* The licensee's submittal of October 2, 1984 contained an evaluation of the proposed action and a basis for a proposed no significant hazards consideration determination. The licensee's proposed determination is based on the following considerations.

The proposed Technical Specification changes do not represent significant changes in acceptance criteria or safety margins and all changes have been previously accepted by the NRC for other similar units, including Dresden 3.

Previous control blades used at Quad Cities and Dresden Unit 2 utilized boron carbide as the absorber material. The use of hafnium in place of, or in addition to, boron is desired to provide comparable neutron absorption characteristics while eliminating or reducing the production of helium gas. This will reduce the source of internal pressure in the control blade structure, thereby reducing material stresses and the likelihood of stress corrosion cracking. The reactivity of the hafnium-bearing control rods is sufficiently matched to ensure that their safety function (scram reactivity) is not reduced or compromised, nor will the probabilities or consequences of previously evaluated accidents be increased.

Based on the preceding discussion and review of similar approved changes at another Commonwealth Edison Unit, Dresden Unit 3, the licensee concludes that the proposed amendments will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated, because the use of hafnium metal in place of boron carbide powder is to reduce the potential for corrosion and mechanical stress that would give rise to such accidents.

(2) Create the possibility of a new or different kind of accident previously evaluated; the kinds of accidents which can result from control rod malfunction have instead been reduced by the use of hafnium absorber material in place of boron carbide powder.

(3) Involve a significant reduction in the margin of safety; the hafnium absorber will provide neutron absorption characteristics that do not differ significantly from the provided by the boron carbide powder currently used.

The staff has reviewed the licensee's significant hazards consideration determination. The staff finds that the criteria for a no significant hazards consideration as set forth in 10 CFR 50.90 are met. The staff has, therefore, made a proposed determination that the proposed amendment involves no significant hazards consideration.

*Local Public Document Room location:* Moline Public Library, 504—17th Street, Illinois 61265.

*Attorney for licensee:* Mr. Robert G. Fitzgibbons, Jr., Isham, Lincoln, & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

*NRC Branch Chief:* Domenic B. Vassallo.

**Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois**

*Date of amendment requests:* November 27, 1984.

*Description of amendment request:* The proposed amendment would revise the Technical Specification to: (1) Raise the drywell high pressure trip setpoint from 2.0 psig to 2.5 psig and (2) remove the requirement for bi-weekly main steam line isolation valve (MSIV) partial closure test.

The proposed drywell trip setpoint change would reduce the probability of spurious actuation due to instrument drift. Deletion of the bi-weekly MSIV partial closure test requirement would allow the closure to be tested monthly, consistent with the Standard Technical Specification requirement.

*Basis for proposed no significant hazards consideration determination:* The licensee's submittal of November 27, 1984 contained an evaluation of the proposed action and a basis for a proposed no significant hazards consideration determination. The licensee's proposed determination is based on the following considerations.

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 results 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.

This example encompasses both of the requested changes. An increase of the high drywell pressure to 2.5 psig and deletion of the bi-weekly MSIV testing is a relaxation of the current Technical Specification limits and therefore, may be considered as a reduction of an existing safety margin. However, both proposed revisions still comply with the staff's general guidance on the drywell pressure set point and MSIV testing as described below.

In the case of the proposed 2.5 psig set point, the increase is requested in order to reduce inadvertent ECCS operation. The new operating margin between normal drywell pressure and the trip point is still within the original plant accident analysis and falls within the staff's guidance on set point margin for resolution of TMI Item II.E.4.2.5.

In the case of the deletion of the bi-weekly MSIV test, the provisions remaining in the Technical Specifications for testing the MSIVs are consistent with the BWR Standard Technical Specification as endorsed by Chapter 16 of the Standard Review Plan. Therefore, although some relaxation in surveillance frequency will occur, the remaining provisions will meet the staff's guidelines for testing of the MSIVs.

Since the application for amendment involves a proposed change that is similar to an example for which no significant hazards consideration exists.

the licesee proposes a determination that the application involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and, based on this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

*Local Public Document Room location:* Moline Public Library, 504—17th Street Illinois 61265.

*Attorney for licensee:* Mr. Robert G. Fitzgibbons, Jr., Isham, Lincoln, & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

*NRC Branch Chief:* Domenic B. Vassallo.

**Commonwealth Edison Company, Docket Nos. 50–265, Quad Cities Nuclear Power Station, Unit 2, Rock Island County, Illinois**

*Date of amendment requests:* January 3, 1985.

*Description of amendment request:* This amendment would change the calibration and functional test frequencies for certain specific instruments that are being modified into analog trip systems. These modifications are being made to achieve full compliance with the requirements of 10 CFR 50.49 (Enninronmental Qualification of Electrical Equipment).

*Basis for proposed no significant hazards consideration determination:* The licensee has evaluated the proposed Technical Specification change and has determined that the change does not represent a significant hazards consideration. The licensee's proposed determination is based on the following considerations.

The Commission has provided guidance concerning the application of standards for making no significant hazards consideration determination by providing certain examples (48 FR 14870). The examples of actions likely to involve no significant hazards considerations include: "(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method."

The licensee's proposed amendment would change the calibration and functional test frequencies for certain specific instruments that are being modified into analog trip systems. The use of analog trip units, and the acceptable intervals for their calibration and testing, has been reviewed and accepted by the NRC in their review and acceptance of General Electric Topical Report NEDO–21617–A, "Analog Transmitter/Trip Units Systems for Engineered Safeguard Sensor Trip Inputs," dated December 1978. The analog sensor transmitter channel calibration interval is less stringent than the current requirements on the existing equipment, but the proposed calibration interval falls within the interval specified in the NRC–approved Topical Report for this equipment, and is consistent with the Standard Technical Specifications as endorsed by Chapter 16, of the Standard Review Plan. Since the requested amendment is encompassed by the example (vi) of the guidance, for which no significant hazards consideration is likely to exist, the licensee has made a proposed determination that the proposed amendment involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and, based on this review, the staff has made a proposed determination that the proposed application for amendment involves no significant hazards consideration.

*Local Public Document Room location:* Moline Public Library, 504—17th Street, Moline, Illinois 61265.

*Attorney for licensee:* Mr. Robert G. Fitzgibbons, Jr., Isham, Lincoln, & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

*NRC Branch Chief:* Domenic B. Vassallo.

**Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut**

*Date of amendment request:* December 6, 1984.

*Description of amendment request:* The proposed request would revise the Technical Specifications (TSs) to modify the control rod Power Dependent Rod Insertion Limit (PDIL) curves for the portion from 1473 to 1825 MWt.

*Basis for proposed no significant hazards consideration determination:* This change would relax slightly the restrictions on control rod positions. This change is being requested to allow greater flexibility of plant operations associated with reducing power level from full power and subsequent increasing the power level to full power. With the current curve, in particular towards the end of core life, reducing power requires boration. In returning to full power, reduction of primary system boration is required. The reduction in boration requires processing of a significant amount of primary system water. The proposed change is expected to alleviate this method of operation.

The licensee evaluated the effect of the proposed change on power distributions (DNB and LOCA kW/ft limits), shutdown margin, and ejected rod worth. Based on this evaluation the licensee concluded that all pertinent criteria are met for Cycle 13 with the revised PDIL. Specifically: (1) The steady-state minimum DNBRs in the power level range from 1473 to 1825 MWt are bounded by the results at 1825 MWt, (2) the axial offset limits are not affected by the change in the PDIL and continue to limit the allowable peak linear heat generation rate, (3) the shutdown margin was verified to be greater than 1.9% delta k/k for all points along the PDIL, (4) the revised section of the PDIL does not affect 3-loop operation since 3-loop operation is restricted to less than 65% power, and (5) the revised PDIL does not affect the maximum calculated ejected rod worths at hot zero or hot full power.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples of actions not likely to involve significant hazards considerations [example (vi)] relates to a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a 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. Because the licensee's evaluation shows that all pertinent criteria are met for Cycle 13 with the revised PDIL, the proposed change falls within the category of example (vi). 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:* Russell Library, 123 Broad Street, Middletown, Connecticut 06547.

*Attorney for licensee:* Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499.

*NRC Branch Chief:* John A. Zwolinski.

**Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York**

*Date of amendment request:* December 14, 1984.

*Description of amendment request:* The proposed Technical Specification revision incorporates the requirements to perform augmented inservice inspection of the IP–2 reactor vessel during the second ten year inspection interval. The augmented inspection is required as a result of a flaw indication reported on the IP–2 reactor vessel during the cycle 6/7 refueling outage. It ws determined that the flaw size was within the limits of Section XI of the ASME Code requiring augmented inservice inspection. Therefore, restart of IP–2 following the refueling outrage was conditioned upon Consolidated Edison's commitment to perform augmented inservice inspection on the reactor vessel. The inspection will be performed at a frequency of three times over the next ten years.

*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 examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). Such examples include changes that constitute additional limitation, restriction or control not presently included in the Technical Specifications. The staff proposes to determine that this change does not involve a significant hazards consideration because it consists of additional requirements not currently in the Technical Specifications.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

*Attorney for licensee:* Thomas J. Farrelly, Esq., 4 Irving Place, New York, New York 10003.

*NRC Branch Chief:* Steven A. Varga.

**Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York**

*Date of amendment request:* December 21, 1984.

*Description of amendment request:* The proposed Technical Specification revision incorporates the requirements pursuant to the Commission's Generic Letter 83–37 dated November 1, 1983 which requested all pressurized water reactor licensees to submit proposed Technical Specifications for NUREG–0737 items listed in enclosure 1 of the letter. Specifically the proposed amendment would change the IP–2 Technical Specifications to incorporate new requirements for the following: (1) Post accident sampling system, (2) noble gas effluents monitor, (3) containment high range radiation monitor, (4) containment pressure monitor, (5) containment hydrogen monitor, (6) control room habitability, and (7) containment samplying and analysis of plant effluents.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance 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). Such examples include changes that constitute additional limitations not presently found in Technical Specifications and that make the license conform to changes in the regulations. The staff proposes to determine that this change does not involve a significant hazards consideration since it consists of additional requirements not in the Technical Specifications and is submitted to conform Indian Point Unit 2 to current NRC requirements.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

*Attorney for licensee:* Thomas J. Farrelly, Esq., 4 Irving Place, New York, New York 10003.

*NRC Branch Chief:* Steven A. Varga.

**Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan**

*Date of amendment request:* November 8, 1984, which supersedes previous submittals dated October 27, 1981, December 15, 1981, and December 16, 1983.

*Description of amendment request:* In the submittals listed above, Consumers Power Company (CPCo.) (the licensee) requested Technical Specification (TS) changes that would incorporate a description of and operating requirements for the new Stack Gas Monitoring System. This system has been installed and made operational to meet the guidance of NUREG–0737 Item II.F.1(1) "Noble Gas Effluent Monitor" and Item II.F.1(2) "Sampling and Analysis of Plant Effluents". The system provides the capability to monitor effluent release rates several orders of magnitude above normal rates for accident situations. A Proposed No Significant Hazards Consideration Determination for this proposed license amendment was published in the **Federal Register** on March 1, 1984 (49 FR 7671). However, the TSs covered by this notice were not acceptable to the NRC. On November 8, 1984, the licensee submitted revised proposed TSs which superseded the earlier submittals. The revised proposed TSs of November 8, 1984 are now under consideration by the NRC.

*Basis for proposed no significant hazards consideration determination:* The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability of consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870, April 6, 1983). One of the examples of actions not likely to involve significant hazards considerations relates to changes that constitute an additional limitation, restriction, or control not presently included in the TSs. The Stack Gas Monitoring System is a new system at Big Rock Point which will replace and upgrade the present effluent monitoring system. The proposed changes incorporate a description of the system and operating requirements for the system into the Big Rock Points TSs and constitute an additional limitation, thus they fall within the above example. On this basis, the staff proposes to conclude that the requested action would involve no significant hazards considerations.

*Local Public Document Room location:* North Central Michigan

College, 1515 Howard Street, Petoskey, Michigan 49770.

*Attorney for licensee:* Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

*NRC Branch Chief:* John A. Zwolinski, Chief.

**Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan**

*Date of amendment request:* November 14, 1984.

*Description of amendment request:* The plant modification to change the Reactor Enclosure Treated Waste Line Valve from a hand-switch operated valve to an automatic closure valve was made to resolve Systematic Evaluation Program Topic VI-4, Containment Isolation System. The change has been evaluated by the NRC staff in the Intergrated Plant Assessment Report (NUREG-0828) for Big Rock Point, section 4.20.4, published in May 1984. The proposed license amendment would require that this automatic valve be periodically tested for proper manual and automatic operation and leak tightness.

*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, 1983). 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. The addition of the proposed operability and leak test requirements to the Technical Specifications constitutes such an additional restriction.

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:* North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

*Attorney for licensee:* Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

*NRC Branch Chief:* John A. Zwolinski, Chief.

**Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan**

*Date of amendments requested:* January 10, 1985, which supersedes previous submittals dated May 10, 1984 and June 20, 1984.

*Description of amendment request:* Currently, Consumers Power Company (CPCo.) has a byproduct material license (10 CFR Part 30 license) and a facility operating license (10 CFR Part 50 license) for Big Rock Point. The proposed amendment would incorporate the Big Rock Point Byporduct 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 (TSs). The plant TSs do not currently include such tests.

Consumers Power Company originally proposed such changes in submittals dated May 10, 1984 and June 20, 1984. These changes were originally noticed in the Federal Register on August 22, 1984 (49 FR 33362). However, the TSs contained in the applications were not acceptable to the NRC. On January 10, 1985, CPCo. submitted revised proposed TSs which superseded the eariler submittals. The revised proposed TSs of January 10, 1985 are now under consideration by the NRC.

*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, 1983). One of the examples (i) of actions not likely to involve a significant hazards consideration relates to a purely administrative change to the TSs. 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 TSs. The addition of the proposed sealed source leak test requirements to the TSs constitutes such an additional control.

Therefore, the staff proposed 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:* North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

*Attorney for licensee:* Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

*NRC Branch Chief:* John A. Zwolinski, Chief.

**Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina**

*Date of amendment request:* January 11, 1985.

*Description of amendment request:* The proposed amendment would revise Technical Specifications to reflect the second of several refueling stages involved in the continuing transition to the use of optimized fuel assemblies in McGuire Unit 1. The changes would also reflect a reduced reactor coolant system design flow rate. Changes in the Unit 1 specifications would be made to the time constants used in the overpower and overtemperature delta T setpoint equations to allow more flexibility in plant operations. Finally, some Unit 2 specifications would be administratively affected in that they would be combined into one specification applying to both McGuire Units 1 and 2, but there would be no change to the content of Unit 2 specifications.

*Basis for proposed no significant hazards consideration determination:* On April 20, 1984, the Commission issued Amendment No. 32 to Facility Operating License NPF-9 to change the Technical Specifications to permit changes in operating limits related to the transition to the use of optimized fuel assemblies in McGuire Unit 1. Accordingly, since its first refueling for Cycle 2, Unit 1 has operated with the first stage of a transition core consisting of approximately ⅓ Westinghouse 17x17 Optimized Fuel Assemblies (OFAs) and ⅔ Westinghouse 17x17 low-parasitic fuel assemblies (STDs). During the next refueling for Cycle 3 the planned transition would replace approximately another ⅓ of the original

total STDs with OFAs. The transition is planned to continue until an all OFA fueled core is achieved.

The major differences between STDs and OFAs are the use of Zircaloy grids for the OFAs versus Inconel grids for STDs and a reduction in fuel rod diameter. The OFA fuel has similar design features compared to the STD fuel, which has had substantial operating experience in a number of nuclear plants. Major advantages for utilizing the OFAs are: (1) Increased efficiency of the core by reducing the amount of parasitic material and (2) reduced fuel cycle costs due to an optimization of water to uranium ratio.

The proposed amendments would provide for plant operation consistent with the design and safety evaluation conclusions in the licensee's McGuire Unit 1 Cycle 3 Reload Safety Evaluation (RSE). The changes to the Technical Specifications 3/4.2.1 and 3/4.2.2 would reflect appropriate adjustments in the limiting conditions and surveillance requirements for (1) axial flux difference and (2) heat flux hot channel factor, respectively. The thermal hydraulic safety analyses used in the Cycle 3 RSE are based on a reduced design flow rate (97,200 gpm per loop versus 98,400), but the proposed changes result in no significant variations in thermal margins. Changes to Specification Figures 2.1–1a and 3.2–3a and Table 2.2–1 (low reactor coolant flow trip setpoint and allowable values) would reflect the reduced reactor coolant system flow value. Changes to Specification Tables 2.2–1, 3.3–2 and 3.3–4 would reflect the changes to the time constants used in the overpower and overtemperature delta T setpoint equations.

The Commission proposes to determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The McGuire Unit 1/Cycle 3 RSE accompanying the licensee's amendment request of January 11, 1985, describes all of the accidents comprising the licensing bases which could potentially be affected by the fuel reload for the Unit 1 Cycle 3 design. The results of the analysis conclude that:

a. The Westinghouse OFA reload fuel assemblies for McGuire 1 and 2 are mechanically compatible with the STD design, control rods, and reactor internals interfaces. Both fuel assemblies satisfy the current design bases for the McGuire units.

b. Changes in the nuclear characteristics due to the transition from STD to OFA fuel will be within the range normally seem from cycle to cycle due to fuel management effects.

c. The reload OFAs are hydraulically compatible with the current STD design.

d. The accident analyses for the OFA transition core were shown to provide acceptable results by meeting the applicable criteria, such as, minimum DNBR, peak pressure, and peak clad temperature, as required. The previously reviewed and licensed safety limits are met.

e. Plant operating limitations given in the Technical Specifications will be satisfied with the proposed changes.

From these evaluations, it is concluded that the Unit 1 Cycle 3 design does not cause the previously acceptable safety limits to be exceeded.

The effect of the time constant changes has been evaluated by reanalyzing the limiting events that rely on overpower and overtemperature delta T protection. The limiting Rod Cluster Control Assembly Withdrawal at Power cases from the reload analyses have been reanalyzed with the increased time constants in the overtemperature delta T setpoint equation. The results show that the departure from nucleate boiling (DNB) design basis is met. The overpower delta T trip is not relied upon for protection in any of the FSAR accident analyses. However, a spectrum of steamline breaks was analyzed at various power levels to determine the limiting cases that are presented in the FSAR. Some of the small steamline breaks at power that were analyzed rely on overpower delta T for protection. Therefore, an analysis was performed that verifies that the DNB design basis is met for small breaks at full power with the increased time constants in the overpower delta T setpoint equation.

The Commission has provided examples of amendments likely to involve no significant hazards considerations (48 FR 14870). One example of this type is (vi), "A change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where 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". Because the evaluations previously discussed show that all of the accidents comprising the licensing bases which could potentially be affected by the fuel reload were reviewed for the Unit 1 Cycle 3 design and conclude that the reload design does not cause the previously acceptable safety limits to be exceeded, the above example can be applied to this situation. Accordingly, the Commission proposes to determine that these changes for the Unit 1 Cycle 3 reload, including the changes in axial flux difference, heat flux hot channel factor, design flow, and time constants for the overpower and overtemperature delta T setpoint equations, do not involve a significant hazards consideration.

Another example of actions not likely to involve a significant hazards consideration, example (i), relates to a purely administrative change to technical specifications to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The Commission proposes to find that the changes to Unit 2 specifications which do not change the content for Unit 2 but which preserve or eliminate the distinctions between units within the common document are administrative and involve no significant hazards consideration.

*Local Public Document Room location:* Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

*Attorney for licensee:* Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242.

*NRC Branch Chief:* Elinor G. Adensam.

**Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania**

*Date of amendment request:* December 12, 1984.

*Description of amendment request:* This is an application for an amendment to Operating License DPR–66, revising the Technical Specifications to reduce the probability and consequences of an overpressurization event.

The proposed changes are currently in the form of plant procedures; issuance of an amendment would incorporate these procedures into the plant Technical Specifications. The changed specifications would provide additional protection from pressure transients at low temperatures by reducing the probability of initiation of such a

transient, and by limiting the resultant pressure of such a transient to below the limits set by 10 CFR 50 Appendix G. The proposed changes would also bring the Technical Specifications into compliance with General Design Criteria 15 and 31, which address operational requirements of the overpressure protection system.

*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 these, Example (ii), involving no significant hazards consideration is "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications." As described above, the requested amendment matches this example and the staff, therefore, proposes to characterize it 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.

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia**

*Date of amendment request:* April 24, 1984.

*Description of amendment request:* The Technical Specification changes proposed by this submittal are a partial revision to the changes requested in the licensees' July 9, 1982, October 24, 1983, and December 20, 1983, amendment requests which are previously noticed in the Federal Register on January 26, 1984 (49 FR 3347). The additional changes proposed in this April 24, 1984, submittal include: (1) The expansion of organizational charts to show more positions and to reflect organizational changes, (2) changes in titles and responsibilities of senior management, (3) changes that allow approval of certain plant procedures at managment levels other than that of the General Manager—Plant Hatch, and (4) modify the Plant Review Board quorum requirements.

*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).

An example of actions involving no significant hazards considerations is an amendment involving a purely administrative change to the Technical Specifications (Example (i)). The expansion of the organization charts and the change of position titles are such changes.

Another example of actions involving no significant hazards considerations is an amendment which may reduce in some way a margin of safety, but where the results of the change are clearly within acceptable criteria with respect to the system or component specified in the Standard Review Plan (Example (vi)). Changes in the responsibilities of senior management in the approval level for procedures and in the Plant Review Board quorum requirements fit this example.

On these bases, the Commission proposes to determine that these actions involve no significant hazards considerations.

*Local Public Document Room location:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

*Attorney for licensee:* G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John F. Stolz.

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia**

*Date of amendment request:* May 2, 1984, as superseded November 19, 1984.

*Description of amendment request:* By letter dated October 27, 1983, as supplemented December 20, 1983, Georgia Power Company requested amendments to the operating licenses for Hatch Units 1 and 2.

The requested amendments would modify the Technical Specification Limiting Conditions for Operation (LCOs) and surveillance requirements for snubbers for these units. These requested amendments were noticed in the Federal Register on February 24, 1984 (49 FR 7037). By letter dated May 5, 1984, as superseded by letter dated November 19, 1984, Georgia Power Company has revised the previously noticed submittals to provide additional requirements concerning the selection of the sample for the functional tests, to provide additional functional test requirements and to replace the table listing snubbers with an LCO description of the snubbers that are required to be operable.

These revisions were provided in response to Commission requests stemming from the staff review of the earlier submittals and in response to Generic Letter 84–13, "Technical Specifications for Snubbers", dated May 3, 1984.

*Bases for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). Examples of actions involving no significant hazards consideration are amendments that involve a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications [Example (ii)] and amendments involving a purely administrative change to the Technical Specifications [Example (i)]. The proposed additional requirements concerning the sample selection and tests are similar to Example (ii).

The replacement of the table listing snubbers with an LCO describing which snubbers was made in response to Generic Letter 84–13. It will provide a means of describing all of the snubbers required to be operable in general terms, thereby eliminating the need to list each snubber or to request amendments if snubbers are added or removed. It is an administrative change and is similar to example (i).

On the basis of the above, the Commission has made a proposed determination that the application for amendments involves no significant hazards consideration.

*Local Public Document Room location:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

*Attorney for licensee:* G.F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John F. Stolz.

**GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey**

*Date of amendment request:* May 1 and 25, 1984.

*Description of amendment request:* The proposed amendment requests approval for changes to the Appendix B Technical Specifications to reflect the change in the location for three marine woodborer exposure panels and for revisions to the procedure for calibration of environmental monitoring instrumentation. These changes would be to section 3.0, Special Monitoring and Study Activities, Woodborer Monitoring

Program, of Appendix B of the Oyster Creek Technical Specifications.

*Basis for proposed no significant hazards consideration determination:* The proposed changes to Appendix B, Environmental Technical Specifications, will: (1) Update Table 3.1 of the plant Technical Specifications which describes the locations of the woodborer exposure panels and (2) decrease the frequency of calibration of environmental water quality monitoring instrumentation for measuring salinity, dissolved oxygen, water temperature and pH.

These proposed changes may affect the measurement of the impact of plant operation on the environment. They do not affect the operation of the plant. Therefore, the staff proposes to determine that the requested action involves no significant hazards consideration in that the proposed action does not involve a significant increase in the probability or consequences of an accident previously evaluated, does not create the possibility of a new or different kind of an accident from any previously evaluated and does not involve a significant reduction in a margin of safety.

*Local Public Document Room location:* Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

*Attorney for licensee:* G.F. Trowbridge, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John A. Zwolinski.

**GPU Nuclear Corporation Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey**

*Date of amendment request:* June 8, 1984, superseding the December 11, 1979, request.

*Description of amendment request:* The proposed amendment requests approval of administrative revisions to Inservice Inspection (ISI) and Inservice Testing (IST) requirements in section 4.3, Reactor Coolant, of the Oyster Creek Appendix A Technical Specifications.

*Basis for proposed no significant hazards consideration determination:* On February 27, 1976, the Nuclear Regulatory Commission revised the inservice inspection testing requirements for ASME Code Class 1, 2, and 3 components for nuclear power plants in 10 CFR 50.55a. The revised regulations require inservice inspection and testing set forth in Section XI of the ASME, Boiler and Pressure Vessel Code, and Addenda. A review by the Commission of 1974 edition ASME section XI indicated that conflicts may occur between the ASME code requirements and the plant Technical Specifications. To avoid such conflicts, the Commission requested that the licensee, in accordance with § 50.55a(g)(5)(ii), apply for an amendment to the plant technical specifications to replace such conflicting technical specifications with a reference to 10 CFR 50.55a. The licensee proposed by an amendment request dated June 8, 1984 to incorporate the requirements of the revised regulations on inservice inspection and testing in the plant technical specifications.

The licensee previously, by an amendment request dated December 11, 1979, proposed to delete nondestructive examination requirements for the reactor coolant system from § 4.3 of the technical specifications because that requirement was contained in the Oyster Creek Inservice Inspection Program for the second 10-year interval and also proposed to renumber technical specifications, pages and tables in § 4.3 as needed to accommodate the proposed changes.

The proposed amendment would: (1) Incorporate into the technical specifications requirements in the revised regulations and (2) delete a required inspection from the technical specifications which is also contained in the Oyster Creek Inservice Inspection Program. The Commission has provided examples of license amendments that are not likely to involve significant hazards considerations (48 FR 14870). Examples of amendments not likely to involve significant hazards considerations include: (vii) Changes to conform the license to the regulations where the license change results in very minor changes to facility operations clearly in keeping with the regulations; and (i) purely administrative changes to the technical specifications. The proposed amendment incorporating into the technical specifications the revised regulations fall within example (vii). The deletion from the technical specifications of redundant requirements falls within example (i). Because these amendments fall within examples of actions not likely to involve significant hazards considerations, the staff proposes to determine that the requested action involves no significant hazards consideration.

*Local Public Document Room location:* Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

*Attorney for licensee:* G.F. Trowbridge, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John A Zwolinski.

**GPU Nuclear Corporation Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey**

*Date of amendment request:* September 18, 1984.

*Description of amendment request:* Requests approval of Appendix A Technical Specification changes to incorporate conductivity and chloride limits given in Regulatory Guide 1.56 into section 3.3.E, Reactor Coolant Quality.

*Basis for proposed no significant hazards consideration determination:* During the integrated assessment of Oyster Creek in the Nuclear Regulatory Commission's Systematic Evaluation Program (SEP), the Commission reviewed the water purity of BWR primary coolant. This is § 4.20, page 4–27, of NUREG–0822, Integrated Plant Safety Assessment Oyster Creek Nuclear Generating Station, dated September 1982, under SEP Topic V–12A, Water Purity of BWR Primary Coolant. 10 CFR Part 50 (Appendix A, General Design Criterion 14), as implemented by guidance in Regulatory Guide 1.56, requires that the reactor coolant pressure boundary have minimal probability of rapidly propagating failure. This includes corrosion-induced failures from impurities in the reactor coolant system.

The licensee, at the request of the Commission, is proposing to revise the technical specifications in section 3.3.E, Reactor Coolant Quality, in the Appendix A Technical Specifications for Oyster Creek. The licensee proposes to increase the requirements on reactor coolant water quality.

The licensee is also proposing to add text to the Bases for section 3.3.E. This is to: (1) Explain the effect of chlorides in the reactor coolant and the reasons to keep chloride levels consistent with guidelines of Regulatory Guide 1.56, Rev. 1, and (2) refer to the reactor coolant temperature of 212°F instead of to the reactor condition, cold shutdown, in the Bases for measurement of conductivity of the reactor coolant.

The proposed changes would constitute an additional limitation, restriction, or control not presently included in the Technical Specifications, that is, a more stringent limiting condition for operation and are, therefore, consistent with example (ii) of the Commission guidance (48 FR 14870, April 6, 1983) as a type of action which would not involve a significant hazards consideration. Therefore, the staff proposes to determine that the

requested action would not involve a significant hazards consideration.

*Local Public Document Room location:* Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

*Attorney for licensee:* G.F. Trowbridge, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW. Washington, D.C. 20036.

*NRC Branch Chief:* John A. Zwolinski.

**GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey**

*Date of amendment request: June 1, 1979, revised October 22, 1984.*

*Description of amendment request:* Requests approval of Appendix A Technical Specification changes pertaining to definitions listed in section I, definitions, that were previously approved by the Commission but were not and should be listed in the Table of Contents; the new reporting requirements of 10 CFR 50.72 and 50.73; the Radiological Effluent Technical Specifications (RETS) required by Appendix I to 10 CFR Part 50; and the radioactivity limits and surveillance on the reactor coolant. These are proposed changes to section 1, Definitions; section 2, Limiting Conditions for Operations; section 3, Surveillance Requirements; and section 6, Administrative Controls of the Oyster Creek Technical Specifications.

*Basis for proposed no significant hazards consideration determination:* The licensee has submitted a new Table of Contents for the Appendix A Technical Specifications. This page includes the definitions 1.26 to 1.29 which were approved by the Commission in Amendment 75 dated August 27, 1984 to the license. However, in that amendment, the new definitions were not added to the Table of Contents. This proposed change is a purely administrative change to the technical specifications to correct an error. Therefore, the change is consistent with example (i) of the Commission's guidance (48 FR 14870, April 6, 1983) as a type of action not likely to involve a significant hazards consideration.

In Generic Letter 83-43, dated December 19, 1983, the Commission stated that § 50.72 of Title 10 of the Code of the Federal Regulations was revised and a new § 50.73 was added, effective January 1, 1984. Section 50.72 revises the immediate notification requirement for operating nuclear power reactors and § 50.73 provides for a revised Licensee Event Report System.

The Commission requested licensees to propose revisions to the "Administrative Controls" and "Definitions" sections of their plant's technical specifications to implement the 50.72 and 50.73 regulation changes. The Commission also stated that there may be other chanes to the technical specifications required to reflect the revised reporting requirements (e.g., technical specifications requiring a Licensee Event Report instead of a Special Report).

The licensee's proposed changes pertaining to the new reporting requirements in 10 CFR 50.72 and 50.73 constitute a change to make a license conform to changes in the regulations where the license change results in very minor changes to facility operations clearly in keeping with the regulations. These changes are consistent with example (vii) of the Commission's guidance (48 FR 14870, April 6, 1983) as a type of action not likely to involve a significant hazards consideration.

The licensee has proposed extensive changes to the Appendix A Technical Specifications to implement the requirements of Appendix I, Numerical Guides for Design Objectives and Limiting Conditions for Operation to Meet the Criterion "As Low as is Reasonably achievable" for Radioactive Material . . . , to 10 CFR Part 50. These technical specifications are definitions, limiting conditions for operation and surveillance requirements on the Oyster Creek radioactive waste system and the radioactive effluents from the plant including liquid radwaste, gaseous radwaste and solid radwaste.

On June 1, 1979, Jersey Central Power and Light submitted their proposed Technical Specification Change Request No. 69 to incorporate the requirements of Appendix I to 10 CFR Part 50. This submittal was discussed with the staff on September 13, 1979, and the licensee agreed that revisions to this submittal were needed. The licensee has since then submitted letters dated February 15, 1980, and October 22, 1984, requesting changes to the Technical Specifications pertaining to Appendix I to 10 CFR Part 50.

By letter dated February 15, 1980, Jersey Central Power and Light submitted Technical Specification Change Request No. 79 which incorporated the 10 CFR Part 50 Appendix I design objectives for gaseous effluent releases. This submittal was issued as Amendment 49 to the Oyster Creek Technical Specifications and was designed to be a temporary change, to be replaced after the complete RETS are issued for Oyster Creek and the Augmented Offgas System.

The licensee's proposed changes to implement Appendix I in the October 22, 1984, submittal are the following: (1) To add new definitions; (2) to revise the protective instrumentation requirements in Table 3.1.1 on the Offgas system isolation on high radiation; (3) to revise and expand section 3.6 on radioactive effluents, to add new sections and limiting conditions for operation on Solid Radioactive Waste, section 3.14, and on Radioactive Effluent Monitoring Instrumentation, section 3.15; (4) to add surveillance requirements in Table 4.1.1 and 4.1.2 on high radiation isolation on the air ejector off-gas; (5) to revise and expand section 4.6 on Radioactive Effluents; (6) to add new sections and surveillance requirements on Solid Radioactive Waste, section 4.14, on Radioactive Effluent Monitoring Instrumentation Applicability, section 4.15, and on Radiological Environmental Surveillance, section 4.16, and (7) to add new requirements and to revise section 6.9.3, Unique Reporting Requirements, of the Administrative Controls. These changes constitute an additional limitation, restriction or control not presently included in the technical specifications and revisions to the technical specifications to conform to changes in the regulations where the license change results in very minor changes to the facility operations clearly in keeping with the regulations. Therefore, these changes are consistent with examples (ii) and (vii) of the Commission's guidance (48 FR 14879, April 6, 1983) as types of actions not likely to involve a significant hazards consideration.

The licensee also proposed limits on the radioactivity in the reactor coolant to revise the existing requirements in section 3.6.D and 4.6.C of the technical specifications. During the integarted assessment of Oyster Creek in the Commission's Systematic Evalution Program (SEP), the Commission reviewed the radiological consequences of the failure of small lines carrying reactor coolant outside containment. This is section 4.36, page 4-44, of NUREG-0822, Integrated Plant Safety Assessment Oyster Creek Nuclear Generating Station, dated September 1982, under SEP Topic XV-16 of the same title. The Commission stated that the reactor coolant radioactivity for Oyster Creek should be maintained within the limits imposed on new operating reactors which are the limits of the Commission's Standard Technical Specifications on General Electric Boiling Water Reactors (NUREG-0123).

The licensee has proposed new requirements which are more restrictive than the existing technical specifications on reactor coolant radioactivity. Therefore, these changes are consistent with example (ii) of the Commission's guidance (48 FE 14870, April 6, 1983) as a type of action not likely to involve a significant hazards consideration.

Therefore, based on the above, the staff proposes to determine that all of the requested actions discussed above do not involve a significant hazards consideration.

*Local Public Document room location:* Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

*Attorney for licensee:* G.F. Trowbridge, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John A. Zwolinski.

**GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey**

*Date of amendment request:* October 22, 1984.

*Description of amendment request:* The proposed amendment requests approval for changes to the Appendix A Technical Specifications realted to the Reactor Coolant System Leakage in sections 1., 3.3 and 4.3 of the Technical Specifications by: (1) The addition of reactor coolant leak rate detection requirements and surveillance, (2) the incorporation of requirements for identified and unidentified leakage, (3) the addition of definitions for identified and unidentified leakage, and (4) the correction of the Bases to section 3.3, Reactor Coolant, to reflect the actual plant configuration.

*Basis for proposed no significant hazards consideration determination:* This Technical Specification Change Request by the licensee will provide additional requirements in the Technical Specifications on leakage from the reactor coolant system and additional surveillance requirements for the reactor coolant leakage detection systems. These changes constitute additional requirements, limitations and controls not presently included in the Oyster Creek Technical Specifications on reactor coolant leakage.

This change will also incorporate a more restrictive Technical Specification requirement for unidentified leakage and will correct the Bases for section 3.3, Reactor Coolant, of the Technical Specifications to have the Bases reflect the actual plant configuration.

This change would constitute an additional limitation, restriction, or control not presently included in the Technical Specifications and is, therefore, consistent with example (ii) of the Commission's guidance (48 FR 14870, April 6, 1983) as a type of action which would not involve a significant hazards consideration. Therefore, the staff proposes to determine that the requested action would not involve a significant hazards consideration.

*Local Public Document Room location:* Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

*Attorney for licensee:* G.F. Trowbridge, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW. Washington, D.C. 20036.

*NRC Branch Chief:* John A. Zwolinski.

**GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey**

*Date of amendment request:* October 24 and December 24, 1984.

*Description of amendment request:* Request approval of Appendix A Technical Specification changes pertaining to Fire Protection and Quality Assurance which: (1) Will decrease the frequency of required audits on the plant Fire Protection Program and Operational Quality Assurance Plan, and (2) delete the reference to sprinkler system #13 as fire detection instrumentation and as a spray/sprinkler system.

*Basis for proposed no significant hazards consideration determination:* In the licensee's letter dated October 24, 1984, the licensee requested a change to section 6.5.3.1 of the Appendix A Technical Specifications to add the requirement that the Oyster Creek Fire Protection Program, and its implementing procedures, and the activities required by the Oyster Creek Operational Quality Assurance Plan to meet Appendix B, 10 CFR Part 50, be audited under the cognizance of the Vice President Nuclear Assurance at least once per 24 months. Currently these programs are audited at least once per 12 months under the requirement in § 6.5.3.1(a) on audits for conformance of facility operations to provisions contained within the Technical Specifications. The licensee proposes to decrease the frequency at which audits are required on the plant programs to at least once per 24 months.

The licensee's proposed change to halve the frequency of auditing the Fire Protection Program is in response to the Commission's Generic Letter 82–21, dated October 6, 1982, "Technical Specifications for Fire Protection Audits." This generic letter provides guidance for a biennial audit of the Fire Protection Program which would be consistent with the overall requirements on the plant Fire Protection Program in 10 CFR 50.48 and guideline positions in the staff's Branch Technical Positions on the plant Fire Protection Program.

The licensee stated in the proposed change to halve the frequency of auditing the activities associated with the plant Operational Quality Assurance Program that it is based on the guidelines of Regulatory Guide 1.33 (February 1978), Quality Assurance Programs Requirements, of draft (issued for comment) Regulatory Guide 1.144 (January 1979), Auditing of Quality Assurance Programs for Nuclear Power Plants, and ANSI/ASME N45.2.12–1977. The requirements that are in ANSI/ASME N45.2.12–1977 for auditing quality assurance programs for nuclear power plants are acceptable to the staff and provide an adequate basis for complying with the pertinent quality assurance requirements of Appendix B to 10 CFR 50 subject to the guidelines in Regulatory Guide 1.144. For internal audits of the operational phase activities of the quality assurance program the guidelines of Regulatory Guide 1.33 should be followed.

In his letter dated December 24, 1984, the licensee has proposed to delete Sprinkler System #13 from Tables 3.12.1 and 3.12.2 of the Appendix A Technical Specifications. The Laundry Room in the office building on the 35'–0" elevation is being converted to a count room containing electronic equipment. Sprinkler System #13 was originally installed to protect cables passing through the laundry area to the Reactor Building from the combustible loading due to accumulated clothing in the laundry facility.

With the conversion of the laundry facility, the combustible loading due to accumulated clothing will no longer exist since Sprinkler System #13 was specifically designed to protect from a fire originating in the laundry bins which are now gone. This removal is desired because electronic test equipment is being brought to the area and there is the potential of accidently wetting this equipment from inadvertent initiation of the sprinkler system.

These changes do not affect plant operation. The changes are minor changes to licensee administrative activities clearly in keeping with the regulations and with changes to the fire protection areas/zones within the plant. The staff proposes to determine that the proposed changes would not involve a significant hazards consideration determination in that they: (1) Do not involve a significant increase in the probability or consequences of a

previously evaluated accident; (2) do not create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) do not involve a significant reduction in a margin of safety.

*Local Public Document Room location:* Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

*Attorney for licensee:* G.F. Trowbridge, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John A. Zwolinski.

**GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania**

*Date of amendment request:* November 24, 1983, as revised and supplemented June 5, 1984 and December 3, 1984.

*Description of amendment request:* The proposed amendment would incorporate Technical Specification (TS) changes needed to complete Multiplant Action (MPA) B–24, containment purge and vent.

The proposed change on primary coolant activity (TS 3.1.4 and Table 4.1–3) was previously noticed in the Federal Register on May 23, 1984 (49 FR 21830), and the Commission's staff proposed that the changes on primary coolant activity do not involve a significant hazards consideration. The staff's position remains unchanged.

The proposed change in vent/purge valve operability and surveillance requirements (TS 3.6, 4.4.1.2.5, and 4.4.1.7) would provide operability requirements for large purge valves so that if one valve is inoperable, the companion valve in-line would be closed or the reactor shut down. If, however, the problem is seal leakage, both valves in-line would be shut to prevent leakage or the reactor would be shut down. The proposed TSs also would limit the opening of purge valves to 30 degrees during power operation, would identify activities for which purging is permitted and would require instances of purging to be limited. The changes in section 4 would provide surveillance requirements for purge valves.

The TSs on surveillance of the hydrogen purge system (TS 4.4.3) would be eliminated because hydrogen recombiners are available per Amendment 87. Additionally, the reactor building purge air treatment system TSs (TSs 3.15.2 and 4.12.2) would be revised to be compatible with the system's safety function which would no longer include mitigation of an operating accident, namely hydrogen purging.

The proposed revision to the surveillance of fire hose stations (TS 4.18.6) would permit deferring inspections when the stations are inaccessible because purging is not permitted.

*Basis for proposed no significant hazards consideration determination:* The proposed TS changes on primary coolant activity and on vent/purge valve operability and surveillance are in the same category as Example (ii), 48 FR 14870, which cites changes that constitute additional limitations, restrictions or controls not presently included in the TSs as changes not likely to involve significant hazards consideration. The proposed TSs would be substantially more restrictive on primary coolant activity limits and would require more sampling. The limits on plant operation with inoperable purge/vent valves would be more restrictive and the amount of time purging would be permitted would be reduced.

The elimination of the TSs on hydrogen purging and the modification of the TSs on reactor building purge air treatment system are proposed because the available hydrogen recombiners eliminate the need for purging of hydrogen as an accident mitigation function. These changes are in the same category as Example (vi), 48 FR 14870, i.e., changes which may result in some increase in the probability or consequences of a previously analyzed accident but which are clearly within the acceptance criteria of the Standard Review Plan (SRP), because the SRP permits the use of hydrogen recombiners in lieu of hydrogen purging.

The proposed change in surveillance of the fire hose stations is also considered to be an Example (vi) type of action which, again, is clearly within the acceptance criteria of the SRP because the change does not alter the SRP surveillance requirements, but only extends the surveillance intervals which are not specified in the SRP.

Based on the foregoing, the Commission's staff proposes to determine that the proposed amendment involves no significant hazards consideration.

*Local Public Document Room location:* Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

*Attorney for licensee:* G.F. Trowbridge, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John F. Stolz.

**Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan**

*Date of amendment request:* December 17, 1984.

*Description of amendment request:* The proposed amendment would change the Technical Specifications to update the offsite organization chart, and organization and responsibilities of the Plant Nuclear Safety Review Committee (PNSRC) and the Nuclear Safety and Design Review Committee (NSDRC), to update the reporting requirements addressed by the recent revision to 10 CFR 50.73, to revise the containment isolation valve listing, to correct an error in one reference to the battery electrolyte temperature for surveillance, and to make a number of editorial changes.

*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, 1983). One of the examples (i) of an action not likely to involve a significant hazards consideration is 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 directly related to this example with the exception of the change to the reporting requirements and the revision to the listing of the containment penetration valves. Another example (vii) is a change to make a license confirm to changes in the regulations. Revisions to 10 CFR 50.73 make it necessary to revise the technical specifications on reporting requirements and definitions, therefore, the proposed change in reporting requirements is directly related to this example. Another example (vi) of an action 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 change to revise the containment isolation valve list (on Unit No. 1) is directly related to this example. However, this change was approved for Unit 2 by License Amendment No. 64 and was established there as not

involving a significant hazards consideration. The Unit 1 changes are the same as made for Unit 2 and the valve configurations are alike for both Units in this regard. On the basis of the above, the Commission proposes to conclude that the proposed change to the Technical Specifications involves a no significant hazards consideration.

*Local Public Document Room location:* Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

*Attorney for licensee:* Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* Steven A. Varga.

**Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan**

*Date of amendment request:* December 28, 1984.

*Description of amendment request:* The proposed amendments would make changes to the Technical Specifications for the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, to require ice measurements and surveillance on boron concentration and on pH at 25 °C, and to change the restriction on ice accumulation on structures from 0.38 inches to ⅜ inches. The change to Unit 1 Technical Specifications would change ice condenser surveillance from 12 to 9 months, regroup the baskets under surveillance to be like Unit 2, require ice condenser doors be demonstrated at once per 9 months for 50% of the doors rather than at 6 months for 25% of the doors, and editorial changes needed for clarity.

*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, 1983). One of the examples (ii) of an action not likely to involve a significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specification. The changes to require ice measurements and surveillance on boron concentration and on pH at 25°C, to reduce the ice condenser surveillance from 12 months to 9 months, and to require ice condenser doors be demonstrated at once per 9 months for 50% of the doors rather than 6 months for 25% of the doors (more doors demonstrated more often over a period of time) are all changes directly related to this example. The changes to restrict the ice accumulation to ⅜ inch rather than 0.38 inch is like this example in that the new requirement is less than the 0.38 inche (⅜ inch is 0.375). Since the measurement techniques are not as precise for accumulation measurement, the latter change is also like the example (i) which is a purely administrative change to technical specifications. Editorial changes proposed by the licensee are directly related to example (i). Example (i) also involves changes to achieve consistency throughout the technical specifications. This is essentially the reason to regroup the ice baskets on Unit 1 to make both Units Technical Specifications and the Westinghouse Standard Technical Specifications more alike. On the above basis, the staff proposes to conclude that the amendments involve a no significant hazards consideration.

*Local Public Document Room location:* Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

*Attorney for licensee:* Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* Steven A. Varga.

**Indiana and Michigan Electric Company, Docket No. 50–316, Donald C. Cook Nuclear Plant, Unit No. 2, Berrien County, Michigan**

*Date of amendment request:* May 19, 1978, supplemented December 18, 1979, March 28, 1980, July 8, 1983, June 1 and December 7, 1984.

*Description of amendment request:* The request for amendment was initially noticed on September 21, 1983 (48 FR 43126). This amendment for the Donald C. Cook Nuclear Plant, Unit No. 2, would remove licensing condition 2C(3)(r) which required a seismic qualification review of the safety injection system front panel, hot shutdown panel, auxiliary relay panels and switchboard and switchgear components, relays and pressure switches as identified in the safety evaluation which was issued with the licensing condition. Amendment No. 6 issued on June 16, 1978, imposed license condition 2C(3)(r). The licensee's proposal would remove the license condition on the basis that the seismic qualification has been accomplished. The required information has been submitted to the NRC for review.

*Basis for proposed no significant hazards consideration determination:* One of the Commission examples (48 FR 14870) of amendments not likely to involve a significant hazards consideration relates to relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. The proposed removal of the license condition is directly related to the example in that the licensee has performed a seismic qualification review, as required, and has fulfilled the requirements to the criterion previously found acceptable to the NRC. The license Amendment No. 6 issued on June 16, 1978, also concluded that the amendment involved no significant hazards consideration pending the final seismic qualification. Thus, if the NRC staff review confirms the licensee's conclusions concerning this requirement, the amendment involves no significant hazards considerations. On this basis, the staff proposes to determine that the amendment request does not involve a significant hazards consideration.

*Local Public Document Room location:* Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

*Attorney for licensee:* Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* Steven A. Varga.

**Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa**

*Date of amendment request:* December 5, 1984 and January 24, 1985.

*Description of amendment request:* The proposed amendment request would change the Duane Arnold Energy Center (DAEC) Technical Specifications related to the instrumentation for core and containment cooling and containment isolation. The proposed changes consist of two groups of changes. Group 1 consists of those changes which do not affect physical or operational characteristics of the plant, but clarify the testing and limiting conditions for operation for core and containment cooling instrumentation and surveillance tables, and Group 2 consists of changes related to additional restrictions and limitations imposed in the Technical Specifications to assure that four containment isolation valves converted from power operated valves to manual valves will be maintained in the closed position. The modification will therefore result in an increase in confidence that the containment will be isolated when required.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating

license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes in accordance with the standards for a no significant hazards consideration finding in 10 CFR 50.92(c). The licensee states that the Group 1 changes involve clarifications, corrections of errors, and moving a referenced note to a page where it is cited. Such changes are administrative in nature and fully meet the above cited 10 CFR 50.92(c) standards for a finding of no significant hazards considerations. The Group 2 changes involve conversion of four power operated containment isolation valves to manual valves. Because the converted valves will be maintained in normally closed position, the containment isolation will be enhanced. The licensee has therefore made the finding that the Group 2 change entails additional limitations and restrictions in the Technical Specifications and meets the 10 CFR 50.92(c) standards for a no significant hazards consideration finding.

The NRC staff has reviewed the licensee's evaluation against the three standards specified in 10 CFR 50.92(c) and agrees with the licensee's conclusions that the proposed request for amendment meets the standards for a no significant hazards considerations finding.

The staff has, therefore, made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room location:* Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401.

*Attorney for licensee:* Jack Newman, Esquire, Harold F. Reis, Esquire, Newman and Holtzinger, 1025 Connecticut Avenue, NW., Washington, D.C. 20036.

*NRC Branch Chief:* Domenic B. Vassallo.

**Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa**

*Date of amendment request:* December 7, 1984.

*Description of amendment request:* The proposed amendment would revise the Duane Arnold Energy Center (DAEC) Technical Specifications regarding the spent and new fuel storage racks. The proposed revisions are intended to clarify the existing Technical Specifications and the bases related to Spent and New Fuel Storage.

The current fuel storage rack Technical Specifications for reactivity control are written in terms of effective multiplication factors ($K_{eff}$). In the past, because there has been a substantial margin between the maximum permissible reactivity and the fuel bundle reactivity, the compliance based on $K_{eff}$ measure has not been of concern. However, as fuel designs are improved to permit longer fuel cycles, the available margins are reduced to a point where a simpler method for determining compliance with the Technical Specifications (than complex calculations of $K_{eff}$) is needed to readily determine compliance with the Technical Specifications. The proposed changes will specify fuel bundle $k_{infinity}$ values which correspond to the fuel rack Technical Specification $K_{eff}$ limits, by using $k_{infinity}$ values, which are readily available, the process of checking compliance with the reactivity Technical Specifications is made simpler. For General Electric Company (GE) designed fuel racks, the equivalent bundle $k_{infinity}$ is 1.31 as described in the GE Standard Application for Reactor Fuels (NEDE–24011–P–A). The following specific changes are requested in the proposed amendment request:

(1) Add bundle $k_{infinity}$ limit to the new fuel rack specification;

(2) Replace current axial enrichment criteria with an equivalent bundle $k_{infinity}$ value in the spent fuel storage rack specification; and

(3) Add bases and references describing the basis for arriving at the storage rack specifications and methods for performing the compliance checks.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed Technical Specification changes against the three standards specified in 10 CFR 50.92(c), as follows:

(1) Revising the existing fuel storage rack Technical Specifications to use bundle reactivity limits ($k_{infinity}$) does not involve a physical plant change or mode of plant operation. The $k_{infinity}$ values being proposed represent fuel reactivity limits equivalent to the existing storage rack $K_{eff}$ values. Therefore, since there is no change in the permissible reactivity limits or any physical characteristics of the plant, the license concludes that the proposed change does not involve any significant increase in the probability or consequences of any criticality accident.

(2) Since the proposed change is merely an alternative way of calculating compliance with unchanged standards, the change is not expected to introduce a possibility of a new or different accident or malfunction from any previously analyzed.

(3) Since the existing fuel rack reactivity limits are not changed by the proposed revision to the method of compliance the proposed change is not expected to reduce the margin of safety.

The NRC staff has reviewed the above licensee's evaluation and agrees with the licensee's conclusions that the Commission's standards for a no significant hazards determination are met. The staff has, therefore, made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room location:* Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401.

*Attorney for licensee:* Jack Newman, Esquire, Harold F. Reis, Esquire, Newman and Holtzinger, 1025 Connecticut Avenue, NW., Washington, D.C. 20036.

*NRC Branch Chief:* Domenic B. Vassallo.

**Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa**

*Date of amendment request:* December 7, 1984.

*Description of amendment request:* The Iowa Electric Light and Power Company (the licensee) proposes to change the Technical Specifications for Duane Arnold Energy Center (DAEC) to permit loading of the General Electric Company's (GE) advanced fuel Lead Test Assemblies (LTAs) in the DAEC core.

The licensee has agreed to participate in GE's advanced fuel development program by accepting five LTAs for use in DAEC beginning with Cycle 8 operation. The design of the LTAs and

the demonstration of their conformance to all applicable thermal-mechanical performance criteria are documented in the GE report, "Generic Licensing of 1984 Lead Test Assemblies (Special Report MFN-068-84)." The NRC staff's conditional acceptance of the GE report is documented in our Safety Evaluation Report, "Acceptance of Referencing of Licensing Special Report MFN-068-84, Lead Test Assembly Licensing." For that report the use of the LTAs was found to be acceptable if the following conditions were satisfied:

1. The 1984 Lead Test Assemblies will not be the most limiting fuel assemblies in the core at any time during their residence in the core.

2. The user of these Lead Test Assemblies must verify that the fuel design criteria and specified fuel design limits are met for 1984 Lead Test Assemblies for the specific conditions in the reactor chosen for irradiation of these assemblies.

3. The user of the Lead Test Assemblies supplies the results of the transients and accident analyses for the test assemblies and modifies the plant Technical Specifications as necessary to reflect the use of the assemblies.

Based on the analyses of the DAEC, the licensee concludes that:

(1) The LTAs will be loaded into core locations such that they will not be the most limiting bundles with regard to operating margin to any fuel thermal limit when compared to the remaining fuel in the core. This has been analytically verified for Cycle 8 operation and will be strictly adhered to in actual operation during Cycle 8. For future cycles, this will be verified during the design of the core loading arrangements; and

(2) The results of the Loss-of-Coolant Accident (LOCA) and abnormal operating transient analyses verify that all applicable fuel design criteria and Specified Acceptable Fuel Design Limits (SAFDL) are met by the LTAs during Cycle 8 operation in the DAEC.

As a result of its evaluation, the licensee has proposed DAEC Technical Specification changes which will permit the loading of the GE's LTAs in the DAEC core in compliance of the criteria and SAFDL.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; 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.

In accordance with the requirements of 10 CFR 50.92, the licensee has provided the following evaluation to determine if the application involves no significant hazards considerations:

(1) The licensee states that, for the reasons stated below, the proposed amendment does not involve a significant increase in the probability or the consequences of accidents previously evaluated. GE has performed the LOCA analysis in accordance with 10 CFR Part 50 Appendix K, to evaluate the design basis event for the LTA bundles being used in Cycle 8. The results of this analysis show that, with the proposed Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) changes to the Technical Specifications, the loading of the LTA bundles in the DAEC core complies with the requirements of 10 CFR 50, Appendix K.

GE has also evaluated the transients for the LTA bundles, for use in Cycle 8, in accordance with the methods acceptable to the NRC. The results of the analyses presented in the licensee's application show that the LTA performance is within the limits specified in the Updated Final Safety Analysis Report (UFSAR), when revised Minimum Critical Power Ratio (MCPR) operating limits are incorporated in the Technical Specifications.

GE has evaluated the Linear Heat Generation Rate (LHGR) limits for both LOCA and Rod Withdrawal Error (RWE) events. The results of the GE analysis show that the LTA performance is within the limits specified in the UFSAR.

(2) The above summary of the licensee's evaluation shows that the thermal-mechanical performance will be met by the LTA fuel bundles and all the fuel design criteria and SAFDLs will be satisfied (as stated in the introduction). Therefore, the addition of LTA bundles to DAEC will not create the possibility of a new or different kind of accident.

(3) Since the LTA bundles are being subjected to proposed additional operating limits (to be incorporated in the Technical Specifications), and since thermal-mechanical performance of the LTA meets the NRC fuel design criteria and SAFDLs, the operation of DAEC with LTA fuel bundles will not reduce any margins of safety.

The NRC staff has reviewed the licensee's evaluation per 10 CFR 50.92 and concurs with its conclusions that the Commission standards for a no significant hazards determination are met. The staff has, therefore, made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room location:* Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401.

*Attorney for licensee:* Jack Newman, Esquire, Harold F. Reis, Esquire, Newman and Holtzinger, 1025 Connecticut Avenue, NW., Washington, D.C. 20036.

*NRC Branch Chief:* Domenic B. Vassallo.

**Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa**

*Date of amendment request:* December 7, 1984.

*Description of amendment request:* This submittal by the Iowa Electric Light and Power Company (the licensee) requests changes to the Duane Arnold Energy Center (DAEC) Technical Specifications to: (1) Permit reactor operation with one recirculation loop out of service, (2) to include General Electric Company's (GE) Service Information Letter (SIL) 380, Revision 1 recommendations regarding thermal-hydraulic stability for dual loop and single loop operations, and (3) to incorporate administrative changes dealing with updating references and deletion of blank pages. Presently, the DAEC operating license requires a unit to be in cold shutdown within the succeeding 24 hours if an idle recirculation loop can not be returned to service within 24 hours. The licensee previously requested authorization for unlimited single loop operation of DAEC. Subsequently, Tennessee Valley Authority's operation of Browns Ferry Unit 1 ( a boiling water reactor similar in design to DAEC) in the single loop mode of operation at 59% power lead to concerns related to thermal-hydraulic instability. GE, in SIL #380, Revision 1, addressed these concerns by providing the boiling water reactor licensees generic guidance to obviate thermal-hydraulic stability induced neutron flux oscillations. The licensee has proposed Technical Specifications in accordance with the guidance provided by GE in SIL-380, Revision 1.

Specifically, the proposed changes requested by the licensee consist of: (1) Deletion of the license condition restricting the single loop operation and

for single and dual loop operation, incorporating requirements in the Technical Specifications to detect thermal-hydraulic instabilities induced by neutron oscillations and specifying operator response to the detected instabilities, (2) revision of the Technical Specifications to provide Average Power Range Monitor (APRM) flux scram trip and rod block settings, an increase in the safety limit Minimum Critical Power Ratio (MCPR) value, and a revision to the allowable Average Planar Linear Heat Generation Rate (APLHGR) values, and (3) updating of some references and deletion of some blank pages.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided standards (10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; 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.

We have evaluated the licensee's request for the proposed Technical Specifications for compliance with the above cited standards.

**(1) Consideration of Probability and Consequences of Accidents**

Our evaluation of the proposed changes indicates that the principal accident associated with a single recirculation loop operating would be an inadvertent startup of the idle recirculation loop pump causing a transient. However, such a transient was evaluated in the DAEC Final Safety Analysis Report (FSAR) and found to satisfy the Commission's regulations. In addition, the licensee has proposed more restrictive Technical Specification changes related to MCPR limits, flow-biased scram and rod block setpoints, and reduced MAPLHGR operating limits, to ensure that the probabilities and the consequences of accidents with single recirculation loop operation will not be significantly increased. We have also evaluated the implication of thermal-hydraulic stability for both single and dual loop operations after the licensee's proposed Technical Specification changes based on the GE recommendations in SIL 380, Revision 1 are incorporated. Our evaluation shows that the proposed changes would alleviate the concerns related to the thermal-hydraulic instability by adding surveillance requirements for detecting thermal-hydraulic instabilities and specifying the remedial operator actions for responding to them. Such operator actions will also assure that there will be no significant increase in the probability or consequences of an accident. Based on the above discussion, we find that the proposed changes are not expected to significantly increase the probability or consequences of previously evaluated accidents.

**(2) Consideration of Possibility of a New or Different Kind of Accident**

The DAEC operation with one recirculation loop is not expected to create the possibility of a new or different kind of accident from any previously analyzed, as all abnormal operating transients which could be initiated with single loop operation, such as an inadvertent startup of an idle recirculation pump or pump trip have already been analyzed in the FSAR, and reviewed and accepted by the staff.

For single and dual loop operation, the addition of the surveillance requirements and remedial actions for thermal-hydraulic instability detection and response involve normal plant operating practices and, therefore, are not expected to create a new or different kind of accident from any previously analyzed in the FSAR.

**(3) Consideration of Reduction in a Margin of Safety**

The licensee has proposed the revised operating limits, setpoints, and procedures for the proposed single and dual loop operation. Our evaluation of the licensee's proposal indicates that the proposed changes will ensure that the FSAR margins of safety will not be reduced during normal operation and with one recirculation pump not operating. Our conclusions are based on our review of the evaluations by GE in support of the DAEC single loop operation presented in the GE report NEDO-24272.

For single and dual loop operation, the additional surveillance requirements and remedial actions required of the operator for detection of and response to thermal-hydraulic instability will increase the present margin of safety.

The updating of several references and deletion of some blank pages entail administrative changes and clearly satisfy the Commission standards for a "no significant hazards involved" finding.

Based on the above considerations the staff concludes that the proposed amendment meets the Commission's standards in 10 CFR 50.92(c).

Therefore, the staff has made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room location:* Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401.

*Attorney for licensee:* Jack Newman, Esquire, Harold F. Reis, Esquire, Newman and Holtzinger, 1025 Connecticut Avenue, NW., Washington, D.C. 20036.

*NRC Branch Chief:* Domenic B. Vassallo.

**Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi**

*Date of amendment request:* January 30, 1985.

*Description of amendment request:* The amendment would permit a reorganization to make plant quality personnel more independent of plant operations personnel. The Technical Specification changes would be: (1) Change the title of Manager, Supplier QA to Manager, Audits QA, on the Offsite Organization chart; (2) delete the Nuclear Plant Quality Superintendent from the Unit Operating Organization chart; (3) change the composition of the Plant Safety Review Committee by substituting the Manager, Nuclear Site QA for the Quality Superintendent.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided certain examples (48 FR 14870) of actions likely to involve no signficant hazards considerations. One of the examples is a purely administrative change to Technical Specifications. Change (1) is similar to this example since it is simply a change of title to more accurately reflect the primary responsibility of the position, while the lines of responsibility and communication are not changed. In Change (2), the Nuclear Plant Quality Superintendent will be moved from the Unit Operating Organization and placed under the Manager Nuclear Site QA in the Offsite Organization in order to minimize possible conflicts of interest in the management of the plant operation. The Nuclear Plant Quality Superintendent will spend more time on his primary responsibility of quality inspection since the majority of other QA functions he has been performing, including review of procedures and procurement documents will be

delegated to othe QA positions. This change is an improvement in the quality assurance functions of the plant since the Unit Operating Organization Management will not have line responsibility for the quality inspection functions. In Change (3), substituting the Manager, Nuclear Site QA for the Quality Superintendent in the Plant Safety Review Committee will maintain the level of review from a quality assurance standpoint, since the Quality Superintendent reports to the Manager Nuclear Site QA. Proposed changes (2) and (3) improve safety in that they allow QA activities to focus entirely on quality requirements and to be independent of plant production activities. Because proposed changes (2) and (3) would not affect plant equipment design, safety criteria or safety analyses and will result in an improvement in plant safety by enhancing the independence of quality assurance from plant production, these changes do not significantly increase the probability or consequences of an accident previously evaluated or create the possibility of a new or different kind of accident from any accident previously evaluated, or do they involve a significant reduction in a margin of safety. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

*Local Public Document Room location:* Hind Junior College, McLendon Library, Raymond, Mississippi 39154.

*Attorney for licensee:* Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell, and Reynolds, 1200 17th Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* Elinor G. Adensam.

**Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York**

*Date of amendment request:* March 3, 1977, as supplemented and clarified by submittals dated November 1, 1983 and August 28, 1984.

*Description of amendment request:* This proposed action was initially noticed in the **Federal Register** (48 FR 38408) on August 23, 1983. This amendment would make changes to the Technical Specifications to modify the list of Reactor Coolant System Isolation Valves and Primary Containment Isolation Valves as well as other provisions of the license to achieve conformance with 10 CFR Part 50, Appendix J. The proposed change is in response to an NRC request dated August 7, 1975 that asked the license to review their containment leakage program and provide a plan for achieving compliance with Appendix J.

*Basis for proposed no signficant 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: ". . . (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" 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 changes proposed in the application for amendment are encompassed by the above examples in that: (1) The adding of additional valves to be local leak rate tested is an additional restriction and is, therefore, similar to example (ii) above, and (2) other changes proposed as necessary because the licensee is currently required by the regulations to limit primary containment leakage and is to make the license conform to 10 CFR Part 50, Appendix J, are considered minor with regard to facility operation thus clearly keeping with the regulation, and, therefore, are similar to example (vii) above.

Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room location:* 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 V. Vassallo.

**Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit NO. 1, Oswego County, New York**

*Date of amendment request:* October 1, 1984.

*Description of amendment request:* The proposed amendment changes the section of the Technical Specifications pertaining to Limiting Conditions for Operations, surveillance requirements and supporting bases for the Emergency Ventilation System and the Control Room Air Treatment System and its associated instrumentation. The majority of the proposed changes are the result of modifications made to the Control Room Air Treatment System to resolve NUREG–0737, Item II.DS.3.4, "Control Room Habitability". The licensee's description of the proposed change is as follows:

Niagara Mohawk submittal dated March 28, 1983, described modifications to the Control Room Air Treatment System which would establish an acceptable degree of compliance with General Design Criterion 19. These modifications included installation of redundant radiation monitors on the air intake which will automatically initiate the emergency train of the system.

The changes described below reflect the change from the manual to automatic initiation of the Control Room Air Treatment System and add Limiting Conditions for Operation and Surveillance Requirements to further increase the system's reliability.

The addition of item (j) to page 178a requires surveillance testing of the Control Room Air Treatment System at least once every operating cycle. This addition will help to ensure the reliability of the system. Changes to page 178b correct the test to reflect changes in the design basis of the system. Changes to page 188* indicate the additions of Tables 3.6.2m and 4.6.2m which increase the Limiting Conditions for Operation and Surveillance Requirements of the Control Room Air Treatment System. The addition of item (13) to page 190 increases Limiting Conditions for Operation of Protective Instrumentation to include instrumentation which automatically initiates the emergency train of the Control Room Air Treatment System. Addition of page 232d provides the set point, minimum number of trip systems and minimum number of instrument channels that must be operable for each position of the reactor mode switch except the shutdown position. Addition of page 232e provides details of the Surveillance Requirements, including a sensor check, instrument channel test and instrument channel calibration.

In addition, we are requesting that the Technical Specifications governing the Emergency Ventilation System and the Control Room Air Treatment System be updated to reflect the current standards for testing the adsorber filiters. Currently, our specifications reference ANSI N.510–1975 for testing the adsorber filters (i.e. charcoal filters). ANSI N.510–1975 is also endorsed by Regulator Guide 1.52 (Rev. 2), but the current Standard Review Plan endorses ANSI N.510–1980. The salient difference between the two standards is the environmental conditions for testing. We believe the newer standard more realistically reflects the environmental conditions for which the charcoal filters are designed. Therefore, the proposed technical specifications submitted herein reference the ANSI N.510–1980.

The existing Page 173 references ANSI N.510–1975 for testing of the operability of the

inlet heater at rated power for the Emergency Ventilation System. The new standard, ANSI N.510–1980, requires the same testing procedure. This page is being revised to consistently reference the new standard throughout the Control Room Air Treatment and the Emergency Ventilation Technical Specifications.

The qualification requirements for the replacement charcoal (replacement is necessary when the charcoal fails its surveillance test) for the Emergency Ventilation System and the Control Room Air Treatment System are given on pages 176 and 177, and 178b and 178c, respectively. The current nuclear power air cleaning standard, ANSI 509–1980, will be referenced directly rather than Regulatory Guide 1.52, which references ANSI 509–1975. Similarly, the statements on these pages for HEPA filter design requirements are being updated.

Note.—Page 188 currently contains a typographical error which would be corrected with the approval of this submittal, namely, the first paragraphs of 3.6.1a and 4.6.2a should currently read, "* * * Tables 3.6.2a to 3.5.21." and "* * * Tables 4.6.2a to 4.6.21.", respectively.

Finally, our current Technical Specifications call for testing frequency of 18 months for both the Emergency Ventilation System and the Control Room Air Treatment System. Since we are now operating on a nominal 24 month refueling cycle, we request to have our Technical Specification reflect the current refueling cycle frequency.

*Basis for proposed no significant hazards consideration determination:* The licensee has presented its determination of significant hazards consideration as follows:

These proposed Technical Specification changes submitted herein involve no significant hazard considerations. Therefore, in accordance with the proposed amendment, the operation of Nine Mile Point Unit 1 will 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.

Moreover, the changes reflecting the Control Room Ventilation System modifications increase the margin of safety at Nine Mile Point Unit 1. First, change from manual to automatic initiation decreases the response time capability of the system which will reduce the potential consequences during the event that this system is required. Second, addition of surveillance requirements will help to ensure the operability of the system and therefore, increase its reliablity. In addition, these changes are consistent with previously stated Nuclear Regulatory Commission positions. The change from manual to automatic initiation is consistent with Standard Review Plan section 6.4. The additional surveillance requirements to test the operability of the system is consistent with Standard Technical Specifications 4.7.2.

Furthermore, increases in surveillance requirements have been determined to involve no significant hazard consideration, as indicated in item ii of the section regarding examples of amendments that are considered not likely to involve significant hazard considerations (**Federal Register**; April 6, 1983, p. 14870).

The proposed changes regarding testing of the charcoal filters do not involve a Significant Hazards Consideration as defined in 10 CFR 50.92. This change is similar to item vi of amendments that are considered not likely to involve significant hazards considerations (**Federal Register**; April 6, 1983, p. 14870). This change is similar in that the intent of acceptance criteria are met as specified in the Standard Review Plan section 6.5.1 with respect to charcoal filters.

The staff has reviewed the licensee's significant hazards consideration determinations and based on this review concurs with the licensee's determinations. The staff proposes to determine that the proposed change does not involve a significant hazards consideration since it is similar to the examples of actions involving no significant hazards consideration cited by the Commission.

*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, DC 20006.

*NRC Branch Chief:* Domenic B. Vassallo.

**Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York**

*Date of amendment request:* May 1, 1984 as supplemented and clarified October 22, 1984.

*Description of amendment request:* The proposed amendment changes the section of the Technical Specifications pertaining to Limiting Conditions for Operations, Surveillance Requirements and supporting bases for the Remote Shutdown Panels. The Remote Shutdown Panels were added to the plant to facilitate plant shutdown from outside the control room. The modification was performed to meet the requirements of 10 CFR Part 50, Appendix A. This amendment includes incorporation of the Remote Shutdown Panels into the Technical Specification.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the determination of significant hazards by providing certain examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. One of the examples (ii), relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The current Technical Specifications do not include requirements for the Remote Shutdown Panels. The proposed change adds the requirements for the Remote Shutdown Panels to the Technical Specifications. Therefore, since this change adds an additional control to the current Technical Specification limit, the change is similar to example (ii). The staff proposed to determine that the proposed change does not involve a significant hazards consideration since it is similar to the examples of actions involving no significant hazards consideration cited by the Commission.

*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.

**Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York**

*Date of amendment request:* June 29, 1984 as supplemented and clarified December 3, 1984.

*Description of amendment request:* The proposed amendment changes the section of the Technical Specifications pertaining to Limiting Conditions for Operations, Surveillance Requirements and supporting bases for the Emergency Cooling System and Accident Monitoring Instrumentation. The proposed changes to the technical specifications are in response to Generic Letter 83–36 "NUREG–0737 Technical Specifications" which was issued by the Nuclear Regulatory Commission on November 1, 1983. The proposed changes are consistent with the intent of the model technical specifications included as an attachment to Generic Letter 83–36. In addition to the technical changes, the proposed technical specifications also revise the format of 3.6.11 "Accident Monitoring Instrumentation" and eliminates paragraph 3.1.3b which was intended to be a temporary amendment that is no longer effective.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the determination of significant hazards by providing certain

examples (48 FR 14870) of amendments considered not likely to involve significant hazards consideration. Two of the examples (i) and (ii), relate to changes that are administrative and that constitute an additional limitation, restriction, or control not presently included in the Technical Specifications. The majority of the changes contained within the amendment request impose additional restrictions or controls for modifications associated with TMI related issues. The balance of the change is administrative as described above. Therefore, the changes are similar to examples (i) and (ii). The staff proposes to determine that the proposed change does not involve a significant hazards consideration since it is similar to the examples of actions involving no significant hazards consideration cited by the Commission.

*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.

**Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska**

*Date of amendment request:* October 18, 1984. This application supersedes an earlier application for amendment dated March 21, 1978 and a supplement dated March 30, 1979.

*Description of amendment request:* The amendment would make 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 an interlaboratory comparison program. The 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 these standards by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the technical specifications.

The Commission, in a revision to Appendix I to 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 operations as low as reasonably achievable. In complying with this requirement it became necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the proposed addition of Technical Specifications described above. The staff proposes to determine that the applications 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 "as low as reasonably achievable" effluent objectives.

*Local Public Document Room location:* W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

*Attorney for licensee:* Leboeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Ave., N.W., Washington, D.C. 20036.

*NRC Branch Chief:* James R. Miller.

**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:* October 9, 1984.

*Description of amendment request:* The amendments would add limiting conditions for operations (LCOs), surveillance requirements, and administrative requirements for the following NUREG-0737 required items: Post-accident sampling (II.B.2), high range noble gas monitors and radioactive iodine and particulate sampling systems (II.F.1.1 and II.F.1.2), containment high-range drywell radiation monitors (II.F.1.3), containment pressure monitors (II.F.1.4), containment water level monitors (II.F.1.5), containment hydrogen monitors (II.F.1.6) and control room emergency air filtration systems (III.D.3.4). These proposed Technical Specification (TS) changes submitted by the licensee are in response to the NRC Generic Letter 83-36 entitled "NUREG-0737 Technical Specifications" which was issued on November 1, 1983.

In addition, the licensee proposes the addition of a surveillance requirement to verify the automatic transfer feature of the Reactor Core Isolation Cooling System (RCIC) suction (II.K.3.13 and II.K.3.22). Also, a temporary amendment change for Unit 3 regarding continued power operation with an inoperable RCIC is proposed for deletion since it is now obsolute. This administrative change was covered in Amendment No. 102 (July 2, 1984). Two other NUREG-0737 items were also addressed by this application. Surveillance and operability requirements for II.F.2 (addition of two new reactor water level recorders) were first proposed in a TS application dated February 11, 1982. The licensee now propose to revise its application addressing LCO actions for reactor water level recorders by adding an LCO shutdown provision of 30 days for one inoperable channel, and 7 days for two inoperable channels. This represents a change from the current TSs which cover only one reactor water level indicator where plant shutdown is required within 7 days if one channel is inoperable and shutdown within 48 hours if both channels are inoperable. Finally, the licensee requests the addition of operability requirements for two new reactor pressure recorders as part of the requirements of NUREG-0737, Supplement 1 (SPDS).

*Basis for proposed no signficant hazards consideration determination:* The Commission has provided examples (48 FR 14870) of types of amendments not likely to involve signficant hazards consideration. One of the examples (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in Technical Specifications. The proposed TS changs involving the addition of LCO, surveillance and administrative requirements for the following NUREG-0737 items fall into this category: Post-accident sampling (II.B.2), high range noble gas monitors and radioactive iodine and particulate sampling systems (II.F1.1. and II.F.1.2), containment high-range drywell radiation monitors (II.F.1.3), containment pressure monitors (II.F.1.4), containment water level monitors (II.F.1.5), containment hydrogen monitors (II.F.1.6), control room emergency air filtration systems (III.D.3.4.), automatic transfer of RCIC suction (II.K.3.13 and II.K.3.22), and reactor pressure recorders proposed for

the Safety Parameter System (SPSD-NUREG–0737, Supplement 1). These proposed changes fall in the above category in that all the proposed changes involve additional limitations, restrictions, or control not presently included in the TSs. Therefore, the Commission's staff proposes to determine that the above proposed changes do not involve a significant hazards consideration.

The licensee also proposes surveillance and operability requirements covering the addition of two new reactor water level recorders as part of NUREG–0737 requirements (II.F.2). The request revises the licensee's original proposal covering these II.F.2 recorders dated February 11, 1982. The licensee's original proposal was noticed in the **Federal Register** on October 26, 1983 (48 FR 49591) but was not acted upon by the staff since it constituted an outstanding item. The licensee's revised request would change the present TS requirements for the narrow range reactor water level guage (Table 3.2.F) by increasing the LCO shutdown provisions for one inoperable channel from 7 days to 30 days, and for two inoperate channels from 48 hours to 7 days. However, to compensate for this change, the licensee proposed to strengthen the LCO action statements for the wide and fuel range reactor water level instruments. The licensee had originally proposed the following action statements covering the wide and fuel range monitors in its February 11, 1982 applications: with one channel inoperable, no shutdown required and with both channels inoperable, shutdown would be requird in 30 days. The licensee now proposes to strengthen these LCOs for the new monitors in the following ways: For one inoperable channel, shutdown would be required in 30 days if both narrow range monitors are operable and 7 days if one narrow range monitor is inoperable; for both channels being inoperable, shutdown would be required in 7 days if both narrow range monitors are operable and 48 hours if one narrow range monitor is inoperable.

The Commission's staff has reviewed the above amendment request concerning II.F.2 and has determined that should this request be implemented, it would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because new safety-related reactor water level recorders will be added to the TS surveillance requirements providing additional indicators of reactor water levels and, therefore, additional surveillance measures for determining inadequate core cooling; or (2) create the possibility of a new or different kind of accident previously evaluated because the proposed LCOs covering the three reactor water level instruments [narrow range, wide range (new) and fuel zone (new)] require, in effect, shutdown action intervals similar to those currently required in the Peach Botton TS; or (3) involve a significant reduction in a margin of safety because the proposed change would permit monitoring of rector water level by three diverse instrument systems and the combined surveillance requirements and LCOs meet the requirements currently specified in the Peach Bottom TSs. Accordingly, the Commission proposes to determine that this change does not involve a signficant 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:* John F. Stolz.

**Philadelphia Electric Compnay, 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:* January 4, 1985.

*Description of amendment request:* The amendments would make the reporting requirements in the Technical Specifications (TSs) consistent with 10 CFR 50.72 and 50.73 in response to Generic Letter No. 83–43, "Reporting Requirements of 10 CFR Part 50, §§ 50.72 and 50.73 and Standard Technical Specifications", dated December 19, 1983.

*Basis for proposed no significant hazards consideration determination:* The licensee states that the proposed revisions and deletions to the TS Reporting Requirements reflect the revisions to § 50.72 and the addition of § 50.73 to the Commission's regulations, and these revisions conform to the Standard Technical Specifications enclosed in Generic Letter No. 83–43. The revisions would : (1) Add the definition of Reportable Events to the Definition section 1.0, (2) Delete the prompt and 30-day reporting specification since these requirements have been superseded by 10 CFR 50.72 and 50.73, and (3) revise the nomenclature to conform with 10 CFR 50.73. In addition, the requirement to report failure of a primary coolant system safety or relief valve to close is proposed for deletion since the new rule (10 CFR 50.73) required reporting of relief valve failures if the condition could have prevented the fulfillment of a safety function and redundant equipment was not operable. The proposal also complies with the guidance of GL 83–43 which requests deletion of licensee event reporting requirement from the license.

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 (vii) of actions not likely to involve a significant hazards consideration relates to changes that 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 to 10 CFR 50.72 and 50.73 affect only reporting requirements and do not affect facility operations.

Therefore, since the changes make the license conform to changes in the regulations and do not affect plant operations, the proposed changes are encompassed by example (vii) of actions not likely to involve significant hazards considerations and on that basis the Commission's staff proposes to determine that the requested changes do 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.

*Attorney for licensee:* Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

*NRC Branch Chief:* John F. Stolz.

**Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50–278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania**

*Date of amendment request:* January 7, 1985.

*Description of amendment request:* The requested amendment to the Peach Bottom Atomic Power Station, Unit 3, Operating license was submitted in support of the upcoming Cycle 7 core reload. The proposed changes would incorporate the maximum average

planar linear heat generation rate (MAPLHGR) versus planar average exposure curves for fuel Type BP8DRB299 and Type BP8DRB299H. The licensee states in the accompanying submittal that these new fuel assemblies are not significantly different from those previously found acceptable by the NRC for operation in Unit 3. In addition, a review of the licensee's application and accompanying evaluation indicates that there are no significant changes being proposed to the acceptance criteria for the Technical Specifications (TSs) and that the analytical methods used to demonstrate conformance with the TSs and regulations are not significantly changed from those previously found acceptable by the NRC for Unit 3.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance for determining whether a proposed amendment involves a significant hazards consideration (48 FR 14870). An example of amendment that is not likely to involve a significant hazards consideration is "(iii) * * *, 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 in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and the NRC has previously found such methods acceptable".

The Commission's staff considers the proposed TSs change accompanying the Unit 3 reload to be similar to example (iii) since the fuel to be inserted into the core for Cycle 7 is similar to that used in previous Unit 3 reloads and that the nuclear design and analysis of the Cycle 7 reload has been performed with methods and techniques which have been used in previous reloads and found to be acceptable. Based upon the above, the staff proposes to determine that the requested 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:* John F. Stolz.

**Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon**

*Date of amendment request:* November 29, 1984.

*Description of amendment request:* The application for amendment requests modification of the Technical Specification contained in Appendix A to Operating License NPF-1 in order to revise the number of reactor coolant loops required to be in operation in Mode 3 (the reactor coolant system hot; reactor shut down). Specifically, the Trojan Technical Specifications currently require that a minimum of one reactor coolant loop be in operation during Mod 3. The amendment would require that an additional loop be in operation during Mode 3 if any control rod drive mechanisms are energized. The change would require operation consistent with the plant safety analysis for bank rod withdrawal from the subcritical condition, which assumes that two reactor coolant loops are in operation.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing specific examples. The examples of actions involving no significant hazards consideration include: (ii) Changes that constitute an additional limitation or restriction or control not presently within the technical specification e.g., a more stringent surveillance requirement.

The changes proposed in this application for amendment are encompassed by this example because of the additional limitation and restriction that would be added by this Technical Specification amendment.

Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards considerations.

*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:* January 14, 1985.

*Description of amendment request:* The amendment request was submitted in response to NRC General Letter 83-37 which was sent to all licensees of pressurized water reactors to incorporate technical specifications for equipment added or modified as a result of post-TMI safety improvements approved by the Commission in NUREG-0737. Specifically, the amendment request provides new technical specifications for the containment high-range area radiation monitors (NUREG-0737 Item II.F.1.3); post-accident monitoring systems for noble gases and radioiodine for the containment, the auxiliary building, and the condenser air ejector, and noble gas radioactivity monitors for the main steam lines (NUREG-0737 Item II.F.1.1); the containment water level monitors (NUREG-0737 Item II.F.1.5); and the new sulfur dioxide detectors for the control room ventilation system (NUREG-0737 Item III.D.3.4).

The new technical specifications would require this new equipment to be operable and to be periodically tested.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing certain examples (48 FR 14870). One of the examples of an action not likely to involve a significant hazards consideration is "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: For example a more stringent surveillance requirement." The proposed technical specifications for the items discussed above match this example because they all represent new requirements for equipment operability and testing not currently included in the technical specifications.

Based on the foregoing, the Commission proposes to determine that the application for amendment does not involve significant hazards considerations.

*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 S.W. Salmon Street, Portland, Oregon 97204.

*NRC Branch Chief:* James R. Miller.

**Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York**

*Date of amendment request:* January 16, 1985.

*Description of amendment request:* The proposed amendment would revise the Technical Specifications (TS), as necessary, to support the current Reload 6/Cycle 7 reactor refueling. The table entitled "MCPR Operating Limit for Incremental Cycle Core Average Exposure" in section 3.1 of Appendix A, and Figure 3.1-2, "Operating Limit MCPR Versus Tau for all Fuel Types," have been revised to reflect the transient analyses performed for the Reload 6/Cycle 7 core. In addition, Figure 3.5-11, "Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) Versus Planar Average Exposure," has been added to reflect the new fuel currently being loaded. Figures 3.5-6 through 3.5-8 are no longer necessary and have been deleted from Appendix A because the fuel types associated with these figures will be discharged from the core during the current reload.

The proposed amendment also includes several administrative changes relevant to the above-mentioned revisions. These changes (on pages vii, 123 and 130) eliminate references to the deleted figures and add references to the newly included figure.

*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: "(i) A purely administrative change to Technical Specifications: For example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature," and "(iii) for a nuclear power reactor, 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 in question are involved."

Use of a single new type of fuel (BPDRB299) is planned for the current reload. This fuel differs from the fuel types presently in use at FitzPatrick in two respects: (1) It is a Barrier type, and (2) it is fitted with eighty-mil thick fuel channels rather than the one hundred-mil channels previously used. The Barrier fuel design has a zirconium layer metallurgically bonded to the inside surface of the Zircalloy-2 fuel cladding. This feature is expected to reduce the probability of pellet-clad interaction fuel failures. The Barrier fuel design has been incorporated into the current revision of the General Electric Report, "General Electric Standard Application for Reactor Fuel," (NEDE-24011-P-A-6, April 1983) and has been determined by the NRC to be acceptable. The change from one hundred-mil to eighty-mil channels represents a return to initial core channel dimensions. This change in channel thickness results in a slightly different fuel bundle response during a loss-of-coolant accident (LOCA) in the high exposure range. Consequently, different MAPLHGR limits are applied to Reload 6 fuel.

Since eighty mil channels have been used successfully at FitzPatrick, and extensively on other plants similar in core and fuel design to FitzPatrick, this does not represent a significant change. Additionally, the analytical methods used to demonstrate conformance with the Technical Specifications and regulations are described in the above referenced General Electric Report which has been reviewed and approved by the NRC. These methods have not changed significantly from the methods used for previous reload submittals. The changes represented by addition of the new fuel assemblies to the core during the current reload are therefore encompassed by example (iii).

Those changes which eliminate references to deleted figures associated with fuel types being discharged from the core and add references to the newly included figure are clearly administrative in nature and are therefore encompassed by example (i).

Based on the foregoing, the Commission proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

*Local Public Document Room location:* Penfield Library, State University College of Oswego, Oswego, New York.

*Attorney for licensee:* Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

*NRC Branch Chief:* Domenic B. Vassallo.

**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:* November 24, 1981, as supplemented August 13, 1984.

*Description of amendment request:* The amendment request was initially noticed on August 23, 1983 (48 FR 38419). This notice includes changes requested in a subsequent submittal dated August 13, 1984. The amendment would revise the testing requirements for hydraulic shock suppressors (snubbers). The proposed changes were made in reponse to an NRC request, dated November 20, 1980, to upgrade the testing requirement for all safety-related snubbers to ensure a higher degree of operability. The changes involve: Clarifying the frequency of visual inspections, stating the requirements for functional testing of snubbers which visually appear inoperable, including a formula for the selection of representative sample sizes, clarifying the testing acceptance criteria, and revising the method of snubber listing to incorporate more information.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration relates to changes that constitute additional limitations or restrictions in the Technical Specifications. The proposed changes revise sections of the Technical Specifications related to hydraulic snubbers to clarify requirements, to include additional testing, and to incorporate operability requirements. Since the requested changes upgrade the requirements for hydraulic snubbers, the staff proposes to determine that the application does not involve a significant hazards consideration.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

*Attorney for licensee:* Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

*NRC Branch Chief:* Steven A. Varga.

**Power Authority of the State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York**

*Date of amendment request:* April 13, 1982, as supplemented August 31, 1984.

*Description of amendment request:* The amendment would revise the Technical Specifications related to degraded grid voltage conditions by: Adding relay set points, time delays, testing intervals and calibration intervals for the 480V Emergency Buses; increasing the setting limit for the 480V Bus Undervoltage Relay; and requiring

procedures to prevent an automatic fuse transfer of the 6.9 KV Buses. The proposed changes were made in response to an NRC request to provide protection for the degraded grid voltage condition.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the applications of these standards by providing examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration relates to changes that constitute additional limitations or restrictions in the Technical Specifications. The proposed changes revise sections of the Technical Specifications that relate to the degraded grid voltage condition to clarify existing requirements and include additional requirements and testing. Since the requested changes upgrade the requirements for the degraded grid voltage condition, the staff proposes to determine that the application does not involve a significant hazards consideration.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

*Attorney for licensee:* Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

*NRC Branch Chief:* Steven A. Varga.

**Power Authority of the 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, as supplemented September 7, 1984

*Description of amendment request:* The amendment request was initially noticed on August 22, 1984 (49 FR 33369). This notice includes changes requested in a subsequent submittal dated September 7, 1984, that supplement and, in some cases, supersede the changes initially proposed. The purpose of this amendment 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.

**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:* July 6, 1983, as supplemented December 3, 1984.

*Description of amendment request:* The amendment proposes changes that provide for redundancy in decay heat removal capability in all modes of operation. The proposed changes were made in response to an NRC request that the licensee provide long-term assurance that redundancy be maintained. The changes provide that: At least two decay heat removal paths are available when the reactor coolant system Tavg is below 350 °F, at least one reactor coolant pump or RHR pump is operating when the reactor coolant system Tavg is below 350 °F but not in the refueling operation condition, and at least one reactor coolant pump is operating when the reactor coolant system Tavg is greater than 350 °F.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of these standards by providing examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration relates to changes that constitute additional limitations or restrictions in the Technical Specifications. The proposed changes revise sections of the Technical Specifications related to the redundancy of decay heat removal systems to clarify their operating procedures. Since the requested changes upgrade the requirements for decay heat removal procedures, the staff proposes to determine that the application does not involve a significant hazards consideration.

*Local Public Document Room location:* White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

*Attorney for licensee:* Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

*NRC Branch Chief:* Steven A. Varga.

**Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey**

*Date of amendment request:* September 21, 1984.

*Description of amendment request:* These proposed changes would add specifications for accident and radiation monitoring to provide assurance that the monitoring equipment installed at the facility is operated and maintained within acceptable limits. This proposed change is the result of a review of NUREG–0737 Technical Specifications guidance provided in NRC Generic Letter 83–37 and an additional request (Varga to Uderitz, dated November 17, 1983) for Technical Specifications for ICCI equipment. The Noble Gas Effluent Monitors and Containment high range Area Monitors are added to ensure that the monitors, installed in compliance with NUREG–0737 requirements, are operable in the appropriate MODES and receive proper surveillance attention.

Specifically the changes would add Noble Gas Effluent Monitors and Containment high range Area Monitors to Specification 3.3.3.6, Radiation Monitoring Instrumentation and Specification 3.3.3.9, Radioactive Gaseous Effluent Monitoring Instrumentation tables, as appropriate. Remove from Unit No. 1 only, item 2.a.3 Fixed Filter Iodine Monitor from Tables 3.3–6 and 4.3–6 and simplify, by cross references, these tables for both units.

The format and ACTION STATEMENTS of Technical Specification 3.3.3.7 Accident Monitoring Instrumentation, for Salem Unit No. 2 would be modified to agree with the format and Action Statements used on Unit No. 1. Limiting Conditions for Operation and Surveillance Requirement for the following accident monitoring instrumentation would be included in Tables 3.3–11a, 3.3–11b, and 4.3–11 for both units: Containment pressure—wide and narrow ranges, containment water level—wide range, and core exit thermocouples.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance

concerning the application of the standards for a No Significant Hazards determination by providing examples of actions not likely to involve a Significant Hazards Consideration in the **Federal Register** (48 FR 14870). One of the examples (ii) relates to changes that constitute additional limitations, restrictions, or controls not presently included in the technical specifications. The new specifications requested constitute such an addition.

Based on the above, since the proposed changes involve actions that conform to the referenced example in 48 FR 14870, we have determined that this application for amendment involves no Significant Hazards Consideration.

*Local Public Document Room location:* Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

*Attorney for licensee:* Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

*NRC Branch Chief:* Steven A. Varga.

**Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey**

*Date of amendment request:* September 21, 1984.

*Description of amendment request:* The proposed change would revise Technical Specification, section 3.6.4.1, Hydrogen Analyzers surveillance requirements. The existing Hydrogen Analyzers are being replaced with a type qualified for use in the containment. The new type requires a change is surveillance testing per manufacturer's specifications.

*Basis for proposed no significant hazards consideration determination:* The replacement of the existing Containment Hydrogen Monitoring System with one qualified for use in the containment assures the operator of a continuous indication of the hydrogen concentration in the containment as required by NUREG–0737. The license change in required to ensure that this equipment, installed to conform with the latest NRC requirements, is tested properly to demonstrate operability. The Commission has provided guidance concerning the application of the standards for a No Significant Hazards determination by providing examples of actions not likely to involve a Significant Hazards Consideration in the **Federal Register** (48 FR 14870). One of the examples (vii) relates to changes that 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.

Based on the above, and since the proposed change involves actions that conform to the referenced example in 48 FR 14870, we have determined that this application for amendment involves no significant hazards consideration.

*Local Public Document Room location:* Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

*Attorney for licensee:* Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

*NRC Branch Chief:* Steven A. Varga.

**Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey**

*Date of amendment request:* October 26, 1984.

*Description of amendment request:* The proposed amendment would revise section 6.0, Administrative Controls, to incorporate a change in Nuclear Department organization, Shift Complement clarification, Station Operation Review Committee (SORC) membership, quorum requirements, and responsibilities. Additionally, replace the Nuclear Review Board (NRB) with section 6.5.2, Nuclear Safety and Review, and add section 6.5.3, Technical Review and Control.

*Basis for proposed no significant hazards consideration determination:* This proposed change is administrative in nature in that it provides an improved organization, clarification of shift coverage, adds a new full-time safety review concept (which has the effect of improving the effectiveness of SORC Reviews and makes more efficient use of technical expertise available).

The Commission has provided guidance concerning the application of the standards for a No Significant Hazards determination by providing examples of actions not likely to involve a significant hazards consideration in the **Federal Register** (48 FR 14870). One of the examples (i) relates to purely administrative changes. This proposed change is basically a shifting of administrative responsibilities and improves the qualitative and quantitative effectiveness of the review function. Another example (ii) relates to changes that constitute an additional control not presently included in the technical specifications. This proposed change adds a Technical Review and Controls section that more clearly defines review responsibilities.

Based on the above, and since the proposed change involves actions that conform to referenced examples in 48 FR 14870, we have determined that this proposed application for amendment involves no significant hazards consideration.

*Local Public Document Room location:* Salem Free Library, 122 West Broadway, Salem New Jersey 08079.

*Attorney for licensee:* Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

*NRC Branch Chief:* Steven A. Varga.

**Public Service Electric and Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey**

*Date of amendment request:* December 7, 1984.

*Description of amendment request:* The proposed amendment request would add to section 4.6.3.1.2 (Containment Systems), a surveillance requirement to reflect the 60° open limitation on the Containment Pressure-Vacuum Relief valves, VC5 and VC6 for both Salem Units and remove the footnote added by Amendment 12 to Salem Unit 2, page 3/4 6–15.

*Basis for proposed no significant hazards consideration determination:* The proposed amendment request is administrative in nature in that it constitutes an additional limitation or control (Surveillance Requirement) not presently included in the Technical Specifications. The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing examples of actions not likely to involve a Significant Hazards Consideration in the **Federal Register** (48 FR 14870). One of the examples (ii) relates to changes that constitute an additional control not presently included in the technical specifications.

Based on the above, and since the proposed change involves an action that conform to a referenced example in 48 FR 14870, we have determined that this proposed application for amendment involves no significant hazards consideration.

*Local Public Document Room location:* Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

*Attorney for licensee:* Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

*NRC Branch Chief:* Steven A. Varga.

**Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey**

*Data of amendments request:* January 18, 1985.

*Description of amendments request:* The requirements of the 10 CFR Part 50, Appendix I rulemaking were implemented in license Amendment Nos. 59 and 28 for Salem Units 1 and 2, respectively. These amendments allowed 45 days for full implementation of the specifications. The 45 day period was erroneous in that it did not allow sufficient time to complete the significant technical, administrative and training efforts involved in the change-over of the large number of procedures related to 10 CFR Part 50, Appendix I requirements. This proposed amendment request would revise Amendment No. 59 to Facility Operating License DPR-70 and Amendment No. 28 to Facility Operating License DPR-75 to provide an additional 60 days for implementation such that Item 3 of these amendments is changed to read as follows: 3. This license amendment is effective on issuance and shall be implemented no later than 105 days after issuance.

*Basis for proposed no significant hazards consideration determination:* The staff proposes to make a determination that the amendments request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed 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 10 CFR 50, Appendix I rulemaking specifically addressed the definition of a criterion of "As Low As Reasonably Achievable" (ALARA) and set effluent limits based on doses to the population surrounding nuclear power plants. Since the existing radiological technical specifications are at least as conservative, or more conservative than the Appendix I specifications contained in Amendment 59 Facility Operating License DPR-70 and Amendment 28 to Facility Operating License DPR-75, deferral of the implementation of these amendments would not involve a reduction in a margin of safety. Further, there are no procedural or physical plant changes involved in this proposed amendment; therefore, no increase in the probability or consequences of any previously evaluated accident, and no possibility of any new accident not previously evaluated. Based on the above, the staff proposes to determine that this amendment request does not involve a signficant hazards consideration.

*Local Public Document Room location:* Salem Free Library, 122 West Broadway, Salen, New Jersey 08079.

*Attorney for licensee:* Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, D.C. 20006.

*NRC Branch Chief:* Steven A. Varga.

**Public Service Co. of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado**

*Date of amendment request:* December 31, 1984.

*Description of amendment request:* The proposed change to the Technical Specifications provides clarification that only gamma radioactivity is monitored by the installed activity monitors. This clarification consists of inserting the word "gamma" prior to the words "activity monitors" in Specifications ELCO 8.1.2, ELCO 8.1.3, and ESR 8.1.2.

*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 that are considered not likely to involve significant hazards considerations include a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, a correction of an error, or a change in nomenclature.

The proposed changes to the Technical Specifications will not alter the equipment being used nor the operation of that equipment, and only serves to clarify the requirement for continuously monitoring the radioactivity of liquid effluent releases. Since the actual operations will not be affected by this change, the staff proposes to determine that this action involves no significant hazards considerations.

*Local Public Document Room location:* Greeley Public Library, City Complex Building, Greeley, Colorado.

*Attorney for licensee:* Bryant O'Donnell, Public Service Company of Colorado, P.O. Box 840, Denver, Colorado 80201.

*NRC Branch Chief:* Eric H. Johnson.

**Public Service Co. of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado**

*Date of amendment request:* January 14, 1985.

*Description of amendment request:* The proposed change to the Administrative Controls Technical Specifications (TS) reflects recent organizational changes within the Public Service Company of Colorado. The TS changes involve revising position titles (e.g., "Radiation Protection Manager" to "Support Services Manager" and "Manager, Production, Fuels and Services Division" to "Manager, Production Services Division") the addition of a new position (Executive Staff Assistant) to the organizational chart and the corporate safety review committee membership, and changing the position to which the Training Supervisor reports.

*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 that are considered not likely to involve significant hazards considerations include 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. Based on an initial review of the application, the staff considers the proposed changes to be administrative changes of the type referred to above. Therefore, we propose to determine that this is an action which would involve no significant hazards considerations.

*Local Public Document Room location:* Greeley Public Library, City Complex Building, Greeley, Colorado.

*Attorney for licensee:* Bryant O'Donnell, Public Service Company of Colorado, P.O. Box 840, Denver, Colorado 80201.

*NRC Branch Chief:* Eric H. Johnson.

**Rochester Gas and Electric Corporation, Docket No. 50-244, R.E. Ginna Nuclear Power Plant, Wayne County, New York**

*Date of amendment request:* December 5, 1984.

*Description of amendment request:* The proposed amendment to the Technical Specifications would delete the description of the battery charger configuration, because it superfluously describes originally installed equipment. Requirements for battery charging capacity and operability remain unchanged.

*Basis for proposed no significant hazards consideration determination:* By letter dated December 5, 1984, the licensee requested changes to the Ginna Technical Specifications to eliminate specific charging capacity values for individual chargers while retaining the 150-amp charging capacity for each battery to maintain the batteries in the full charged condition. The planned upgrading of the battery charging units during the 1985 Spring refueling outage provided an opportunity to delete the unwarranted description of the originally installed units rather than substitute similar arbitrary descriptive information for the new units. This is an administrative change to the Technical Specifications.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (i) of actions not likely to involve a significant hazards consideration is 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. Because the change proposed here would merely delete unnecessary descriptive material and would not effect battery charging and operability requirements, the proposed change is administrative in nature and falls within example (i) of actions not likely to involve significant hazards considerations. On that basis, the staff proposes to determine that the request involves no significant hazards considerations.

*Local Public Document Room location:* Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

*Attorney for licensee:* Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, D.C. 20036.

*NRC Branch Chief:* John A Zwolinski, Chief.

**Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California**

*Date of amendment request:* October 9, 1984.

*Description of amendment request:* The amendment would delete Facility Operating License Condition 2.C. (10) relating to the U.S./International Atomic Energy Agency (IAEA) safeguards program. Under this program, the Rancho Seco facility was subject to IAEA inspection of nuclear material accounting and nuclear material control. The amendment would not alter in any way the Rancho Seco safeguards provisions required by NRC regulations.

The termination provision of License Condition 2.C. (10) provides that the IAEA program be terminated as of the date of such a notice from the NRC. That notice was provided to the licensee in a letter dated June 1, 1984, and accordingly, the IAEA insepction program was terminated at that time. Therefore, the proposed amendment would delete a license condition that is no longer in effect.

*Basis for proposed no significant hazards consideration determination:* The proposed amendment would only delete a license condition that is no longer in effect and would not affect plant operation or design. Therefore, the proposed amendment would not: Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Based on the foregoing, the NRC staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

*Local Public Document Room location:* Sacramento City-County Library, 828 I Street, Sacramento, California.

*Attorney for licensee:* Daivd S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

*NRC Branch Chief:* John F. Stolz.

**Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California**

*Date of amendment request:* June 27, 1984, amended on December 24, 1984.

*Description of amendment request:* In 1976, as a result of damage to reactor vessel surveillance capsule holder tubes near the reactor vessel wall at the Rancho Seco Nuclear Generation Station, the Rancho Seco reactor vessel surveillance capsules were installed in the Davis-Besse Nuclear Power Station, Unit 1, surveillance capsule holders. Since the Davis-Besse reactor design is similar to the Rancho Seco reactor design, radiation damage to the Rancho Seco reactor vessel materials installed in the Davis-Besse reactor can be used to provide radiation damage information for the Rancho Seco reactor vessel.

The proposed amendment would modify the Rancho Seco Technical Specifications (TSs) by adding a revised removal schedule for the Rancho Seco material surveillance capsules from the Davis-Besse reactor vessel. TS Table 4.2.1 containing the current capsule removal schedule will be deleted. The amendment would also delete section 4.7.8 and revise the Bases section to delete redundant information and to provide a better description of the Reactor Vessel Surveilliance Program.

*Basis for proposed no significant hazards consideration determination:* The withdrawal schedule in the proposed amendment was developed in accordance with the 1982 edition of ASTM E 185 and provides a better defined removal schedule for the surveillance capsules based on accumulated neutron fluence rather than on the basis of refueling cycle. Thus, any change in the nominal cycle time will not greatly influence the characterization of reactor vessel material condition as a function of accumulated neutron fluence. The original removal schedule was developed in accordance with the 1973 edition of ASTM E 185. Appendix H to 10 CFR Part 50 provides for the use of ASTM E 185–82 in the material surveillance program. The revised removal schedule will not reduce the effectiveness of the Reactor Vessel Surveillance Program.

The Commission has provided guidance concerning the application of the standards of 10 CFR 50.92 by providing certain examples (48 FR 14870). None of these examples are applicable to the proposed amendment. The proposed amendment relates only to a materials surveillance program and does not involve any change in the facility or its operation. Furthermore, neither the quantity nor the quality of the information obtained from the surveillance program is reduced. The change also is within all acceptable criteria with respect to the program specified in the Standard Review Plan. The proposed amendment, therefore, meets the requirements specified in 10 CFR 50.92(c) for an amendment which does not involve a significant hazards consideraiton.

*Local Public Document Room location:* Sacramento City-County Library, 828 I Street, Sacramento, California.

*Attorney for licensee:* David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

*NRC Branch Chief:* John F. Stolz.

**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:* November 29, 1984.

*Description of amendment request:* The amendment would add a note to the high containment radioactivity signal for containment purge and exhaust isolation in Technical Specification Table 3.3-3, "Engineered Safety Feature Actuation System Instrumentation." The note would state that "purge exhaust monitor not required when purge exhaust is closed."

*Basis for preposed no significant hazards consideration determination:* When the plant is operating in Modes 1 through 4, the six-inch mini-purge system is needed at times to increase containment pressure to comply with Technical Specification limits. This pressurization is accomplished by keeping closed the values in the mini-purge exhaust line and pumping air into containment through the mini-purge supply line. (Technical Specifications limit the total amount of time the isolation valves in the mini-purge system may be opened to less than 1000 hours per 365 days.) While in this pressurization mode, no open exhaust line leads out of containment to the outside environment. Because all exhaust lines are closed, one of the radiation monitors used to sample containment radiation is isolated.

The radiation monitor in question provides one of two (2) isolation signals to the mini-purge lines upon detection of high containment radioactivity. In the plant configuration described above, the valves in the exhaust line are closed. If during pressurization, leakage occurs through the closed valves, the radiation monitor could detect radioactivity and provide an isolation signal. Diversity in the parameters sensed for containment isolation continues to exist, including high containment pressure and the various other parameters sensed for safety injection system actuation.

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 the monitoring of open flow paths out of containment remains a requirement and the design basis continues to be met, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the physical plant design is not being changed and the amendment still allows for purge and exhaust isolation on high containment radioactivity in Modes 1 through 4. Also, it will not (3) involve a significant reduction in a margin of safety because of the minimal time required for containment pressurization during which the exhaust lines are closed and an alternate channel sensing high radiation inside containment which exists to provide a purge exhaust isolation signal. 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:* Randolph R. Mahan, South Carolina Electric and Gas Company, 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:* December 14, 1984.

*Description of amendment request:* The amendment would revise Technical Specification 3/4.9.11 "Spent Fuel Pool Ventilation System." The revision would change the Technical Specification to require certain surveillance testing only when the system is being used in an engineered safety features function.

*Basis for proposed no significant hazards consideration determination:* The spent fuel pool ventilation system at the Virgil C. Summer Nuclear Station has two (2) distinct functions. These functions consist of being an engineered safety feature (ESF) system to mitigate the offsite radiological consequences of a fuel handling accident and providing a filtration/ventilation system for the fuel handling building, hot machine shop and excess liquid radwaste area during normal plant operation. The usual operating function of providing filtration for the above listed areas represents a portion of the licensee's commitment to ALARA, and is not required to meet 10 CFR Part 100 criteria. The proposed change recognizes that during periods of normal plant operation, the testing requirements are most properly outlined by Regulatory Guide 1.140, "Design, Testing, and Maintenance Criteria for Normal Ventilation Exhaust System Air Filtration and Adsorption Units of Light-Water-Cooled Nuclear Power Plants." The requested revision to the Technical Specifications does not decrease the protection of the public in the event of a design basis fuel handling accident because the Technical Specifications continue to ensure that the rigorous testing requirements of Regulatory Guide 1.52, Revision 2, March 1978, "Design, Testing and Maintenance Criteria for Post Accident Engineered-Safety-Feature Atmosphere Cleanup System Air Filtration and Adsorption Units of Light-Water-Cooled Nuclear Power Plants," are completed prior to and during use of the system for its ESF function.

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 the system design will not change and will continue to be tested for operability before it is relied upon as an ESF system, (2) create the possibility of a new or differet kind of accident from any accident previously evaluated because the system will be tested to ensure that it continues to perform its ESF functions as originally intended, or (3) involve a significant reduction in a margin of safety because the licensee will continue to demonstrate operability of the system by performing the required surveillance activities before allowing it to serve as an ESF system. 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:* Randolph R. Mahan, South Carolina Electric & Gas Company, 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:* November 16, 1983, as amended December 14, 1984.

*Description of amendment request:* The amendment would revise Technical Specification 3/4.7.7 "Snubbers," and its bases to indicate that all snubbers on systems required for safe shutdown/accident mitigation shall be operable. The amendment would then delete Technical Specification Tables 3.7-4a, "Safety-Related Hydraulic Snubbers," and 3.7-4b, "Safety-Related Mechanical Snubbers."

*Basis for proposed no significant hazards consideration determination:* The original request of November 16, 1983, was noticed in the **Federal Register** (49 FR 7042) on February 24, 1984. Responding to Generic Letter 84-13, "Technical Specifications for Snubbers," the licensee revised its original request by letter dated December 14, 1984. This revision was substantial enough to require renoticing the requested amendment.

As stated in Generic Letter 84-13, the snubber listing currently found in Technical Specifications is not necessary, provided Technical Specification 3/4.7.7 specifies which snubbers are required to be operable. Technical Specification 3/4.7.7 is, therefore, being revised to indicate that all snubbers on systems requred for safe shutdown/accident mitigation shall be operable. This includes safety and non-safety related snubbers on systems used to protect the code boundary and to ensure the structural integrity of these systems under dynamic loads.

Therefore, the requirement regarding snubbers found in Technical Specifications is not being changed and is consistent with the NRC guidance stated in Generic Letter 84-13.

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 the Technical Specification requirements regarding snubbers remain unchanged, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the physical plant design is not being changed. Also, it will not (3) involve a significant reduction in a margin of safety because all snubbers on systems required for safe shutdown/accident mitigation will be operable including safety and non-safety related snubbers on systems used to protect the code boundary and to ensure the structural integrity of these systems under dynamic loads. 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 Carlina 29180.

*Attorney for licensee:* Randolph R. Mahan, South Carolina Electric & Gas Company, 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:* November 29, 1984, and supplemented January 8, 1985.

*Description of amendment request:* The amendment would add a new Technical Specification 3/4.8.4.3 regarding requirements for circuit breakers for non-Class 1E cable.

*Basis for proposed no significant hazards consideration determination:* Operability and surveillance requirements for circuit breakers for non-Class 1E cables located in cable trays which do not have covers and which provide protection for cables that if faulted could cause failure in two or more adjacent, redundant Class 1E cables are being added to Technical Specifications. The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in Technical Specifications. The amendment involved here is similar to this example in that it adds requirements for some non-Class 1E cable circuit breakers. 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:* Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

*NRC Branch Chief:* Elinor G. Adensam.

**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 Request:* March 2 and April 2, (Reference PCN 131).

*Description of Amendment Request:* The proposed change revises Technical Specification 3/4.3.3.8 "Radioactive Liquid Effluent Monitoring Instrumentation." Technical Specification (T.S.) 3/4.3.3.8 defines operability requirements for instrumentation used to monitor releases of radioactive liquids, periodic testing required to verify operability and actions to be taken in the event that the minimum operability requirements cannot be met.

The proposed change revises T.S. 3/4.3.3.8 to:

1. Allow the use of pumps other than the circulating water pumps to provide dilution of radioactive liquid effluents.

2. Allow liquid effluents from certain release paths to be diverted to other portions of the liquid radwaste system when the associated liquid effluent monitor is inoperable as an alternative to the current requirement to analyze grab samples if releases are to continue.

3. Delete the current limitations on the period for which compensatory measures can be taken when radioactive liquid effluent monitoring instrumentation is inoperable, to eliminate an inconsistency in the technical specifications.

*Basis for Proposed No Significant Hazards Consideration Determination:* The Commission has provided guidance concerning the application of standards for determining whether a proposed license amendment involves a significant hazards consideration by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. Example (i) relates to 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. Example (vi) relates to a change which either may result in some increase to the probability or consequences of a previously-analysed 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 SRP. The changes itemized above are similar to example (i) or example (vi) of (48 FR 14870) and thus it is proposed that the changes do not involve a significant hazards consideration. The following is a more detailed description of each of the three items listed above and a description of how each is similar to the examples of (48 FR 14870).

*Specific Changes Requested and Bases for Proposed No Significant Hazards Determination for each:*

1. Allow use of pumps other than the circulating water pumps to liquid effluent dilution.

T.S. 3/4.3.3.8 currently requires that at least one circulating water pump must be operating and providing dilution to the circulating water system discharge structure whenever dilution is required to meet site radioactive effluent concentration. Liquid effluent concentration limits are specified by T.S. 3.11.1.1, "Liquid Effluents—Concentration." In addition to the circulating water pumps, which provide cooling water for the condenser when the plant is operating, there are other pumps (e.g., the saltwater cooling pumps) which are also capable of providing dilution of liquid effluents. The proposed change replaces the specific reference to circulating water pumps with "all pumps required to be providing dilution in order to meet site radioactive effluent concentration limits." This non-specific reference to all pumps will allow use of pumps other than the circulating water pumps (e.g., the saltwater cooling pumps) as long as the site effluent concentration limits specified by T.S. 3.11.1.1 are met.

This change is similar to example (vi) of (48 FR 14870) in that although it allows the use of pumps other than the circulating water pumps to provide liquid effluent dilution and this may result in an increase in the probability of a previously analysed accident, it nevertheless is still within all acceptable criteria in that the facility will still meet the requirements of 10 CFR 20, which are specified in T.S. 3.11.1.1.

2. Diversion of effluents to the liquid radwaste system in lieu of grab sampling.

Acting 29 of T.S. 3/4.3.3.8 specifies the actions to be taken if effluents are being released via the steam generator blowdown effluent release path or either of its bypass lines and the required radioactive liquid effluent monitors are inoperable. Action 30 provides the actions to be taken if effluents are being released via the turbine building sump effluent release path and the required radioactive liquid effluent monitors are inoperable. Both Actions 29 and 30 currently state that the release of radioactive effluents via a pathway with inoperable monitors may continue provided that grab samples are analyzed periodically for gross radioactivity.

The proposed change would revise Actions 29 and 30 of T.S. 3/4.3.3.8. to explicitly allow isolating the release pathway and diverting the radioactive effluent flow to the liquid radwaste treatment system for processing as liquid radwaste. This proposed change would explicity allow the steam generator blowdown and the turbine building sumps radioactive liquid effluents to be processed in the same way as liquid radwaste from other sources. The existing Actions 29 and 30 require grab samples if releases are continued. If releases are not continued, grab samples are not required. No releases are made via the affected pathways if radioactive effluent flow is diverted to the liquid radwaste system, so in this case grab samples would not be required. Since this action could be taken within the bounds of the existing Actions 29 and 30, the proposed change merely formalizes this alterntive in the technical specifications. Therefore, the proposed change is editorial and is similar to Example (i).

3. Deletion of Time Limits in Effluent Monitoring Action Statements.

The applicability of actions to be taken when radioactive liquid effluent monitoring instrumentation is inoperable is limited to a specified period (e.g., 30 days). If effluent release continues beyond this period, even while continuing to implement the compensatory measures specified by the action, because of the time limit, this action would be outside of the bounds of the T.S. and would therefore invoke Specification 3.0.3. T.S. 3.0.3. would require that action be taken to initiate a plant shutdown. T.S. 3/4.3.3.8 has an exception to Specification 3.0.3 in accordance with which, at the end of the existing action time limit, it would be interpreted that no additional action is required. The 3.0.3 exception conflicts with the time limits in the actions. The proposed change removes the time limits thereby eliminating the existing conflict. The proposed change will continue to require reporting of effluent monitoring instrumentation inoperabilities of greater than 30 days duration and continued implementation of the specified compensatory measures.

Because this change achieves consistency within the technical specifications, it is similar to example (i) of (48 FR 14870). On this basis, the NRC staff proposes to determine that the change does not involve a significant hazards consideration.

*Local Public Document Room location:* Sam Clemente Library, 242 Avenida Del Mar, San Clemente, California.

*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.

**Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama**

Date of amendment request: November 19, 1984.

*Description of amendment request:* The amendment would modify the Technical Specifications to delete the requirement for the condenser low vacuum scram function. Approval of the proposed amendment would eliminate the need to reduce power during periods of high river water temperature.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of standards by providing examples of actions that are not likely to involve a significant hazards consideration (48 FR 14870). One example of actions not likely to involve a significant hazards consideration is a change which either may result in some increase in 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 (SRP).

The basis for the turbine condenser low vacuum scram is to provide an anticipatory scram to reduce peak pressure in the reactor vessel caused only by a turbine trip on low condenser vacuum. Without the anticipatory scram at 23 inches of mercury vacuum on decreasing condenser vacuum, the main turbine would receive a trip at 21.8 inches of mercury vacuum. This trip signal would cause the turbine stop valves and control valves to close, initiating a scram in less than one second. While the reactor was scramming, there would also be an increase in reactor vessel pressure because of isolation of the main

condenser from the reactor. This pressure rise would normally be limited by automatic opening of the turbine bypass valves. For the purposes of conseratively analyzing turbine trip transients (ref: FSAR Chapter 13, "Plant Safety Analyses"), no credit was taken for either the condenser low vacuum scram or operation of the turbine bypass valves. Deletion or nonoperation of the condenser low vacuum switches may increase the reactor vessel peak pressure resulting from a turbine trip and thereby reduce a margin of safety. However, since no credit is taken for that scram function this change would meet the acceptance criteria of SRP section 7.2, "Reactor Trip System."

Therefore the proposed amendment is encompassed by an example for which no significant hazards are likely to exist, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

*Local Public Document Room location:* Athens Public Library, South and Forrest, Athens, Alabama 35611.

*Attorney for licensee:* H.S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

*NRC Branch Chief:* Domenic B. Vassallo.

**Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama**

*Date of amendment request:* December 21, 1984.

*Description of amendment request:* The proposed amendment would modify the Technical Specifications as follows:

(1) The basis for Secifications 3.7.A and 4.7.A would be changed to indicate that the green position indicating lights for the drywell-suppression chamber vacuum breakers are lit when the valves are "less than 80 degrees" open. The existing figure of 30 degrees is a typographical error (Units 1 and 2 only).

(2) Specifications 3.8.C (LCO and basis) and 4.8.C would be revised to indicate that there is more than one mechanical vacuum pump; "pump" would be changed to "pumps", and "line" to "lines". (There are two half-size mechanical vacuum pumps for each unit as described in the FSAR section 11.4.) This change corrects an editorial error.

(3) Specification 6.3 would be expanded to include a new requirement for preparation of written procedures to limit shift overtime. This change would implement NUREG–0737 Item I.A.1.3.

*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 no significant hazards considerations. One of the examples relates to: "(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." Another example (ii) of actions involving no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. Changes (1) and (2) correct typographical and editorial errors and are thus encompassed by example (i). Change 3 is an additional control and is thus encompassed by example (ii).

Since all of the changes to the Technical Specifications given in the three areas above are ecompassed by an example in the guidance provided by the Commisson of actions not likely to involve a significant hazards consideration, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

*Local Public Document Room location:* Athens Public Library, South and Forrest, Athens, Alabama 35611.

*Attorney for licensee:* H.S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

*NRC Branch Chief:* Domenic B. Vassallo.

**The Toledo Edison Company and the Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

*Date of amendment request:* March 16, 1979 revised by letters dated December 23, 1982, July 13, 1983 (Item 2), August 18, 1983 (Item 6), March 15, 1984, and November 1, 1984.

*Description of amendment request:* The proposed amendment regarding Radiological Effluent Technical Specifications was the subject of previous notices published in the **Federal Register** November 22, 1983, at 48 FR 52836 and May 23, 1984, at 49 FR 21847. Subsequent to those notices, an error was noted in the proposed Technical Specifications relating to the action statement associated with the limiting condition for operation for explosive gas mixtures in the waste gas system. The licensee's letter of November 1, 1984, corrects proposed Act b in Specification 3.11.2.5. The corrected action statement requires immediate suspension of waste gas additions to the system and restoration of oxygen concentrations to within the limiting condition for operation. Action b is required whenever gas concentrations exceed both the limiting condition for operation and the concentrations applicable for Action a. Previously, the concentrations given for applicability for Action b were inconsistent with the limiting condition for operation.

The licensee's letter of November 1, 1984, does not affect any other part of the proposed amendment and does not change any of the description of the amendment published in the November 22, 1983, or May 23, 1984 notices.

*Basis for proposed no significant hazards consideration determination:* The previous basis for the proposed amendment as corrected still applies (48 FR 52836 and 49 FR 21847).

*Local Public Document Room location:* University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

*NRC Branch Chief:* John F. Stolz.

**The Toledo Edison Company and the Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio**

*Date of amendment request:* November 20, 1984.

*Description of amendment request:* The proposed amendment would add a requirement for operability of a reactor coolant system vent path from each reactor coolant system loop and from the pressurizer. In the event one or more of these paths become inoperable, the inoperable paths must be restored to operability or the unit shutdown specified time intervals. The proposed amendment includes a required surveillance at least once each 18 months. The proposed Technical Specifications would be applicable when the plant is in operational modes 1, 2, or 3. The application is in response to NRC Generic Letter 83–37 which requested that such Technical Specifications be proposed by all operators of pressurized water reactors.

*Basis for proposed no significant hazards consideration determination:* The reactor coolant system high point vents have been installed in accordance with Item 11.B.1 of NUREG–0737, "Clarification of TMI Action Plan Requirements" and as required by Commission regulation 10 CFR

50.44(c)(3)(iii). These high point vents are installed to vent any noncondensible gas which might accumulate and inhibit core cooling under natural circulation or reactor coolant.

The Commission has provided guidance concerning the application of the standards of 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The high point vents are required to be installed by Commission regulation; therefore incorporation of the proposed technical specification requirements represent additional controls not presently included, and thus the proposed amendment fits this example. Accordingly, the Commission proposes to determine that the requested amendment involves no significant hazards consideration.

*Local Public Document Room location:* University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*NRC Branch Chief:* John F. Stolz.

**Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont**

*Date of application for amendment:* November 2, 1984.

*Description of amendment request:* The proposed amendment would add Limiting Conditions for Operation (LCO) and Surveillance Requirements pertaining to degraded grid voltage protection to the Technical Specifications. Such restrictions do not now exist in the Technical Specifications.

*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 which involve no significant hazards consideration include a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: For example, a more stringent surveillance requirement.

The changes proposed in this application for amendment are encompassed by this example because restrictions would be added pertaining to degraded grid voltage, and such restrictions are presently not addressed in the Vermont Yankee Technical Specifications.

Therefore, since the application for amendment involves proposed changes similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

*Local Public Document Room location:* Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

*Attorney for licensee:* John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

*NRC Branch Chief:* Domenic B. Vassallo.

**Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont**

*Date of application for amendment:* December 14, 1984.

*Description of amendment request:* The proposed amendment requests a revision to the Technical Specifications pertaining to the following TMI Action Plan Items set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements" and as requested by the staff's Generic Letter 83-36:

II.F.1.3—Containment High-Range Monitor
II.F.1.4—Containment Pressure Monitor
II.F.1.5—Containment Water Level Monitor
II.F.1.6—Containment Hydrogen Monitor
II.D.3.4—Control Room Habitability Requirements

*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 no significant hazards considerations. One of the examples relates to: "(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."

Technical Specification changes proposed in response to TMI Action Plan Items II.F.1.3, II.F.1.4, II.F.1.4, II.F.1.6 and II.D.3.4 are as follows:

(a) II.F.1.3—Containment High-Range Monitor—The proposed changes define the instrumentation and calibration requirements for the containment high range monitor and actions required when these operational limits are not met.

(b) II.F.1.4—Containment Pressure Monitor—The proposed changes define the instrumentation and calibration requirements for the containment pressure monitor and also actions required when these operational limits are not met.

(c) II.F.1.5—Containment Water Level Monitor—The proposed changes define the instrumentation and calibration requirements for the containment water level monitor and also actions required when these operational limits are not met.

(d) II.F.1.6—Containment Hydrogen Monitor—The proposed changes provide limiting conditions for operation (LCO) and surveillance requirements for the Hydrogen/Oxygen Monitor.

(e) II.D.3.4—Control Room Habitability Requirements—The proposed changes provide limiting conditions for operation and surveillance requirements for the Control Room Toxic Gas Monitoring System.

The modifications to Technical Specifications in response to the above TMI Action Items requirements constitute additional limitations, restrictions or controls not presently included in the Vermont Yankee Technical Specifications. Therefore, the proposed changes are similar to the Commission's example (ii) above. Therefore, we propose to determine that the requested changes will not involve significant hazards considerations.

*Local Public Document Room location:* Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

*Attorney for licensee:* John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

*NRC Branch Chief:* Domenic B. Vassallo.

**Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont**

*Date of application for amendment:* January 15, 1985.

*Description of amendment request:* The proposed amendment requests a change to the Administrative Controls section of the Technical Specifications to provide alternative requirements should the Operations Supervisor not possess a Senior Operator License for an interim time period.

*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 no significant hazards considerations. One of the examples 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." The proposed change would maintain the organization shown in Figure 6.1.2. The proposed change would allow the flexibility to permit the Assistant Operations Supervisor to provide instructions to the shift crews involving licensing activities should the Operations Supervisor not have a Senior Operator License. In this case, the Assistant Operations Supervisor would be a licensed Senior Operator and have qualification in accordance with ANSI N18.1–1971, "Selection and Training of Personnel for Nuclear Power Plants." Since the level of training and the requirement for a Senior Operator License for the Operations Supervisor function is fulfilled as described by the Assistant Operations Supervisor, the change is administrative since there is only a change in nomenclature when the Assistant Operations Supervisor assumes the Operations Supervisor fucntion in the Technical Specifications and, therefore, the change is similar to example (i). Therefore, we propose to determine that the requested changes will not involve significant hazards considerations.

*Local Public Document Room location:* Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

*Attorney for licensee:* John A. Ritscher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

*NRC Branch Chief:* Domenic B. Vassallo.

**Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia**

*Date of amendment requests:* November 30, 1984.

*Description of amendment requests:* By NRC Generic Letter 83–43 to all licensees, model Technical Specifications were forwarded which showed the revisions to reporting requirements as necessitated by §§ 50.72 and 50.73 of Title 10 of the Code of Federal Regulations. Section 50.72 revises the immediate notification requirements for operating nuclear power plants. Section 50.73 provides for a revised Licensee Event Report System.

By letter dated November 30, 1984, Virginia Electric and Power Company submitted proposed license amendments for NRC review and approval which reflects changes to reporting requirements. In addition, minor editorial and typograhical errors are corrected.

*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 is a change to make the licenses conform to changes in the regulations where the change results in very minor changes to facility operations clearly in keeping with the regulations. The NRC initial review of the licensee's submittal related to reporting indicates that this is the case. Another example (i) of actions not likely to involve a significant hazards consideration is a purely administrative change to Technical Specifications; for example, a change to achieve consistency throughout the Technical Specification, correction of an error, or a change in nomenclature. The remaining changes fall into this category. Accordingly, the Commission proposes to determine that this amendment does not involve a significant hazards consideration.

*Local Public Document Room location:* Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

*NRC Branch Chief:* Steven A. Varga.

**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:* June 4, 1976 as modified January 28, 1980 October 7, 1983 and December 20, 1984.

*Description of amendment request:* The proposed amendments would permit operation after approval of changes to the plant's Technical Specifications (TS) that would bring them into compliance with Appendix I, 10 CFR Part 50, and 10 CFR 50.36a and 50.34a. These proposed TS are intended to ensure that releases of radioactive material to unrestricted areas during normal operation remain as low as is reasonably achievable. Specifically, the proposed TS define limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring. Additional environment sampling locations have been added to the present sampling locations. Additional managerial review responsibilities and reporting requirements would be added relating to radioactive releases.

The NRC staff has issued previously its proposed determination that the earlier versions of these amendment requests did not involve a significant hazards consideration (48 FR 38382 at 38430, August 23, 1983 and 48 FR 52804 at 52840, November 22, 1983).

This newest version of the proposed amendments addresses NRC staff comments on previous submittals. The staff's comments were transmitted to the licensee by letter dated July 18, 1984. The newest version of these proposed amendments submits the proposed Technical Specifications as a completely new section, adds several new specifications such as total dose and explosive gas mixture specifications and makes several other additions and revisions to address staff comments.

*Basis for proposed no significant hazards consideration determination:* The Commission has provided guidance concerning the application of the standards by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to additional limitations, restrictions or controls not presently included in the technical specifications (ii). In the case of the proposed technical specifications, they constitute an additional requirement for monitoring and control of radioactive effluents not presently in the technical specifications and are intended to meet the intent of the Commission's regulations (10 CFR Part 50 Appendix I, 10 CFR 50.34a, and 10 CFR 50.36a) and related staff guidance (NUREG–0472). Therefore, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

*Local Public Document Room location:* Joseph P. Mann Public Library, 1515 16th Street, Two Rivers, Wisconsin.

*Attorney for licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

*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:* October 26, 1984.

*Description of amendment request:* The amendment request would delete a limiting condition for operation

concerning the auxiliary feedwater system. Specifically, the limiting condition for operation which allows temporarily shutting discharge valves of shared auxiliary feedwater pumps to a unit when necessary to supply auxiliary feedwater to the other unit for purposes of startup, shutdown or surveillance testing (provided that the other unit's turbine driven auxiliary feedwater pump was operable) would be deleted.

The amendment also would modify steam generator inservice inspection requirements under specification 15.4.2.A, "Steam Generator Tube Inspection Requirements". Item 2.a of this specification would be charged to indicate that selection of one steam generator for inspection is permissible. Item 3 of this specification would be rewritten to acknowledge that strict compliance with Appendix IV to section IX of the ASME Code would prohibit utilization of state-of-the-art inspection techniques not yet recongized by the Code. Item 7 of the specification would be revised to acknowledge that reporting be in accordance with 10 CFR 50.73.ii rather than the superseded LER reporting specification. The basis for this section would also be changed to make it consistent with the specifications.

*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 (v): "Upon satisfactory completion of construction in connection with an operating facility, a relief granted from an operating restriction that was imposed because the construction was not yet completed satisfactorily." The proposed amendment involving deleting a limiting condition for operation (LCO) concerning the auxiliary feedwater system meets this example. The LCO had been imposed as an interim safety measure until valve actuation modifications (automatic alignment upon receipt of a signal to start the auxiliary feedwater pumps) were completed. The valve actuation modifications have been completed and tested and the LCO is no longer needed.

Another example of actions involving no significant hazards considerations is example (i) a purely administrative change to the technical specifications. The changes involving steam generator inservice inspections meet this example. This specification has been clarified to indicate that selection of one steam generator for inspection is permissible. This specification has been rewritten to acknowledge that strict compliance with Appendix IV to section XI of the ASME Code would prohibit utilization of state-of-the-art inspection techniques not yet recognized by the Code. The specification has also been revised to acknowledge that reporting be in accordance with 10 CFR 50.73.ii rather than the superseded LER reporting specification. The basis for this section have also been rewritten to make it consistent with the specifications and our current practices. Item 3 of page 15.6.10–1 has also been changed to conform to present terminology. Based on the above, the staff proposes to determine that the 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 and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

*NRC Branch Chief:* James R. Miller.

## PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this regular monthly notice. They are repeated here because the monthly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

**Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida**

*Date of amendment request:* December 14, 1984.

*Brief description of amendment:* The amendment would modify Technical Specification Tables 4.3.2, 4.3.6, and 4.3.7, and Technical Specification 4.4.3.2.2 to permit waiver of certain 18-month calibration frequency requirements for Cycle V provided the surveillance is performed during Refuel V. The specific equipment covered by this request is as follows:

1. Low Steam Generation Pressure (Steam Line Rupture Matrix)
2. Pressurizer Level (Remote Shutdown)
3. Steam Generator Pressure (Remote Shutdown)
4. Pressurizer Level (Post-Accident)
5. Steam Generator Outlet Pressure (Post-Accident)
6. Startup Feedwater Flow
7. Power Operated Relief Valve

*Date of publication of individual notice in* **Federal Register:** January 14, 1985, 50 FR 1949.

*Expiration date of individual notice:* February 13, 1985.

*Local Public Document Room location:* Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

**Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York**

*Date of amendment request:* December 6, 1984, as supplemented January 10, 1985.

*Brief description of amendment:* These revisions would permit refueling operations to proceed with the Reactor Protection System inoperable to facilitate installation of Analog Trip Transmitter System components during the upcoming 1985 refueling outage.

*Date of publication of individual notice in* **Federal Register:** February 4, 1985 50 FR 4929.

*Expiration date of individual notice:* March 6, 1985.

*Local Public Document Room location:* Penfield Library, State University College of Oswego, New York.

**Rochester Gas and Electric Corporation, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York**

*Date of amendment request:* January 25, 1985.

*Description of amendment request:* The proposed amendment would allow use of temporary closure plate in place of the equipment door (hatch).

*Date of publication of individual notice in* **Federal Register:** February 5, 1985 (50 FR 5020).

*Expiration date of individual notice:* March 7, 1985.

*Local Public Document Room location:* Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

**Southern California Edison Company, et al., 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3**

*Date of amendment request:* July 2, August 7 and October 3, 1984.

*Brief description of amendments:* Changes to Technical Specifications 3/4.2.4, "DNBR Margin" and 3/4.3.1, "Reactor Protection Instrumentation," and their bases.

*Date of publication of individual notice in* **Federal Register:** December 31, 1984 (49 FR 50845).

*Expiration date of individual notice:* January 30, 1985.

*Local Public Document Room location:* San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92612.

**Southern California Edison Company, et al., 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3**

*Date of amendment request:* February 29, April 2, September 11, October 1 and 3, 1984.

*Brief description of amendment:* Technical Specification changes relating to reactor protection instrumentation and electrical power sources.

*Date of publication of individual notice in* **Federal Register:** December 31, 1984 (49 FR 50843).

*Expiration date of individual notice:* January 30, 1985.

*Local Public Document Room location:* San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92612.

## NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions 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 Commisison has prepared an environmental assesment 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 Evaluation 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, N.W., 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.

**Alabama Power Company, Docket No. 50–348, Joseph M. Farley Nuclear Plant, Unit No. 1, Houston County, Alabama**

*Date of application for amendment:* February 10, 1984, supplemented June 18, 1984.

*Brief description of amendment:* Table 4.4–5, Reactor Vessel Material Surveillance Program—Withdrawal Schedule is revised to show a different withdrawal time schedule for the remaining capsules. The change is administrative in nature and conforms to the requirements in Appendix H to 10 CFR Part 50, which became effective July 26, 1983 (48 FR 24008 May 31, 1983). Other changes proposed to Tables 3.4–2 and 3.4–3 are not acted upon at this time.

*Date of issuance:* January 22, 1985.

*Effective date:* January 22, 1985.

*Amendment No.:* 48.

*Facility Operating License No. NPF–2.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** April 25, 1984 (49 FR 17851) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 1985.

No significant hazards consideration comments were received.

*Local Public Document Room location:* George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

**Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas**

*Date of application for amendment:* June 30, 1983, as superseded by letter dated May 19, 1984.

*Brief description of amendment:* The amendment revised the Technical Specifications pertaining to hydraulic snubbers and added new requirements for mechanical snubbers operability and testing.

*Date of issuance:* January 29, 1985.

*Effective date:* January 29, 1985

*Amendment No.:* 62

*Facility Operating License No. NPF–6.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** August 22, 1984 (48 FR 33353 at 33356).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 29, 1985.

No significant hazards consideration comments received. No.

*Local Public Document Room location:* Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

**Arkansas Power & Light Company, Dockets Nos. 50–313 and 50–368, Arkansas Nuclear One, Unit Nos. 1 and Unit 2, Pope County, Arkansas**

*Date of application for amendments:* March 16, 1984, supplemented August 22, 1984.

*Brief description of amendments:* The amendments provided Technical Specifications related to the following NUREG–0737 Items:

1. Reactor Coolant System Vents (II.B.1)
2. Postaccident Sampling (II.B.3)
3. Sampling and Analysis of Plant Effluents (II.F.1.2)
4. Containment High-Range Radiation Monitor (II.F.1.3)
5. Containment Pressure Monitor (II.F.1.4)
6. Containment Water Level Monitor (II.F.1.5)

*Date of issuance:* January 31, 1985.

*Effective date:* January 31, 1985.

*Amendment Nos.:* 94 and 63.

*Facility Operating License Nos. DPR–51 and NPF–6.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 21, 1984 (49 FR 45941 at 45942).

The Commission's related evaluation of the amendments is contained in a

Safety Evaluation dated January 31, 1985.

No significant hazards consideration comments received. No.

*Local Public Document Room location:* Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

**Baltimore Gas & Electric Company, Dockets 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 11, 1984.

*Brief description of amendments:* The amendments revised the Unit 1 and Unit 2 Technical Specifications 4.6.1.2a to allow completion of the third containment Integrated Leak Rate Test (ILRT) prior to the 10-year Inservice Inspection (ISI) outage. This TS change would provide for a "one time only" schedule change for the third (10-year service interval) ILRT.

*Date of issuance:* February 14, 1985.

*Effective date:* February 14, 1985.

*Amendment Nos.:* 98 and 80.

*Facility Operating License Nos. DPR–53 and DPR–69.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 31, 1984 (49 FR 50794 at 50798).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 14, 1985.

No significant hazards consideration comments received. No.

*Local Public Document Room location:* Calvert County Library, Prince Frederick, Maryland.

**Carolina Power & Light Company, Dockets Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina**

*Date of application for amendments:* October 2, 1984.

*Brief description of amendments:* The amendments change the Technical Specifications by revising Table 4.3.5.9–1 to remove the requirement for control room alarm annunciation when the noble gas activity monitors of the main stack monitoring system, the reactor building ventilation monitoring system, or the turbine building ventilation monitoring system experience a high-voltage circuit failure. In addition, the requirement for control room alarm annunciation is removed for the condition when the noble gas activity monitor of the reactor building ventilation system is not set in the "operate mode."

*Date of issuance:* February 7, 1985.

*Effective date:* February 7, 1985.

*Amendment Nos.:* 81 and 107.

*Facility Operating License Nos. DPR–71 and DPR–62.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 21, 1984 49 FR 45943.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 1985.

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. 50–237, Dresden Nuclear Power Station, Unit No. 2, Grundy County, Illinois**

*Date of application for amendment:* September 11, 27 and 28, 1984 and October 2, 1984.

*Brief description of amendment:* The amendment authorizes changes to the Technical Specifications to support Cycle 10 operation of Dresden 2 with reload fuel supplied by and the associated analyses performed by Exxon Nuclear Company. The amendment also authorizes Dresden 2 to use General Electric hybrid design hafnium control rod assemblies, provides new limiting conditions for operation and surveillance requirements for a newly modified scram system having improved reliability and changes the calibration and functional test frequencies for certain specific instruments that are being modified into analog trip systems. Specifically related to the operation with the reload fuel, the amendment authorizes extension of the MAPLHGR curves for 8×8 and 9×9 (LTA) fuel types and for GE P8DRB285H fuel type and deletes the MAPLHGR curve for GE fuel type P8DRB239 which has never been used at Dresden and is not expected to be in the future.

*Date of Issuance:* January 17, 1985.

*Effective Date:* January 17, 1985.

*Amendment No.* 84.

*Provisional Operating License No. DPR–19.* The amendment revised the Technical Specifications.

*Date of initial Notices in* **Federal Register:** October 24, 1984 (49 FR 42815) and November 21, 1984 (49 FR 45944 and 45945). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 17, 1985. No significant hazards consideration comments received. No.

*Local Public Document Room location:* Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

**Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Benton County, Illinois**

*Date of application for amendments:* October 29, 1984.

*Brief description of amendments:* These amendments add a specification for reactor coolant system vents and are consistent with the guidance provided in NRC Generic Letter 83–37.

*Date of Issuance:* February 5, 1985.

*Effective Date:* February 5, 1985.

*Amendment Nos.* 86 and 86.

*Facility Operating License Nos. DPR–39 and DPR–48.* Amendments revised the Technical Specifications.

*Date of initial Notices in* **Federal Register:** December 31, 1984 (49 FR 50801) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 5, 1985.

No significant hazards consideration comments received: No

*Local Public Document Room location:* Zion Benton Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

**Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut**

*Date of application for amendment:* October 24, 1983.

*Brief description of amendment:* The amendment revises the Technical Specifications to specify that the minimum shift crew composition for Normal Operating Conditions except cold shutdown includes two individuals holding a senior reactor operator license.

*Date of Issuance:* January 15, 1985.

*Effective Date:* January 15, 1985.

*Amendment No.* 61.

*Facility Operating License No. DPR–61* Amendment revised the Technical Specifications.

*Date of initial Notices in the* Federal **Register:** December 27, 1983 (48 FR 57031). The Commission's related evaluation of the amendment is contained in a letter dated January 15, 1985. No significant hazards consideration comments received: No.

*Local Public Document Room location:* Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

**Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina**

*Date of application for amendments:* August 31, 1984.

*Brief description of amendments:* The amendments change the Technical Specifications to implement the use of time overcurrent trips of the circuit breakers for emergency diesel generators.

*Date of Issuance:* February 1, 1985.

*Effective date:* February 1, 1985.

*Amendment Nos.* 38 and 19.

*Facility Operating License Nos. NPF-9 and NPF-17.* Amendments revised the Technical Specifications.

*Date of initial notice in the* **Federal Register:** December 31, 1984 (49 FR 50801) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 1, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

**Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina**

*Date of application for amendments:* November 16, 1984.

*Brief description of amendments:* The amendments change the Technical Specifications to delete the provision which allows the upper head injection accumulator system to be inoperable at less than or equal to 46% rated thermal power.

*Date of issuance:* February 6, 1985.

*Effective date:* February 6, 1985.

*Amendment Nos.* 39 and 20.

*Facility Operating License Nos. NPF-9 and NPF-17.* Amendments revised the Technical Specifications.

*Date of initial notice in the* **Federal Register:** December 31, 1984 (49 FR 50802) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 6, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

**Duke Power Company, Dockets Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Unites Nos. 1, 2 and 3, Oconee County, South Carolina**

*Date of application for amendments:* April 30, 1984.

*Brief description of amendment:* These amendments revise the Administrative Controls Section of the TSs to reflect the current regulations governing licensee event reports as required by the Commission.

*Date of issuance:* January 9, 1985.

*Effective date:* January 9, 1985.

*Amendment Nos.* 133, 133 and 130.

*Facility Operating License Nos. DPR-38, DPR-47 and DPR-55.* Amendments revised the Technical Specifications.

*Date of initial notice in the* **Federal Register:** August 22, 1984, 49 FR 33363 The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 9, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

**Duke Power Company, Dockets Nos. 50-269, 50-270, 50-287, Oconee Nuclear Station, Unit Nos. 1, 2, and 3, Oconee County, South Carolina**

*Date of application for amendments:* November 9, 1984.

*Brief description of amendments:* These amendments revise the common Technical Specifications (TSs) to permit Oconee Unit 2 a one-time extension of the interval for inspecting inaccessible hydraulic snubbers such that the inspection be performed during the 1985 Unit 2 refueling outage, provided that such outage begins no later than March 15, 1985. The inspection is currently required to be performed before February 14, 1985.

*Date of issuance:* February 6, 1985.

*Effective date:* February 6, 1985.

*Amendments Nos.* 134, 134, and 131.

*Facility Operating License Nos. DPR-38, DPR-47 and DPR-55.* Amendments revised the Technical Specifications.

*Date of initial notice in the* **Federal Register:** December 31, 1984, 49 FR 50803.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 6, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina

**Duke Power Company, Dockets Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units Nos. 1, 2, and 3, Oconee County, South Carolina**

*Date of application for amendments:* August 8, 1984.

*Brief description of amendment:* These amendments revise the Technical Specifications to change the air lock testing frequency from quarterly to semiannually in conformance with 10 CFR Part 50, Appendix J, "Primary Reactor Containment Leakage Testing For Water-Cooled Power Reactors".

*Date of issuance:* February 11, 1985.

*Effective date:* February 11, 1985.

*Amendments Nos.:* 135, 135, and 132.

*Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** October 24, 1984, 49 FR 42817.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 11, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

**Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania**

*Date of Application for amendment:* June 28, 1984.

*Brief description of amendment:* The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 as follows:

(1) Table 4.3-13 has been revised to indicate that the Noble Gas Activity Monitor and Radiation Monitor provide control room alarm communication only; they do not initiate any automatic actuation.

(2) Table 3.4-4 has been revised to specify the applicable time constant for the functional unit High Negative Steam Pressure Rate to be greater than or equal to 50 seconds.

(3) Tables 3.3-3, 3.3-4, 3.3-5 and 4.3-2 have been revised to add a list of signals that initiate the start of the Auxiliary Feedwater System.

*Date of issuance:* January 25, 1985.

*Effective date:* January 25, 1985.

*Amendment No. 90.*

*Facility Operating License No. DPR-66.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** September 28, 1984 (49 FR 38398).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 25, 1985.

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 Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida**

*Date of Application for amendment:* December 14, 1984, as supplemented on January 31, 1985.

*Brief description of amendment:* This amendment permits waiver of certain 18-month calibration frequency requirements for Cycle V provided the surveillance is performed during Refuel V.

*Date of issuance:* February 14, 1985.

*Effective date:* February 14, 1985.

*Amendment No.:* 73.

*Facility Operating License No. DPR–72.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** January 14, 1985, (50 FR 1949) Subsequent to this initial notice, by letter of January 31, 1985, the licensee submitted additional information relating to its application for amendment which did not alter the substance of the licensee's request.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 14, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room Location:* Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia**

*Date of amendment request:* July 12, 1984.

*Brief description of amendment:* The amendment revises the TSs for Hatch Unit 2 to add a requirement to reduce the power below a specified limit whenever the plant is temporarily operating with only one recirculation loop.

*Date of issuance:* January 24, 1985.

*Effective date:* January 24, 1985.

*Amendment No.:* 42.

*Facility Operating License No. NPF–5.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** October 24, 1984 (49 FR 42822).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 24, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia**

*Date of amendment request:* December 21, 1983, as supplemented April 16 and May 2, 1984.

*Brief description of amendment:* The amendment revises the TSs for Hatch Unit 2 to: (1) Increase the number of traveling incore probe (TIP) system detectors that are required to be operable from three to four, and (2) allow operation of the TIP system with one or more inoperable detectors.

*Date of issuance:* January 31, 1985.

*Effective date:* January 31, 1985.

*Amendment No.:* 43.

*Facility Operating License No. NPF–5.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** September 28, 1984 (49 FR 38399). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia**

*Date of applications for amendments:* May 31, 1983, as supplemented September 1 and November 22, 1983.

*Brief description of amendment:* The amendments revise the TSs for Hatch Unit 1 to: (1) Reduce the equilibrium activity concentration limit for reactor coolant, (2) increase time per year that reactor coolant activity is allowed to exceed the equilibrium value, (3) increase the time allowed for isolating steam valves when an activity limit is exceeded, (4) increase the dose equivalent iodine concentration above which additional samples are required, (5) increase the rate of increase in offgas activity at which reactor coolant samples are required, (6) reduce the dose equivalent I–131 concentration at which reactor coolant samples are required to be taken, (7) require additional coolant samples, (8) relax the requirement for equivalent I–131 analysis, (9) make editorial changes, and (10) add a reporting requirement.

*Date of issuance:* February 4, 1985.

*Effective date:* February 4, 1985.

*Amendments Nos.:* 106 and 44.

*Facility Operating Licenses Nos. DPR–57 and NPF–5.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** February 24, 1984 (49 FR 7036).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 4, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

**GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey**

*Date of application for amendment:* August 11, 1980 and supplemented October 18, 1982, December 5, 1983, February 9 and March 23, 1984.

*Brief description of amendment:* The amendment authorized changes to the Appendix A Technical Specifications relating to station electric distribution system voltages.

*Date of Issuance:* February 11, 1985.

*Effective date:* February 11, 1985.

*Amendment No.:* 80.

*Provisional Operating License No. DPR–16.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 21, 1984 (49 FR 45952). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 11, 1985. No significant hazards consideration comments received: No.

*Local Public Document Room:* Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

**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 1, July 11, August 2, and September 11, 1984.

*Brief description of amendment:* This amendment revises the TSs related to the allowable concentration of hydrogen and oxygen in the waste gas holdup system and the associated hydrogen/oxygen monitoring instrumentation. The amendment permits unlimited oxygen content provided that hydrogen content is below 4% and permits unlimited hydrogen content provided that the

oxygen limit is below 2%. The TSs require two hydrogen monitors and two oxygen monitors to assure compliance with the above limits. Limiting conditions for operation are also included.

*Date of issuance:* February 4, 1985.
*Effective date:* February 4, 1985.
*Amendment No.:* 104.
*Facility Operating License No. DPR-50.* Amendment revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** November 21, 1984, (49 FR 45953).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 4, 1985.

No sugnificant hazards consideration comments received: No.

*Local Public Document Room location:* Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

**Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa**

*Date of application for amendment:* October 5, 1984.
*Brief description of amendment:* The amendment revises the Technical Specifications to incorporate the requirements of automatic actuation of the automatic depressurization system (ADS) valves in accidents which do not involve a high containment pressure, and provides for surveillance requirements of manual override switches.

*Date of issuance* February 1, 1985.
*Effective date:* February 1, 1985.
*Amendment No.:* 110.
*Facility Operating License No. DPR-49.* Amendment revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** December 31, 1984 (49 FR 50805).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 1, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

**Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa**

*Date of application for amendment:* August 17, 1984.
*Brief description of amendment:* The amendment revises the Technical Specifications to incorporate the revised setpoint for bypass of reactor scrams during turbine trips and generator load rejection at low power levels.

*Date of issuance:* February 5, 1985.
*Effective date:* February 5, 1985.
*Amendment No.:* 111.
*Facility Operating License No. DPR-49.* Amendment revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** September 28, 1984 (49 FR 38401).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 5, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa 52401.

**Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine**

*Date of application for amendment:* April 13, 1984.
*Brief description of amendment:* This amendment modified the Maine Yankee Technical Specifications concerning operability and surveillance of various monitoring equipment required by NUREG-0737.

*Date of issuance:* January 29, 1985.
*Effective date:* January 29, 1985.
*Amendment No.:* 81.
*Facility Operating License No. DPR-36:* Amendment revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** June 20, 1984 (49 FR 25350 at 25363).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 29, 1985.

No significant hazards consideration comments received: No comments received.

*Local Public Document Room location:* Wiscasset Public Library, High Street, Wiscasset, Maine.

**Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine**

*Date of application for amendment:* March 1, 1976 as supplemented April 11, 1984.
*Brief description of amendment:* This amendment modified the Maine Yankee Technical Specifications concerning Containment Leak Testing to conform with 10 CFR Part 50 Appendix J.

*Date of issuance:* February 4, 1985.
*Effective date:* February 4, 1985.
*Amendment No.:* 82.
*Facility Operating License No. DPR-36:* Amendment revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** July 20, 1983 (48 FR 33076 at 33082) and June 20, 1984 (49 FR 25350 at 25363).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 4, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Wiscasset Public Libray, High Street, Wiscasset, Maine.

**Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Clairborne County, Mississippi**

*Date of application for amendment:* October 9, 1984.
*Brief description of amendment:* The amendment modifies the Technical Specifications to implement a change of position title in the offsite organization for management of the facility.

*Date of issuance:* February 1, 1985.
*Effective date:* February 1, 1985.
*Amendment No.:* 1.
*Facility Operating License No. NPF-29:* Amendment revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** November 21, 1984 (49 FR 45955).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 1, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Hinds Junior College, George M. McLendon Library, Raymond, Mississippi 39154.

**Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, Town of Waterford, Connecticut**

*Date of application for amendment:* December 10, 1984.
*Brief description of amendment:* This amendment modified the Technical Specifications authorizing the use of an outage equipment door in place of the equipment hatch door during refueling operations.

*Date of issuance:* February 12, 1985.

*Effective date:* February 12, 1985.
*Amendment No.:* 98.
*Facility Operating License No. DPR-65:* Amendment revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** December 31, 1984 (49 FR 50794 at 50808).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 12, 1985.
No significant hazards consideration comments received: No.
*Local Public Document Room location:* Waterford Public Library, Rope Ferry Road, Waterford, Connecticut.

**Pennsylvania Power & Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania**

*Date of application for amendments:* September 19, 1984.
*Brief description of amendment:* This amendment revises License Condition 2.C.(23)(b) of Facility Operating No. NPF-14 and License Condition 2.C.(8)(b) of Facility Operating License No. NPF-22. The license condition previously required seismic qualification of the in-vessel fuel racks prior to commencement of the first refueling outage. Since the licensee has no need for the in-vessel fuel rack during the first refueling outage the NRC staff will require the licensee to seismically qualify the in-vessel fuel rack prior to use.
*Date of issuance:* January 15, 1985.
*Effective date:* January 15, 1985.
*Amendment Nos.:* 28 and 5.
*Facility Operating License Nos. NPF-14 and NPF-22:* Amendment revises the license.
*Date of initial notices in* **Federal Register:** November 21, 1984 (49 FR 45961). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 15, 1965. So significant hazards consideration comments were received.
*Local Public Document Room Location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

**Pennsylvania Power & Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania**

*Date of application for amendments:* May 18, 1984 and September 20, 1984.
*Description of amendment request:* This amendment revises the Unit 1. Technical Specifications to reflect changes incorporated into the Unit 2 Technical Specifications. These changes are administrative in nature.
*Date of issuance:* February 6, 1985.
*Effective date:* As of date of issuance.
*Amendment No.:* 29.
*Facility Operating License No. NPF-14:* Amendment revised the Technical Specifications.
*Date of initial notices in* **Federal Register:** November 21, 1984 (49 FR 45956). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1985. No comments on the proposed no significant hazards consideration finding were received.
*Local Public Document Room Location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

**Pennsylvania Power & Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania**

*Date of application for amendments:* September 19, 1984 with supplemental information January 3, 1985.
*Brief description of amendments:* The purpose of these amendments is to change Susquehanna Unit 1 and Unit 2 Technical Specification Table 3.8.4.2-1 by revising the list of motor-operated valves in the Emergency Service Water (ESW) system to support the corrective action described in the licensee's final report dated September 22, 1983, regarding a deficiency involving water hammer in the ESW system. Specifically, ESW valves HV-08693 A and B would be added to Technical Specification Table 3.8.4.2-1 for Unit 1 and Unit 2. Additionally, in the Unit 2 Technical Specifications ESW pump discharge valves HV-01101 A, B, C and D would be deleted from Technical Specification Table 3.8.4.2-1.
*Date of issuance:* February 7, 1985.
*Effective date:* Prior to start-up following the Unit 1 first refueling outage.
*Amendment Nos.:* 30 and 6.
*Facility Operating License Nos. NPF-14 and NPF-22:* Amendment revised the Technical Specifications.
*Date of initial notices in* **Federal Register:** December 31, 1984 (49 FR 50817). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 1965. No comments were received on the proposed no significant hazards consideration finding.
*Local Public Document Room Location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

**Pennsylvania Power & Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania**

*Date of application for amendments:* December 6, 1984.
*Brief description of amendments:* These amendments revise the Susquehanna Steam Electric Station, Unit 1 and Unit 2 Technical Specifications to allow common DC 125-volt battery loads to be supported by the Unit 1 or Unit 2 batteries. Previously, only the Unit 1, 125-volt batteries were able to support these common loads.
*Date of issuance:* February 8, 1985.
*Effective date:* February 8, 1985.
*Amendment Nos.:* 31 and 7.
*Facility Operating License Nos. NPF-14 and NPF-22:* Amendments revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** Individual notice dated January 7, 1985 (50 FR 904). The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated February 8, 1985. No significant hazards consideration comments were received.
*Local Public Document Room Location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

**Pennsylvania Power & Light Company Docket Nos. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania**

*Date of application for amendment:* September 7, 1984.
*Brief description of amendment:* This amendment supports modifications involving the installation of overcurrent relays on each reactor recirculation pump circuit breaker in order to provide redundant overcurrent protection for the primary containment penetration conductors.
*Date of issuance:* February 15, 1985.
*Effective date:* Upon start-up following the first refueling outage.
*Amendment No.:* 32.
*Facility Operating License No. NPF-14:* Amendment revised the Technical Specifications.
*Date of initial notice in* **Federal Register:** December 31, 1984 (49 FR 50815). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 15, 1985. No comments on the proposed no significant hazards

consideration determination were received.

*Local Public Document Room Location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

**Pennsylvania Power & Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania**

*Date of application for amendment:* September 24, 1984.

*Brief description of amendment:* This amendment reflects the installation of a permanent radiation monitoring system in the new fuel storage vault and spent fuel storage pool areas.

*Date of issuance:* February 15, 1985.

*Effective date:* Thirty (30) days from the date of issuance.

*Amendment No.:* 33.

*Facility Operating License No. NPF–14:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 31, 1984 (49 FR 50816). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 15, 1985. No comments on the proposed no significant hazards consideration determination comments were received.

*Local Public Document Room Location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

**Pennsylvania Power and Light Company Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County Pennsylvania**

*Date of application for amendment:* September 19, 1984.

*Brief description of amendments:* This amendment revises Technical Specification 4.6.1.7 parts "C" and "d" to support plant modifications that will be made during the first refueling outage for Unit 1. The plant modifications involve the relocation of two temperature elements used to monitor drywell atmosphere temperature in the area of the recirculation pumps. The change to part "c" includes revised elevation and azimuth valves of the relocated temperature elements and the change to part "d" is editorial in nature.

*Date of issuance:* February 15, 1985.

*Effective date:* Upon start-up following the first refueling outage.

*Amendment No.:* 34

*Facility Operating License No. NPF–14:* Amendment revises the Technical Specifications.

*Dates of initial notices in* **Federal Register:** December 31, 1984 (49 FR 50817). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 15, 1985. No significant hazards consideration comments were received.

*Local Public Document Room Location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

**Pennsylvania Power and Light Company Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County Pennsylvania**

*Date of application for amendments:* September 28, 1984.

*Brief description of amendment:* The amendment request changes the Susquehanna Steam Electric Station, Unit 1 and Unit 2 Technical Specifications 4.6.5.3 and 4.7.2 with regard to HEPA filters and charcoal adsorber units to incorporate clarifications discussed in NRC Generic Letter No. 83–13, dated March 2, 1983. The clarification to the Technical Specifications were provided to clearly reflect the required relationship between the guidance in Regulatory Guide 1.52, Revision 2, and ANSI N510–1975; the testing requirements of the HEPA filters and charcoal adsorber units; and the NRC staff assumptions used in its safety evaluations for the ESF atmospheric cleanup systems.

*Date of issuance:* February 15, 1985.

*Effective date:* February 15, 1985.

*Amendment Nos.:* 35 and 8.

*Facility Operating License Nos. NPF–14 and NPF–22:* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 21, 1984 (49 FR 45961).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated February 15, 1985. No comments on the proposed no significant hazards consideration determination were received.

*Local Public Document Room Location:* Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

**Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania**

*Date of application for amendments:* November 10, 1983.

*Brief description of amendments:* These amendments revise the Technical Specifications (TSs) to permit continued operation of the Reactor Water Cleanup System (RWCU) with isolation of the filter-demineralizer, and permit overriding of an isolation signal for up to 48 hours when the high temperature sensor is inoperable, provided the water temperature is verified to be less than 180° once per hour. These changes also involve the clarification of TS lanaguage related to the scram discharge volume and the deletion of obsolete references to completed modifications.

*Date of issuance:* February 7, 1985.

*Effective date:* February 7, 1985.

*Amendments Nos.:* 104 and 108.

*Facility Operating Licenses Nos. DPR–44 and DPR–56.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** April 25, 1984, (49 FR 17869). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 1985.

No significant hazard consideration comments received: No.

*Local Public Document Room location* Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, Pennsylvania.

**Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon**

*Brief description of amendment:* The amendment deleted license condition 2.C(10) pertaining to the US/IAEA Safeguards Agreement.

*Date of issuance:* February 5, 1985.

Effective date: February 5, 1985.

*Amendment No.:* 101

*Facility Operating License No. NPF–1.* Amendment revised the license.

*Date of initial notice in* **Federal Register:** The Commission's related evaluation of the amendment is contained in a letter transmitting the amendment dated February 5, 1985.

*Local Public Document Room location* Multnomah County Library, 801 S.W. 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:* October 1, 1984.

*Brief description of amendment:* The amendment adds requirements for operability, visual inspections and periodic testing of mechanical snubbers and adds similar improved requirements for hydraulic snubbers.

*Date of issuance:* February 6, 1985.

*Effective date:* February 6, 1985.

*Amendment No.:* 102.

*Facility Operating License No. NPF-1.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 31, 1984 (49 FR 50794 at 50819).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1985.

No significant hazards consideration comments received: No.

*Location of Local Public Document Room* Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

**Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York**

*Date of application for amendment:* October 9, 1984.

*Brief description of amendment:* The amendment revises the Technical Specifications by changing the high reactor pressure setpoint for recirculation pump trip from "greater than or equal to 1120 psig" to the corrected value of "less than or equal to 1120 psig."

*Date of issuance:* January 30, 1985.

*Effective date:* January 30, 1985.

*Amendment No.:* 86

*Facility Operating License No. NDR-59* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 21, 1984 (49 FR 45963).

The Commission's related evaluation of the amendment is contained in a Safety Evaulation dated January 30, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Penfield Library, State University College of Oswego, Oswego, New York.

**Public Service Electric and Gas Company, Docket No. 50-311, Salem Nuclear Generating Station, Unit 2, Salem County, New Jersey**

*Date of application for amendment:* September 29, 1983.

*Brief description of amendment:* The amendment removes a license condition requiring the installation of upper inspection ports on the Salem Unit No. 2 steam generators.

*Date of issuance:* February 7, 1985.

*Effective date:* February 7, 1985.

*Amendment No.:* 29

*Facility Operating License No. DPR-75:* Amendment revised the License.

*Date of initial notice in* **Federal Register:** December 31, 1984 (49 FR 50821).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 1985.

No significant hazards consideration comments have been received.

*Local Public Document Room location:* Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

**Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California**

*Date of application for amendment:* October 16, 1984, as revised November 8, 1984.

*Brief description of amendment:* The amendment temporarily changes TS Section 1.2.8, definition of refueling interval, from 18 months to 24.5 months for surveillance testing of the Reactor Internals Vent Valves. Upon startup from the next refueling outage, this temporary definition will expire.

*Date of issuance:* January 22, 1985.

*Effective date:* January 22, 1985

*Amendment No.:* 59.

*Facility Operating License No. DPR-54.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** December 20, 1984, 49 FR 49528.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Sacramento City-County Library, 828 I Street, Sacramento, California.

**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 application for amendment:* July 19, 1984, and supplemented November 29, 1984.

*Brief description of amendment:* The amendment modifies the Technical Specifications to clarify educational requirements of candidates for Senior Reactor Operator's Licenses.

*Date of issuance:* January 24, 1985.

*Effective date:* January 24, 1985.

*Amendment No.:* 36.

*Facility Operating License No. NPF-12.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** September 28, 1984 (49 FR 38408) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 24, 1985.

*Local Public Document Room location:* Fairfield County Library, Garden and Washington Street, Winnsboro, South Carolina 29180.

**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 application for amendment:* June 19, 1984, as revised November 29, 1984.

*Brief description of amendment:* The amendment modifies the Technical Specifications to define allowable power levels for reactor coolant system flow rates less than 100% of thermal design flow.

*Date of issuance:* January 31, 1985.

*Effective date:* January 31, 1985.

*Amendment No.:* 37.

*Facility Operating License No. NPF-12.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** October 24, 1984 (49 FR 42830).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 31, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Fairfield County Library, Garden and Washington, Streets, Winnsboro, South Carolina 29180.

**Southern California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California**

*Date of application for amendment:* September 9, 1983 as modified April 12, 1984 and supplemented November 14, 1984.

*Brief description of amendment:* The amendment approves changes to Appendix A Technical Specifications which incorporate containment leakage testing requirements to conform with 10 CFR Part 50 Appendix J.

*Date of issuance:* February 8, 1985.

*Effective date:* February 8, 1985.

*Amendment No.:* 87.

*Provisional Operating License No. DPR-13.* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** June 20, 1984 (49 FR 25374).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 8, 1985. No significant hazards consideration comments received: No.

*Local Public Document Room Location:* San Clemente Branch Library, 242 Avendia Del Mar, San Clemente, California 92672.

**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**

*Dates of application for amendments:* April 24, April 27, July 9, August 7, August 21, August 27, and September 12, 1984.

*Brief Description of amendments:* The amendments change Technical Specifications to (1) provide consistency with the modified plant design for ECCS Subsystems, (2) add a new specification, Emergency Chilled Water System, (3) increase the reuired shutdown margin required when the core average moderator temperature is less than or equal to 200°F, (4) add a new surveillance requirement which verifies that only one charging pump is operable in Mode 5, when the reactor coolant system is drained below the hot leg centerline, and (5) change the boric acid storage tank volume/concentration.

*Date of issuance:* December 19, 1984.

*Effective date:* Amendment No. 28 is effective December 19, 1984. Certain portions of Amendment 17 are effective December 19, 1984; the remainder of Amendment 17 is effective prior to initial entry into Mode 5 following first refueling.

*Amendment Nos.:* 28 and 17.

*Facility Operating License No. NPF-10 and NPF-15:* Amendments revised the Technical Specifications.

*Dates of initial notices in* **Federal Register:** October 24, 1984 (49 FR 42832 and 49 FR 42833). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 19, 1984. No significant hazards consideration comments were received.

*Local Public Document Room Location:* San Clemente Library, 242 Avenida Del Mar, San Clemente, California.

**Tennessee Vally Authority, Docket Nos. 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama**

*Date of application for amendments:* December 13, 1984.

*Brief Description of amendments:* The amendments modify Commission Orders dated March 25, 1983 to extend the deadline for installation of NUREG-0737 items II.F.1.1 and II.F.1.2 instrumentation having local readout capability.

*Date of issuance:* February 12, 1985.

*Effective date:* February 12, 1985.

*Amendment Nos.:* 110 and 85.

*Facility Operating License No. DPR-52 and DPR-68:* Amendment revised the licenses.

*Dates of initial notices in* **Federal Register:** December 31, 1984 (49 FR 50825).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 12, 1985.

No significant hazards consideration comments recieved: No.

*Local Public Document Room Location:* Athens Public Library, South and Forrest, Athens, Alabama 35611.

**Tennessee Valley Authority, Docket Nos. 50-237 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee**

*Dates of application for amendments:* July 21, 1983, and August 20, 27, and 28, 1984.

*Brief description of amendments:* The amendments change the Technical Specifications related to containment isolation valves, vital batteries, fire detectors, and the basis statement for the steam generator low-low level instrumentation.

*Date of issuance:* January 24, 1985.

*Effective date:* January 24, 1985.

*Amendment Nos.* 37 and 29.

*Facility Operating License No. DPR-77 and DPR-79.* Amendments revised the Technical Specifications.

*Dates of initial notices in* **Federal Register:** October 12, 1983 (48 FR 46460) and November 21, 1984 (49 FR 45979).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 24, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37401.

**Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County Missouri**

*Date of application for amendment:* October 3, 1984 and supplemented on December 6, 1984.

*Brief description of amendment:* The amendment requested the addition of two 100,000 gallon tanks in order to provide sufficient storage time for secondary effluent to allow sample analysis and to show acceptability of the water prior to release to the environment.

*Date of issuance:* February 4, 1985.

*Effective date:* February 4, 1985.

*Amendment No.:* 2.

*Facility Operating License No. NPF-30:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 21, 1984 (49 FR 45979).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 4, 1985. No significant hazards consideration comments received: No comments received.

*Local Public Document Room Locations:* Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

**Union Electric Company, Docket No. 50-483, Callaway Plant Unit 1, Callaway County, Missouri**

*Date of application for amendment:* October 8, 1984.

The amendment revises the Administrative Controls Section of the Technical Specifications. Figure 6.2-2 has been revised to include two additional managerial positions in the plant organization; section 6.5.1.2 has been revised to include an additional member of the On-Site Review Committee.

*Date of issuance:* January 30, 1985.

*Effective date:* January 30,1985.

*Amendment No.:* 3.

*Facility Operating License No. NPF-30:* Amendment revised the Technical Specifications. Date of initial notice in **Federal Register:** November 21, 1984 (49 FR 45070). The Commission's related evaluation of the amendment is

contained in a Safety Evaluation dated January 30, 1985. No significant hazards consideration comments received: No comments received.

*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.

**Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont**

*Date of application for amendment:* February 7, 1984 as supplemented May 18, 1984.

*Brief description of amendment:* The amendment revises the Technical Specifications related to the limiting conditions for operation and surveillance requirements to delete the requirements for the design feature that automatically transfers high pressure coolant injection (HPCI) suction to the suppression pool from the condensate storage tank, upon high water level in the suppression pool.

*Date of issuance:* January 23, 1985.

*Effective date:* January 23, 1985.

*Amendment No.:* 85.

*Facility Operating License No. DPR–28:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** April 25, 1984 49 FR 17876. Subsequent to the initial notice in the **Federal Register**, the licensee provided NRC-requested documentation by letter dated May 18, 1984. This documentary information does not affect the discussion or conclusions of the initial notice of our proposed determination in any way.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated Janaury 23, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room Location:* Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

**Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia**

*Date of application for amendment:* December 15, 1983 and August 1, 1984.

*Brief description of amendment:* The amendments revise the NA–1&2 TS 3.0.3 to provide consistency with the time requirements and wording specified in the NRC approved standardized Westinghouse TS which are appropriately applied to NA–1&2. The time requirements state the time allowed for placing a unit in Hot Standby, Hot Shutdown and Cold Shutdown in the event a Limiting Condition of Operation and/or associated Action Statement cannot be satisfied because of circumstances in excess of those addressed in a specification.

*Date of issuance:* February 1, 1985.

*Effective date:* February 1, 1985.

*Amendment Nos.:* 62 and 46.

*Facility Operating License Nos. NPF–4 and NPF–7.:* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** February 24, 1984 (49 FR 7048) and December 31, 1984 (49 FR 50794 at 50827).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 1, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

**Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia**

*Date of application for amendments:* March 16, 1984, revised November 21, 1984.

*Brief description of amendments:* The amendments revise the NA–1&2 TS to be in conformance with the new Licensee Event Report System as stipulated in 10 CFR Part 50.73 and the immediate notification requirements for operating nuclear power reactors as provided in 10 CFR Part 50.72 which became effective January 1, 1984.

*Date of issuance:* February 1, 1985.

*Effective date:* Within 7 days after date of issuance.

*Amendment Nos.:* 63 and 47.

*Facility Operating License Nos. NPF–4 and NPF–7.* Amendments revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** April 25, 1984, (49 FR 17850) and December 31, 1984 (49 FR 50794 at 50827). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 1, 1985.

No significant hazards consideration comments received: No.

*Local Public Document Room location:* Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

**Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry county, Virginia**

*Date of application for amendments:* September 19, 1984.

*Brief description of amendments:* These amendments will revise Technical Specification Table 4.1–2A to delete the requirement to test the control rod drop times at cold conditions after a refueling shutdown or after maintenance requiring the breach of the Reactor Coolant System.

*Date of issuance:* January 22, 1985.

*Effective date:* January 22, 1985.

*Amendment Nos.* 101 and 100.

*Facility Operating License Nos. DPR–32 and DPR–37:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** November 21, 1984 (49 FR 45980).

Significant hazards consideration comments received: No.

*Local Public Room location:* Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

**Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin**

*Date of application for amendment:* June 4, 1984, as revised August 21, 1984.

*Brief description of amendment:* The amendment consists of changes to position titles and includes minor organizational changes. In addition, it concludes additional Senior Reactor Operator requirements, clarification of environmental sample locations and corrections of minor errors.

*Date of issuance:* January 22, 1985.

*Effective date:* January 22, 1985.

*Amendment No.* 60.

*Facility Operating License No. DPR–43:* Amendment revised the Technical Specifications.

*Date of initial notice in* **Federal Register:** July 24, 1984 (49 FR 29924) and renoticed October 24, 1984 (49 FR 42835).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 22, 1985.

Significant hazards consideration comments received: None.

*Local Public Document Room location:* University of Wisconsin, Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

## NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless 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: Dirctor, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By March 29, 1985, 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, disignated 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 approrpriate 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 data. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Branch Chief*): Petitioner's name and telephone number; date

petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

**Commonwealth Edison Company, Docket No. STN 50–454, Byron Station, Unit 1, Ogle County, Illinois**

*Date of Application for amendment:* January 18, 1985.

*Brief description of amendment:* Adds a footnote to table of Containment Isolation Valves to allow certain valves to be opened intermittently under administrative controls.

*Date of issuance:* January 18, 1985.

*Effective date:* January 18, 1985.

*Amendment No.:* 1.

*Facility Operating License No. NPF-23:* Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

Comments received: No.

The Commission's related evaluation is contained in a Safety Evaluation dated January 28, 1985.

*Attorney for licensee:* Isham, Lincoln and Beale, One First National Plaza, Chicago, Illinois.

*Local Public Document Room location:* Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

**Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota**

*Date of application for amendment:* January 18, 1985.

*Description of amendments:* These amendments change the Technical Specificiation section 3.3.D.2c dealing with the allowable inoperable period of the cooling water headers of the service water system.

*Date of Issuance:* February 15, 1985.

*Effective date:* February 15, 1985.

*Amendments Nos.:* 72 and 65.

*Facility Operating License Nos. DPR-42 and DPR-60:* Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. Federal Register notice January 30, 1985 (50 FR 4285).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 15, 1985.

No significant hazards consideration comments received: No.

*Attorney for the licensee:* Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

*Local Public Document Room location:* Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

**Virginia Electric and Power Company, Docket No. 50–281, Surry Power Station, Unit No. 2, Surry County, Virginia.**

*Date of application for amendment:* January 4, 1985, as supplemented January 9, and January 28, 1985.

*Brief description of amendment:* The amendment revises Technical Specification 4.17.A to extend the snubber inspection interval from 62 days ± 25% until the 1985 refueling outage.

*Date of issuance:* February 1, 1985.

*Effective date:* February 1, 1985.

*Amendment No.:* 101.

*Facility Operating License No. DPR-37.*

Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. January 17, 1985 (50 FR 2635).

Comments received: No.

The Commission's related evaluation is contained in a Safety Evaluation dated February 1, 1985.

*Attorney for licensee:* Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

*Local Public Room location:* Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Bethesda, Maryland, this 20th day of February 1985.

For the Nuclear Regulatory Commission.

**E.G. Tourigny,**

*Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.*

[FR Doc. 85–4674 Filed 2–26–85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–400–OL]

## Carolina Power & Light Co., North Carolina Eastern Municipal Power Agency (Shearon Harris Nuclear Power Plant) Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating License proceeding:

Thomas S. Moore, Chairman
Dr. Reginald L. Gotchy
Howard A. Wilber.

Dated: February 21, 1985.

**C. Jean Shoemaker,**

*Secretary to the Appeal Board.*

[FR Doc. 85–4814 Filed 2–26–85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–483]

## Union Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards; Consideration Determination and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-30, issued to Union Electric Company, for operation of the Callaway Plant, Unit 1 located in Callaway County, Missouri.

This amendment would revise the time period associated with Technical Specification Surveillance 4.6.1.6.1 by extending each of the three scheduled containment vessel tendon surveillances six (6) months, in accordance with the licensee's request dated February 12, 1985. This extension is requested because the services of INRYCO, the inspection contractor for Union Electric and Alabama Power Co., are needed to evaluate anomalies recently found at the Farley Unit 2 plant. Union Electric Company released INRYCO to Alabama Power Company so that the outage associated with the Farley problem is not unnecessarily extended.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's

regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee's amendment application addressed the design conservatism, inspections of installation activities, field anchor head materials, recent field inspection results, and expected results from the initial inservice tendon surveillance for the Callaway post tensioning system. The initial installation inspections and recent field inspections have confirmed the continuing tendon integrity so that a six month extension in the time for further detailed tendon surveillance will not significantly increase the probability of tendon failure and will, therefore, not increase the probability or consequences of any previously analyzed accident. Because the proposed extension of the time for detailed tendon surveillance will not impact tendon integrity, will not affect the method and manner of plant operation, and will not affect components and equipment important to safe operation, the proposed amendment does not create the possibility of a new and different accident from any previously evaluated. Because recent field inspections showed no evidence of tendon failure and because containment prestress levels are not expected to decrease by any significant degree in the proposed six month period of surveillance extension, this revision to the Technical Specifications will not significantly reduce any margins of safety. On these bases, the staff proposes to determine that this amendment extending the tendon surveillance period does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By March 28, 1985 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceeding" 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 aspects of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it 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. 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) 324-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to B. J. Youngblood: 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 Gerald Charnoff, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., and at the Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Dated at Bethesda, Maryland, this 21st day of February 1985.

For the Nuclear Regulatory Commission.

**B. J. Youngblood,**

*Chief, Licensing Branch No. 1, Division of Licensing.*

[FR Doc. 85-4813 Filed 2-26-85; 8:45 am]

BILLING CODE 7590-01-M

## OFFICE OF PERSONNEL MANAGEMENT

### Federal Employee's Group Life Insurance Program; 1985 Open Enrollment Period

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of Intent to Conduct an Open Enrollment Opportunity for the Federal Employees' Group Life Insurance (FEGLI) Program.

**SUMMARY:** The Office of Personnel Management (OPM) announces its intent to conduct an open enrollment period from June 1 through June 30, 1985, during which time employees otherwise eligible to participate in the FEGLI Program will have an opportunity to add to their existing coverages or to enroll in the Program if they had previously waived all coverage. Such elections would become effective in August, 1985.

**FOR FURTHER INFORMATION CONTACT:** John Ray, Office of Pay and Benefits Policy, (202) 254–7053 or Anne Easton, Office of Insurance Program, (202) 632–4670, Office of Personnel Management, Washington, D.C. 20415.

**SUPPLEMENTARY INFORMATION:** FEGLI premiums were reduced effective with the first full pay period beginning on or after May 1, 1984. When the premium reductions were introduced, OPM announced that we would monitor the experience under these rates and, if that experience sustained the new rates, we would schedule a FEGLI open enrollment period to allow employees to change their insurance coverage. Our review of the experience to date indicates positive results and we propose to permit an open enrollment period for FEGLI during the month of June 1985. Elections made during the open enrollment period would become effective in August 1985.

Unlike the March 1981 open enrollment period, OPM will *not* require a positive reenrollment of all FEGLI eligibles. Only those employees who wish to change their participation status or their levels of coverage will have to complete an election form. Previous waivers or declinations of coverage will not be cancelled unless the employee submits a new election.

Regulations to effect an open enrollment period for the FEGLI Program will be introduced in the **Federal Register** well in advance of the proposed event. Detailed guidance will be provided agencies and employing offices via Federal Personnel Manual Letters and Bulletins concerning the material to be used, and the shipping and distribution schedules.

**Donald J. Devine,**

*U.S. Office of Personnel Management.*

[FR Doc. 85-4703 Filed 2-26-85; 8:45 am]

BILLING CODE 6325-01-M

### Excepted Service

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

**FOR FURTHER INFORMATION CONTACT:** Tracy Spencer, (202) 632–6000.

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on January 28, 1985 (50 FR 3852). Individual authorities established or revoked under Schedules A, B, or C between January 1, 1985 and January 31, 1985 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

**Schedule A**

The following exception is revoked:

*Civil Aeronautics Board*

The excepted appointing authority granted CAB to fill positions that would not be transferred to other agencies has expired by its own terms. The authority permitted employment only through the agency's closing on December 31, 1984. Revocation effective January 2, 1985.

**Schedule B**

The following exceptions are established:

*National Endowment for the Humanities*

One Humanist Administrator, central disciplines in Undergraduate Education Programs, Division of Education Programs. Effective January 11, 1985.

One Humanist Administrator, Exemplary Projects, Nontraditional Learners and Teaching Materials Program, Division of Education Programs. Effective January 11, 1985.

**Schedule C**

The following exceptions are established:

*Department of Agriculture*

One Confidential Assistant to the Administrator, Food and Nutrition Service. Effective January 15, 1985.

One Special Assistant to the Secretary. Effective January 17, 1985.

One Staff Assistant (Typing) to the Administrator, Rural Electrification Administration. Effective January 24, 1985.

One Staff Assistant to the Executive Assistant to the Secretary. Effective January 30, 1985.

*Department of Commerce*

One Congressional Liaison Specialist to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective January 10, 1985.

One Special Assistant to the Assistant secretary for Communications and Information. Effective January 15, 1985.

One Deputy Director, Office of Intergovernmental Affairs. Effective January 17, 1985.

One Confidential Assistant to the Director of Congressional Affairs, National Oceanic and Atmospheric Administration. Effective January 22, 1985.

One Confidential Assistant to the Associate Administrator, National Oceanic and Atmospheric Administration. Effective January 23, 1985.

One Congressional Liaison Office to the Deputy Assistant Secretary for Congressional Affairs. Effective January 24, 1985.

One Confidential Assistant to the Director, Office of Congressional Affairs. Effective January 30, 1985.

*Department of Defense*

One Administration Services Specialist to the Chairman, President's Intelligence Oversight Board. Effective January 10, 1985.

One Plans Coordinator to the Chief of Public Affairs, Office of the Secretary of the Army. Effective January 17, 1985.

*Department of Education*

One Confidential Assistant to the Deput Assistant Secretary for Operations, Office of Civil Rights. Effective January 15, 1985.

*Department of Energy*

One Staff Assistant to the Under Secretary. Effective January 7, 1985.

One Secretary (Confidential Assistant) to the Under Secretary. Effective January 23, 1985.

*Department of Health and Human Services*

One Special Assistant to the Commissioner, Administration for Children, Youth and Families, Office of Human Development Services. Effective January 18, 1985.

*Department of Housing and Urban Development*

One Special Assistant to the Assistant Secretary for Community Planning and Development. Effective January 15, 1985.

One Associate Deputy Assistant Secretary for Demonstration Projects. Effective January 16, 1985.

One Special Assistant to the Deputy Assistant Secretary for Program Policy Development and Evaluation, Office of the Assistant Secretary for Community Planning and Development. Effective January 17, 1985.

*Department of the Interior*

One Confidential Assistant to the Director, U.S. Fish and Wildlife Service. Effective January 24, 1985.

One Special Assistant to the Assistant Secretary for Water and Science. Effective January 30, 1985.

*Department of Justice*

One Confidential Assistant to the Administrator, Office of Juvenile Justice and Delinquency Prevention. Effective January 24, 1985.

*Department of Labor*

One Special Assistant to the Assistant Secretary for Occupational Safety and Health Administration. Effective January 16, 1985.

*Department of State*

One Special Assistant for Policy to the Under Secretary for Political Affairs. Effective January 11, 1985.

One Congressional Relations Officer to the Principal Deputy Assistant Secretary for Congressional Relations. Effective January 23, 1985.

*Department of Transportation*

One Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration. Effective January 11, 1985.

One Confidential Secretary to the General Counsel. Effective January 23, 1985.

One Director, Office of Speech Services. Effective January 24, 1985.

*Department of the Treasury*

One Legislative Assistant to the Assistant Secretary for Legislative Affairs. Effective January 17, 1985.

*ACTION*

One Deputy Associate Director, VISTA Service Learning Programs. Effective January 18, 1985.

*Agency for International Development*

Two Special Assistants to the Coordinator, Office of Public Diplomacy for Latin America and the Caribbean. Effective January 15, 1985.

*Appalachian Regional Commission*

One Congressional Affairs Officer to the Federal Cochairman. Effective January 11, 1985.

*Commodity Futures Trading Commission*

One Special Assistant to a Commissioner. Effective January 14, 1985.

*Consumer Product Safety Commission*

One Special Assistant to the Executive Director. Effective January 22, 1985.

One Congressional Relations Specialist to the Director of Congressional Relations. Effective January 22, 1985.

One Special Assistant (Legal) to a Commissioner. Effective January 22, 1985.

One Special Assistant (Legal) to the Chairman. Effective January 22, 1985.

One Staff Assistant to the Chairman. Effective January 22, 1985.

One Office Assistant (Typing) to the Director of Public Affairs. Effective January 22, 1985.

*Export-Import Bank of the United States*

One Special Assistant to the First Vice President and Vice Chairman for Marketing. Effective January 15, 1985.

*Federal Communications Commission*

One Confidential Assistant to the Chief of Staff. Effective January 23, 1985.

*General Services Administration*

One Special Assistant to the Associate Administrator for Administration. Effective January 31, 1985.

*National Endowment for the Arts*

One Special Assistant (Public Affairs) to the Chairman. Effective January 15, 1985.

*United States Information Agency*

One Special Projects Officer to the Director. Effective January 15, 1985.

U.S. Office of Personnel Management.

**Donald J. Devine,**

*Director.*

[FR Doc. 85-4702 Filed 2-26-85; 8:45 am]

BILLING CODE 6325-01-M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC-14385; File No. 812-5998]**

### Application and Opportunity for Hearing; Keystone Provident Life Insurance Company, et al.

February 19, 1985.

Notice is hereby given that Keystone Provident Life Insurance Company ("Keystone"), KMA Variable Account ("Variable Account"), a separate account of Keystone registered under

the Investment Company Act of 1940 (the "Act") as a unit investment trust. Keystone Provident Financial Services Corp. and Keystone Massachusetts Distributors Inc., the underwriters for the Variable Account, (collectively, "Applicants") filed an application on December 5, 1984, and an amendment thereto on January 23, 1985, for an order of the Commission pursuant to section 6(c) of the Act exempting Applicants from sections 26(a) and 27(c)(2) of the Act, and amending a prior order, to the extent necessary to permit transactions described in the application. 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 for a statement of the relevant statutory provisions.

Applicants request an exemption from sections 26(a) and 27(c)(2) to allow Keystone to deduct a charge for assumption of mortality and expense risks in connection with the issuance of "Flex I" and "Flex II" variable annuity contracts by the Variable Account. Applicants state that "Flex II" contracts are designed just for use by individuals in retirement plans that qualify for special federal income tax treatment, while "Flex I" contracts are designed for both qualified and non-qualified use. Applicants propose that the charge against the Variable Account be at a rate of 1.25% of the daily net asset value of the assets underlying the "Flex I" contracts (approximately .70% for mortality risks and .55% for expense risks), and 1.35% of the daily net asset value of the assets underlying the "Flex II" contracts (approximately .75% for mortality risks and .60% for expense risks). Applicants state that Keystone assumes mortality risk by guaranteeing annuity tables contained in the contracts and by guaranteeing a death benefit at least equal to the sum of purchase payments for contractowners who die prior to the income date, and that Keystone assumes certain expense risks by permanently guaranteeing the contract administration charge after the income date and by guaranteeing this charge during the first five years of certain contracts issued in connection with qualified plans.

Applicants represent that the mortality and expense risk charges are reasonable as determined by industry practice with respect to comparable annuity products. Applicants base this representation on their analysis of information about similar industry practices, taking into account such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates.

Applicants acknowledge that some portion of the mortality and expense risk charge may be utilized to meet sales expenses that exceed the contingent deferred sales charge that may be imposed. In this connection, Keystone represents that it has concluded that there is a reasonable likelihood that the Variable Account's distribution financing arrangement will benefit the Variable Account and contractowners. The Variable Account represents that it will invest only in open-end management companies that have undertaken to have a board of directors, a majority of whom are not interested persons of the open-end management company, formulate and approve any plan under Rule 12b-1 of the Act to finance distribution expenses.

Applicants represent that a memorandum has been prepared in connection with the review of information about similar industry practices and that they have concluded that the mortality and expense risk charge is reasonable, as determined by industry practice, and that the data supporting this conclusion is included in the memorandum. Applicants further represent that the memorandum also sets forth the basis for their conclusion that there is a reasonable likelihood the Variable Account's distribution financing arrangement will benefit the Variable Account and contractowners. Applicants undertake to maintain the memorandum on file at Keystone's executive offices and to make it available to the Commission upon request.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 18, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for such request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4780 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 35-23611; 70-6877]**

## Central and South West Corp. and CSW Energy, Inc.; Request To Permit Sales of Cogenerated Electric Power to Additional Parties

February 21, 1985.

Central and South West Corporation ("CSW"), a registered holding company, and its wholly-owned subsidiary, CSW Energy, Inc. ("Energy"), 2500 San Jacinto Tower, Dallas, Texas 75222, have filed with this Commission a post-effective amendment to its application-declaration pursuant to sections 6(a), 7, 9(a), 10, 12(b), and 13(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 50(a)(3), 86, 87, 90 and 91 promulgated thereunder.

In an order dated August 4, 1983 (HCAR No. 23021), the Commission authorized CSW and Energy, *inter alia*, to invest in cogeneration and small power production projects ("cogeneration projects") located within the service area of the CSW system. It was further provided that:

> Sales of electric power from any such project will be made to CSW system companies or to non-affiliated, non-utility companies in accordance with applicable provisions of PURPA, state law and other legal requirements.

It is stated that since the 1983 authorization, Energy has explored a number of cogeneration opportunities within the CSW system's territory and has identified a number of attractive investment opportunities. In connection with these project opportunities a number of entities other than "CSW system companies or non-affiliated, non-utility companies" have expressed to Energy or Energy's potential partner in such projects an interest to one degree or another in acquiring, pursuant to the provisions of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), electric power from these projects, including the following:

| Project | Potential third party purchaser |
|---|---|
| Rancho Refinery (Donna, Texas). | Medina Electric Cooperative, Magic Valley Electric, City of Brownsville. |
| Celanese Chemical Co. (Bishop, Texas). | Medina Electric Cooperative, Magic Valley Electric, City of Austin, City of Brownsville, City of San Antonio. |

| Project | Potential third party purchaser |
|---|---|
| Alcoa (Point Comfort, Texas)... | City of Austin, City of San Antonio, MidTex Electric Cooperative, and others. |

Accordingly, CSW and Energy request that the 1983 order be amended to permit sales of electric power from cogeneration projects located within the CSW system's service area to CSW system companies or to non-affiliated, non-utility companies or to non-affiliated utility companies (whether municipal, cooperative or publicly-owned) in accordance with PURPA, state law and other legal requirements.

This post-effective amendment and any additional amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 18, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve copies on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request.

Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, this post-effective amendment, as it may be amended may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4778 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 35-23608; 70-7079]**

## Consolidated Natural Gas Co.; Proposal To Issue and Sell Debentures

February 20, 1985.

Consolidated Natural Gas Company ("Consolidated"), 100 Broadway, New York, New York, a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

Consolidated proposes to issue and sell within two years of the effective date of this filing, in one or more transactions, up to $250 million principal amount of sinking fund debentures maturing in 25 or fewer years ("Debentures"). The proceeds will be used to finance the 1985 and 1986 capital expenditures of Consolidated's subsidiary companies (estimated to be $435 and $484 million, respectively), and the acquisition of oil and gas properties. The balance of funds required is expected to be obtained principally from internal cash generation.

The Debentures will be issued in one or more new series under a supplemental indenture. The Debentures will be sold by Consolidated to the purchasers at a price, exclusive of accrued interest, which will not be less than 99% nor more than 102% of the principal amount.

Due to the uncertainty of market conditions, Consolidated seeks the flexibility to determine the maturities, interest rates, sinking funds, redemption and refunding provisions and other terms and provisions as may be permitted by the indenture based on market conditions at the time prospective purchasers make proposals to purchase the Debentures. Consolidated may request that the sale of the Debentures be excepted from the requirements of Rule 50.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 18, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be authorized.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4779 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. IC-14389; File No. 812-6005]**

## Massachusetts Tax Exempt Unit Trust and Investment Trust of Boston-Massachusetts Tax Free Income Fund; Application for Order Permitting an Offer of Exchange Without a Sales Load

February 21, 1985.

Notice is hereby given that Massachusetts Tax Exempt Unit Trust Series 1 and other State, National, Similar and Subsequent Series ("Trust"), c/o Moseley, Hallgarten, Estabrook & Weeden Inc., 1 New York Plaza, New York, NY 10004, and Investment Trust of Boston-Massachusetts Tax Free Income Fund ("Fund," and together with the Trust, "Applicants"), c/o Moseley Capital Management Inc., 60 State Street, Boston, MA 02109, filed an application on December 18, 1984, for an order of the Commission pursuant to Section 11 of the Act permitting eligible unitholders of the Trust to exchange certain units of the Trust acquired under a prior reinvestment program for shares in the Fund on the basis of the relative net asset values of the securities to be exchanged, and pursuant to section 6(c) of the Act granting an exemption from section 22(d) of the Act in connection therewith. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act and the rules thereunder for the text of the relevant provisions.

Applicants state that the Trust is a unit investment trust registered under the Act and that Moseley, Hallgarten, Estabrook & Weeden Inc. ("Moseley") is the sole sponsor of the Trust. Applicants further state that the Fund is an open-end, non-diversified investment company registered under the Act, and that Moseley Capital Management Inc., a wholly-owned subsidiary of Moseley's parent holding company, is the Fund's manager.

Applicants represent that holders of units ("Unitholders") in prior series of the Trust up to and including Series 78 were offered a reinvestment plan which permitted them to reinvest both interest and principal distributions ("Distributions") in units of a subsequent series of the Trust (or, if such units were not available, in units of a previously formed series) at a reduced sales load equal to 3½% of the reinvestment price per unit. Applicants further represent that the Trust's current reinvestment plan, pursuant to exemptive orders granted by the Commission, permits Unitholders to

invest Distributions in shares of the Fund at net asset value plus a sales load of 1½% at the offering price. Applicants propose to allow Unitholders of series of the Trust earlier than Series 79 to exchange the units they received under the prior reinvestment plan for shares of the Fund at the relative net asset values without a sales load.

Applicants state the purpose of the proposed exchanges is to permit Unitholders who are now invested in many series of the Trust to aggregate units acquired pursuant to the prior reinvestment plan in one open-end entity designed to meet similar investment objectives to the Trust. Applicants believe it would be inappropriate to charge those Unitholders a sales load with respect to the proposed exchanges because (i) they have already paid a sales load on the units to be exchanged, and (ii) no additional sales effort is required. Further, Applicants submit that the proposed exchanges will not dilute the assets of the Trust or the Fund.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 18, 1985, 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 Applicants at the addresses 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.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4784 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 21777; SR-Phlx-84-14]**

## Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

February 21, 1985.

The Philadelphia Stock Exchange, Inc. (Phlx") 1900 Market Street, Philadelphia, PA. 19103, submitted on August 6, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to Phlx Rule 793 (Officer in Single Corporation). Under the proposal, Rule 793 would be captioned "Affiliations–Dual or Multiple," and would be amended to provide that no person could at the same time be a limited or general partner, officer, director, or stockholder of more than one Phlx member organization or participant organization;[1] nor could any such partner, officer, director, or stockholder be affiliated with a non-Phlx member organization or non-participant organization that is engaged in the securities business, unless such affiliation has been disclosed to and approved by the member and/or participant organizations and such approval has been filed with the Secretary of the Phlx.[2] While dual and multiple affiliations would be permitted under the rule, no Phlx member or participant could register more than one member or participant organization for membership and/or participation. Additionally, the rule proposal would authorize the Phlx to disapprove multiple affiliations that are inconsistent with Phlx standards of financial responsibility, operational capability, or compliance responsibility. Phlx's existing Rule 905, which prohibits any member from being a partner in more than one member organization, would be rescinded.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 21646, January 9, 1985) and by publication in the **Federal Register** (50 FR 2364, January 16, 1985). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

[1] The term "participant organization" refers to the Phlx's foreign currency participant organizations.

[2] An amendment to this rule proposal was submitted by Phlx on December 17, 1984. The amendment would add language to proposed Rule 793, commentary .01, providing that no filings would be required with regard to ownership interests in any securities, financial or kindred business that is publicly owned, unless a control relationship exists.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4783 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 14387; 812-5979]**

## Retirement Planning Funds of America, Inc.; Application

February 20, 1985.

Notice is hereby given that Retirement Planning Funds of America, Inc. ("Applicant"), 111 West Washington Street, Mail Location 0652, Chicago, Illinois, 60602, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on November 9, 1984, for a Commission order amending a prior Commission order (Investment Company Act Release No. 13926, May 4, 1984). The prior order ("Prior Order"), pursuant to section 6(c) of the Act, granted an exemption from sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rules 22c-1 and 22d-1 thereunder to permit imposition (and waiver in certain cases) of a contingent deferred sales charge on redemptions of Applicant's shares, and, pursuant to section 11(a) of the Act, approved certain offers of exchange at other than relative net asset value. Applicant seeks to amend the Prior Order, pursuant to section 6(c) of the Act, to permit payment of the contingent deferred sales charge to Applicant's principal underwriter, and to exempt Applicant from section 22(d) of the Act and Rule 22d-1 thereunder to permit waiver of the contingent deferred sales charge on redemptions by certain additional persons. Applicant also seeks to amend the Prior Order, pursuant to section 11(a) of the Act, to permit certain additional offers of exchange at other than relative net asset value. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the provisions cited in the application.

According to the application, Venture Advisers, Inc. ("Venture Advisers") is Applicant's investment adviser and principal underwriter. Venture Advisers also serves as investment adviser and principal underwriter for Venture Muni (+) Plus, Inc. ("Venture Muni"), a municipal bond fund registered under the Act. On November 9, 1984, Venture

Muni filed an application for an order to permit imposition, and waiver in certain cases, of a contingent deferred sales charge on redemptions of its shares and to permit certain exchange transactions. On February 4, 1985, a notice was issued on Venture Muni's application (Investment Company Act Release No. 14353).

Venture Muni's proposed contingent deferred sales charge program differs from Applicant's in two respects: there is an exception from the imposition of the charge for shares sold to the full-time employees (employed at least 90 days), directors and officers of Venture Muni and Venture Advisers, and contingent deferred sales charges may be paid to the principal underwriter, although initially such charges will be paid to Venture Muni. Applicant now seeks to amend the Prior Order to conform its contingent deferred sales charge program to that proposed for Venture Muni and to permit exchanges between Applicant and Venture Muni and any other investment company with the same adviser and principal underwriter as Applicant sold without a front-end load.

According to the application, Applicant's contingent deferred sales charge will initially be paid to Applicant. Applicant contends, however, that, since its principal underwriter will be required to pay commissions and may deem it necessary to pay maintenance fees to dealers selling Applicant's shares, it is possible that the principal underwriter will expend substantial sums in excess of the amount it receives in reimbursement under Applicant's 12b-1 plan (the "Plan"). In light of this, Applicant's Board of Directors determined that it may be appropriate in the future to have the contingent deferred sales charge paid to the principal underwriter. The Board of Directors also determined that payment of the contingent deferred sales charge to the principal underwriter may be appropriate when commissions or other amounts paid by the principal underwriter exceed amounts received in reimbursement under the Plan by $50,000 or more over a period of any four consecutive calendar quarters.

Applicant currently waives imposition of the contingent deferred sales charge on shares acquired through reinvestment of dividends or distributions, or redeemed in connection with (a) the death or disability of the shareholder or spouse, or (b) distributions from a qualified retirement plan or Individual Retirement Account upon retirement or attainment of age 59½ or to make a tax-free return of contributions to avoid tax penalty. Applicant now wishes to waive imposition of the contingent deferred sales charge on shares sold to the directors, officers and full-time employees (who have been such for at least 90 days) of Applicant and its investment adviser or to any benefit plan for such persons. Applicant represents that sales to these individuals will be made directly and will not involve any sales expenses. Applicant asserts that this proposed waiver of the contingent deferred sales charge is fair and reasonable and consistent with the objectives of the Act.

According to Applicant, any of its series may currently be exchanged at relative net asset value for the shares of any other Applicant's series. Generally, if the exchanged shares, or the newly acquired shares, are subject to a contingent charge, the shares received in the exchange will be subject to the charge upon redemption. The period for determination of the amount of the charge is calculated on the basis of the date of exchange. Applicant now requests permission to apply the contingent deferred sales charge to redemptions of shares acquired in exchanges between any investment companies (not subject to front-end loads) with the same adviser and principal underwriter as Applicant. Applicant states that the only other such investment company at present is Venture Muni. Applicant states further that shares of any such investment company would be exchanged at relative net asset value for Applicant's shares and that the contingent deferred sales charge would apply to shares acquired by exchange as follows:

1. If the shares tendered for exchange are subject to a contingent deferred sales charge, the shares for which they are exchanged will likewise continue to be subject to the charge in the same manner and on the same basis as the original shares.

2. If the shares tendered for exchange are not subject to a contingent deferred sales charge, the shares received in the exchange will be subject to the deferred sales charge, if any, applicable to the shares being acquired in the exchange. The period for determination of the amount of any applicable charge will be calculated on the basis of the date of purchase of the shares received in the exchange.

3. Any exception to the applicable sales charge will continue to apply in respect to the shares being acquired.

Applicant asserts that the carryover of the deferred charge, holding period and exceptions to the charge and the imposition of the charge in exchanges of a no-load fund's shares for shares subject to a contingent charge is fair and necessary to preserve the integrity of the deferred sales charge and the dealer distribution system. Applicant asserts that unfair discrimination among shareholders and dealers would result if a shareholder could avoid imposition of the charge by exchanging from fund to fund or into or from a fund whose shares are not subject to a contingent charge.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 18, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues 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.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4781 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 14384; 812-6014]**

## Van Kampen Merritt U.S. Government Fund Inc., et al.; Application

February 19, 1985.

Notice is hereby given that Van Kampen Merritt U.S. Government Fund Inc. ("Government Fund"), 1901 North Naper Boulevard, Naperville, Illinois, 60566, and Van Kampen Merritt Insured Tax Free Income Fund Inc. ("Insured Fund"), both registered under the Investment Company Act of 1940 ("Act") as open-end, diversified management investment companies and their distributor, Van Kampen Merritt Inc. ("Distributor") (collectively "Applicants"), filed an application on December 31, 1984, and an amendment thereto on February 12, 1985, for an order, pursuant to section 6(c) requesting an exemption from the provisions of section 22(d) of the Act to permit the sale of the Funds' shares at a reduced sales charge to participants in a reinvestment program offered to unitholders of existing and future unit

investment trusts ("Trusts") sponsored by the Distributor. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the relevant statutory provisions.

Applicants state that Government Fund's investment objective is to provide a high level of current income, liquidity and safety of principal, through investment in obligations issued or guaranteed by the U.S. Goverment, or its agencies, or instrumentalities. The Insured Fund's investment objective, it is stated, is to provide a high level of current income exempt from federal income taxes, as well as liquidity and safety of principal, through investment in a diversified portfolio of municipal securities, the principal and interest on which are insured by an independent insurance company. American Portfolio Advisory Service Inc. ("Adviser") is the investment adviser of the Funds. Adviser and Bradford Trust Company are the portfolio supervisor and trustee, respectively, of various series of trusts sponsored by the Distributor, a broker/dealer registered under the Securities Exchange Act of 1934. The majority of the Trusts seek to obtain income that is exempt from taxation and to conserve capital through investment by each of the Trusts in interest bearing obligations which, in the opinion of bond counsel, are exempt from federal, and state and local income taxes when held by the residents of the various states.

It is further stated that the Funds' shares are offered for sale to the public at the net asset value thereof, plus a sales charge which varies from 4.75% to 1.00% of the offering price based upon the amount invested. The minimum initial investment is generally $1,500, and all subsequent investments must be made in amounts of $100 or more. These sales charges and investment minimums are subject to reduction for participants in qualifying employee benefit programs that meet uniform cost savings criteria set forth in Rule 22d-1(f) under the Act. Those reduced sales charges and criteria are the same as are set forth in the proposed reinvestment program that is the subject of the application.

The Funds have proposed a program to permit holders of units of the Trusts to reinvest distributions from the Trusts in shares of the Funds at a reduced sales charge of 1%, with no minimum initial or subsequent investment requirement. In order for a unitholder to participate in this program, both the unitholder and the Trusts' administrator would be required to make bulk orders and payments and provide computerized backup; unitholders would be required to invest in account form without share certificates, and must agree to reinvest all distributions in additional shares. A unitholder could elect to reinvest distributions of principal only, interest only, or principal and interest both. Unitholders would receive a current Fund prospectus at or before the time they join the program, and could terminate participation in the program at any time by giving written notice to their Trust administrator.

Applicants submit that the purposes of section 22(d) of the Act are to assure that all investors purchase investment company securities on an equal basis, and that the equity of existing shareholders is not diluted. In support of their request for an exemption from section 22(d), the Funds state that they believe that the cost of sales made pursuant to the reinvestment program will be lower than the costs associated with other sales of their shares. The Funds submit that such savings should be passed on to investors in the form of lower sales charges, and that they believe the 1% sales charge to be sufficient to cover the increase in distribution expenses arising from the program. The Funds further state that their shareholders will benefit from the reinvestment program because an increase in the Funds' cash flow will enable them to meet redemptions without liquidating investments in their portfolios and to diversify further their securities holdings. Therefore, Applicants submit that the exemption requested is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 18, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues 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.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4782 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 14383; 812-5004]**

## Hutton Investment Series Inc.; Application

February 19, 1985.

Notice is hereby given that Hutton Investment Series Inc. ("Applicant") One Battery Park Plaza, New York, New York 10004, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company of the series type, filed an application on November 2, 1984, for an order pursuant to section 6(c) of the Act amending a previous Commission order which, as amended, exempts Applicant from the provisions of sections 2(a)(32), 2(a)(35), 2(a)(41), 22(c) and 22(d) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant to assess a contingent deferred sales charge on redemptions of its initial and future series of shares, and to waive the contingent deferred charge under certain circumstances. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and regulations thereunder for the text of the applicable provisions.

Applicant states that it was organized under Maryland law on September 29, 1981. Applicant issues its shares in series, presently numbering six—the Short Term Investment Series, the Bond and Income Series, the Growth Series, the Emerging Growth Series, the Option Income Series and the Government Securities Series (the "Series"). Applicant's board of directors may authorize the formation of additional series in the future, it is stated.

Applicant further states that it finances its own distribution expenses pursuant to a distribution plan ("Distribution Plan") adopted pursuant to Rule 12b-1 under the Act. The Distribution Plan provides for an annual fee to be paid by each Series to E.F. Hutton & Company Inc. ("E.F. Hutton") for its series in connection with sales of Applicant's shares. E.F. Hutton also receives the proceeds of the contingent deferred sales charges which are imposed upon certain redemptions of Applicant's shares. Shares of Applicant may be purchased in connection with

various tax-qualified retirement plans. These include Individual Retirement Accounts ("IRAs"), pension and profit-sharing plans qualified under Section 401 of the Internal Revenue Code of 1954 ("Code"); Simplified Eployee Pension ("SEP") IRAs; and section 403(b) Plans, which are deferred compensation arrangements for employees of public schools and certain charitable organizations.

On January 4, 1982, an order was issued (Investment Company Act Release No. 12135) pursuant to section 6(c) of the Act, which exempted Applicant (i) from the provisions of section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit valuation of the assets of the Short Term Investment Series in accordance with the amortized cost method of valuation; and (ii) from the provisions of sections 2(a)(32), 2(a)(35), and 22(c) of the Act, and Rule 22c-1 thereunder, to the extent necessary to permit Applicant to impose a contingent deferred sales charge on its shares. On November 9, 1982, the Commission issued an order (Investment Company Act Release No. 12798) amending the aforesaid order by granting relief from section 22(d) of the Act so as to permit waiver of the contingent deferred sales charge on (a) any partial or complete redemption in connection with a distribution following retirement under a tax-qualified retirement plan, or attaining age 59½ in the case of an IRA or Keogh Plan or a custodial account pursuant to section 403(b) of the Code, or any redemption resulting from the tax-free return of an excess contribution to an IRA; or (b) any partial or complete redemption following the death or disability (as defined in the Code) of a shareholder (including one who owns the shares as joint tenant with his or her spouse), providing the redemption is requested within one year of the death of initial determination of disability. On June 18, 1984, the Commission issued an order (Investment Company Act Release No. 13997) further amending the aforesaid order, in this instance by extending the exemption it afforded from section 22(d) of the Act to the extent necessary to permit the additional waiver of contingent deferred sales charges in respect of periodic redemption payments pursuant to a systematic withdrawal plan which Applicant offers to its shareholders.

Applicant now requests an order further amending the aforesaid order by providing, to the extent necessary, exemptive relief from section 22(d) of the Act to permit (1) for each tax-qualified retirement plan providing for individual participant shareholder accounts with Applicant's transfer agent, determination of the applicability (and, if applicable, the amount) of the contingent deferred sales charge on the basis either of the experience of the individual account, or the experience of the participant accounts collectively, whichever would be more favorable to the participant making the redemption; (2) a waiver of the contingent deferred sales charge on any redemption from a tax-qualified retirement plan maintaining a single shareholder account; and from all those accounts of state and municipal governments, or their agencies or instrumentalities, which have made purchase payments totalling more than $1 million in purchase payments over a 13-month period; and (3) a waiver of the contingent deferred sales charge on any redemption made for the purpose of funding a loan to a participant in a tax-qualified retirement plan permitted to make such loans.

Applicant states that shareholder accounts of tax-qualified retirement plans for which individual participant accounts are maintained (generally all defined contribution plans) may either be maintained as a single shareholder (*i.e.*, the plan) on the books of Applicant's transfer agent, with the plan administrator accounting for the interests of the individual participants, or as multiple shareholders, with each participant account being treated as a separate shareholder on the transfer agent's books. Because the contingent deferred sales charge applies to each shareholder, in the single shareholder account case, the determination of the applicability of the charge (*i.e.*, whether the current account value exceeds the aggregate to unredeemed purchase payments over the past six years by an amount sufficient to meet the redemption request) would be based on the aggregate experience with respect to purchases and redemptions of all participants in the plan. However, where each individual participant maintains a shareholder account, the individual's experience would be determinative under present operations. Applicant submits that, in order to eliminate this distinction, it requests an amendment to its existing order to permit, for all tax-qualified retirement plans providing for individual participant shareholder accounts, a determination of the applicability (and, if applicable, the amount) of the contingent deferred sales charge on the basis either of the experience of the individual account, or the experience of all the plan's participant accounts collectively whichever is more favorable to the participant making the redemption. Thus, if an individual participating in a plan which maintains its participants' accounts as separate shareholders on the books of Applicant's transfer agent submits a redemption request, the current account value and history of purchase payments and redemptions for all plan participants in the aggregate would be reviewed. If the participant would have been able to make the redemption without a contingent deferred sales charge (or with a reduced charge) if all plan participants had been aggregated into a single account, no charge (or the reduced charge) would be applicable to the redemption. However, if the charge would be lower considering the current status and history of purchase payments and redemptions of the account on an individual basis only, the individual account method would apply. In either case, the individual participant could not be required to pay a contingent deferred sales charge in excess of that which would be applicable to him based on his own current account value and experience. All purchases and redemptions by the individual participant, or by the plan's participants collectively, would be taken into account in determining the applicability and amount of the charge, irrespective of the method (individual or collective) which had been used to determine the applicability and/or amount of the charge on prior redemptions by that participant or by others.

Applicant states that the distribution fee calculation as currently structured will not be affected by the above procedure, because this procedure is an alternative method for determining the applicability and amount of the charge, rather than a waiver of an otherwise applicable charge. Accordingly, as is the case under the existing order, only redemptions to which the contingent deferred sales charge applies will be removed from the base of aggregate purchase payments since inception upon which the distribution fee is calculated.

Applicant submits that the proposed method of calculating the contingent deferred sales charge on plans maintaining individual shareholder accounts would be fair to the individual shareholders, since the contingent deferred sales charge applicable to any redemption can be reduced, but in any case cannot be greater than, that which would be applicable to shareholders in an individual capacity.

Applicant further proposes to eliminate the contingent deferred sales

charge entirely on redemptions with respect to (i) accounts of tax-deferred retirement plans which maintain a single shareholder account with Applicant's transfer agent; and (ii) accounts of state or municipal governments, their agencies, or instrumentalities ("government accounts"), if, the government account has either made more than $1 million in purchase payments, or has executed a non-binding letter of intent providing for more than $1 million in purchase payments over a 13-month period. Pursuant to the letter of intent procedure, the eligible plan, or government account, would qualify for a waiver of the contingent deferred sales charge immediately if a non-binding letter of intent were executed setting forth intention of such plan or government account to invest at least $1 million in Applicant during a 13-month period.

Applicant notes that, under the letter of intent procedure for up-front sales charges set forth in Rule 22d–1 (a) and (b), an escrow arrangment must be provided in order to ensure that the full sales charge is collected in the event of failure to complete the intended purchases. However, Applicant does not contemplate the use of an escrow procedure under its proposal. First, because the contingent deferred sales charge is not applicable until a redemption is made, failure to complete the intended purchases under the letter of intent would not by itself result in any charge becoming due; the charge thereafter could be collected if and when due by deduction from the proceeds of redemption. Second, because the charge applies only to redemptions, an escrow procedure applicable during the 13-month period would require withholding of a portion of the proceeds of each redemption (rather than simply placing fund shares in escrow, as contemplated by Rule 22d–1 (a) and (b))—a procedure which could have the effect of preventing a participant's complete withdrawal of his interest in the plan until the 13-month period had been completed. Third, as to redemptions which may have been made during the 13-month period without the charge having been applied, Applicant believes that the procedure for imposing the charge (if otherwise applicable) at any time at which the payments pursuant to the letter of intent are not being maintained at the appropriate level would protect against any substantial failure to comply with the terms of the proposed waiver.

Applicant further proposes to waive the deferred sales charge for redemptions which are made with the purpose of funding loans to participants in tax-qualified retirement plans. At present, plan withdrawals for loans may be made by participants in retirement plans qualified under section 401(a) of the Code, both in the case of self-employed persons and in the case of corporate employees (except owner-employees or their relatives), whether or not the plans also contain the qualified case or deferral provisions of section 401(k) of the Code.

Applicant states that, in the case of this type of redemption, it would impose no contingent deferred sales charge at the time of such redemption, on the assumption that such a redemption is being made with the expectation that the full amount will be repaid, and reinvested in Applicant. It is submitted that the waiver of the contingent deferred sales charge on redemptions to fund loans made to participants in retirement plans, as proposed, would give participants in Applicant's tax-qualified retirement plans the flexibility contemplated by the Code provisions governing permissible loans from tax-deferred retirement plans.

Applicant states, in addition, that, with respect to the traditional front-end sales charge, the Commission has promulgated rules and issued orders providing exemptions for the elimination of, or reductions in the sales charge based upon differences in costs and service or considerations of basic fairness, national economic policy, or sound business practice. Applicant cites as an example, Rule 22d–1(f) under the Act, a rule which permits variations in sales charges upon sales pursuant to a uniform offer described in the prospectus of a fund and made to employee benefit plans qualified under section 401, or employee benefit plans not so qualified, where the non-qualified plans satisfy uniform criteria relating to the realization of economies of scale in sales efforts and sales related expenses. It is noted further, with respect to the contingent deferred sales charges imposed by insurance company separate accounts (charges which frequently are structured in a manner similar to Applicant's charge), that the Commission has adopted Rule 6c–8 under the Act, providing a blanket exemption for such charges from applicable provisions of the Act (other than section 22(d)); and Rule 22d–3, permitting sales load variations on variable annuity contracts where the variations are described in the prospectus, reflect variations in cost, and are not unjustly discriminatory against any person.

Lastly, it is noted that the Commission has proposed Rule 22d–6 under the Act, in order to permit variations in or elimination of, the sales load in the case of particular classes of investors or transactions, or negotiation of the sales load at the time of purchase.

Applicant submits that variations it proposes in the method of applying its contingent deferred sales charges, described above, are consistent with the principles established in the aforesaid rules and rule proposal. As to the waivers for single shareholder account plans, or government accounts having more than $1 million in purchase payments, and for loans to plan participants, although it is more difficult to relate precisely proposed variations in a load structure to economies in distribution where the charge is contingent, Applicant submits that such economies are nonetheless realized where sales are made in large quantities. Sales presentations and sales literature may be provided to a small number of persons serving as plan trustees, administrators, or advisers, or to the participants themselves in a single group. Finally, it is stated, arrangement may be made for purchase payments to be transmitted directly to Applicant's transfer agent.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 18, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues 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.

**John Wheeler,**

*Secretary.*

[FR Doc. 85–4772 Filed 2–26–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 14388; 812-5835]

## Merrill Lynch KECALP Growth Investments Limited Partnership 1983, et al.; Application

February 20, 1985.

Notice is hereby given that Merrill Lynch KECALP Growth Investments Limited Partnership 1983 ("Partnership"), KECALP Inc. ("KECALP"), Merrill Lynch Private Capital Inc. ("MLPC") and Merrill Lynch & Co., Inc. ("ML&Co.") (collectively, "Applicants") 165 Broadway, One Liberty Plaza, New York, New York 10080, filed an application on April 27, 1984, and an amendment thereto on December 4, 1984, for an order, pursuant to sections 17(b) and 17(d) of the Investment Company Act of 1940 ("Act"), and Rule 17d–1 thereunder, exempting from the provisions of section 17(a) of the Act and permitting under section 17(d) of the Act the acquisition by the Partnership of (i) 281,853 shares of common stock of Signode Industries Inc. ("Signode"), (ii) 10,000 shares of cumulative convertible preferred stock of FGIC Corporation ("FGIC") and (iii) 853 shares of common stock of Medical Disposables Company ("MDC"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the relevant provisions.

The application indicates that the Partnership, a limited partnership organized under the laws of Delaware, is registered under the Act as a management investment company whose investment objective is to seek long-term capital appreciation and the tax advantages associated with certain investments. Applicants state that the Partnership closed its public offering on May 20, 1983, at which time it sold 6,915 units of Limited Partnership Interests ("Units") to 617 subscribers for $6,915,000. The application also indicates that Units were offered exclusively to employees of ML&Co. and its subsidiaries and to non-employee directors of ML&Co.; in the case of employees of ML&Co. and its subsidiaries, such employees were permitted to purchase Units only if they received annualized compensation in 1982 equal to at least $75,000. Applicants further represent that the Partnership is an "employees' securities company", within the meaning of section 2(a)(13) of the Act, and it operates in accordance with the terms of an exemptive order (Investment Company Act Release No. 12363, April 8, 1982) granted pursuant to section 6(b) of the Act.

The application indicates that ML&Co., a Delaware corporation, is a holding company which, through its subsidiaries, provides investment, financing, real estate, insurance and related services; its principal subsidiary, Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S"), was the selling agent for the Units issued by the Partnership. The application states that KECALP, a Delaware corporation, is a wholly-owned subsidiary of ML&CO. that was formed in June, 1981, for the purpose of serving as general partner of employee-benefit partnerships such as the Partnership. Applicants state that KECALP is presently the sole general partner of the Partnership and of Merrill Lynch KECALP L.P. 1984, a newly-formed limited partnership whose registration statement became effective on February 24, 1984. Applicants further state that all investments made by a partnership for which KECALP acts as general partner are approved by its investment committee, which presently consists of ten members of KELCALP's board of directors. The application further states that MLPC, a Delaware corporation, is an indirect subsidiary of ML&Co. that is primarily engaged in providing financial services to wealthy individuals.

According to the application, Signode and its consolidated subsidiaries are leading manufacturers and distributors of strapping systems for use in packaging and materials handling by a broad range of industries; Signode was organized for the purpose of effecting the acquisition of Signode Corporation, a Delaware corporation ("Signode I"). The application indicates that MLPF&S organized an investor group consisting of certain affiliates of Signode I, ML&Co. and certain of its affiliates and several bankers, insurance companies and other institutional investors to acquire Signode I; the acquisition became effective on August 30, 1982. Applicants state that the financing in the aggregate approximate amount of $507.8 million was made available to Signode through borrowings from banks and other institutions, the sale of debt securities and the sale of Signode common and preferred stock. Applicants further state that, on the effective date of the merger, MLPF&S received a fee of $4.5 million for its assistance in structuring the merger, arrangement of the financing for Signode and provision of other services; the fee was paid by Signode I as the surviving corporation of the merger between Signode I and String Corporation, an indirect wholly-owned subsidiary of Signode.

Applicants state that, in connection with the transactions involving Signode, ML&Co. and its affiliates purchased approximately 1.87 million shares of Signode common stock at $2.70 per share; of these shares, 281, 853 shares have been offered to the Partnership. According to the application, those 281,853 shares represent 3.09% of the shares of Signode common stock presently outstanding and 2.82% of such common stock on a fully-diluted basis.

Applicants state that the purchase price to be paid by the Partnership for the Signode common stock will be the lower of (i) the value of the investment on the date it is acquired by the Partnership or (ii) the cost to ML&Co. of purchasing and holding the investment. Applicants further stated that, with respect to clause (i), the value of the investment at the time of acquisition by the Partnership will be determined by the board of directors of KECALP with reference to and not exceeding the most recent valuation provided to limited partners by ML Venture Partners I, L.P., a business development company and the most recent quarterly valuation of such securities prepared for Signode by an independent investment and financial analysis firm. Applicants represent that, with respect to clause (ii), such cost will be the original purchase price of $2.70 per share paid on August 30, 1982, plus carrying costs relating to such investment. Applicants further represent that, for purposes of this transaction, carrying costs consist of interest charges computed at the lower of (i) the prime rate charged by Citibank, N.A., during the period from the date the KECALP board of directors authorized the investment (October 5, 1983) to the date the Partnership acquires the investment or (ii) the effective cost of borrowings by ML&Co. during such period. Applicants submit that the effective cost of borrowings by ML&Co. is its actual "average cost of funds", which it calculates on a monthly basis by dividing its consolidated financing expenses by the total amount of borrowings during the period. Applicants further submit that ML&Co.'s total borrowings, and consequently its total borrowing costs, are in part made up of its borrowings to finance proprietary investments, such as Signode common stock; hence, it is appropriate to attribute some of ML&Co.'s borrowing costs, calculated at the average cost of funds, specifically to the Signode investment.

The application indicates that FGIC, a Delaware corporation, was organized in

1983 to provide, through one or more subsidiaries, insurance and financial guarantees for a variety of investment instruments. Applicants state that ML&Co. participate in the organization of FGIC and presently holds aproximately 30% of FGIC's outstanding common stock and 84,926 shares of FGIC's non-voting cumulative convertible preferred stock. Applicants further state that ML&Co. has agreed to sell the Partnership 10,000 of ML&Co.'s shares of FGIC's cumualtive convertible preferred stock.

Applicants state that the purchase price to be paid by the Partnership for the FGIC investment will be the lower of (i) the value of the investment on the date it is acquired by the Partnership or (ii) the cost to ML&Co. of purchasing and holding the investment. Applicants represent that, with respect to clause (i), the value of the investment at the time of acquisition by the Partnership will be determined by the board of directors of KECALP with reference to and not exceeding the purchase price paid for such securities during October, 1984, by ML&Co. and other stockholders of FGIC that are not affiliated with ML&Co. Applicants further represent that, with respect to clause (ii), such cost will be the original purchase price of $100 per share paid in September and October, 1983, which is lower than the price paid for additional shares in October, 1984, plus carrying costs relating to such investment. Applicants further state that, for purposes of this transaction, carrying costs consist of interest charges computed at the lower of (i) the prime rate charged by Citibank, N.A. during the period from the date other KECALP board of directors authorized the investment (October 5, 1983) to the date the partnership acquires the investment or (ii) the effective cost of borrowings by ML&Co. during such period. The application indicates that the effective cost of borrowings by ML&Co. is its actual "average cost of funds" for that period, which it calculates and justifies for the FGIC investment in the same manner as described for the Signode investment.

Applicants state that MDC, a Georgia corporation organized in 1971, is engaged in the medical supply industry. According to the application, in connection with a proposed tender offer for MDC, certain investors arranged for the formation of Miami Acquisition Company ("Acquisition"); Acquisition's outstanding capital stock consisted of 16,853 shares of common stock that were subscribed for at a price of $120 per share. The application states that KECALP's subscription for 853 shares was made on behalf of the Partnership since the participation by a subsidiary of ML&Co. in providing debt financing necessitated that the Partnership obtain the exemptive order, which is the subject of this application, before it could participate in this transaction. Applicants further state that, following completion of such tender offer, Acquisition and MDC were then merged, with MDC being the surviving corporation. The application indicates that each of the outstanding shares of Acquisition was coverted into one share of common stock of MDC with MDC presently having 26,668 shares of common stock outstanding; the 853 shares owned by KECALP represent 3.2% of such outstanding shares.

Applicants state that the purchase price to be paid by the Partnership for the 853 shares of common stock proposed to be acquired by the Partnership will be the lower of (i) the value of the investment on the date it is acquired by the Partnership or (ii) the cost to ML&Co. of purchasing and holding the investment. Applicants represent that, with respect to clause (i), the value of the investment at the time of acquisition by the Partnership will be determined by the board of directors of KECALP based on its evaluation of MDC's product, market, industry trends, competition, financial requirements and management. Applicants further state that the board of directors will review historical earnings and sales, evaluate forecasts of operating results provided to MLPC, and analyze the purchase price relative to book value. Applicants also represent that members of the KECALP board of directors are sophisticated and experienced in valuing securities and evaluating financial transactions generally. With respect to clause (ii), the application indicates that such cost will be the original purchase price of $120 per share paid on March 2, 1984, plus carrying costs relating to such investment.

The application states that, for purposes of this transaction, carrying costs consist of interest charges computed at the lower of (i) the prime rate charged by Citibank, N.A. during the period from the date KECALP purchased the investment (March 2, 1984) to the date the Partnership acquires the investment or (ii) the effective cost of borrowings by ML&Co. during such period. The application further states that the effective cost of borowings by ML&Co. is its actual "average cost of funds" for that period, which it calculates and justifies for the MDC investment in the same manner as described for the Signode and FGIC investments.

Applicants contend that the issuance of an order is justified by both the terms of the transactions and the fact that these investments are not otherwise available to the Partnership. With respect to the terms of the transaction, the application indicates that the board of directors and investment committee of KECALP have approved the transactions following a detailed review of each of the proposed investments. Applicants state that two of these investments (Signode and FGIC) involve transactions structured prior to the time KECALP approved investments in those corporations; with respect to MDC, it was determined prior to the completion of the transaction that it would be desirable for the Partnership to invest in the common stock of MDC. Applicants further state that, in approving the MDC purchase, KECALP determined that the purchase of MDC common stock would be consistent with the provisions, policies and purposes of the Act. For these reasons, Applicants request an order be granted, pursuant to sections 17(b) and 17(d) of the Act.

The application states that, in evaluating the terms of the transaction, the board of directors and investment committee of KECALP considered the fact that the proposed purchase price to be paid by the Partnership will include carrying costs incurred by affiliates if the value of the investment at the time of acquisition by the Partnership is more than the sum of the purchase price paid plus the affiliates' carrying costs. Applicants represent that no dividends have been received with respect to any of the proposed investments and that the purchase price to be paid by the Partnership will be reduced by the amount of any dividend for which the record date is prior to the date the Partnership acquires the investment. In approving purchase prices that may include carrying costs, Applicants state that the board of directors and investment committee determined that, in their view, it is wholly appropriate for the purchase price paid for portfolio investments to reflect carrying costs so long as the value of the investment at the time of acquisition exceeds the amount of the purchase price plus carrying costs. Applicants indicate that ML&Co. and KECALP will only be reimbursed for the carrying costs with respect to a particular investment if the sum of the purchase price of the investment plus carrying costs is less than the current value. Applicants submit that to deny reimbursement for carrying costs would result in a further

and unwarranted loss to ML&Co. and KECALP and provide a disincentive for ML&Co. and its affiliates to sell investments to the KECALP partnerships in the future.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 18, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues 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.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4771 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 35-23609; 70-7087]**

## New England Electric System; Proposed Issuance and Sale of Short-Term Notes to Banks

February 20, 1985.

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01582, a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act").

NEES proposes to issue and sell up to a maximum aggregate outstanding principal amount of $40,000,000 of short-term notes to a group of banks from time to time through March 31, 1987. The notes will mature in less than one year from the date of issuance. The effective interest cost of borrowings will not be greater than the effective interest cost of borrowings at the bank's base or prime leading rate with compensating balance requirements of 10% of the line of cridit and 10% of any borrowings thereunder. Based upon a prime rate of 10.5%, the effective interest cost would not exceed 13.1% per annum. NEES believes the requested short-term borrowing authority is necessary to be prepared for unforseen events, including the ability to respond to the emergency needs of its subsidiaries.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 18, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegeted authority.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4770 Filed 2-26-85; 8:45 am]

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**[Release No. 35-23610; 70-7088]**

## New England Electric System, et al.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper, Open Account Advances From the System Money Pool, and Exception From Competitive Bidding

February 20, 1985.

New England Electric System ("NEES"), a registered holding company, and four of its subsidiaries, Granite State Electric Co. ("Granite"), Massachusetts Electric Company ("Mass Electric"), The Narragansett Electric Co. ("Narragansett"), and New England Power Service Co. ("NEPSCO"), 25 Research Drive, Westborough, Massachusetts 01582, have filed an application-declaration with this Commission pursuant to sections 6(a), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) thereunder.

The above-named subsidiaries propose, through March 31, 1987, to borrow from the system money pool and/or banks, and/or, in the case of Mass Electric, to issue commercial paper up to the following maximum outstanding amounts: Granite—$7,000,000; Mass Electric—$30,000,000; Narragansett—$35,000,000; and NEPSCO—$6,000,000. The proceeds of the proposed borrowings are to be used (i) to pay then outstanding notes initially issued to banks, and/or dealers in commercial paper, and/or borrowings from the money pool; (ii) to provide new money for capitalizable expenditures and/or to reimburse the treasury therefor; (iii) to refund bonds, pending permanent refinancing; and (iv) other corporate purposes.

The borrowing companies propose to reduce their need for outside borrowing through the continued use of the system money pool. Under the money pool, surplus funds that may be available from day to day in the treasuries of NEES and certain of the NEES System subsidiaries are used to make loans to subsidiaries in need of short-term funds. Those companies able to issue commercial paper will pay the weighted monthly average of the rates on outstanding commercial paper of all money pool members. During any month when no such commercial paper is outstanding, the rate will be the monthly average of the rate for high grade 30-day commercial paper sold through dealers by major corporations as published in the *Wall Street Journal*. Borrowing members without the ability to issue commercial paper will pay interest at a rate of 125 basis points above the rate paid by members who do have the ability to issue commercial paper but in no event greater than the monthly average of the base lending rate of the First National Bank of Boston.

The proposed borrowings from the group of banks will be evidenced by notes maturing in less than one year from the date of issuance. The effective interest cost of such borrowings will not be greater than the effective interest cost of borrowings at the bank's base or prime lending rate with compensating balance requirements of 10% of the line of credit and 10% of the borrowing thereunder. Based upon a prime rate of 10.5%, the effective interest cost would not exceed 13.1% per annum.

The commercial paper proposed to be issued and sold by Mass Electric will be in the form of unsecured promissory notes having varying maturities of not in excess of 270 days. It is requested that the issuance and sale of commercial paper be excepted from the competitive bidding requirements of Rule 50(a)(5).

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 18, 1985, to the Secretary, Securities and Exchange Commission, Washington,

D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4775 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 34-21778; SR-MCC-84-7 and SR-MSTC-84-7]**

## Self-Regulatory Organizations; Midwest Clearing Corp. and Midwest Securities Trust Co.; Proposed Rule Changes

Midwest Clearing Corp. and Midwest Securities Trust company (together, "MCC/MSTC") on August 17, 1984, submitted proposed rule changes to the Commission under section 19(b)(1) of the Securities Exchange Act of 1934. MCC/MSTC filed amendments to these proposals on October 12, 1984, and January 7, 1985. The Commission is publishing this notice to solicit comment on the proposals.

The proposals, as amended, would permit MCC/MSTC Participants to secure the non-cash portion of their Participants Fund contributions with letters of credit. MCC-MSTC will continue to require Particpants to make a minimum $5,000 cash contribution to their respective participants Funds plus additional contributions based on Participants' daily settling activity. Under current MCC/MSTC rules, these additional contributions must be in the form of cash or United States Government securities. Under the proposals, each MCC-MSTC Participant also could satisfy the additional contribution requirements with letters of credit issued in favor of MCC-MSTC on behalf of the Participant.

MCC-MSTC's proposals contain several safeguards to ensure controlled use of letters of credit. These include criteria for approving letter of credit issuers, concentration limits for issuers, terms of acceptable letters of credit, and MCC-MSTC's authority to pledge letters of credit.

### 1. Issuer Criteria

Guidelines for issuers of letters of credit under the proposal would be as follows. MCC-MSTC may approve a domestic issuer if it is a bank or trust company whose long-term debt securities and commercial paper, or those of its parent, have received the first rating by Moody's Investors Service or by Standard and Poor's Corporation. Alternatively, a domestic issuer may be approved if: ((1) Its lending limit to any individual borrower is at least $10 million, (2) its shareholder equity is at least $66 million, or (3) its total assets equal at least $1.3 billion. A foreign issuer may be approved if it is a bank or trust company having: (1) Long term debt securities or commercial paper that has received a first rating by Moody's Investors Service or Standard and Poor's Corporation, and (2) shareholder equity of at least $200 million or total assets of at least $1.3 billion. In addition, foreign issuers must issue letters of credit through a United States branch.

The proposals also would authorize MCC-MSTC's boards of directors to specially approve domestic or foreign issuers that do not meet the above criteria. In those instances, the issuer must meet alternative limiting terms and conditions that will be set by the MCC-MSTC boards of directors to protect MCC-MSTC and its participant community.

### 2. Concentration Limits

The proposals would establish concentration limits for issuers of letters of credit. Specifically, without a special decision by the board of directors, no single issuer's letters of credit, in the aggregate, may exceed 25% of either Participants Fund. However, letters of credit from a specially approved issuer, in the aggregate, may not exceed ½ of 1% of the appropriate Participants Fund.

### 3. Terms

The proposals would require letters of credit to be issued for terms of six months, expiring either on March 1 or September 1. This will enable MCC-MSTC to monitor letters of credit and ensure that participants renew or substitute expiring letters of credit. At least 30 days prior to expiration of a letter of credit, the letter must either be replaced with other deposits, extended for another six months, or substituted with a new six month letter.

Letters of credit must be irrevocable. However, if an issuer gives five business days' notice of intention to revoke a letter of credit, MCC-MSTC may consent to revocation. Consent will be given only if the Participant's liability to MCC-MSTC has been discharged or satisfied by other means.

Under the proposals, MCC-MSTC may refuse to revoke approval of any issuer at any time, regardless of whether the issuer meets any of the above stantards. MCC-MSTC would immediately notify Particpants of any revocation of approval and would give Particpants 48 hours to substitute a letter of credit from an approved issuer or any other acceptable deposit.

### 4. Peldge Of Letters Of Credit

MCC-MSTC's proposals would authorize MCC-MSTC to pledge letters of credit as security for loans made to MCC-MSTC for purposes allowable under MCC-MSTC Rules. Any loan to MCC-MSTC secured by letters of credit must be repaid within 30 days if the loan was taken to cover a loss or liability of MCC-MSTC.

MCC-MSTC believes the proposals are consistent with section 17A of the Act. Specifically, MCC-MSTC believes the financial integrity of their Particpants Funds will be protected by the limits set by the proposals for acceptable issuer, issuer concentration limits, and letter of credit terms. Additionally, MCC-MSTC believes that the authority to pledge letters of credit will ensure the liguidity of its Participants Funds. MCC-MSTC therefore believes the proposals will assure the safeguarding of securities and funds in their custody or control or for which they are responsible.

Copies of all documents relating to the proposals, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, may be inspected and copied at the Commission's Public Reference Room 450 Fifth Street, N.W., Washington, D.C. and MCC-MSTC's principal offices.

To assist the Commission in determining whether to approve the proposals or institute proceedings to determine whether the proposals should be disapproved, comments are invited by March 20, 1985. Six copies of comments should be filed with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

February 20, 1985.

John Wheeler,

*Secretary.*

[FR Doc. 85-4776 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

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**[Release No. 34-21776; File No. SR-NYSE-84-42]**

## Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc., Relating to Market Data Services Rates

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 14, 1984, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The text of the proposed rule change is as follows:

| Monthly charges to— | |
|---|---|
| NYSE Daily Sales Report—Printed [1] [2] | |
| First Copy | $600 |
| Additional Copy | 400 |
| NYSE Daily Sales Report—Microfiche [1] [2] | |
| First Copy | 500 |
| Additional Copy | 200 |
| NYSE Daily Sales Report—Combination [1] [2] | |
| Printed Copy plus Microfiche Copy | |
| First Set | 800 |
| Each Additional Printed Copy | 400 |
| Each Additional Microfiche Copy | 200 |

[1] Charges exclude applicable taxes.
[2] Charges include delivery to the subscriber's clearing box at 55 Water Street or to the Exchange's mail room at 8 Broad Street. Delivery costs to any other location are not included and will be charged separately to the subscriber. The new fees are to be effective upon filing.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(1) *Purpose*—The purpose of the proposed rule change is to establish fees for the NYSE Daily Sales Reports. Since late 1983, the Exchange has, on a pilot basis, produced and made available a limited number of NYSE Daily Sales Reports in both printed and microfiche form. These reports provide complete daily transaction information for all securities listed on the Exchange. The information provided, grouped by stock, is the time of sale, the sale price and the number of shares sold. The Exchange intends to begin marketing these reports as a new product on April 1, 1985.

(2) *Statutory Basis*—The basis under the Act for the proposed rule change is the requirement under section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In this connection, the Exchange states that the proposed fees from sales of NYSE Daily Sales Reports will cover the charges for the magnetic tapes from which the Reports derive and the cost of converting the data from the magnetic tape into hard copy. The proposed fee would also cover the direct expenses associated with the production, collation, binding, and distribution of the reports, selling and promotional expenses as well as administrative overhead.[1]

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposed rule change will impose no burden on competition. Further, since last sales reports previously were available from only one other source, the Exchange believes that offering the NYSE Daily Sales Report introduces competition into the product area for the first time.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

### 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 data if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) By order approve such proposed rule change or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., 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 in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 20, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 19, 1985.

John Wheeler,

*Secretary.*

[FR Doc. 85-4774 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

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[1] NYSE has amended its proposed rule change to provide a fuller statement of what expenses the proposed charges would cover as well as a fuller Statement on Burden on Competition. In addition, pursuant to the request of the Commission's staff, NYSE has agreed to have the rule proposal treated under section 19(b)(2) of the Act, instead of under section 19(b)(3)(A) of the Act (as originally filed). *See* letter dated January 29, 1985 from James E. Buck, Secretary, NYSE, to Thomas Etter, Attorney, Division of Market Regulation.

[Release No. 21775; File No. SR-PSE-85-1]

## Self-Regulatory Organization; Proposed Rule Change and Amendment No. 1 by the Pacific Stock Exchange, Inc.

February 19, 1985.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 4, 1985, the Pacific Stock Exchange, Inc. ("PSE") filed with the Securities and Exchange Commission the proposed rule change as desribed herein. On January 18, 1985, the PSE filed Amendment No. 1 the Proposed rule change. The Commission is publishing this notice to solicit comments on the amended proposed rule change from interested persons.

The proposed rule change, as amended, would permit the PSE to increase position and exercise limits for individual stock options to either 3,000, 5,500 or 8,000 contracts depending on certain proposed criteria related to the trading volume of the underlying stock or a combination of trading volume and the number of shares outstanding of the underlying stock.[1] Under current rules, a two-tiered limit of either 2,500 or 4,000 contracts exists for individual stock options.[2]

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, N.W., Washington, DC. 20549. Reference should be made to File No. SR-PSE-85-1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the PSE.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4773 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

[1] The rule change originally proposed by the PSE would establish a limit of 3,500 contracts for the lowest tier. The amended proposal reduced the proposed limits for the lower tier from 3,500 contracts to 3,000 contracts so that it conformed to similar amended proposals submitted by the Chicago Board Options ("CBOE"), American ("Amex") and Philadelphia ("Phlx") Stock Exchanges (*see* Footnote 2, below, for a discussion of the other exchanges proposals).

[2] The CBOE, Amex and Phlx originally filed proposals to increase position and exercise limits for individual stock options to 4,000, 6,000 or 8,000 contracts. *See* File No. SR-CBOE-84-21, Securities Exchange Act Release No. 21239, August 14, 1984, 49 FR 33073, August 20, 1984; File No. SR-Amex-84-30, Securities Exchange Act Release No. 21467, November 2, 1984, 49 FR 44969, November 13, 1984; and File No. SR-Phlx-84-25, Securities Exchange Act Release No. 21528, November 29, 1984, 49 FR 47572, December 6, 1984. On November 29, 1984, December 11, 1984 and January 24, 1985, the CBOE, Amex and Phlx, respectively, amended their rule filings to propose postion and exercise limits of 3,000, 5,500 or 8,000 contracts. CBOE also amended the standards that would be applicable to the middle tier of 5,500 contracts so that its proposal was consistent with the proposals of Amex and Phlx. Accordingly, under the current proposals of CBOE, Amex, Phlx and the PSE, a 5,500 contract limit would be applicable if the underlying stock had a trading volume of at least 20,000,000 shares during the most recent six month trading period or had at least a 15,000,000 share trading volume and has at least 40,000,000 shares currently outstanding. The 8,000 contract limit would be applicable if the underlying stock had a trading volume of at least 40,000,000 shares during the most recent six month trading period or had at least a 30,000,000 share trading volume and at least 120,000,000 shares currently outstanding. The proposed limit of 3,000 contracts applies to all other options not meeting the requirements for a higher limit.

## Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension

Rule 22d-1

No. 270-275

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of clearance Rule 22d-1, which was proposed as Rule 22d-6, exemption from section 22(d) of the Investment Company Act of 1940 to permit the sale of redeemable securities at different sales loads set pursuant to a schedule in the prospectus.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

February 21, 1985.

**John Wheeler,**

*Secretary.*

[FR Doc. 85-4768 Filed 2-26-85; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

### Capital Investment Company of Washington; License Surrender

Notice is hereby given that the Capital Investment Company of Washington, 1208 30th St., NW., Washington, D.C. 20007 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended, (the Act). The Capital Investment Company of Washington was licensed by the Small Business Administration on January 22, 1963.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender was accepted on February 11, 1985, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 20, 1985.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 85-4818 Filed 2-26-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0333]

### Domestic Capital Corp.; Issuance of a Small Business Investment Company License

On February 9, 1984, a notice was published in the **Federal Register** (49 FR 5013) stating that an application has been filed by Domestic Capital Corporation, 815 Reservoir Ave., Cranston, Rhode Island 02910 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)) for a license as a small business investment company.

Interested parties were given until close of business February 24, 1984, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information.

SBA issued License No. 01/01-0333 on December 11, 1984, to Domestic Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 20, 1985.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 85-4815 Filed 2-26-85; 8:45 am]

BILLING CODE 8025-01-M

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**[License No. 03/03-0176]**

### Sovran Funding Corp; Issuance of a Small Business Investment Company License

On November 27, 1984, a notice was published in the **Federal Register** (49 FR 46609) stating that an application has been filed by Sovran Funding Corporation, Sovran Center, Sixth Floor, One Commercial Plaza, Norfolk, Virginia 23510 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984) for a license as a a small business investment company.

Interested parties were given until close of business December 27, 1984, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/03-0176 on February 11, 1985, to Sovran Funding Corporation to operate as a a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 20, 1985.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 85-4816 Filed 2-26-85; 8:45 am]

BILLING CODE 8025-01-M

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### Delegation of Authority 12-F; Associate Administrator for Finance and Investment

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Finance and Investment in Delegation of Authority No. 12 (Revision 2) (47 FR 14995) as amended (48 FR 9979), the following authority, within Part I.H., Initial Placement and Secondary Market Activities, is hereby delegated to the Director, Office of Secondary Market Activities and to the Associate Director, Office of Secondary Market Activities as indicated herein:

A. To sign Secondary Participation Sales Agreements.

II. This redelegation does not authorize anyone serving in the above positions:

A. To sell any primary obligations or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereof.

B. To deny liability of the Small Business Administration under terms of a participation or guaranty agreement, or the initiation of a suit for recovery from a participation or guaranty agreement.

C. To accept or reject a compromise settlement of an indebtedness owed to the Agency for a sum less than the total amount due thereon.

III. The authority delegated herein may not be redelegated .

IV. The authority delegated herein may be exercised by any SBA employee officially designated as acting in that position.

Effective date: February 19, 1985.

Dated: February 19, 1985.

**Edwin T. Holloway,**

*Associate Administrator for Finance and Investment.*

[FR Doc. 85-4817 Filed 2-26-85; 8:45 am]

BILLING CODE 8025-01-M

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### Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit the maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "FFB Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged by the Federal Financing Bank on ten-year debentures sold by Licensees to the Bank. Notice of this rate is generally published each month.

Accordingly, Licensees are hereby notified that effective March 1, 1985, and until further notice, the FFB Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 11.505% per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as amended by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Dated: February 22, 1985.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 85-4819 Filed 2-26-85; 8:45 am]

BILLING CODE 8025-01-M

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## DEPARTMENT OF STATE

**[Public Notice CM-8/823]**

### Advisory Committee on International Investment, Technology, and Development, Subcommittee on Transborder Data Flows; Meeting

The Department of State will hold a meeting of the Subcommittee on Transborder Data Flows of the Advisory Committee on International Investment, Technology, and Development on March 14, 1985 from 10:00 a.m. to noon. The meeting will be in Room 1107 of the Department of State, 2201 "C" Street, N.W., Washington, D.C. 20520.

The purpose of the meeting will be to discuss the results of the Working Party on Computer Crime Issues held last December, the February session of the Working Party on Transborder Data Flows, the meeting of the full ICCP Committee scheduled for March 20, including the Draft Statement of General Intent to be discussed at that meeting, and the report of TBDF related to the UN Centre on Transnational Corporations.

Access to the State Department is controlled. Therefore, members of the public wishing to attend the meeting must contact the Office of Investment Affairs ((202) 632-2728) in order to arrange admittance. Please use the "C" street entrance.

The Chairman of the Working Group will, as time permits, entertain comments from members of the public at the meeting.

Dated: February 22, 1985.

**Walter B. Lockwood, Jr.,**

*Executive Secretary.*

[FR Doc. 85-4887 Filed 2-26-85; 8:45 a.m.]

BILLING CODE 4710-07-M

## DEPARTMENT OF TRANSPORTATION

### Fitness Determination of Bradford Air Transport, Inc.

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Commuter Air Carrier Fitness Determination—Order 85–2–47, Order to Show Cause.

**SUMMARY:** The Department of Transportation is proposing to find that Bradford Air Transport, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination shall file their responses with the Special Authorities Division, Room 6420, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than March 13, 1985.

**FOR FURTHER INFORMATION CONTACT:** Mary Catherine Terry, Office of Aviation Operations, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 755–3812.

Dated: February 22, 1985.

**Matthew V. Scocozza,**

*Assistant Secretary for Policy and International Affairs.*

[FR Doc. 85–4730 Filed 2–26–85; 8:45 am]

BILLING CODE 4910–62–M

## DEPARTMENT OF THE TREASURY

### Office of The Secretary

**[Supplement to Department Circ. Public Debt Series—No. 5–85]**

### Notes of Series 5–1987; Interest Rates

February 21, 1985.

The Secretary announced on February 20, 1985, that the interest rate on the notes designated Series S–1987, described in Department Circular—Public Debt Series—No. 5–85 dated February 14, 1985, will be 10 percent. Interest on the notes will be payable at the rate of 10 percent per annum.

**Gerald Murphy,**

*Fiscal Assistant Secretary.*

[FR Doc. 85–4748 Filed 2–26–85; 8:45 am]

BILLING CODE 4810–40–M

### Office of the Secretary

**[T.D. 85–37]**

### Revocation of Authority To Use Facsimile Signatures and Seals

By T.D. 84–58, authority to use facsimile signatures and seals on Customs bonds was authorized for Allied Fidelity Insurance Company, Indianapolis, Indiana.

By notice published as supplement 7 of the 1984 revision of Treasury Department Circular 570 in the **Federal Register** (50 FR 1158) on January 9, 1985, the authority of that surety to underwrite Federal bonds was discontinued.

Accordingly, there is no longer any authority to accept any bond from that company whether or not signed manually or by facsimile. The authority in T.D. 84–58, is hereby revoked.

Dated, February 21, 1985.

BON–1–02,

*File, 217755.*

**Edward B. Gable, Jr.,**

*Director, Carriers, Drawback and Bonds Division.*

[FR Doc. 85–4755Filed 2–26–85; 8:45 am]

BILLING CODE 4810–25–M

### Customs Service

### Release of Information to Taiwan

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

**ACTION:** Notice of Intent to Release Information.

**SUMMARY:** This notice advises the public that Customs intends, through appropriate channels, to provide the government of Taiwan, pursuant to their request, with copies of invoices which evidence the use of a fraudulent dual invoicing scheme with respect to the exportation from Taiwan of textile products subject to a bilateral textile restraint agreement to which the United States is a party.

**DATE:** March 13, 1985.

**FOR FURTHER INFORMATION CONTACT:** Ronald W. Gerdes, Assistant Chief Counsel, Administration and Legislation, 1301 Constitution Ave. N.W., Washington, D.C. 20229 (202–566–2482).

**SUPPLEMENTARY INFORMATION:** There has been significant public interest regarding the issue of providing invoice information to the government of Taiwan. The purpose of this document is to advise the public that Customs intends to provide the Committee for the Implementation of Textile Agreements ("CITA") with copies of invoices submitted to Customs which evidence the use of a fraudulent dual invoicing scheme with respect to the exportation from Taiwan of textile products subject to the Agreement on Trade in Cotton, Wool and Man-made Fiber Textiles and Textile Products Between the American Institute of Taiwan ("AIT") and the Coordination Council for North American Affairs (CCNAA) (the "Agreement"). These documents will then be forwarded by CITA, through the AIT, to CCNA.

The AIT was organized pursuant to section 6 of the Taiwan Relations Act, (22 U.S.C. 3305), for the purpose of conducting and carrying out the programs, transactions and other relations of the United States with respect to Taiwan, such actions of the AIT to be conducted, pursuant to section 10 of the Taiwan Relations Act, (22 U.S.C. 3309), through the CCNA, an instrumentality of the government of Taiwan. The CCNA has expressly assured the AIT that this information is being requested on behalf of Taiwan solely for law enforcement purposes relating to the Agreement and that the information will be treated as confidential. This information is being provided to the CCNA in order to prevent the fraudulent circumvention of the Agreement to which the U.S. is a party and the law enacted by Taiwan for the purpose of administering the Agreement.

The authority for taking this action is provided by section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), under which Congress provided the President, or his delegee, with the authority to negotiate these textile restraint agreements, and subsection (D) of Article 13 of the Agreement which provides that the "AIT and CCNAA agree to supply to the other party any information within its possession reasonably believed to be necessary to the enforcement of this Agreement." Because the Agreement was negotiated pursuant to section 204 of the Agricultural Act, as amended, and the requested documentation is considered necessary to enable Taiwan to enforce the Agreement, it is the position of Customs that the exchange of this information for such law enforcement purposes, being pursuant to appropriate legal authority, is not prohibited by either the Trade Secrets Act, 18 U.S.C. 1905, or any other provision of law.

Dated February 20, 1985.

**Robert P. Schaffer,**

*Assistant Commissioner, Commercial Operations.*

[FR Doc. 85-4754 Filed 2-26-85; 8:45 am]

BILLING CODE 4820-02-M

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[T.D. 85-36]

## Revision of Fee Charged Proprietors of Warehouse Facilities

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

**ACTION:** General notice.

**SUMMARY:** This document gives the public notice that the annual fee charged proprietors of Customs bonded warehouses for audits, inspections, and related services is being revised. The fee is charged in order to return to the Government the approximate cost of the services provided at these facilities by Customs officers.

**EFFECTIVE DATE:** January 1, 1985.

**FOR FURTHER INFORMATION CONTACT:** John Holl, Office of Inspection and Control, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-56-8151).

**SUPPLEMENTARY INFORMATION:** .

### Background

By T.D. 82-204, published in the **Federal Register** on November 1, 1982 (47 FR 49355), Customs amended its regulations contained in title 19, Code of Federal Regulations, Chapter I (19 CFR Chapter I), to implement changes relating to the control of merchandise in Customs bonded warehouses by establishing an audit-inspection program.

As amended, § 19.5, Customs Regulations (19 CFR 19.5), provides that each warehouse proprietor will be charged a fee to establish, alter, or relocate a warehouse facility which shall be determined under 31 U.S.C. 9701. By T.D. 84-45, published in the **Federal Register** on February 21, 1984 (49 FR 6433), the following fees were established:

| | |
|---|---|
| 1. Establish a bonded warehouse | $879.00 |
| 2. Alter an existing bonded warehouse | $382.00 |
| 3. Relocate an existing bonded warehouse | $382.00 |

In addition, each warehouse proprietor granted the right to operate a warehouse facility is charged an annual fee which is determined under section 555, Tariff Act of 1930, as amended (19 U.S.C. 1555).

The purpose of the annual warehouse fee is to reimburse the Customs appropriation for services rendered to the warehouse community including audit, inspection, and related administrative costs, and is to be projected on the basis of the annual cost to Customs in the preceding year plus any Federal salary increases.

Since the audit-inspection program started in November 1982, the fee has ben $650.00. Fees are calculated in accordance with $24.17(d), Customs Regulations (19 CFR 24.17(d)), which provides the formula for computing the fees for various reimbursable services.

The revised fee has been established following the calculation of actual allocated resources for the 52 Customs positions authorized for the audit-inspection program. Those calculations include salary, benefits, overhead, travel, and related expenses for 17 auditors and 35 inspectors. The total comes to $2,154,808, which when divided by the 1,533 bonded warehouses yields an annual fee of $1,406.00 for each warehouse. This figure has been rounded down to $1,400.00.

### Action

The annual fee to be charged for 1985 is set at $1,400.00. However, during the early part of 1985 Customs will investigate the establishment of a tiered annual warehouse fee based on the size or volume of the individual warehouse. The tiering system is expected to result in a feee lower than $1,400 for some small warehouses and a higher fee for very large warehuses. The tiered fees will be announced in another **Federal Register** notice. Refunds and billings will be issued by Customs during 1985.

### Authority

R.S. 251, as amended (19 U.S.C.66), section 312, 46 Stat. 692, as ameded (19 U.S.C. 1312), section 551, 46 Stat. 742, as amended (19 U.S.C. 1551), section 555, 46 Stat. 743, as amended (19 U.S.C. 1555), section 624, 46 Stat. 759 (19 U.S.C. 1624), section 22, 67 Stat. 520 (19 U.S.C. 1646a), 92 Stat. 888 (Pub. L. 95-410), 96 Stat. 1051 (31 U.S.C. 9701).

### Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. personnel from other Customs offices participated in its development.

**William von Raab,**

*Commissioner of Customs.*

Approved February 12, 1985.

**Edward T. Stevenson,**

*Assistant Secretary of the Treasury.*

[FR Doc. 85-4752 Filed 2-26-85; 8:45 am]

BILLING CODE 4820-02-M

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## Internal Revenue Service

[Delegation Order No. 113 (Rev. 9)]

## Delegation of Authority

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Delegation of authority.

**SUMMARY:** In an effort to equalize workload among the IRS regions, the Service realigned several districts effective October 1, 1984. This revision reflects the new alignmant of district offices under the Employee Plans and Exempt Organizations key districts. For purposes of processing applications and controlling returns for Employee Plans and Exempt Organizations the realignment will be implemented effective January 1, 1985.

**EFFECTIVE DATE:** January 1, 1985.

**FOR FURTHER INFORMATION CONTACT:** Thomas W. Lewald, OP:E:O:D, 1111 Constitution Ave., NW. Room 2237, Washington, D.C. 20224, Telephone No. (202) 566-9299, (not a toll-free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Jeanne A. Gessay,

*Chief, Employee Plans and Exempt Organizations Determination Branch.*

[Order No. 113 (Rev.9)]

Effective date: 1-1-85.

### Authority To Issue Exempt Organization Determination Letters

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37 and the provisions of 26 CFR 1.503(a)-1, authority with respect to issuance of determination letters pertaining to the exempt status of organizations under section 501(a) and related matters is delegated as follows:

1. The District Director of each Employee Plans and the Exempt Organizations key district listed in 4. below is authorized to:

(a) Issue determination letters, except as noted in section 2, below, with respect to exemption from Federal income tax under sections 501 and 521; status under IRC 120, 170(c)(2), 507, 508, 509, 4942(j)(3), 4947, 4948, and 6033 withholding of information from public inspection under IRC 6104(a)(1)(D); imposition of tax under IRC 11, 511 through 514, 527(f), 641, 1381, and

Chapters 41 and 42; provided the requests present questions the answers to which are clear from an application of the provisions of the statute, Treasury decisions or regulations, or by a ruling, opinion, or court decision published in the internal Revenue Bulletin, and

(b) Issue modifications or revocations of rulings or determination letters described above in accordance with currently applicable appeal procedures, and

(c) Determine that any trust described in section 501(c)(17) or 501(c)(18) has engaged in a prohibited transaction and to notify such entity in writing of the revocation of exemption and of the requalification for exemption after the trust establishes that it will not knowingly again engage in a prohibited transaction and that it also satisfies all other requirements under section 501(c)(17) or 501(c)(18), and

(d) Redelegate this authority but not below Exempt Organizations Specialist, Grade GS–12 (other than the originator) and not below Chief, Employee Plans and Exempt Organizations Division with respect to adverse modifications or revocations of such letters.

2. In each region, the Regional Counsel, the Regional Director of Appeals, Chief and Associate Chief, Appeals Office are authorized to issue final determination letters on appeals from proposed adverse determinations and proposed revocations issued by key district offices under this delegation. The authority may not be redelegated.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations), with the concurrence of the Chief Counsel, is authorized to require preissuance review of specific types of final adverse determinations of issues described in IRC 7428(a)(1).

4. In each region, the following Employee Plans and Exempt Organizations key districts are responsible for employee plans and exempt organizations matters:

| Key districts | IRS district covered |
|---|---|
| | **Central Region** |
| Cincinnati | Cincinnati, Cleveland, Detroit, Indianapolis, Louisville, and Parkersburg. |
| | **Mid-Atlantic Region** |
| Baltimore | Baltimore (which includes the District of Columbia and Office of International Operations), Pittsburgh, and Richmond. |
| Newark | Newark, Philadelphia and Wilmington. |
| | **Midwest Region** |
| Chicago | Aberdeen, Chicago, Des Moines, Fargo, Helena, Milwaukee, Omaha, St. Louis, St. Paul, and Springfield. |
| | **North-Atlantic Region** |
| Brooklyn | Albany, Augusta, Boston, Brooklyn, Buffalo, Burlington, Hartford, Manhattan, Portsmouth, and Providence. |
| | **Southeast Region** |
| Atlanta | Atlanta, Birmingham, Columbia, Greensboro, Jackson, Jacksonville, Little Rock, Nashville, and New Orleans. |
| | **Southwest Region** |
| Dallas | Albuquerque, Austin, Cheyenne, Dallas, Denver, Houston, Oklahoma City, Phoenix, Salt Lake City, and Wichita. |
| | **Western Region** |
| Los Angeles | Honolulu, Laguna Niguel, and Los Angeles. |
| San Francisco | Reno, Sacramento, San Jose, and San Francisco. |
| Seattle | Anchorage, Boise, Portland, and Seattle. |

Delegation Order No. 113 (Rev. 8) effective August 25, 1983, is hereby superseded.

**James I. Owens,**

*Deputy Commissioner.*

[FR Doc. 85–4830 Filed 2–26–85; 8:45 am]

BILLING CODE 4830-01-M

## UNITED STATES INFORMATION AGENCY

**[Delegation Order No. 85–3]**

### Executive Director of the United States Advisory Board on Radio Broadcasting to Cuba; Authority Delegation

Pursuant to the authority vested in me as Director of this Agency by the Radio Broadcasting to Cuba Act (Pub. L. 98–111), and by the Federal Advisory Committee Act (Pub. L. 92–463), I hereby delegate to the Executive Director of the Advisory Board on Radio Broadcasting to Cuba the following authority:

1. The authority of the Designated Federal Employee, as established in the Federal Advisory Committee Act and implementing regulations, and to be and serve as the Designated Federal Employee.

2. The authority to call and to attend all Advisory Board meetings, which may be held only when the Designated Federal Employee has approved the agenda and is in attendance.

3. The authority to adjourn any meeting whenever the Executive Director determines that adjournment is in the public interest.

4. The authority to publish notices announcing all meetings of the Advisory Board, open or closed, as required by law.

5. In the absence of the Executive Director or a vacancy in the office, this authority may be exercised by the Acting Executive Director.

6. Notwithstanding any other provision of this order, the Director may at any time exercise any function or any authority delegated herein.

This delegation of authority is effective immediately.

Dated: February 21, 1985.

**Charles Z. Wick,**

*Director.*

[FR Doc. 85–4747 Filed 2–26–85; 8:45 am]

BILLING CODE 8230-01-M

## VETERANS ADMINISTRATION

### Privacy Act of 1974; Amendment of System Notice and New Routine Use Statement

Notice is hereby given that the VA (Veterans Administration) is considering adding a new routine use statement for the system of VA records entitled "Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA and Federal Laws, Regulations, Programs, Etc.—VA "(11VA51) as set forth on pages 24010–24013 of the **Federal Register** of June 2, 1982. The VA Office of Inspector General, under the authority of the Inspector General Act of 1978 (Pub. L. 95–452, Section 4(a)), plans to conduct a continuing project to inform other interested Federal agencies of information contained in its system of records concerning the convictions, debarment or suspension of individuals for fraudulent or deceitful conduct in their dealings with the VA either as employees or in business or proposed business relationships as a means of detecting or preventing fraud or abuse by such individuals in the operations and programs of Federal agencies. This disclosure also is necessary for the VA to receive similar information from some Federal agencies. The VA has had experience with individuals who have been convicted, suspended or debarred from dealing with one agency because of fraudulent or deceitful conduct and who simply began dealing with another agency, engaging in the same type of activity resulting in harm or financial loss to the second agency.

The information to be furnished will consist of the names and other identifying data concerning employees or individuals doing or proposing to do business with the VA, and a summary of the violations for which convicted, debarred or suspended. The information will be furnished to Federal agencies engaged in activities including, but not limited to, procurement, construction, contracting, guaranteeing or insuring grants or loans, and obtaining services for a fee. In order to disclose this information, a new routine use is required. This proposed new routine use will permit the disclosure of the name and other identifying data and information of record concerning

employees or individuals either convicted of violating Federal or State law, or debarred or suspended from doing or proposing to do business with the VA, based upon fraudulent or deceitful conduct. The routine use will apply to all information in this System of Records which pertains to individuals and which can be retrieved by name or by some identifier assigned to an individual, without regard to whether the information concerns the individual as an employee or who is acting in a personal or in an entrepreneurial capacity.

The VA has determined that release of information for these purposes is necessary and a proper use of information in this system of records and that a specific routine use for transfer of this information is appropriate.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed routine use of the system of records to the Administrator of Veteran Affairs (217A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All revelant material received before March 29, 1985 will be considered. All written comments received will be available for public inspection only in room 132, Veterans Services Unit, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until April 12, 1985.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the new routine use statement included herein is effective March 29, 1985.

Approved: February 15, 1985.

**Harry N. Walters,**

*Administrator.*

In the system identified as "Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA and Federal Laws, Regulations, Programs, Etc."—VA (11VA51), appearing at 47 FR 24010 the following changes are made:

**QQVA51**

**SYSTEM NAME:**

Investigation Reports of Persons Allegedly Involved in Irregularities Concerning VA and Federal Laws, Regulations Programs, Etc.—VA (11VA51).

* * * * *

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

* * * * *

11. The name, address, and other identifying data, including title, date and place of birth, Social Security number, and summary information concerning an individual who, for fraudulent or deceitful conduct either as an employee or while conducting or seeking to conduct business with the Agency, has been convicted of violating Federal or State law or has been debarred or suspended from doing business with the VA, may be furnished to other Federal agencies to assist such agencies in preventing and detecting possible fraud or abuse by such individual in their operations and programs. This routine use applies to all information in this System of Records which can be retrieved by name or by some identifier assigned to an individual, regardless of whether the information concerns the individual in a personal or in an entrepreneurial capacity.

* * * * *

[FR Doc. 85-4740 Filed 2-26-84; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register
Vol. 50, No. 39
Wednesday, February 27, 1985

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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| | Item |
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1

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

February 21, 1985.

**TIME AND DATE:** 10:00 a.m., Friday, February 22, 1985.

**PLACE:** Room 600, 1730 K Street, NW., Washington, D.C.

**STATUS:** Closed (Pursuant to 5 U.S.C. § 552b(c)(10)).

**CHANGES IN THE MEETING:** The following case has been cancelled:

1. Secretary of Labor on behalf of James Clarke v. T.P. Mining, Inc., Docket No. LAKE 83-97-D.

Instead, the Commission will continue its consideration of the following cases, in which oral argument was heard on February 21, 1985.

1. Jim Walter Resources, Inc., Docket No. SE 84-23;
2. Jim Walter Resources, Inc., Docket No. SE 84-57;
3. Southern Ohio Coal Company, Docket Nos. WEVA 84-94-R and WEVA 84-166; and
4. Southern Ohio Coal Company, Docket Nos. LAKE 82-93-R, LAKE 82-94-R and LAKE 82-95-R

No earlier announcement of the change was possible, 5 U.S.C. § 552b(e)(1).

It was determined by a unanimous vote of Commissioners that this meeting be closed.

**CONTACT PERSON FOR MORE INFO:** Jean Ellen (202) 653-5632.

**Jean H. Ellen,**

*Agenda Clerk.*

[FR Doc. 85-4654 Filed 2-25-85; 11:35 am]

BILLING CODE 6735-01-M

2

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSON**

February 21, 1985.

**TIME AND DATE:** 10:00 a.m., Wednesday, February 27, 1985.

**PLACE:** Room 600, 1730 K Street, NW., Washington, D.C.

**STATUS:** Closed (Pursuant to 5 U.S.C. § 552b(c)(10)).

**MATTERS TO BE CONSIDERED:** The Commisson will consider and act upon the following:

1. Secretary of Labor on behalf of James Clarke v. T.P. Mining, Inc., Docket No. LAKE 83-97-D. (Issues include whether the administrative law judge appropriately approved the settlement of a discrimination case.)

It was determined by a unanimous vote of Commissioners that a meeting be held on this item and that no earlier announcement of the meeting was possible. 5 U.S.C. § 552b(e)(1).

**CONTACT PERSON FOR MORE INFOMATION:** Jean Ellen (202) 653-5632.

**Jean H. Ellen,**

*Agenda Clerk.*

[FR Doc. 85-4855 Filed 2-25-85; 11:35 am]

BILLING CODE 6735-01-M

3

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

February 22, 1985.

**TIME AND DATE:** 10:00 a.m., Wednesday, February 27, 1985

**PLACE:** Room 600, 1730 K Street, NW., Washington, D.C.

**STATUS:** Closed (Pursuant to 5 U.S.C. § 552b(c)(10)).

**MATTERS TO BE CONSIDERED:** In addition to the previously announced item, the Commission will consider and act upon the following:

2. Southern Ohio Coal Company, Docket No. WEVA 84-166, and WEVA 84-94-R. (Issues include the validity of a citation issued for violation of a notice of safeguard issued pursuant to 30 CFR 75.1403-5(g).)

It was determined by a unanimous vote of Commissioners that this meeting be closed and no earlier announcement of the addition was possible.

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, (202) 653-5629.

**Jean H. Ellen,**

*Agenda Clerk.*

[FR Doc. 85-4856 Filed 2-25-85; 11:35 am]

BILLING CODE 6735-01-M

4

**FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS**

**TIME AND DATE:** 11:00 a.m., Monday, March 4, 1985.

**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: February 22, 1985.

**James McAfee,**

*Associate Secretary of the Board*

[FR Doc. 84-4808 Filed 2-22-85; 4.24 pm]

BILLING CODE 6210-01-M

5

**FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS**

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** Forwarded to Federal Register on February 15, 1985.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 11:00 a.m., Monday, February 25, 1985.

**CHANGES IN THE MEETING:** One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

1. Proposed statement of the Board's organization and procedures and delegation of administrative responsibility and authority. (This item was previously announced for a closed meeting on February 4, 1985.)

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204

Dated: February 25, 1985.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc 85-4859 Filed 2-25-85; 11:45 am]

BILLING CODE 6210-01-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of February 25, March 4, 11, and 18, 1985.

PLACE: Commissioner's Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of February 25

*Monday, February 25*

3:00 p.m.
Status Report and Discussion of Options on Shoreham (Closed—Ex. 10)

*Tuesday, February 26*

10:00 a.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)
2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Waterford-3 (Public Meeting)

*Thursday, February 28*

2:15 p.m.
Affirmation Meeting (Public Meeting) (if needed)
3:30 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Week of March 4—Tentative

*Wednesday, March 6*

2:00 p.m.
Briefing on EEO Program (Public Meeting)

*Thursday, March 7*

11:00 a.m.
Meeting with Advisory Panel on TMI-2 Cleanup (Public Meeting)
2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of March 11—Tentative

*Tuesday, March 12*

2:00 p.m.
Briefing by Staff on Use of Check Pilot Approach for Reactor Operator Requalification (Public Meeting)

*Wednesday, March 13*

2:30 p.m.
Discussion of Managment-Organization and Internal Personnel Matters (Closed)—Ex. 2 & 6) (Tentative)

*Thursday, March 14*

10:00 a.m.
Briefing on Further Actions on Source Term (Public Meeting)
3:30 p.m.
Affirmative Meeting (Public Meeting) (if needed)

Week of March 18—Tentative

*Wednesday, March 20*

2:00 p.m.
Briefing by NUMARC on Status of NUMARC Initiatives (Public Meeting)

*Thursday, March 21*

10:00 a.m.
Discussion of Proposed Revisions to Part 35 (Public Meeting)
2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of "Implementation of Convention on Physical Protection" (Public Meeting) was held on February 22.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634-1410.

Dated: February 21, 1985.

Andrew L. Bates,

*Office of the Secretary.*

[FR Doc. 85-4812 Filed 2-22-85; 4:37 pm]

BILLING CODE 7590-01-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of March 4, 1985.

A closed meeting will be held on Tuesday, March 5, 1985, at 2:30 p.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 5, 1985, at 2:30 p.m., will be:

Formal orders of investigation.
Settlement of administrative proceedings of an enforcement nature.

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: February 22, 1985.

John Wheeler,

*Secretary.*

[FR Doc. 85-4912 Filed 2-25-85; 3:55 pm]

BILLING CODE 8010-01-M

Federal Register

Wednesday
February 27, 1985

Part II

# Department of Education

34 CFR Parts 674, 675, and 676

National Direct Student Loan Program, College Work-Study Program, and Supplemental Educational Opportunity Grant Program; Proposed Rule

**DEPARTMENT OF EDUCATION**

**34 CFR Parts 674, 675, and 676**

**National Direct Student Loan Program, College Work-Study Program, and Supplemental Educational Opportunity Grant Program**

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend the regulations for the campus-based programs (National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) programs). These proposed regulations would simplify and clarify provisions contained in previous regulations, and would reduce administrative burden by eliminating unnecessary provisions. The proposed regulations also incorporate statutory changes that have been made to the programs since the regulations were last published. Sections 674.3–674.7 of the NDSL regulations, §§ 675.3–675.7 of the CWS regulations, §§ 676.3–676.7 of the SEOG regulations and Subpart C of the NDSL regulations will be published in separate NPRMs, and therefore are not included in this proposed rule.

**DATE:** Comments must be received on or before April 29, 1985.

**ADDRESSES:** Comments should be addressed to Ms. Margaret O. Henry, Chief, Policy Section, Campus and State Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, 400 Maryland Avenue, SW. (Room 4018, ROB–3), Washington, D.C. 20202. Telephone (202) 245–9720.

**FOR FURTHER INFORMATION CONTACT:** Roxanne Flanagan or Anna S. Borlaug, Policy Section, Campus and State Grant Branch, Division of Policy and Program Development, Office of Student Financial Assistance, 400 Maryland Avenue, SW. (Room 4018, ROB–3), Washington, D.C. 20202. Telephone (202) 245–9720.

**SUPPLEMENTARY INFORMATION:**

**Background**

These proposed regulations revise the existing campus-based program regulations. The Campus-based programs are authorized as follows: NDSL—20 U.S.C. 1087aa–1087ii; CWS—42 U.S.C. 2751–2756b; SEOG—20 U.S.C. 1070b–1071b–3. The Secretary is proposing these rules in accordance with the provisions of Executive Order 12291 in that they would reduce burdens where possible, eliminate unnecessary duplication and clarify existing rules. Recent statutory changes are also included. Where necessary, additional guidance has been added to clarify existing regulations or policies. A description of the major changes follows. Changes that pertain to the two or three of the programs are described first followed by provisions that pertain to each program.

*Definitions (§§ 674.2, 675.2, 676.2)*

• The Secretary is further consolidating the definitions used in common by all the Title IV student assistance programs in Subpart A of the Student Assistant General Provisions regulations, 34 CFR Part 668. The Secretary is, therefore, deleting duplicates of these definitions in the proposed regulations for the campus-based programs.

• The only proposed major change is in the definitions of an undergraduate student and a graduate of professional student for the NDSL, CWS, and SEOG programs. The Secretary has modified those definitions to exclude any student who is classified as an undergraduate student from also qualifying as a graduate or professional student. The requirements in the SOEG program that the student has not previously received a bachelor's degree has been moved to § 676.9(a)(3) of the student eligibility requirements. The Secretary will incorporate the definitions of an undergraduate student and a graduate or professional student in the Student Assistant General Provisions final regulations.

*Student Eligibility and Selection Requirements (§ 674.9, 675.9, 676.9)*

• The Secretary is proposing to revise the student eligibility requirements to require a permanent resident to provide evidence that he or she is a permanent resident of the United States. The Secretary is proposing this requirement in response to a recommendation from the General Accounting Office and to ensure that campus-based funds are awarded to eligible students.

• The Secretary proposes to delete the requirement that an institution shall maintain on file all campus-based program aid applications. The Secretary proposes that an institution instead shall maintain only applications from those students it awarded aid and from those students it reported on the Federal application for funds, the FISAP. Further, the Secretary proposes to move that requirement to the recordkeeping sections §§ 674.19, 675.19 and 676.19 of the regulations.

• The Secretary proposes to delete the provisions on determining satisfactory academic progress. These provisions have been incorporated into the Student Assistance General Provisions regulations.

*Special Session (§§ 674.10, 675.10, 676.10)*

• The Secretary proposes to delete these sections which specify the eligibility requiremnts for a student enrolled during a special session. A student who meets the eligibility requirements of §§ 674.9, 675.9, and 676.9 would be eligible for aid for attendance during the special session.

*Cost of Attendance (§§ 674.11, 675.11, 676.11)*

• The Secretary proposes to delete the formula that an institution shall use to adjust the cost of attendance for a student whose program length excees the academic year. The Secretary also proposes to delete the formula for determining the tuition and fees charged to a less-than-full-time sudent. These provisions are unnecessary since institutions are required to take into account the period for which financial assistance is awarded, and whether a student is enrolled on a full-time or less-than-full-time basis.

*Expected Family Contribution (§§ 674.12, 675.12, 676.12)*

• The Secretary proposes to reorganize for clarity the section on expected family contribution.

• The Secretary proposes to delete the regulations governing a special determination of a student dependent student-parent relationship.

• A recent Federal statute requires an institution to consider as income or as a resource any amount in excess of $2,000 which a Native American student (and his or her spouse or parents) received individually under that Act or under the Distribution of Judgment Funds Act. This change is being made to implement Pub. L. 98–64.

• The Secretary proposes to include in §§ 674.12, 675.12, and 676.12, rather than in §§ 674.13, 675.13, and 676.13, authority to adjust an expected family contribution.

*Approved Need Analysis Systems (§§ 674.13, 675.13, 676.13)*

• The Secretary proposes to reorganize for clarity the section on approved need analysis systems.

• The Secretary proposes to discontinue preapproval (for dependent students) of the income tax system of need analysis.

• The Secretary requests comments on whether the Student Aid Index of the Pell Grant program should continue to

be used as a need analysis system for the campus-based programs.

• The Secretary proposes to require an institution to use one system of need analysis for all of its undergraduate students and one system for all of its graduate or professional students.

*Overawards (§§ 674.14, 675.14, 676.14)*

• The Secretary proposes to delete from these sections the requirement that an institution shall appoint a coordinating official for its student aid programs. The requirement is in the Student Assistance General Provisions regulations.

• The Secretary is proposing to add the provision that if a student receives additional Federal or non-Federal resources before the institution disburses the NDSL or SEOG, or before it employs the student under the CWS program, and the total resources including the NDSL, SEOG or prospective CWS wages exceed the student's need, the overaward is the amount that exceeds the need.

• The Secretary proposed to include in the NDSL and SEOG regulations provisions on recovery of overpayments. Institutions will also be responsible for reimbursing the NDSL or SEOG fund for any administrative cost allowance.

• The Secretary proposes to limit the use of GSL as a substitute for expected family contribution to a student whose family's adjusted gross income is $30,000 or less.

*Making and Disbursing Loans; Payments to Students of Work-Study Funds; and Payments of Grants (§§ 674.16, 675.16, and 676.16)*

• The Secretary proposes to delete the sample statement of educational purpose. The sample is in the Student Assistance General Provisions regulations.

• The Secretary proposed to delete the requirement that an institution shall get a written acceptance of the financial aid from the student, and the requirement that the institution shall provide the student with a statement containing information prescribed by the regulations.

• The Secretary proposes to increase the amount of NDSL and SEOG aid that may be disbursed in one payment from $300 to $500.

• The Secretary proposes to condense the formulas in §§ 674.16, and 676.16 of the NDSL and SEOG program regulations, respectively, for determining the amount of funds that shall be advanced each payment period.

• Sections 674.16 and 676.16 provide that an institution that operates on a traditional calendar may advance additional funds during a payment period to a student if he or she incurs uneven costs during the academic year. The Secretary proposed to extend this provision to all institutions.

• The Secretary proposes to delete the requirement in §§ 674.16 and 676.16 that if the institution credits a student's account it must give the student a receipt. However, the Secretary is proposing to add the provision that the institution shall notify the student of the amount he or she can expect to receive and how that amount will be paid.

• The Secretary proposes, in the NDSL and SEOG programs, to allow an institution to directly pay a registered student 10 days before the first day of class and to credit a registered student's account 3 weeks before the first day of classes. In addition, the Secretary is proposing that the institution be responsible for returning to the NDSL fund or SEOG account any funds paid to a student who before the first day of classes withdraws or is expelled. A student who does not begin class attendance is deemed to have withdrawn.

• The Secretary proposes to include a provision in the CWS and NDSL regulations which prohibits an institution from obtaining a student's power of attorney for disbursement of funds.

*Fiscal Procedures and Records (§§ 674.19, 675.19, 676.19)*

• The Secretary proposes to delete the requirements for Federal audits, non-Federal audits and audit reports since such provisions are being proposed for incorporation into the Student Assistance General Provisions regulations.

• The Secretary proposes to allow an institution to keep its records in computer format. However, if the institution keeps its records in computer format, the institution shall maintain, in either hard copy or microfilm, the source documents supporting the computer input.

• The Secretary proposes to add to the CWS and SEOG regulations the provision that, if the Secretary determines that adequate accounting records are not maintained, the institution will be required to keep CWS and SEOG funds in separate bank accounts.

• The Secretary is proposing to delete one of the options for identifying Federal funds in a bank account. The Secretary is proposing to delete the option of notifying the bank in writing of the accounts in which the institution deposits Federal funds. Instead, the Secretary proposes to require that an institution must include in the name of any bank account containing NDSL, CWS, or SEOG funds, the word "Federal."

*Maintenance of Effort (§§ 675.20, 676.20)*

• The Secretary proposes to revise the years that an institution has to use in establishing its maintenance-of-effort level for the CWS and SEOG programs to conform to the Education Amendments of 1980.

• The Secretary proposes codifying a previous policy under which the Secretary may waive the maintenance-of-effort requirement.

• The Secretary is proposing to delete the requirement that, to have a portion of the Maintenance of Effort waived due to withdrawal as a GSL lender, an institution must arrange alternate sources of financing for its students at least equal to the amount the Secretary waives.

• The Secretary is proposing that, if an institution withdraws from participating in the NDSL program, a portion of the maintenance-of-effort requirement may be waived.

• The Secretary is inviting the public to comment on the circumstances under which the Secretary should waive the maintenance-of-effort requirement.

**National Direct Student Loan Program Regulations**

*Program Participation Agreement (§ 674.8)*

• The Secretary proposes to delete from paragraphs (b), (c), and (d) of this section references to sections 468(a)–(d) and 469 of the Higher Education Act of 1965, as amended, because these sections are not currently being implemented.

• To protect Federal funds, the Secretary is proposing that institutions be required to restore to the NDSL fund the outstanding principal balance for any loan improperly disbursed and to return any administrative cost allowance claimed on such loan.

*Making and Disbursing Loans (§ 674.16)*

• The Student Loan Consolidation and Technical Amendments Act of 1983 (Pub. L. 98–79) established new disclosure requirements. Therefore, the Secretary proposes to revise the regulations to reflect these new disclosure requirements.

*Use of Funds (§ 674.18)*

• The Secretary has added the statutory requirement that an institution must receive a Federal capital contribution (FCC) in order to charge an administrative cost allowance against

the Fund. The Secretary is including this provision to comply with section 489 of the Act.

• The Secretary proposes to change this section to require an institution to charge its administrative cost allowance to the Fund during the same year in which expenditures for these costs were made.

*Fiscal Procedures and Records (§ 674.19)*

• The Secretary proposes that a separate bank account for FCC prior to deposit in the NSDL fund is not required. However, an institution shall notify any bank in which it deposits FCC prior to its deposit in the NDSL fund of all bank accounts in which Federal funds are deposited. The institution shall give this notice by indicating in the name of the account that Federal funds are deposited therein. If the Secretary determines that adequate accounting records not maintained, the institution shall be required to keep the "predeposited" FCC in a separate bank account.

• The Secretary proposes to require the institution to maintain all of its Fund's cash in a separate, insured, interest-bearing account, with the interest as an integral part of the Fund. Under the current statute and regulations, all interest earned on the Fund must be credited to the Fund.

*Compliance With Truth in Lending and Equal Credit Opportunity Requirements (§ 674.20)*

• The Garn—St. Germain Depository Institutions Act of 1982 (Pub. L. 97–320) exempted institutions administering the NDSL program from the requirements of the Truth in Lending Act. Therefore, the Secretary proposes to delete from the regulations the requirement that an institution shall comply with the truth in lending requirements of Regulation Z (12 CFR 226)

*Deposit of Institutional Capital Contribution Into Fund (§ 674.21)*

The Secretary proposes to delete this section and include it in §674.19 on fiscal procedures and records.

*Promissory Note (§ 674.31)*

• The Secretary is proposing to clarify those portions of § 674.32 describing the provisions of the promissory note by separating them from other extraneous provisions.

• The Secretary is also proposing to provide additional options to institutions for the promissory note.

*Repayment § 674.32)*

The proposed § 674.32 now also includes the provisions on repayment formerly in § 674.32 and § 674.33 and the extensions of the repayment period due to extraordinary circumstances and for low-income individuals, formerly in § 674.34a.

*Minimum Repayment Rates (§ 674.32(b))*

• If an institution exercises the $30 minimum monthly repayment on loans from more than one institution or loans with differing interest rates, the Secretary is proposing that the institution shall divide the principal of each monthly repayment in proportion to the principal advanced under each loan and then calculate the amount of principal repaid after determining the amount of interest to be repaid under each interest rate for that repayment.

• The Secretary is proposing to add a paragraph making explicit the repayment requirements for borrowers with loans that have differrent grace periods and deferments.

• The Secretary is proposing to delete §§ 674.33(d)(3) and 674.33(d)(4) because they are redundant.

*Deferments (§ 674.33)*

• The Secretary is proposing that regular students may qualify for deferments regardless of when they enroll in the academic year.

• The Secretary is proposing to revise the definition of an eligible intership. To qualify as an eligible internship, the internship shall require at least a bachelor's degree before beginning the program, and shall be required prior to professional practice. An example of an eligible internship is a medical residency. To receive a deferment, the borrower shall provide a statement from the appropriate State licensing agency that the intership meets these criteria and a statement from the organization with which the borrower is undertaking the internship regarding the borrower's acceptance into the program and its duration.

*Definition of "teacher" (§ 674.51(h))*

Over the course of the years that loan cancellation has been available for teachers of handicapped children, questions have been raised with regard to whether individuals who provide "educationally related services" can qualify for cancellation benefits. The Secretary is proposing changes in the definition of a "teacher" in § 674.51 to clarify this question.

Individuals who provide medical or diagnostic services do not qualify as teachers. Individuals who provide counseling or therapy also do not qualify as teachers unless they are certified by, licensed by, or registered with the appropriate State or local educational agency for the area in which they are providing related special educational services and the services they provide are part of the educational curriculum developed for handicapped children.

*Teacher Cancellation for Full-Time Teaching of Handicapped children (§ 675.54(b))*

The Secretary is proposing to clarify this provision by making explicit that to qualify for cancellation a majority of the borrower's students shall be handicapped children.

*Teaching in a School System (§§ 674.53(d) and 674.54(d))*

The Secretary is proposing to add a paragraph clarifying that a borrower shall be directly employed by a school system to qualify for teacher cancellation. The Secretary is including this provision because of conflicting interpretations of this requirement.

*No Cancellation for Prior Service—No Repayment Refunded—Cancellations Not Considered Taxable Income (§ 674.58)*

In an effort to clarify this section, the Secretary proposes to add the provision that a borrower may not receive cancellation for teaching, Head Start, or Military Service if the service is performed during the same period that he or she received the loan, or before the date the loan was disbursed.

**College Work-Study Program Regulations**

*Program Participation Agreement (§ 675.14)*

The Secretary proposes to add the provision that an institution may continue to employ a student employed in a CWS job, during a payment period, at the time income derived from any employment (CWS or non-CWS employment) is in excess of the student's need. However, when the excess equals $200 or more, continued employment may not be subsidized with CWS funds.

*Carry Forward and Carry Back (§ 675.18)*

• The Secretary is proposing to clarify this provision to state that before an institution spends its current year allocation it must spend any funds it carried forward to that year.

• The Secretary is proposing to clarify this provision to indicate that the

institution's official allocation letter is the Secretary's approval to carry back funds.

*Fiscal Procedures and Records (§ 675.19)*

• The Secretary proposes to delete the requirement that an institution shall maintain for all students a statement of whether the work was performed in a satisfactory manner.

• Current regulations require an institution to maintain a time record showing the hours each student worked. The Secretary is proposing to require that the time record be kept in clock-time sequence.

*CWS Employment. (§ 675.21)*

• The Secretary is proposing to delete the provision which prohibits an institution from employing a CWS student in the non-related profitmaking activities of the institution.

• The Secretary proposes to include in this section the provisions on eligible jobs contained in § 675.23 of the current CWS regulations.

*Earnings Applied to the Cost of Attendance (§ 675.23)*

• The Secretary is proposing to delete the specific amounts that may be used for job-related costs. The institution will be responsible for determining the amount that may be used by the student for job-related costs.

*CWS Federal Share Limitations (§ 675.24)*

• Current regulations provide 3 options to an institution if it receives more money from an off-campus employer that is required to pay the non-Federal share of wages and the administrative costs. The Secretary proposes to delete the option that the institution refund the money to the off-campus employer. Therefore, an institution will be required either to use the excess funds to reduce the Federal share on a dollar-for-dollar basis, or to hold the excess funds in a trust for off-campus student employment next year.

• The Secretary is proposing to delete one of the conditions that qualifies an institution for a Federal share greater than 80 percent. An institution would only be eligible for a Federal share greater than 80 percent if it is designated as an eligible institution under the Strengthening Program, or the Special Needs Program each of which is authorized by Title III of the Higher Education Act of 1965, as amended. In addition, the Secretary proposes to delete the requirement that an institution which is approved for a Federal share greater than 80 percent must contribute the amount of compensation it paid to students in the 1975–76 award year.

*Community Service Learning Program (§ 675.26)*

The Secretary proposes to clarify that an institution may use funds authorized by section 442(f) of the Act to employ those students under the community service learning program.

*Residents of American Samoa or the Trust Territory of the Pacific Islands Attending Institutions of Higher Education Outside of Those Areas (§ 675.27)*

The Secretary proposes to clarify how funds authorized by Section 442(f) of the Act may be spent. These are funds allocated to institutions for students who are residents of American Samoa or the Trust Territory of the Pacific Islands but who attend institutions outside of those areas.

*Job Location and Development (JLD) Program (Subpart B)*

• The Secretary proposes to reorganize Subpart B of the CWS regulations to eliminate duplication of provisions.

*Supplemental Educational Opportunity Grant Program Regulations, Amount and Types of SEOG Awards (§ 676.10)*

• The Secretary proposes to incorporate §§ 676.23 and 676.24 into a new § 676.10.

• The Secretary proposes to delete the requirement that an institution shall reduce a grant which is awarded for less than a full academic year.

• The Secretary proposes that an institution may reduce the minimum grant for a student enrolled for less than a full academic year.

*Duration of Student Eligibility (§ 676.22)*

The Secretary proposes to incorporate § 676.22, "Duration of student eligibility," into § 676.9, "Student eligibility."

**Executive Order 12291**

These proposed regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

**Regulatory Flexibility Act Certification**

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

The small entities affected by these regulations would be small institutions of higher education participating in the campus-based programs. These proposed regulations would merely simplify and clarify provisions contained in previous regulations.

**Invitation To Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 45th day after publication of this document will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period, in Room 4018, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week, except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

**Paperwork Reduction Act of 1980**

Information collection requirements contained in these proposed regulations at §§ 674.9, 675.9, 676.9, 674.11, 675.11, 676.11, 674.12, 675.12, 676.12; 674.19, 675.19, 676.19, 674.20, 675.20, 676.20, will be sent to OMB for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Comments that *only* concern information collection requirements should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, 17th Street and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education.

All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

**Assessment of Educational Impact**

The Secretary particularly requests comments on whether the regulations in

this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

**List of Subjects in 34 CFR Parts 674, 675 and 676**

Education loan programs—education, student aid, Reporting and recordkeeping requrements.

**Citation of Legal Authority**

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; College Work-Study Program, 84.033; National Direct Student Loan Program, 84.038)

Dated: February 19, 1985.

**William J. Bennett,**

*Secretary of Education.*

The Secretary proposes to amend Parts 674, 675, and 676 of Title 34 of the Code of Federal Regulations as follows:

## PART 674—NATIONAL DIRECT STUDENT LOAN PROGRAM

Part 674 of Title 34 of the Code of Federal Regulations would be amended as set forth below:

**Note.**—An asterisk (*) indicates provisions that are common to Parts 674, 675, and 676. The use of asterisks will assure participating institutions that a provision of one regulation is identical to the corresponding provisions in the other two.

1. The authority for Part 674 reads as follows:

**Authority:** Sec. 461–469 of Title IV–E of the Higher Education Act of 1965, as amended (20 U.S.C. 1087aa–1087ii), and sec. 421–429 of Title II of the National Defense Education Act of 1958, as amended (20 U.S.C. 421–429) unless otherwise noted.

2. Sections 674.1 and 674.2 would be revised to read as follows:

**§ 674.1 Purpose and identification of common provisions.**

(a) The National Direct Student Loan (NDSL) Program provides low-interest loans to financially needy students attending institutions of higher education to help them pay their educational costs.

(b)(1) The National Direct Student Loan Program authorized by Title IV–E of the Higher Education Act of 1965 is a continuation of the National Defense Student Loan Program authorized by Title II of the National Defense Education Act of 1958. All rights, privileges, duties, functions, and obligations existing under Title II before the enactment of Title IV–E continue to exist.

(2) The Secretary considers any student loan fund established under Title II to have been established under Title IV–E. The assets of an institution's student loan fund established under Title II are assets of the institution's Fund established under Title IV–E.

* (c) Provisions in these regulations that are common to all campus-based programs are identified with an asterisk.

(20 U.S.C. 1087aa–1087ii; Pub. L. 92–318, sec. 137(d)(1))

**§ 674.2 Definitions.**

* (a) Subpart A of the Student Assistance General Provisions, 34 CFR Part 668, sets forth definitions of the following terms used in this part:

*Academic year;*
*Act;*
*Award year;*
*Campus-based programs;*
*Clock hour;*
*College Work-Study (CWS) Program;*
*Defense loan;*
*Dependent student;*
*Direct loan;*
*Guaranteed Student Loan (GSL) Program;*
*Independent student;*
*National Defense Student Loan Program;*
*National Direct Student Loan (NDSL) Program;*
*National of the United States;*
*One-year training program;*
*Parent;*
*Pell Grant Program;*
*PLUS Program;*
*Postsecondary vocational institution;*
*Proprietary institution of higher education;*
*Public or private nonprofit institution of higher education;*
*Recognized equivalent of a high school diploma;*
*Regular student;*
*Secretary;*
*Six-month training program;*
*State;*
*State Student Incentive Grant (SSIG) Program; and*
*Supplemental Educational Opportunity Grant (SEOG) Program.*

(b) The Secretary defines other terms used in this part as follows:

*Default:* (1) Except as provided in paragraph (2) of this definition, a borrower is in default on a Direct or Defense loan if he or she fails to—

(i) Make an installment payment when due; or

(ii) Comply with other terms of the promissory note.

(2) A borrower is not in default on a Direct or Defense loan even if he or she failed to make a timely repayment or failed to comply with other terms of the promissory note where—

(i) The borrower's Direct or Defense loan is discharged in bankruptcy; or

(ii)(A) The institution that made the loan reasonably concludes from one or more written contacts with the borrower that the borrower intends to repay the loan; and

(B) The borrower evidences that intent by making one or more loan repayments or demonstrates entitlement to deferment, postponement, or cancellation.

*Default rate:* Represented as a fraction:

$$\frac{\text{Defaulted principal amount outstanding}}{\text{Matured loans}}$$

*Defaulted principal amount outstanding:* The total loan amount borrowed from an institution's NDSL fund that has reached the repayment stage minus any principal amount repaid or cancelled on those loans that are—

(1) Repayable monthly and in default at least 120 days; or

(2) Repayable less frequently and in default at least 180 days.

* *Eligible program:* A program of education or training that—

(1) Admits as regular students only persons who—

(i) Have a high school diploma;

(ii) Have a General Education Development (GED) Certificate or a State certificate received after passing a State-authorized examination which the State recognizes as the equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is located, and have the ability to benefit from the education or training offered; and

(2)(i) Leads to a bachelor's, associate, graduate, or professional degree;

(ii) Is at least a two-year program that is acceptable for full credit toward a bachelor's degree;

(iii) Is at least a one-year program leading to a certificate or degree that prepares a student for gainful employment in a recognized occupation; or

(iv) Is, for a proprietary institution of higher education or a postsecondary vocational institution, at least a six-month program leading to a certificate or degree which prepares a student for gainful employment in a recognized occupation.

** Expected family contribution (EFC):* The amount a student and his or her spouse and family are expected to pay toward the student's cost of attendance.

*Federal capital contribution (FCC):* The portion of a Fund the Secretary allocates to an institution under § 674.4.

** Financial need:* The difference between a student's cost of attendance and his or her EFC.

*Fund (NDSL Fund):* A fund established and maintained according to § 674.8.

*Grace period:* (1) For loans made before October 1, 1980, the grace period is a period of nine consecutive months, during which a borrower does not have to pay principal or interest, starting from the date the borrower ceases to be at least a half-time student at an institution of higher education.

(2) For loans made on or after October 1, 1980, the grace period is a period of six consecutive months, during which the borrower does not have to pay principal or interest, starting from—

(i) The date the borrower ceases to be at least a half-time student at an institution of higher education; or

(ii) The date the borrower's deferment period ends if the deferment is one described in § 674.34 (a), (b), or (c).

*Graduate or professional student:* A student who—

(1) Is enrolled in a program or course above the baccalaureate level at an institution of high education or is enrolled in a program leading to a first professional degree;

(2) Has completed the equivalent of at least three years of full-time study at an institution of higher education, either prior to entrance into the program or as part of the program itself; and

(3) Is not receiving Title IV aid as an undergraduate student.

*Half-time graduate or professional student:* An enrolled graduate or professional student who is carrying a half-time academic work load as determined by the institution according to its own standards and practices.

*Half-time undergraduate student:* An enrolled undergraduate student who is carrying a half-time academic work load, as determined by the institution, which amounts to at least half the work load of a full-time student. However, the institution's half-time standards must equal or exceed the equivalent of the following minimum requirements:

(1) 6 semester hours or 6 quarter hours per academic term for an institution using a standard semester, trimester, or quarter system;

(2) 12 semester hours or 18 quarter hours per academic year for an institution using credit hours to measure progress, but not using a standard semester, trimester, or quarter system; or the prorated equivalent for a program of less than one year;

(3) 12 clock hours per week for an institution using clock hours; or

(4) 12 hours of preparation per week for a student enrolled in a program of study by correspondence. Regardless of the work load, no student enrolled solely in correspondence study is considered more than half-time.

** Institution of higher education (institution):* A public or private nonprofit institution of higher education, a proprietary institution of higher education, or a postsecondary vocational institution.

*Institutional capital contribution (ICC):* The portion of a Fund contributed by the institution under § 674.8(a)(2).

*Matured loans:* The total principal amount of all loans made to students from an institution's Fund minus the principal amount of loans made from the institution's Fund to students who—

(1) Are enrolled as at least half-time students; or

(2) Are still in their first grace period.

** Payment period:* A semester, trimester, or quarter. For an institution not using those academic periods, it is the period between the beginning and the midpoint or between the midpoint and the end of an academic year.

*Undergraduate student:* A student who is in an undergraduate course of study that usually does not exceed 4 academic years, or is enrolled in a 4- to-5-academic-year program designed to lead to a first degree. A student enrolled in any other length program is considered an undergraduate student for only the first 4 academic years.

(20 U.S.C. 1087aa-1087ii)

3. Sections 674.8 through 674.20 would be revised to read as follows:

**§ 674.8 Program participation agreement.**

To participate in the NDSL program, an institution shall enter into a participation agreement with the Secretary. The agreement provides that the institution shall use the funds it receives solely for the purposes specified in this part and shall administer the program in accordance with the Act, this part and the Student Assistance General Provisions regulations, 34 CFR Part 668. The agreement further provides that—

(a) The institution shall establish and maintain a Fund and shall deposit into the Fund—

(1) FCC appropriated under section 461 of the Act;

(2) ICC equal to at least one-ninth of the FCC described in paragraph (a)(1) of this section;

(3) Repayments of principal and interest;

(4) Payments to the institution as the result of Direct loan cancellations under section 465(b) of the Act;

(5) Penalty charges collected under § 674.32(f);

(6) Any other earnings of the Fund including any interest earned on the funds listed in paragraphs (a)(1) through (5) of this section; and

(7) Any short term, no-interest loans the institution makes to the Fund in anticipation of collections or receipt of FCC.

(b) The institution shall use the money in the Fund only for—

(1) Making Direct loans to students;

(2) Administrative expenses as provided for in § 674.18(b);

(3) Capital distributions provided for in section 466 of the Act;

(4) Litigation costs (see § 674.47);

(5) Other collection costs, agreed to by the Secretary in connection with the collection of principal, interest, and penalty charges on a loan made from the Fund (see § 674.47); and

(6) Repayment of the short term, no-interest loans made to the Fund by the institution in anticipation of collections or receipt of FCC.

(c) The institution shall submit a report to the Secretary at least twice a year that shows the total number of borrowers who are in default—

(1) 120 days for loans repayable in monthly installments; or

(2) 180 days for loans repayable in less frequent installments.

(d) If a loan has been in default at least 2 years despite due diligence on the part of the institution in collecting the loan, the institution may assign its rights to the loan to the United States without recompense.

(e) To assist institutions in collecting outstanding loans, the Secretary provides to an institution the names and addresses of borrowers or other information relevant to collection which is available to the Secretary.

(f) The Secretary may require that the institution restore to the Fund the outstanding principal balance of a Defense or Direct loan if the institution improperly disbursed the loan or fails to exercise due diligence in its collections. The institution may also be required to return to the Fund any administrative

cost allowance it received for that loan amount.

(20 U.S.C. 1087cc, 1087dd, 1094)

**§ 674.9 Student eligibility and selection requirements.**

(a) *Eligibility.* A student is eligible to receive a Direct loan at an institution of higher education if the student—

*(1) Is a regular student;

(2) Is enrolled or accepted for enrollment in an eligible program as at least a half-time graduate or undergraduate student;

(3)(i) Is a U.S. citizen or National;

(ii) Is a permanent resident of the Trust Territory of the Pacific Islands, or the Northern Mariana Islands; or

(iii) Provides evidence from the U.S. Immigration and Naturalization Service that he or she—

(A) Is a permanent resident of the United States, or

(B) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident.

*(4) Has financial need. A member of a religious order (an order, community, society, agency, or organization) who is pursuing a course of study at an institution of higher education is considered to have no financial need if that religious order—

(i) Has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being; and

(ii) Directs the member to pursue the course of study or provides subsistence support to its members;

*(5) Is maintaining satisfactory academic progress in the course of study he or she is pursuing according to the standards and practices of that institution;

*(6) Except as provided in paragraph (b) of this section, does not owe a refund on a Pell Grant, SEOG, or SSIG received to meet the cost of attendance at that institution; and

*(7) Except as provided in paragraph (c) of this section, is not in default on any NDSL, GSL, or PLUS loan received to meet the cost of attendance at that institution.

*(b) *Overpayment.* Overpayment of a grant means that a student's grant payments are greater than the amount he or she is entitled to receive. A student who owes a refund on a Pell Grant, SEOG, or SSIG due to an overpayment is eligible to receive a Direct loan under the following conditions:

(1)(i) *Overpayment of a Pell Grant.* If an institution makes an overpayment of a Pell Grant to a student, that student is eligible to receive a Direct loan if—

(A) The student is otherwise eligible; and

(B) The institution can eliminate the overpayment in the award year in which it occurred by adjusting subsequent Pell Grant payments for that award year.

(ii) *Overpayment of a Pell Grant due to institutional error.* If the institution makes an overpayment of a Pell Grant to a student as a result of its own error and cannot correct the overpayment as specified in paragraph (b)(1)(i)(B) of this section, the student is eligible to receive a Direct loan if—

(A) The Student is otherwise eligible; and

(B) The student acknowledges in writing the amount of overpayment and agrees to repay it in a reasonable period of time.

(2) *Overpayment of an SEOG or SSIG.* If an institution makes an overpayment of an SEOG or SSIG to a student, that student is eligible to receive a Direct loan if—

(i) The student is otherwise eligible; and

(ii) The institution can eliminate the overpayment by adjusting financial aid payments (other than Pell Grants) in the same award period in which the overpayment occurred.

*(c) *Default on loans.* The following are the conditions under which an institution may make a Direct loan to a student who is in default on GSL, PLUS, Direct or Defense loans made for attendance at that institution:

(1)(i) *Guaranteed loan and PLUS.* An institution may make a Direct loan or continue to advance NDSL funds to a student who is in default on a Guaranteed Student Loan or a Plus if the Secretary (for a Federally insured loan) or a guarantee agency (for a loan insured by that guarantee agency) determines that the student has made satisfactory arrangements to repay the defaulted loan.

(ii) *GSL/PLUS—Reliance on student's statement.* An institution, in determining whether a student is in default on a loan made under the Guaranteed Student Loan Program or the PLUS program, may rely upon the student's written statement that he or she is not in default unless the institution has information to the contrary.

(2) *National Defense/Direct Student Loan.* An institution may make a Direct loan or continue to advance NDSL funds to a student who is in default on a National Defense/Direct Student Loan made at that institution if the student has made arrangements, satisfactory to the institution, to repay the loan.

*(d) *Bankruptcy.* The Secretary does not consider a loan made under the National Defense Student Loan, National Direct Student Loan, Guaranteed Student Loan, or PLUS Program that is discharged in bankruptcy to be in default for purposes of this section.

(e) *Selection.* *(1) An institution shall make Direct loans reasonably available (to the extent of available funds) to all eligible students.

*(2) The institution shall establish selection procedures and these procedures must be—

(i) Uniformly applied;

(ii) In writing; and

(iii) Maintained in the institution's files.

(3) The institution shall not make a Direct loan to a student who is unwilling to repay that loan. Default on a previous loan is evidence of that unwillingness.

(20 U.S.C. 1087cc, 1091)

**§ 674.10 Direct loan maximums.**

The maximum amount of Direct loans an eligible student may borrow is—

(a) $3,000 for a student who has not completed 2 academic years of study toward a bachelor's degree. The $3,000 includes Defense and Direct loans;

(b) $6,000 for a student who has completed 2 academic years of study toward a bachelor's degree and has achieved third-year status but has NOT received the degree. The $6,000 includes Defense and Direct loans the student borrowed before completing the 2 years of study toward a bachelor's degree; and

(c) $12,000 for study toward a professional or graduate degree. The $12,000 includes Defense and Direct loans a student borrowed for undergraduate study.

(20 U.S.C. 1087dd)

***§ 674.11 Allowable costs of attendance.**

(a) *General.* (1) Except as provided in paragraph (d) of this section a student's cost of attendance means—

(i) The tutition and fees charged to a full-time student for an academic year by the institution he or she is attending as determined under paragraph (b) of this section;

(ii) An allowance for room and board expenses for an academic year, as determined under paragraph (c) of this section;

(iii) A reasonable allowance determined by the institution for books and supplies for an academic year;

(iv) A reasonable allowance determined by the institution for transportation for an academic year. This allowance may include—

(A) The cost of travel between the student's residence and the institution; and

(B) The cost of travel required for completion of a course of study;

(v) A reasonable allowance determined by the institution for miscellaneous personal expenses for an academic year;

(vi) A reasonable allowance determined by the institution for an academic year for expenses related to study abroad for students enrolled in an academic program which normally includes a formal program of study outside the United States;

(vii) A reasonable allowance determined by the institution for expenses for an academic year related to child care for a student's dependent children; and

(viii) A reasonable allowance determined by the institution for a handicapped student's expenses for an academic year related to his or her handicap, if these expenses are not provided for by any other assisting agency or program. This allowance may include expenses related to special services, transportation, equipment and supplies. A handicapped student is a student who meets the definition contained in section 602(1) of the Education of the Handicapped Act, i.e. a student who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or orthopedically impaired, or is otherwise health impaired or has specific learning disabilities which require special education and related services.

(2) The institution shall take into account when determining a student's cost of attendance—

(i) The period for which financial assistance is awarded; and

(ii) Whether the student is enrolled on a full-time or less than full-time basis.

(b) *Tuition and fees.* (1) An institution shall determine the tuition and fees charged a full-time student by calculating—

(i) The actual amount charged the full-time student for tuition and fees for an academic year; or

(ii) The average amount it charges full-time students for tuition and fees for an academic year. If the institution selects this option, it shall determine an average cost for each of the following categories of students:

(A) Undergraduate students;

(B) Graduate students; and

(C) Professional students.

(2) If an institution establishes its tuition and fee charges on a residency requirement basis (e.g. In-State and Out-of-State) and elects to calculate an average charge for tuition and fees, it shall establish a separate average charge for each different residency based classification.

(3) An institution may determine a separate average charge for any other distinct classification upon which it bases tuition and fee charges.

(c) *Room and board.* (1) The institution shall calculate a student's room and board allowance as follows—

(i) For a student who has no dependents and lives with his or her parent(s), an allowance of $1,100;

(ii) For a student who has no dependents and lives in institutionally owned or operated housing—

(A) The actual amount charged the student for room and board for an academic year; or

(B) A standard allowance based on the average amount it charges most of its student residents for room and board for an academic year;

(iii) For a student who has no dependents and does not live with his or her parent(s) or in institutionally owned or operated housing, a standard allowance determined by the institution for room and board for an academic year; or

(iv) For a student who has dependents, an allowance determined by the institution for room and board for an academic year based upon expenses incurred by the student and his or her dependent(s).

(2) For purposes of this section, a spouse is considered a dependent.

(d) *Attendance costs for students in correspondence study programs.* The cost of attendance for a student enrolled in a correspondence study program means—

(1) Actual tuition and fees charged to the student for an academic year;

(2) A reasonable allowance determined by the institution for books and supplies for an academic year, if required for the completion of the program; and

(3) If incurred in fulfilling a required period of residential training, expenses for—

(i) Room and board; and

(ii) Travel between the student's residence and the institution.

(e) *Adjustments.* The institution may, in individual cases, adjust a student's cost of attendance if the cost of attendance calculated under paragraphs (a) through (d) of this section is not a reasonable approximation of the student's actual costs.

(f) *Required documentation.* An institution shall be able to justify and document the cost of attendance figures established under this section.

(20 U.S.C. 1089)

***§ 674.12 Expected family contribution.**

(a) *Annual determinations.* An institution shall determine a student's financial need at least annually.

(b) (1) To determine a student's financial need, an institution shall determine the student's EFC.

(2) To determine an EFC for the period of the student's award, an institution shall use one of the approved systems of need analysis as provided in § 674.13.

(c) *Native American students.* In determining a Native American's EFC, an institution may not consider the following as income or assets of the student and his or her spouse or parents—

(1) Awards made under Pub. L. (98–64, the Distribution of Judgment Funds Act (25 U.S.C. 1401 *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), and the Maine Indian Claims Settlement Act (25 U.S.C. 1721 *et. seq.*). However, if the awards under the first or second Acts individually exceed $2,000, only the awards under each of those Acts in excess of $2000 shall be considered income or assets of the student or the student's spouse or parents;

(2) Property that may not be sold or encumbered without the consent of the Secretary of the Interior; and

(3) Any other property held in trust by the U.S. Government for the student or the student's spouse or parents.

(d) *Adjustments.* An institution may, in individual cases, adjust an EFC computed according to one of the approved need analysis systems, as provided in § 674.13, if—

(1) The student financial aid administrator believes the EFC does not accurately reflect the student's, spouse's, or parent's ability to contribute; and

(2) The institution documents all adjustments in writing with an accompanying explanation.

(20 U.S.C. 1087dd)

***§ 674.13 Approved need analysis systems.**

(a) (1) An institution shall use a need analysis system which is approved by the Secretary in determining a student's EFC.

(2) Any system of need analysis approved by the Secretary—

(i) Must consider in determining the amount a dependent student and his or her spouse and parents are expected to contribute toward the student's costs of attendance—

(A) The number of the parents' dependent children;

(B) The number of the parents' dependent children attending institutions of higher education; and

(C) Tuition costs of dependent children attending elementary and secondary schools;

(ii) Must consider in determining the amount an independent student and his or her spouse are expected to contribute toward the student's costs of attendance:

(A) The number of the student's dependent children; and

(B) The number of the student's dependent children attending institutions of higher education;

(iii) Must produce expected parental contributions that—

(A) Increase incrementally as the parents' financial strength, measured in constant dollars, increases; and

(B) Are equal for parents of equal financial strength.

(3) The Secretary preapproves the need analysis systems described in paragraph (b) of this section, and approves other systems that meet the requirements of this section.

(b) *Preapproved systems for dependent and independent students.* The Secretary preapproves the following need analysis system—

(1) The system that produces the expected family contribution number (FC) printed on the Student Aid Report provided to the student by the Secretary; and

(2) The EFC used in the Pell Grant Program (34 CFR Part 690).

(c) *Application requirements.* (1) An individual or organization wishing to have a need analysis system approved for an award year shall submit to the Secretary before the closing date published in the **Federal Register** the following:

(i) A complete description of its system of need analysis for dependent and independent students;

(ii) Its student application form(s) for undergraduate, graduate and professional students;

(iii) The expected parental contributions its system produces for dependent undergraduate students under the sample cases published by the Secretary if the majority of students to be served by its system are undergraduates;

(iv) The expected parental contributions its system produces for dependent graduate or professional students under the sample cases published by the Secretary if the majority of students to be served by its system are graduate or professional students; and

(v) A complete calculation of how each expected parental contribution is derived, including enough information to allow the Secretary to duplicate these calculations and results.

(2) The Secretary does not accept the information specified in paragraph (c)(1) of this section in the form of computer programs, software, or mechanical devices.

(d) *Expected parental contributions and sample cases.* (1) For each award year, the Secretary publishes in the **Federal Register** sample cases and expected parental contributions for dependent undergraduate students, and dependent graduate or professional students.

(2) The Secretary computes the expected parental contributions for undergraduate, and graduate or professional dependent students by using sample cases which—

(i) Are based on families of varying sizes with two parents, the older of whom is 45 and is the sole wage earner, and either one dependent undergraduate or one graduate or professional student;

(ii) Deduct from the adjusted gross income of the student's working parent—

(A) The amount of Federal income tax (based on a joint return with standard deductions) and social security tax;

(B) An 8 percent allowance on taxable income for State and other taxes; and

(C) A Standard Maintenance Allowance for the family (excluding the applicant during the academic year) using the Department of Labor's estimates for a low budget standard of living;

(iii) Determine the parents' Discretionary Net Worth by deducting a Home and Other Asset Protection Allowance from the net market value of the parents' assets;

(iv) After considering the parents' available income, apply an asset conversion rate against the parents' Discretionary Net Worth;

(v) Add the amounts determined under paragraph (d)(2)(ii) and (d)(2)(iv) of this section; and

(vi) Apply to the amount determined under paragraph (d)(2)(v) of this section, taxation rate schedules for undergraduate, or graduate or professional students, respectively.

(3) The expected parental contributions published by the Secretary do not take into account—

(i) More than one family member attending an institution of higher education as an undergraduate, or graduate or professional student;

(ii) Business or farm assets;

(iii) Nontaxable income;

(iv) Unusual medical or dental expenses;

(v) Other unusual expenses; and

(vi) Elementary and secondary tuition expenses.

(4) In comparing figures from systems submitted for approval with figures from sample cases, the Secretary treats an expected parental contribution of less than zero as zero.

(5) To insure measurement in constant dollars, the Secretary revises sample case figures for inflation annually by adjusting—

(i) Deductions for family maintenance;

(ii) The standard deduction from assets; and

(iii) The rate of contribution from income and assets.

(e) *Approval of systems.* (1) The Secretary approves systems of need analysis for an award year if such systems—

(i) Satisfy the criteria set forth in paragraph (a)(2) of this section; and

(ii) Produce expected parental contributions that are within $50 in 75 percent of the sample cases published by the Secretary.

(2)(i) If the Secretary approves an individual's or organization's system for dependent undergraduate students, the Secretary also approves that individual's or organization's system for independent undergraduate students, and dependent and independent graduate and professional students.

(ii) If the Secretary approves an individual's or organization's system for dependent graduate or professional students, the Secretary also approves that individual's or organization's system for dependent undergraduate students, and independent undergraduate, and graduate and professional students.

(3) For each award year, the Secretary publishes in the **Federal Register** a list of approved need analysis systems that institutions shall use in calculating awards for that year.

(4) An institution must use one system of need analysis for all of its undergraduate students and one system of need analysis for all of its graduate or professional students.

(Sec. 4 of Pub. L. 97-301 as amended by sec. 4 of Pub. L. 98-79)

**§ 674.14 Overaward.**

(a) *Overaward prohibited.* *(1) An institution may only award or disburse a Direct loan to a student if the Direct loan, when combined with the other resources the student receives, does not exceed the student's financial need.

(2) When awarding and disbursing a Direct loan to a student, the institution must take into account those resources it—

(i) Can reasonably anticipate at the time it awards NDSL funds to the student;

(ii) Makes available to its students; or

(iii) Knows about.

(3)(i) If a student receives additional resources before the institution advances the NDSL, and the total resources including the Direct loan exceed the student's need, and the excess is not from employment, the overaward is the amount that exceeds need.

*(ii) If a student receives additional resources after the institution advances the Direct loan, and the total resources including the Direct loan exceeds the student's need by $200 or more and the excess is not from employment, the overaward is the amount that exceeds $199.

*(4) If a student earns more money from employment than the institution anticipated or could have reasonably anticipated when it awarded or disbursed the Direct loan, the institution shall treat the earnings in accordance with paragraph (d) of this section.

*(b) *Resources.* (1) The Secretary considers that "resources" include, but are not limited to, any—

(i) Funds the student is entitled to receive from a Pell Grant, regardless of whether the student applies for the Pell Grant;

(ii) Waiver of tutition and fees;

(iii) Scholarship or grant, including ROTC and an athletic scholarship;

(iv) Fellowship or assistantship;

(v) Insurance programs for the student's education, including any social security educational benefits;

(vi) Veterans benefits;

(vii) Net earnings from employment, other than CWS employment for the period of the award except as provided in 34 CFR 675.23; and

(viii) Except as provided in paragraph (b)(3) of this section, long-term loans made by the institution.

(2) The Secretary does not consider as a resource any portion of the resources described in paragraph (b)(1) of this section that are included in the student's EFC.

(3) *Treatment of loans made under the GSL and PLUS programs.* (i) If the adjusted gross income of the student's family is $30,000 or less, the student may use a GSL as a substitute for his or her expected family contribution.

(ii) If the adjusted gross income of the student's family is greater than $30,000, the student may not use a GSL as a substitute for his or her expected family contribution.

(iii) The student may use a PLUS loan to substitute for his or her expected family contribution.

(iv) However, if the loan amounts received under the GSL or PLUS programs individually or collectively exceed the student's expected family contribution, the excess is a resource.

(c) *Liability for and recovery of overpayments.* (1) The student is liable for any overpayment of Direct loan advances made to him or her.

(2) The institution is also liable for an overpayment if the overpayment occurred because it failed to follow the procedures set forth in this Part. The institution shall restore an amount equal to the overpayment to its NDSL fund even if it cannot collect the overpayment from the student.

(3) If an institution makes an overpayment for which it is not liable, it must help the Secretary recover the overpayment by making a reasonable effort to contact the student and recover the overpayment.

*(d) *Treatment of earnings in excess of need.* An institution shall take the following steps when it learns that a borrower has earned, or will earn, $200 or more over his or her financial need:

(1) The institution shall decide whether the student has increased financial need unanticipated when it awarded financial aid to the student. If the student does, no further action is necessary.

(2) If the student's earnings still exceed need by $200 or more after the institution substracts any additional costs, it shall cancel any unpaid loan or grant (other than Pell Grants) to avoid exceeding need by more than $199.

(3) If the student's earnings still exceed his or her need by $200 or more after the institution takes the steps required in paragraphs (d) (1) and (2) of this section, and the student is enrolled for the next academic year, the institution shall consider the amount that exceeds $199 as a resource to help pay the student's cost of attendance in the following year.

(4) If the student's earnings still exceed his or her need by $200 or more after the institution takes the steps required in paragraphs (d) (1) and (2) of this section, and the student is NOT enrolled for the next academic year, no further action is necessary.

(20 U.S.C. 1087dd)

***§ 674.15 Coordination with BIA grants.**

(a) To determine the amount of a Direct loan for a student who is also eligible for a Bureau of Indian Affairs (BIA) education grant, an institution shall prepare a package of student aid—

(1) From resources other than the BIA education grant the student has received or is expected to receive; and

(2) That is consistent in type and amount with packages prepared for students in similiar circumstances who are not eligible for a BIA education grant.

(b)(1) The BIA education grant, whether received by the student before or after the preparation of the student aid package, supplements that package.

(2) No adjustment may be made to the student aid package as long as the total of the package and the BIA education grant is less than the institution's determination of that student's financial need.

(c)(1) If the BIA education grant, when combined with other aid in the package, exceeds the student's need, the excess shall be deducted and may be deducted only from the other assistance, not the BIA education grant.

(2) The institution shall deduct the excess in the following sequence: loans, work-study awards, and grants other than Pell Grants. However, the institution may change the sequence if requested by a student and the institution believes the change benefits the student.

(d) To determine the financial need of a BIA/eligible student, a financial aid administrator is encouraged to consult with area officials in charge of BIA postsecondary financial aid.

(20 U.S.C. 1087dd)

**§ 674.16 Making and disbursing loans.**

(a)(1) Before an institution makes its first disbursement to a student, the student shall sign the promissory note and the institution shall provide the student with the following information—

(i) The name of the institution and the address to which communications and payments should be sent;

(ii) The principal amount of the loan;

(iii) The stated interest rate on the loan;

(iv) The yearly and cumulative maximum amounts that may be borrowed;

(v) An explanation of when repayment of the loan will begin and when the borrower will be obligated to pay interest that accrues on the loan;

(vi) The minimum and maximum repayment terms which the institution may impose and the minimum monthly repayment required;

(vii) Special options the borrower may have for loan consolidation or other refinancing of the loan;

(viii) The borrower's right to prepay all or part of the loan, at any time, without penalty, and a summary of the circumstances in which repayment of the loan or interest that accrues on the loan may be deferred or cancelled

including a brief notice of the Department of Defense program for repayment of loans on the basis of specified military service;

(ix) A definition or default and the consequences to the borrower including a statement that the default may be reported to a credit bureau or credit reporting agency;

(x) The effect of accepting the loan on the eligibility of the borrower for other forms of student assistance;

(xi) The amount of any charges collected by the institution at or prior to the disbursement of the loan and any deduction of such charges from the proceeds of the loan or paid separately by the borrower; and

(xii) Any cost that may be assessed on the borrower in the collection of the loan including penalties and collection and litigation costs.

(2) The institution shall provide the information in paragraph (a)(1) of this section to the borrower in writing—

(i) As part of the written application material;

(ii) As part of the promissory note; or

(iii) On a separate written form.

(b)(1) Except as provided in paragraphs (c) and (f) of this section, an institution shall advance in each payment period a portion of a loan awarded for a full academic year.

(2) The institution determines the amount advanced each payment period by the following fraction:

$$\frac{\text{NDSL}}{\text{N}}$$

Where NDSL = the total Direct loan awarded for an academic year and N = the number of payment periods that the institution expects the student will attend in that year.

(3) An institution may advance funds, within each payment period, at such time and in such amounts as it determines best meets the student's needs.

(c) If a student incurs uneven costs or resources during an academic year and needs additional funds in a particular payment period, the institution may advance NDSL funds to the student for those uneven costs.

(d) The institution may advance the loan proceeds to the borrower directly by check or by crediting his or her account with the institution. The institution shall notify the student of the amount he or she can expect to receive, and how and when that amount will be paid. In either case, the borrower must sign for each advance of funds on the promissory note.

(e)(1) An institution may not advance an NDSL to a student for a payment period until the student registers for that period.

(2) The earliest an institution may advance loan proceeds directly to a registered student is 10 days before the first day of classes of a payment period.

(3) The earliest an institution may advance loan proceeds by crediting a registered student's account is 3 weeks before the first day of classes of a payment period.

(f) Only one advance is necessary if the total amount the institution awards a student for an academic year under the NDSL and SEOG programs is less than $501.

(g)(1) The institution shall return to the NDSL fund any funds paid to a student who, before the first day of classes—

(i) Officially or unofficially withdraws; or

(ii) Is expelled.

(2) A student who does not begin class attendance is deemed to have withdrawn.

(h) A correspondence student shall submit his or her first completed lesson before receiving an advance.

(i) If an institution computes a student's need using estimated data submitted before January 1 of the previous calendar year, the institution shall not pay the student unless it verifies that information.

(j) The institution shall not obtain a student's power of attorney to authorize any disbursement or to authorize any crediting of a student's account.

(20 U.S.C. 1087cc, 1087cc–1, 1087dd, 1091 and 1094)

### § 674.17 Federal interest in allocated funds—transfer of Fund.

*(a) Except for funds received for the administrative cost allowance (see § 674.18(b)), funds received by an institution under the NDSL program are held in trust for the intended student beneficiaries. Funds may not be used or hypothecated (i.e., serve as collateral) for any other purpose.

(b)(1) If an institution responsible for an NDSL fund closes or no longer wants to participate in the program, the Secretary directs the institution to take the following steps to protect the outstanding loans and the Federal interest in that Fund:

(i) A capital distribution of the liquid assets of the Fund according to section 466(c) of the Act;

(ii)(A) The transfer of the outstanding loans to another institution in the same State; or

(B) The transfer of the outstanding loans to the Department of Education.

(2) If the Secretary directs that the outstanding loans be transferred to a second institution, the second institution may deposit the collections on those loans in its own Fund. The Secretary considers the first institution's share of those collections to be the second institution's ICC.

(3) If the Secretary directs that the outstanding loans be transferred to the Department of Education, the Secretary may use the institutional share of those collections to pay collection costs.

(4) If more than one institution in the State offers to collect the outstanding loans, the Secretary directs that the loans be transferred to one or more of the competing institutions on the basis of—

(i) The institution's demonstrated loan collection capability; and

(ii) The number of students of the first institution expected to enroll in the second institution.

(5) The Secretary does not take an audit exception against a transferee institution on account of actions or omissions of the transferor institution in the administration of its Fund. The transferee institution shall segregate the transferred Fund account until an audit satisfactory to the Secretary is performed on the operation of the transferor institution's program.

(20 U.S.C. 1087aa—1087ii)

### § 674.18 Use of funds.

(a) *General.* An institution shall deposit the funds it receives under the NDSL program into its Fund. It may use these funds only for making loans and the other activities specified in § 674.8(b).

(b) *Administrative cost allowance.* (1) An institution participating in the NDSL program for an award year is entitled to an administrative cost allowance if—

(i) It received a Federal capital contribution for that award year; and

(ii) It advances funds to students in that year.

(2) For any award year, the amount of the allowance equals—

(i) Five (5) percent of the first $2,750,000 of the institution's expenditures in that award year under the CWS, SEOG and NDSL programs; plus

(ii) Four (4) percent of its expenditures which are greater than $2,750,000 but less than $5,500,000; plus

(iii) Three (3) percent of its expenditures which are in excess of $5,500,000.

(3) However, the institution shall not include, when calculating the allowance

in paragraph (b)(2) of this section, the institution's CWS expenditures under the community service learning program (34 CFR 675.26), and the amount of NDSLs that it assigns to the Secretary under section 456(a)(6)(B) of the Act.

(4) An institution shall use its administrative cost allowance to offset its costs of administering the Pell Grant, CWS, SEOG and NDSL programs. Administrative costs also include the expenses incurred for carrying out the student consumer information services requirements of Subpart D of the Student Assistant General Provisions regulations, 34 CFR Part 668.

(5) An institution shall charge any administrative costs against its Fund during the same award year in which the expenditures for these costs were made.

(6) An institution may not charge for administrative expenses against the funds it receives under section 442(f) of the Act more than 5 percent of the funds it expends for CWS employment under that section, except as provided by 34 CFR 675.18(b)(6)(i).

(20 U.S.C. 1087cc, 1087dd, and 1096)

**§ 674.19 Fiscal procedures and records.**

(a) *Fiscal procedures.* (1) In administering its NDSL program, an institution shall establish and maintain an internal control system of checks and balances that ensures that no office can both authorize payments and disburse funds to students.

(2)(i) Except as provided in paragraph (a)(2)(ii) of this section, a separate bank account for FCC prior to its deposit in the NDSL fund is not required. However, an institution shall notify any bank in which it deposits FCC prior to its deposit in the NDSL fund of all bank accounts in that bank in which Federal funds are deposited. The institution shall give this notice by indicating in the name of each such account that Federal funds are deposited therein.

(ii) If the Secretary determines that adequate accounting records are not maintained, the institution shall be required to keep these "predeposited" FCC in a separate bank account.

(b) *NDSL fund account.* (1) An institution shall keep all its NDSL fund cash in a separate, insured, interest bearing account.

(2) The name of the account shall include the word "Federal" such as "Federal NDSL Fund Account."

(3) NDSL fund cash includes FCC, ICC, repayments made by borrowers, Direct loan cancellation payments, and any earnings of the Fund including interest.

(c) *Deposit of ICC into Fund.* An institution shall deposit its ICC into its Fund prior to or at the same time it deposits any FCC.

(d) *Records and reporting.* (1) An institution shall establish and maintain on a current basis financial records that reflect all program transactions. The institution shall establish and maintain general ledger control accounts and related subsidiary accounts that identify each program transaction and separate those transactions from all other institutional financial activity.

(2) The institution shall also establish and maintain program and fiscal records that—

(i) Are reconciled at least monthly;

(ii) Identify each student's account and status;

(iii) Show the eligibility of each student aided under the program;

(iv) Show how the need was met for each student; and

(v) Identify the administrator who determined each student's need.

(3) Each year an institution shall submit a Fiscal-Operations Report plus other information the Secretary requires. The institution shall insure that the information reported is accurate and shall submit it on the form and at the time specified by the Secretary.

(4) The institution shall maintain on file all NDSL applications for those students it reports on the Fiscal-Operations Report and Application to Participate in the NDSL, SEOG, and CWS programs (FISAP).

(e) *Retention of records*—(1) *Records.* Each institution shall keep intact and accessible records of the receipt and expenditure of Federal funds, including all accounting records and original and supporting documents necessary to document how the funds are spent.

*(2) *Period of retention.* Except for loan records and audit questions, an institution shall keep records for an award year for five years after it submits its Fiscal-Operations Report for that year.

(3) *Loan records.* (i) An institution shall maintain a repayment history for each borrower. This repayment history shall show the date and amount of each repayment over the life of the loan. It shall also indicate the amount of each repayment credited to principal and interest respectively.

(ii) This history shall also show the date, nature, and result of each contact with the borrower or proper endorser in the collection of an overdue loan. The institution shall include in the repayment history copies of all correspondence to or from the borrower and endorser, except routine bills, routine overdue notices, and routine form letters.

(iii) An institution shall retain repayment records, including cancellation and deferment requests, for at least 5 years from the date of the loan's assignment or final repayment or cancellation.

(iv) An institution shall keep the original promissory notes in a locked, fireproof container. Only authorized personnel may have access to these documents.

(4) An institution shall keep National Defense Student Loan and National Direct Student Loan loan cancellation records separate.

*(5)(i) An institution may keep the records required in this section on microfilm or it may keep its records in computer format. However, if an institution keeps its records on microfilm or in computer format, it shall also retain the original promissory note.

(ii) If the institution keeps its records in computer format it shall maintain, in either hard copy or microfilm, the source documents supporting the computer input.

(6) *Audit question.* An institution shall keep records in any claim or expenditure questioned by Federal audit until resolution of any audit questions. However, the institution does not have to retain records beyond 5 years if the actions taken by the United States to recover funds would be barred by the Federal statute of limitations in 28 U.S.C. 2415.

(20 U.S.C. 1087cc, 1094 and 1232f)

**§ 674.20 Compliance with equal credit opportunity requirements.**

(a) In making a Direct loan, an institution shall comply with the equal credit opportunity requirements of Regulation B (12 CFR Part 202).

(b) The Secretary considers the NDSL program to be a credit assistance program authorized by Federal law for the benefit of an economically disadvantaged class of persons within the meaning of 12 CFR 202.8(a)(1). Therefore, the institution may request a loan applicant to disclose his or her marital status, income from alimony, child support, and spouse's income and signature.

(20 U.S.C. 1087aa-1087ii)

4. Subpart B to Part 674 would be revised to read as follows:

**Subpart B—Terms of Loans**

Sec.
674.31 Promissory note.
674.32 Repayment.
674.33 Deferment of repayment.
674.34 Deferment—Defense or Direct loans.
674.35 Deferment procedures.
674.36 Postponement of loan repayments in anticipation of cancellation.
674.37 Treatment of loan repayments where cancellation, loan repayments, and minimum monthly repayments apply.

## Subpart B—Terms of Loans

### § 674.31 Promissory note.

(a) *Promissory note.* (1) An institution may use only an NDSL promissory note which the Secretary has approved.

(2) The Secretary has approved the promissory note set forth in Appendix C. The institution shall not change the substance of the note set forth in the Appendix without the Secretary's approval.

(3) The institution shall print the note on one page, front and back; or the institution may print the note on more than one page if the note requires the signature on each page by the borrower and any endorser.

(b) *Provisions of the promissory note*—(1) *Interest.* The promissory note shall state that—

(i) The rate of interest on the loan is 5 percent per annum on the unpaid balance; and

(ii) No interest shall accrue before the repayment period begins, during a deferment period authorized under § 674.33(a), (b), and (c) or during the grace period following those deferments.

(2) *Repayment.* (i) The promissory note shall state that the repayment period—

(A) Begins 6 months after the borrower ceases to be at least a half-time regular student at an institution of higher education or a comparable institution outside the U.S. approved for this purpose by the Secretary, and normally ends 10 years later;

(B) May begin earlier at the borrower's request; and

(C) May vary because of minimum monthly repayments (see § 674.32(b)), extensions of repayment (see § 674.32(c)), or deferments (see §674.33); and

(ii) The promissory note shall state that the borrower shall repay the loan—

(A) In equal quarterly, bimonthly, or monthly amounts, as the institution chooses; or

(B) In graduated installments if the borrower requests a graduated repayment schedule, the institution submits the schedule to the Secretary for approval, and the Secretary approves it.

(3) *Prepayment.* The promissory note shall state that—

(i) The borrower may prepay all or part of the loan at any time without penalty;

(ii) The institution shall use amounts repaid during the academic year in which the loan was made to reduce the original loan amount and not consider these amounts to be prepayments; and

(iii) If a borrower repays more than the amount due for any repayment period, the institution shall use the excess to prepay the principal unless the borrower designates it as an advance payment of the next regular installment.

(4) *Penalty charge.* (i) An institution may state in the promissory note that the institution will charge a penalty if the borrower does not—

(A) Repay all or part of a schedule repayment when due; or

(B) File a timely request for cancellation or deferment with the institution. This request shall include sufficient evidence to enable the institution to determine whether the borrower is entitled to a cancellation or deferment.

(ii) The institution may include the following penalty charges in the promissory note. If the loan is repayable—

(A) Monthly, the maximum monthly charge is $1 for the first month and $2 for each additional month, for each overdue payment;

(B) Bimonthly, the maximum bimonthly charge is $3 for each overdue payment; and

(C) Quarterly, the maximum charge per quarter is $6 for each overdue payment.

(iii) The institution may—

(A) Add the penalty charge to the principal the day after the scheduled repayment was due; or

(B) Include it with the next scheduled repayment after the borrower receives notice of the penalty charge.

(5) *Security and endorsement.* The promissory note shall state that the loan shall be made without security and endorsement unless—

(i) The borrower is a minor; and

(ii) Under applicable State law, a note signed by a minor would not create a binding obligation.

(6) *Assignment.* The promissory note shall state that a note may only be assigned to—

(i) The United States or an institution approved by the Secretary; or

(ii) An institution to which the borrower has transferred if that institution is participating in the NDSL program.

(7) *Acceleration.* The promissory note shall state that an institution may demand immediate repayment of the entire loan, including any penalty charges and accrued interest, if the borrower does not—

(i) Make a scheduled repayment on time; or

(ii) File cancellation or deferment form(s) with the institution on time.

(8) *Cost of collection.* The promissory note may state that the borrower must pay all attorney's fees and other loan collection costs and charges.

(9) *Disclosure of information.* The promissory note shall state that the borrower defaults on the loan and the loan is referred to the Secretary, the Secretary may disclose to a credit bureau organization—

(i) That the borrower has defaulted on the loan; and

(ii) Any other relevant information.

(20 U.S.C. 1087dd)

### § 674.32 Repayment.

(a) *Repayment Plan.* (1) The institution shall establish a repayment plan before the student ceases to be at least a half-time student.

(2) If the last repayment would be $15 or less the institution may combine it with the next-to-last repayment.

(3) A loan repayment shall first be applied to interest due on the loan, with the remainder applied to principal.

(b) *Minimum repayment rates*—(1) *Minimum monthly repayment of Defense loans from one institution.* An institution may require a borrower of a Defense loan to pay a $15 minimum monthly repayment if—

(i) The monthly repayment of principal and interest for a 10-year repayment period is less than $15 a month; and

(ii) The promissory note includes a $15 minimum monthly repayment provision.

(2) *Minimum monthly repayment of Defense loans from more than one institution.* If a borrower has received Defense loans from more than one institution and—

(i) Only one institution excercise the $15 option when the monthly repayment would otherwise be less than $15, that institution receives the difference between $15 and the repayment owed to the other institution; or

(ii) Each institution exercises the $15 minimum option the $15 monthly payment shall be divided among the institutions in proportion to the amount of principal advanced by each institution.

(3) *Minimum monthly repayment of Direct Loans from one Institution.* The institution may require a borrower to pay a $30 monthly repayment if—

(1) The monthly repayment of principal and interest for a 10-year repayment period is less than $30 a month; and

(ii) The promissory note includes a $30 minimum monthly repayment provision.

(4) *Minimum monthly repayment of Direct loans from more than one institution.* If a borrower has received Direct loans from more than one institution and—

(i) Only one institution exercises the $30 option when the monthly repayment would otherwise be less than $30, that institution receives the difference between $30 and the repayment owed to the other institution; or

(ii) Each institution exercise the $30 minimum option, the $30 monthly payment shall be divided among the institutions in proportion to the amount of principal advanced by each institution.

(5) *Minimum monthly repayment of both Direct and Defense loans from one or more institutions.* If a borrower has received both a Direct and a Defense loan, the following rules apply:

(i) If the total monthly repayment is at least $30 for both a Defense and a Direct loan, no institution may exercise a minimum repayment option, even if the Defense loan repayment is less than $15 or the Direct loan repayment is less than $30.

(ii) If the total monthly repayment would otherwise be less than $30 for both the Defense and Direct loans, an institution may exercise either minimum repayment option. The maximum monthly repayment, however, may not exceed $30 a month.

(iii) If the total monthly repayment is less than $30 and the monthly repayment on a Defense loan is less than $15 a month, the amount attributed to the Defense loan may not exceed $15 a month. However, $15 may be attributed to the Defense loan ONLY if the institution exercises the minimum option on the Defense loan.

(6) *Minimum monthly repayment of Direct loans from one institution with different interest rates.* (i) If a borrower has received Direct loans with different interest rates from the same institution, and the total monthly repayment is at least $30 for the loans, the institution may not exercise the minimum monthly payment on any loan.

(ii) If the borrower has received Direct loans with different interest rates at the same institution and the total monthly repayment would otherwise be less than $30, the institution may exercise the $30 minimum payment option, providing it is in one of the promissory notes, and the institution divides the repayment between the accounts in proportion to the amount of principal advanced under each loan.

(7) *Differing grace periods and deferments.* If the borrower has received loans with different grace periods and deferments, the institution shall treat each note separately, and the borrower shall pay the applicable mimimum monthly payment for a loan that is not in the grace or deferment period.

(8) *Extraordinary circumstances.* The institution may reduce the borrower's scheduled repayments for one year at a time if—

(i) It determines that the borrower is unable to make the scheduled repayments due to extraordinary circumstances (see § 674.32(c)); and

(ii) The borrower's scheduled repayment is the $30 mimimum monthly repayment described in paragraph (b) of this section.

(9) In paragraph (b) of this section monthly repayment amounts also apply to bimonthly or quarterly equivalents and include principal and interest.

(c) *Extension of repayment period—*(1) *Extraordinary circumstances.* The institution may extend a borrower's repayment period due to extraordinary circumstances such as prolonged illness or unemployment. If the institution extends the repayment period beyond the 10-year maximum repayment period, it shall notify the Secretary of the change.

(2) *Low-income individual.* (i) For Direct loans made on or after October 1, 1980, the institution may extend the borrower's repayment period up to 10 additional years beyond the 10-year maximum repayment period if the institution determines that the borrower will be a low-income individual during the course of the repayment period. The term "low-income individual" means an individual whose family's taxable income for the preceding calendar year did not exceed 150 percent of the poverty level established by the Bureau of the Census for that year. The individual's family includes the borrower and any spouse or legal dependents.

(ii) The institution may adjust the repayment schedule to reflect the income of that individual; and

(iii) The institution shall review the borrower's status annually. If the borrower is no longer a low-income individual, the institution shall appropriately adjust the repayment period.

(3) Interest continues to accrue during any extension of a repayment period.

(20 U.S.C. 425 and 1087dd, sec. 137(d) of Pub. L. 92-318)

**§ 674.33 Deferment of repayment.**

(a)(1) For Direct loans made on or after October 1, 1980, the borrower need not repay principal, and interest does not accrue, during a period when the borrower is at least a halftime regular student at—

(i) An institution of higher education; or

(ii) A comparable institution outside the U.S. approved by the Secretary for this purpose.

(2) The institution of higher education does not need to be participating in the NDSL program for the borrower to qualify for a deferment.

(3) If a borrower is attending as at least a half-time regular student for a full academic year and intends to enroll as at least a half-time regular student in the next academic year, the borrower is entitled to deferment for 12 months.

(4) If an institution no longer qualifies as an institution of higher education, the borrower's deferment ends on the date the institution ceases to qualify.

(b) The borrower need not repay principal, and interest does not accrue, for a period of up to 3 years during which time the borrower is—

(1) A member of the U.S. Army, Navy, Air Force, Marines, or Coast Guard or an officer in the Commissioned Corps of the U.S. Public Health Service (see § 674.56);

(2) A Peace Corps volunteer;

(3) A volunteer under Title I—Part A of the Domestic Volunteer Act of 1973 (ACTION programs);

(4) A full-time volunteer in service which the Secretary has determined is comparable to service in the Peace Corps or under the Domestic Volunteer Act of 1973. The Secretary considers that a borrower is providing comparable service if he or she satisfies the following five criteria:

(i) The borrower serves in an organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1954;

(ii) The borrower provides service to low-income persons and their communities to assist them in eliminating poverty and poverty-related human, social, and environmental conditions;

(iii) The borrower's compensation does not exceed the compensation received by a full-time volunteer in the Peace Corps or in a program administered by the ACTION agency. Compensation includes an allowance for subsistence, necessary travel expenses, and stipends;

(iv) The borrower, as part of his or her duties, does not give religious instruction, conduct worship service,

engage in religious proselytizing, or engage in fundraising to support religious activities; and

(v) The borrower has agreed to serve on a full-time basis for a term of at least one year.

(5) (i) Temporarily totally disabled, as established by an affidavit of a qualified physician, or unable to secure employment because the borrower is providing care, such as continuous nursing or other similar services, required by a spouse who is so disabled.

(ii) "Temporarily totally disabled" with regard to the borrower means an injury or illness which prevents an individual from attending an eligible institution or being gainfully employed for an extended period of time.

(iii) "Temporarily totally disabled" with regard to the borrower's spouse means an injury or illness, established by an affidavit of a qualified physician, that requires the borrower to provide care, such as continuous nursing or other similar services, thus preventing the borrower from obtaining gainful employment.

(c) (1) The borrower need not repay principal, and interest does not accrue, for a period not to exceed two years during which time the borrower is serving an eligible internship.

(2) An eligible internship is an internship—

(i) That requires the borrower to hold at least a bachelor's degree before beginning the internship program; and

(ii) That the State licensing agency requires the borrower to complete before certifying the individual for professional practice or service.

(3) To qualify for an internship deferment, the borrower shall provide to the institution the following certifications:

(i) A statement from an official of the appropriate State licensing agency that the internship program meets the provisions of paragraph (c)(2) of this section; and

(ii) A statement from the organization with which the borrower is undertaking the internship program certifying—

(A) The acceptance of the borrower into its internship program; and

(B) The anticipated dates on which the borrower will begin and complete the program.

(d) An institution may defer payments of principal and interest, but interest shall continue to accrue, if the institution determines that the borrower is unable to make his or her scheduled repayments due to extraordinary circumstances (see § 674.32(c)).

(e) The institution shall not include the deferment periods described in paragraphs (a), (b), and (c) of this section and the period described in paragraph (f) of this section when determining the 10-year repayment period.

(f) No repayment of principal or interest begins until six months after completion of any period during which the borrower is in deferment under paragraphs (a), (b), and (c) of this section.

(20 U.S.C. 1087dd)

**§ 674.34 Deferment—Defense or Direct loans.**

(a) (1) For Defense or Direct loans made on or before September 30, 1980, a borrower need not repay principal, and interest does not accrue, during a period when the borrower is at least a half-time regular student at—

(i) An institution of higher education; or

(ii) A comparable institution outside the U.S. approved by the Secretary for this purpose.

(2) The institution of higher education does not need to be participating in the NDSL program for the borrower to qualify for a deferment.

(3) If a borrower is attending as at least a half-time regular student for a full academic year and intends to enroll as at least a half-time regular student in the next academic year, the borrower is entitled to deferment for 12 months.

(4) If an institution no longer qualifies as an institution of higher education, the borrower's deferment ends on the date the institution ceases to qualify.

(b) A borrower need not repay principal, and interest does not accrue, for a period of up to 3 years during which time the borrower is—

(1) A member of the U.S. Army, Navy, Air Force, Marines or Coast Guard (see § 674.56);

(2) A Peace Corps volunteer; or

(3) A volunteer under Title I—Part A of the Domestic Volunteer Act of 1973 (ACTION programs).

(c) The institution shall not include the deferment periods described in paragraphs (a) and (b) of this section when determining the 10-year repayment period.

(d) An institution may permit the borrower to defer payments of principal and interest, but interest shall continue to accrue, if the institution determines that the borrower is unable to make his or her scheduled repayments due to extraordinary circumstances (see § 674.32(c)).

(e) (1) The institution may permit the borrower to defer payment of principal and interest on a Defense loan for up to 3 years if he or she is attending an institution of higher education as a less-than-half-time regular student.

(2) Interest accrues during this deferment period.

(3) The institution must exclude these deferment periods in computing the 10-year repayment period.

(20 U.S.C. 425 and 1087dd)

**§ 674.35 Deferment procedures.**

(a)(1) To apply for a deferment, a borrower shall complete and file a form, obtained from the lending institution, by the date that the institution establishes.

(2) If a borrower fails to file the form on time, the institution shall follow the billing procedures in § 674.44 for contacting the borrower.

(3) If the borrower still fails to file the form, the institution may determine that the loan is in default and require immediate repayment of the unpaid balance, accrued interest, and penalty charges, i.e., accelerate the loan.

(b)(1) If a lending institution has not accelerated the loan of a borrower who is in default, it may, at its option, grant that borrower a statutory deferment—i.e. a deferment that the borrower is entitled to receive under the Act if the borrower had timely filed for that deferment—for a prior period upon the borrower's subsequent filing for that deferment.

(2) If the institution does not grant the deferment under paragraph (b)(1) of this section, it shall reduce the amount owed by the borrower by an amount equal to the interest that accrued on the borrower's loan during that statutory deferment period.

(c) The following rules apply to a borrower who is in default and files for a prospective deferment before the institution accelerates the loan:

(1) The borrower shall repay the amount in default.

(2) The institution shall grant a deferment only for repayments coming due during the prospective deferment period.

(d) The following rules apply to a borrower who is in default and the institution accelerates the loan:

(1) The institution shall provide no deferment for any period occurring after the date of acceleration.

(2) If the borrower was entitled to a deferment for a period occurring before the date of acceleration and files for a deferment for that period after the date of acceleration, the institution shall not grant the deferment but shall reduce the amount owed by the borrower by an amount equal to the interest that accrued on the borrower's loan during that period.

(20 U.S.C. 1087dd)

**§ 674.36 Postponement of loan repayments in anticipation of cancellation.**

(a) An institution shall postpone loan repayments for a 12-month period if the borrower—

(1) Teaches or provides other services eligible for loan cancellation; and

(2) Submits a statement signed by a responsible official in the military, agency, or school employing the borrower, specifying that the borrower is so employed. The statement must describe the borrower's job, list the period of employment, and state whether the job is full- or part-time.

(b) If a borrower has received both Defense and Direct loans and is eligible for cancellation benefits on only one, the institution may postpone only repayments on the loan for which cancellation is available.

(20 U.S.C. 425 and 1087dd, 1087ee)

**§ 674.37 Treatment of loan repayments where cancellation, loan repayments, and minimum monthly repayments apply.**

(a) An institution may not exercise the minimum monthly repayment provisions on a note when the borrower has received a partial cancellation for the period covered by a postponement.

(b) If a borrower has received both Defense and Direct loans and only one can be cancelled, the amount due on the uncancelled loan is the amount established in § 674.31(b)(2), loan repayment terms; § 674.32(b), minimum repayment rates; or § 674.32(c), extension of repayment period.

(20 U.S.C. 425 and 1087dd, 1087ee)

5. Subpart D to Part 674 would be revised to read as follows:

**Subpart D—Loan Cancellation**

Sec.

674.51 Special definitions.
674.52 Cancellation procedures.
674.53 Teacher cancellation—Direct loan.
674.54 Teacher cancellation—Defense loan.
674.55 Cancellation for service in a Head Start program.
674.56 Cancellation for military service.
674.57 Cancellation for death or disability.
674.58 No cancellation for prior service—No repayment refunded.
674.59 Reimbursement to institutions for loan cancellation.

## Subpart D—Loan Cancellation

**§ 674.51 Special definitions.**

The following definitions apply to this Subpart:

(a) *Academic year or its equivalent for elementary and secondary schools and special education:* (1) One complete school year, or two half years from different school years, excluding summer sessions, that are complete and consecutive and generally fall within a 12-month period.

(2) When such schools have a year-round program of instruction, the Secretary considers a minimum of nine consecutive months to be the equivalent of an academic year.

(b) *Academic year or its equivalent for institutions of higher education:* A period of time in which a full-time student is expected to complete—

(1) The equivalent of 2 semesters, 2 trimesters, or 3 quarters at an institution using credit hours; or

(2) At least 900 clock hours of training for each program at an institution using clock hours.

(c) *Elementary school:* A school that provides elementary education, including education below grade 1, as determined by—

(1) State law; or

(2) The Secretary, if the school is not in a State.

(d) *Handicapped children:* Children of ages 3 through 21 inclusive who require special education and related services because they are—

(1) Mentally retarded;
(2) Hard of hearing;
(3) Deaf;
(4) Speech impaired;
(5) Visually handicapped;
(6) Seriously emotionally disturbed;
(7) Orthopedically impaired;
(8) Specific learning disabled; or
(9) Otherwise health impaired.

(e) *Local educational agency:* An agency defined in section 1201(g) of the Act.

(f) *Secondary school:* (1) A school that provides secondary education, as determined by—

(i) State law; or

(ii) The Secretary, if the school is not in a State.

(2) However, State laws notwithstanding, secondary education does not include any education beyond grade 12.

(g) *State education agency:* (1) The State board of education; or

(2) An agency or official designated by the Governor or by State law as being primarily responsible for the State supervision of public elementary and secondary schools.

(h) *Teacher:* (1) A teacher is a person who provides—

(i) Direct classroom teaching;

(ii) Classroom-type teaching in a non-classroom setting; or

(iii) Educational services to students directly related to classroom teaching such as school librarians or school guidance counselors.

(2) A supervisor, administrator, researcher, or curriculum specialist is not a teacher unless he or she primarily provides direct and personal educational services to students.

(3) An individual who provides one of the following services does not qualify as a teacher unless that individual is licensed, certified, or registered by the appropriate State education agency for that area in which he or she is providing related special educational services, and the services provided by the individual are part of the educational curriculum for handicapped children:

(i) Speech pathology and audiology;

(ii) Psychological and counseling services;

(iii) Physical or occupational therapy; and

(iv) Recreational therapy.

(i) *Title I children:* Children of ages 5 through 17 who are counted under section 111(c) of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 425, 1087ee, 1141, and 1401(1))

**§ 674.52 Cancellation procedures.**

(a) *Application for cancellation.* (1) To apply for cancellation, a borrower shall complete and file a form, obtained from the lending institution, by the date the institution establishes.

(2) If a borrower fails to file the form on time, the institution shall follow the billng procedures in § 674.44 for contacting the borrower.

(3) If the borrower still fails to file the form, the institution may determine that the loan is in default and require immediate repayment of the unpaid balance, accrued interest, and penalty charges.

(b)(1) The institution that made the loan decides whether a borrower is entitled to cancellation.

(2) An institution may refuse cancellation for simultaneously teaching in two or more schools or institutions if it cannot easily determine that the teaching is full-time. However, it shall grant the cancellation if one school official certifies that a teacher worked full-time for a full academic year.

(3) If the borrower is unable due to illness or pregnancy to complete the academic year, the borrower still qualifies for the cancellation if—

(i) The borrower completes the first half of the academic year, and has begun teaching the second half; and

(ii) The borrower's employer considers the borrower to have fulfilled his or her contract for the academic year for purposes of salary increment, tenure, and retirement.

(c)(1) A borrower who is in default and otherwise qualifies for loan cancellation shall be entitled to that cancellation upon the receipt by the institution of the appropriate cancellation form if the institution has not accelerated his or her loan repayments.

(2) If a borrower is in default and the institution accelerates his or her loan repayments, the borrower—

(i) Shall be entitled to loan cancellation for services performed before the date of acceleration; and

(ii) Shall not be entitled to loan cancellation for services performed on or after the date of acceleration.

(20 U.S.C. 1087ee)

**§ 674.53 Teacher cancellation—Direct loan.**

(a) *Cancellation for full-time teaching in an elementary or secondary school serving low-income students.* (1) The institution shall cancel up to 100 percent of the borrower's Direct loan, plus the interest on the loan, for full-time teaching in a public or other nonprofit elementary or secondary school that—

(i) Is in a school district that qualifies for funds, in that year, under Chapter 1 of the Education Consolidation and Improvement Act of 1981; and

(ii) The Secretary selects after determining it to be a school in which more than 30 percent of the school's total enrollment is made up of Chapter 1 children.

(2) However, the Secretary does not select more than 50 percent of the schools in a State receiving Chapter 1 assistance.

(3)(i) The Secretary selects schools under paragraph (a)(1) of this section based on a ranking by the State education agency.

(ii) The State education agency shall base its ranking of the schools on objective standards and methods. These standards take into account the numbers and percentages of Chapter 1 children attending those schools.

(iii) For each academic year, the Secretary notifies participating institutions of the schools selected under paragraph (a) of this section.

(4) The Secretary considers all elementary and secondary schools operated by the Bureau of Indian Affairs (BIA) or operated on Indian reservations by Indian tribal groups under contract with BIA to qualify as schools serving low-income students.

(b) *Cancellation for full-time teaching of the handicapped.* (1) The institution shall cancel up to 100 percent of the borrower's Direct loan, plus the interest on the loan, for full-time teaching of handicapped children in a public or other nonprofit elementary or secondary school system.

(2) To qualify for cancellation, a majority of the students that the borrower teaches shall be handicapped children.

(c) *Cancellation rates.* (1) To qualify for cancellation under paragraphs (a) or (b) (low-income or handicapped) of this section, a borrower shall teach full time for a complete academic year, or its equivalent.

(2) Cancellation rates are—

(i) 15 percent of the original loan principal, plus the interest on the unpaid balance, for the first and second years of full-time teaching;

(ii) 20 percent of the original loan principal, plus the interest on the unpaid balance, for the third and fourth years of full-time teaching; and

(iii) 30 percent of the original loan principal, plus the interest on the unpaid balance, for the fifth year of full-time teaching.

(d) *Teaching in a school system.* The Secretary considers a borrower to be teaching in a public or other nonprofit elementary or secondary school system only if the borrower is directly employed by the school system.

(e) *Teaching children and adults.* If a borrower is teaching both adults and children, a majority of the students that the borrower teaches shall be children for the borrower to qualify for cancellation.

(20 U.S.C. 1087ee)

**§ 674.54 Teacher cancellation—Defense loan.**

(a) *Cancellation. Ten percent rate.* (1) An institution shall cancel up to 50 percent of a borrower's Defense loan, plus the interest on the unpaid balance, for full-time teaching in—

(i) A public or other nonprofit elementary or secondary school;

(ii) An institution of higher education; or

(iii) An overseas Department of Defense elementary or secondary school.

(2) The cancellation rate is 10 percent of the original loan principal, plus the interest on the unpaid balance, for each complete year, or its equivalent, of teaching.

(b) *Cancellation for full-time teaching in an elementary or secondary school serving low-income students.* (1) The institution shall cancel up to 100 percent of the borrower's Defense loan, plus interest on the unpaid balance, for full-time teaching in a public or other nonprofit elementary or secondary school that—

(i) Is in a school district that qualifies for funds in that year under Chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended; and

(ii) The Secretary selects, after determining it to be a school with a high concentration of students from low-income families.

(2)(i) The Secretary does not select more than 25 percent of the eligible schools in a State for any year unless at least 50 percent of the enrollment of each school selected is made up of Chapter 1 children.

(ii) In making this calculation, the Secretary uses a low-income factor of $3,000.

(3)(i) The Secretary selects schools under paragraph (b)(1) of this section based on a ranking by the State education agency.

(ii) The State education agency shall base its ranking of the schools on objective standards and methods. These standards shall take into account the numbers and percentages of Chapter 1 children attending those schools.

(iii) For each academic year, the Secretary notifies participating institutions of the schools selected under paragraph (b) of this section.

(4) The cancellation rate is 15 percent of the original loan principal, plus the interest on the unpaid balance, for each complete academic year, or its equivalent, of full-time teaching.

(5) Cancellation for full-time teaching under paragraph (b) of this section is available only for teaching beginning with academic year 1966–67.

(c) *Cancellation for full-time teaching of the handicapped.* (1) The institution shall cancel up to 100 percent of the borrower's Defense loan, plus interest, for full-time teaching of handicapped children in a public or other nonprofit elementary or secondary school system.

(2) The cancellation rate is 15 percent of the original loan principal, plus the interest on the unpaid balance, for each complete academic year, or its equivalent, of full-time teaching.

(3) To qualify for cancellation, a majority of the students that the borrower teaches shall be handicapped children.

(4) Cancellation for full-time teaching under paragraph (c) of this section is available only for teaching beginning with the academic year 1967–68.

(d) *Teaching in a school system.* The Secretary considers a borrower to be teaching in a public or other nonprofit

elementary or secondary school system only if the borrower is directly employed by the school system.

(e) *Teaching children and adults.* If a borrower is teaching both adults and children, a majority of the students that the borrower teaches shall be children for the borrower to qualify for cancellation.

(20 U.S.C. 425(b)(3))

**§ 674.55 Cancellation for service in a Head Start program.**

(a) An institution shall cancel up to 100 percent of a borrower's Direct loan, plus the interest on the unpaid balance, for service as a full-time staff member in a "Head Start" program if—

(1) The program operates for a complete academic year, or its equivalent; and

(2) The borrower's salary does not exceed the salary of a comparable employee working in the local educational agency of the area served by the local Head Start program.

(b) The cancellation rate is 15 percent of the original loan principal, plus the interest on the unpaid balance, for each complete academic year, or its equivalent, of full-time teaching service.

(c)(1) "Head Start" is a preschool program carried out under the Head Start Act (Subchapter B, Chapter 8 of Title VI of Pub. L. 97–35, the Budget Reconciliation Act of 1981; formerly authorized under section 222(a)(1) of the Economic Opportunity Act of 1964). (42 U.S.C. 9831 *et seq.*)

(2) "Full-time staff member" is a person regularly employed in a full-time professional capacity to carry out the educational part of a Head Start program.

(20 U.S.C. 1087ee)

**§ 674.56 Cancellation for military service.**

(a) *Cancellation on a Defense loan.* (1) An institution shall cancel up to 50 percent of a Defense loan made after April 13, 1970, for the borrower's full-time active service starting after June 30, 1970, in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard.

(2) The cancellation rate is 12½ percent of the original loan principal, plus the interest on the unpaid balance, for each complete year of consecutive service.

(3) Service for less than a complete year, including any fraction of a year beyond a complete year of service, does not qualify for military cancellation.

(b) *Cancellation of a Direct loan.* (1) An institution shall cancel up to 50 percent of a Direct loan for service as a member of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard in an area of hostilities that qualifies for special pay under section 310 of Title 37 of the United States Code.

(2) The cancellation rate is 12½ percent of the original loan principal, plus the interest on the unpaid balance, for each complete year of qualifying service.

(3) Service for less than a complete year, including any fraction of a year beyond a complete year of service, does not qualify for military cancellation.

(20 U.S.C. 425(b)(3) and 1087ee)

**§ 674.57 Cancellation for death or disability.**

(a) *Death.* An institution shall cancel the unpaid balance of a borrower's Defense or Direct loan, including interest, if the borrower dies. The lending institution cancels the loan on the basis of a death certificate or other evidence of death that is conclusive under State law.

(b) *Permanent and total disability.* (1) An institution shall cancel the unpaid balance of a Defense or Direct loan, including interest, if the borrower becomes permanently and totally disabled after receiving the loan. The lending institution decides whether to cancel the loan based on medical evidence certified by a physician which the borrower or his or her representative supplies.

(2) Permanent and total disability is the inability to work and earn money because of an impairment that is expected to continue indefinitely or result in death.

(c) *No Federal reimbursement.* No Federal reimbursement is made to an institution for cancellation of loans due to death or disability.

(d) *Retroactive.* Cancellation for death or disability applies retroactively to all Defense and Direct loans.

(20 U.S.C. 425 and 1087dd and sec. 130(g)(2) of the Education Amendments of 1976, Pub. L. 94–482)

**§ 674.58 No cancellation for prior service—no repayment refunded.**

(a) No portion of a loan may be cancelled for teaching, Head Start, or military service if the borrower's service is performed—

(1) During the same period that he or she received the loan; or

(2) Before the date the loan was disbursed to the borrower.

(b) The institution shall not refund a repayment made during a period that the borrower qualified for a cancellation unless the borrower made the payment due to an institutional error.

(20 U.S.C. 425 and 1087ee; Pub. L. 96–374, sec. 448(e), 94 Stat. 1443)

**§ 674.59 Reimbursement to institutions for loan cancellation.**

(a) *Reimbursement for Defense loan cancellation.* (1) The Secretary pays an institution each award year its share of the principal and interest cancelled under § 674.53 or § 674.56(a).

(2) The institution's share of cancelled principal and interest is computed by the following ratio:

$$\frac{I}{I+F}$$

Where I is the institution's capital contribution to the Fund, and F is the Federal capital contribution to the Fund.

(b) *Reimbursement for Direct loan cancellation.* The Secretary pays an institution each award year the principal and interest cancelled from its student loan fund under §§ 674.54, 674.55, and 674.56(b). The institution shall deposit this amount in its Fund.

(20 U.S.C. 428 and 1087ee)

6. Appendices B and C to Part 674 would be revised to read as follows:

**Appendix B—Examples for Computing Maximum Penalty Charges (6 Months Unpaid Overdue Payments)**

| Monthly repayment schedule | Installment due dates—Missed payments | | | | | | Separate monthly maximum penalty charges |
|---|---|---|---|---|---|---|---|
| | Jan. 2 | Feb. 2 | Mar. 2 | Apr. 2 | May 2 | June 2 | |
| 1st Past due installment | $1 | | | | | | $1 |
| 2nd Past due installment | | $1+$2 | | | | | 3 |
| 3rd Past due installment | | | $3+$2 | | | | 5 |
| 4th Past due installment | | | | $5+$2 | | | 7 |
| 5th Past due installment | | | | | $7+$2 | | 9 |
| 6th Past due installment | | | | | | $9+$2 | 11 |
| Cumulative maximum subtotals | 1 | 4 | 9 | 16 | 25 | 36 | |

| Bimonthly repayment schedule | Installment due dates—Missed payments | | | Separate bimonthly maximum penalty charges |
|---|---|---|---|---|
| | Jan. 2 | Mar. 2 | May 2 | |
| 1st Past due installment | $3 | | | $3 |
| 2nd Past due installment | | $3+$3 | | 6 |
| 3rd Past due installment | | | $6+$3 | 9 |
| Cumulative maximum subtotals | 3 | 9 | 18 | |

| Quarterly repayment schedule | Installment due dates—Missed payments | | Separate quarterly maximum penalty charges |
|---|---|---|---|
| | Jan. 2 | Apr. 2 | |
| 1st Past due installment | $6 | | $6 |
| 2nd Past due installment | | $6+$6 | 12 |
| Cumulative maximum subtotals | 6 | 18 | |

NOTE.—In the above table of examples, the Cumulative Maximum Subtotal line contains the maximum penalty charges that can be assessed on an NDSL borrower for any given installment that was missed on its due date. For example, if three borrowers, all on different repayment schedules, owed and missed their first installment payment on January 2 and all three made their next payment on April 10, the maximum penalty charges that could be assessed each individual borrower would be as follows: $16 to the monthly repayment schedule borrower; $9 to the bimonthly repayment schedule borrower; and $18 to the quarterly repayment schedule borrower.

## Appendix C—Promissory Note

### National Direct Student Loan Program

[Any bracketed clause or paragraph may be included at option of institution.]

I, _____ promise to pay to _____ (hereinafter called the Lending Institution) located at _____, the sum of the amounts that are advanced to me and endorsed in the Schedule of Advances set forth below. [I promise to pay all attorney's fees and other reasonable collection costs and charges necessary for the collection of any amount not paid when due. However, if a collection agency which is subject to the Fair Debt Collection Practices Act is used, I will pay those collection costs which do not exceed 25% of the unpaid principal and interest.]

I further understand and agree that:

**I General**

(1) All sums advanced under this note are drawn from a fund created under Part E of Title IV of the Higher Education Act of 1965, hereinafter called the Act, and are subject to the Act and the Federal Regulations issued under the Act. The terms of this note shall be interpreted in accordance with the Act and Federal Regulations, copies of which are to be kept by the Lending Institution.

(2) I understand that if I am eligible for deferment or cancellation under Articles VI through IX, I am responsible for submitting the appropriate requests on time. I further understand that I may lose my deferment and cancellation benefits if I fail to file my request on time.

**II. Interest**

Interest shall accrue from the beginning of the repayment period and shall be at the ANNUAL PERCENTAGE RATE OF FIVE PERCENT (5%) on the unpaid balance, except that no interest shall accrue during any deferment period described in paragraph VI(1).

**III. Repayment**

(1) I promise to repay the principal and the interest which accrues on it to the Lending Institution over a period beginning 6 months after the date I cease to be at least a half-time regular student at an eligible institution of higher education, or at a comparable institution outside the United States approved for this purpose by the United States Secretary of Education (hereinafter called the Secretary), and ending, unless paragraphs III(4), III(5), III(7), or VI(1) applies, 10 years later.

(2) At my request, the repayment period may start on a date earlier than the one indicated in paragraph III(1).

(3) I promise to repay the principal and interest over the course of the repayment period in equal monthly, bimonthly, or quarterly installments, as determined by the Lending Institution. However, at my request, repayments may be made in graduated installments in accordance with a schedule approved by the Secretary. The Lending Institution shall attach a schedule of repayment, and the schedule will become part of this note.

(4) Notwithstanding paragraph III(1), if I qualify as a low-income individual during the repayment period, the Lending Institution may, at my request, extend the repayment period for up to an additional 10 years, or adjust any repayment schedule to reflect my income, or both.

[(5)(A) If the monthly rate that would be established under paragrph III(1), or the total monthly repayment rate of principal and interest on all my National Direct and National Defense Student Loans including this loan, is less than $30 per month, I shall repay the principal and interest on this loan at the rate of $30 per month (which includes both principal and interest).

[(5)(B) If I have received National Defense or National Direct Student Loans from other institutions and the total monthly repayment rate on those loans is less than $30, the $30 monthly rate established under subparagraph III(5)(A) is the rate I pay on all my outstanding National Defense and National Direct Student Loans and is not in addition to the amount I pay on those other loans. The amount of my monthly repayment rate attributable to this loan is the amount which represents the defference between $30 and the monthly rates I must pay on my other National Defense and National Direct Student Loans.]

[(6) The Lending Institution may permit me to pay less than the rate of $30 per month for a period of not more than one year where necessary to avoid hardship to me unless that action would extend the repayment period in paragraph III(1).]

(7) The Lending Institution may, at my request, reduce any scheduled repayments or extend the repayment period indicated in paragraph III(1) if, in its opinion, extraordinary circumstances such as prolonged illness or unemployment, prevent me from making the schduled repayments. However, interest shall continue to accrue.

[(8) If I make a payment or provide other recognition of the loan, I reaffirm the debt.]

**IV. Prepayment**

(1) I may, at my option and without penalty, prepay all or any part of the principal, plus the accrued interest thereon, at any time.

(2) Amounts I repay in the academic year in which the loan was made will be used to reduce the amount of the loan and will not be considered a payment.

(3) If I repay more than the amount due for any installment, the excess will be used to prepay principal unless I designate it as an advance payment of the next regular installment.

**V. Default**

(1) If I fail to make a scheduled repayment of any installment or I fail to file cancellation or deferment forms with the Lending Institution at the time indicated by the Lending Institution, the entire unpaid indebtedness, including interest due and accrued thereon, plus any applicable penalty charges, shall, at the option of the Lending Institution, become immediately due and payable.

(2) I understand that if I default on my loan repayments, the Lending Institution may disclose that I have defaulted, along with other relevant information, to credit bureau organizations.

(3) Further, I understand that if I default on my loan repayment and the loan is sent to the Secretary for collection, the Secretary may disclose that I have defaulted, along with other relevant information, to credit bureau organizations.

(4) I understand that if the Lending Institution accelerates the loan under paragraph V(1), I may lose my cancellation and deferment benefits for service performed after the date the Lending Institution accelerates the loan.

[(5) I understand that failure to pay this obligation under the terms agreed upon will prevent my obtaining additional Federal financial aid and copies of my student records including my diploma, grades and academic and financial aid transcripts until I have made arrangements which are satisfactory to the Lending Institution regarding the repayment of the loan.]

**VI. Deferment**

(1) Interest will not accrue, and installments of principal need not be paid—

(A) While I am enrolled and in attendance as at least a half-time regular student at an institution of higher education or at a comparable institution outside the United States approved for this purpose by the Secretary.

(B) For a period not in excess of 3 years during which I am—

(i) On full-time active duty as a member of the Armed Forces of the United States (Army, Navy, Air Force, Marine Corps, or Coast Guard) or an officer on full-time active duty in the Commissioned Corps of the U.S. Public Health Service,

(ii) In service as a Volunteer under the Peace Corps Act,

(iii) A volunteer under the Domestic Volunteer Act of 1973 (ACTION programs),

(iv) A full-time volunteer in a tax-exempt organization performing service comparable to the service performed in the Peace Corps or under the Domestic Volunteer Act of 1973, or

(v) Temporarily totally disabled as established by an affidavit of a qualified physician, or unable to secure employment because I am providing care required by my spouse who is so disabled;

(C) For a period not in excess of two years after I receive a baccalaureate or professional degree during which time I am serving in an internship which is required in order that I may receive professional recognition required to begin my professional practice or service, and

(D) During any grace period. A grace period is a six-month period following: (i) The date I cease to be at least a half-time regular student at an eligible institution of higher education or a comparable institution outside the United States, or (ii) the date the deferments described in this paragraph expire.

(2) The lending institution may, at my request, defer my scheduled repayments if it determines that extraordinary circumstances, such as illness or unemployment, prevent me from making those scheduled repayments. Interest however, will continue to accrue.

**VII. Cancellation for Teaching**

(1) I am entitled to have up to 100 percent of the amount of this loan plus the interest thereon cancelled if I undertake service—

(A) As a full-time teacher in a public or other nonprofit elementary or secondary school which is in a school district of a loan educational agency which is eligible for funds under Chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, and which has been designated by the Secretary in accordance with the provisions of section 465(a)(2) of the Higher Education Act as a school with a higher enrollment of students from low-income families, or

(B) As a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, children with specific learning disabilities, or other health-impaired children, who by reason thereof require special education and related services) in a public or other nonprofit elementary or secondary school system.

(2) This loan will be cancelled at the following rates:

(A) 15 percent of the total principal amount of the loan plus interest on the unpaid balance will be cancelled for the first and second complete academic years of that teaching service,

(B) 20 percent of the total principal amount plus interest on the unpaid balance for the third and fourth complete academic years of that teaching service, and

(C) 30 percent of the total principal amount plus interest on the unpaid balance for the fifth complete academic year of that teaching service.

**VIII. Head Start Cancellation**

(1) I am entitled to have up to 100 percent of the amount of this loan plus the interest thereon cancelled if I undertake service as a full-time staff member in a Head Start program if—

(A) That Head Start program is operated for a period which is comparable to a full school year in the locality, and

(b) My salary is not more than the salary of a comparable employee of the local educational agency.

(2) This loan will be cancelled at the rate of 15 percent of the total principal amount plus interest on the unpaid balance for each complete school year or the equivalent of service in a Head Start program.

(3) Head Start is a preschool program carried out under the Head Start Act. (Subchapter B, Chapter 8 of Title VI of Pub. L. 97–35, the Budget Reconciliation Act of 1981; formerly authorized under section 222(a)(1) of the Economic Opportunity Act of 1964).

**IX. Military Cancellation**

(1) I am entitled to have up to 50 percent of the principal amount of this loan plus the interest thereon cancelled if I serve as a member of the Armed Forces of the United States in an area of hostilities that qualifies for special pay under section 310 of Title 37 of the United States Code.

(2) This loan will be cancelled at the rate of 12½ percent of the total principal amount plus interest on the unpaid balance for each complete year of such service.

**X. Death and Disability Cancellation**

If I should die or become permanently and totally disabled, the total principal of this loan plus the interest [and any penalties] thereon shall be cancelled.

**XI. Change in Name, Address, and Social Security Number**

I am responsible, and any endorser is responsible, for informing the Lending Institution of any change or changes in name, address, or social security number.

**XII. Penalty Charge**

[(1) If I fail to make a timely payment of all or any part of a scheduled installment, or if I am eligible for a deferment or a cancellation under Articles VI through IX but fail to submit the appropriate request with required documents on time, I promise to pay the charge assessed against me by the Lending Institution.

[(2) No charge may exceed—

[(A) Where the loan is repayable in monthly installments, $1 for the first month or part of a month by which the installment or request is late, and $2 for each month or part of a month thereafter, or

[(B) Where the loan is repayable in bimonthly or quarterly installments, $3 and $6, respectively, for each installment interval or part thereof by which the installment or request is late.

[(3)(A) The Lending Institution may—

[(i) Add the penalty charge to the principal the day after the scheduled repayment was due; or

[(ii) Include it with the next scheduled repayment after the borrower received notice of the penalty charge.

[(B) If the Lending Institution elects to add the assessed charge to the outstanding principal of the loan, it must so inform me before the due date of the next installment.]

**XIII. Assignment**

(1) This note may be assigned by the Lending Institution only to—

(A) The United States;

(B) Another institution upon my transfer to that institution if that institution is participating in this program; or

(C) Another institution approved by the Secretary.

(2) The provisions of this note that relate to the Lending Institution shall, where appropriate, relate to an assignee.

**XIV. Prior Loans**

I have listed below all of the National Direct Student Loans (or National Defense Student Loans) I have obtained at other institutions. (If no prior loans have been received, state "None.")

SCHEDULE OF NATIONAL DIRECT STUDENT LOANS AND NATIONAL DEFENSE STUDENT LOANS AT OTHER INSTITUTIONS

| | Amount | Date | Institution |
|---|---|---|---|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |

**XV. Schedule of Advances**

The following amounts were advanced to me on the dates indicated:

| | Amount | Date | Signature of Borrower |
|---|---|---|---|
| 1 | $ | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |

NOTICE TO BORROWER: DO NOT SIGN THIS NOTE BEFORE YOU READ IT. THE LENDING INSTITUTION MUST SUPPLY TO YOU AND ANY ENDOURSER A COPY OF THIS NOTE.

[This notice is signed as a sealed instrument.]

Signature ——————— [(seal)].
Date ——————— 19—.
Permanent Address (Street or Box Number, City, State, and Zip Code) Social Security Number (endorser must provide)
———————.

The borrower and Lending Institution shall execute this note without security and without endorsement unless the borrower is a minor and this note would not, under the law of the State in which the Lending Institution is located, create a binding obligation. If the borrower is a minor and this note would not, therefore, be legally binding, the Lending Institution shall require the following endorsement:

Signature ——————— [(seal)].
Date ——————— 19—.
Permanent Address (Street or Box Number, City, State, and Zip Code) Social Security Number (borrower must provide)
———————.

(20 U.S.C. 1087dd)

## PART 675—COLLEGE WORK-STUDY AND JOB LOCATION AND DEVELOPMENT PROGRAM

Part 675 of Title 34 of the Code of Federal Regulations would be amended as set forth below:

**Note.**—An asterisk (*) indicates provisions that are common to Part 674, 675 and 676. The use of asterisks will assure participating institutions that a provision of one regulation is identifical to the corresponding provisions in the other two.

1. The authority for Part 675 reads as follows:

**Authority:** Sec. 441–448 of Title IV–C of the Higher Education Act of 1965 as amended. (42 U.S.C. 2751–2756b), unless otherwise noted.

2. Section 675.1 and 675.2 would be revised to read as follows:

### Subpart A—College Work-Study Program

#### § 675.1 Purpose and identification of common provisions.

(a) The College Work-Study (CWS) Program provides part-time employment to students attending institutions of higher education who need the earnings to help meet their costs of postsecondary education.

*(b) Provisions in these regulations that are common to all campus-based programs are identified with an asterisk.

(42 U.S.C. 2751–2756b)

#### § 675.2 Definitions.

*(a) Subpart A of the Student Assistance General Provisions, 34 CFR Part 668, sets forth definitions of the following terms used in this part:

*Academic year;*
*Act;*
*Award year;*
*Campus-based programs;*
*Clock hour;*
*College Work-Study (CWS) Program;*
*Defense loan;*
*Dependent student;*
*Direct loan;*
*Guaranteed Student Loan (GSL) Program;*
*Independent student;*
*National Defense Student Loan Program;*
*National Direct Student Loan (NDSL) Program;*
*National of the United States;*
*One-year training program;*
*Parent;*
*Pell Grant Program;*
*PLUS Program;*
*Postsecondary vocational institution;*
*Proprietary institution of higher education;*
*Public or private nonprofit institution of higher education;*
*Recognized equivalent of a high school diploma;*
*Regular student;*
*Secretary;*
*Six-month training program;*
*State;*
*State Student Incentive Grant (SSIG) Program; and*
*Supplemental Educational Opportunity Grant (SEOG) Program.*

(b) The Secretary defines other terms used in this part as follows:

*Cooperative Education Program:* A program authorized by Title VIII of the Higher Education Act.

**Eligible program:* A program of education or training that—

(1) Admits as regular students only persons who—

(i) Have a high school diploma;

(ii) Have a General Education Development (GED) Certificate or a State certificate received after passing a State-authorized examination which the State recognizes as the equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is located, and have the ability to benefit from the education or training offered.

(2)(i) Leads to a bachelor's, associate, undergraduate, graduate, or professional degree;

(ii) Is at least a two-year program that is acceptable for full credit toward a bachelor's degree;

(iii) Is at least one-year program leading to a certificate or degree that prepares a student for gainful employment in a recognized occupation; or

(iv) Is, for a proprietary institution of higher education or a postsecondary vocational institution, at least a six-month program leading to a certificate or degree which prepares a student for gainful employment in a recognized occupation.

**Expected family contribution* (EFC): The amount a student and his or her spouse and family are expected to pay toward the student's cost of attendance.

**Financial need:* The difference between a student's cost of attendance and his or her EFC.

*Graduate or professional student:* A student who—

(1) Is enrolled in a program or course above the baccalaureate level at an institution of higher education or is enrolled in a program leading to a first professional degree;

(2) Has completed the equivalent of at least three years of full-time study at an institution of higher education, either prior to entrance into the program or as part of the program itself; and

(3) Is not receiving Title IV aid as an undergraduate student.

*Half-time graduate or professional student:* An enrolled graduate or professional student who is carrying a half-time academic work load as determined by the institution according to its own standards and practices.

*Half-time undergraduate student:* An enrolled undergraduate student who is carrying a half-time academic work load, as determined by the institution, which amounts to at least half the work load of the appropriate minimum requirement of a full-time student. However, the institution's half-time standards must equal or exceed the equivalent of the following minimum requirements:

(1) 6 semester hours or quarter hours per academic term for an institution using a standard semester, trimester, or quarter system;

(2) 12 semester hours or 18 quarter hours per academic year for an institution using credit hours to measure progress, but not using a standard semester, trimester, or quarter system, or the prorated equivalent for a program of less than one year;

(3) 12 clock hours per week for an institution using clock hours; or

(4) 12 clock hours of preparation per week for a student enrolled in a program of study by correspondence. Regardless of the workload, no student enrolled solely in correspondence study is considered more than half-time.

**Institution of higher education (institution):* A public or private nonprofit institution of higher education, or a proprietary institution of higher education, or a postsecondary vocational institution.

*Nonprofit organization:* An organization owned and operated by one or more nonprofit corporations or associations where no part of the organization's net earnings benefits, or

may lawfully benefit, any private shareholder or entity. An organization may show that it is nonprofit by meeting the provisions of § 75.51 of the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.51.

(20 U.S.C. 1141(c))

*Payment period:* A semester, trimester, or quarter. For an institution not using those academic periods, it is the period between the beginning and the midpoint or between the midpoint and the end of an academic year. A payment period is not the payroll period discussed in § 675.16.

*Undergraduate student:* A student who is in an undergraduate course of study that usually does not exceed 4 academic years, or is enrolled in a 4-to-5-academic year program designed to lead to a first degree. A student enrolled in any other length program is considered an undergraduate student for only the first 4 academic years.

(42 U.S.C. 2751–2756, unless otherwise noted)

3. Sections 675.8 through 675.27 would be revised to read as follows:

**§ 675.8 Program participation agreement.**

To participate in the CWS program, an institution of higher education shall enter into a participation agreement with the Secretary. The agreement provides that the institution shall—

(a) Use the funds it receives solely for the purposes specified in this part;

(b) Administer the CWS program in accordance with the Act, the provisions of this part, and the Student Assistance General Provisions regulations, 34 CFR Part 668;

(c) Make non-CWS institutional jobs reasonably available to the extent of available funds to all students in the institution who want to work; and

(d) Award CWS employment, to the maximum extent practicable, which will complement and reinforce each recipient's educational program or career goals.

(20 U.S.C 1094, 42 U.S.C. 2753)

**§ 675.9 Student eligibility and selection requirements.**

(a) *Eligibility.* A student at an institution of higher education is eligible for part-time employment under CWS if the student—

*(1) Is a regular student;

(2) Is enrolled or accepted for enrollment in an eligible program as a graduate or undergraduate student;

*(3)(i) Is a U.S. citizen or National;

(ii) Is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands; or

(iii) Provides evidence from the U.S. Immigration and Naturalization Service that he or she—

(A) Is a permanent resident of the U.S.;

(B) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;

*(4) Has financial need. A member of a religious order (an order, community, society, agency, or organization) who is pursuing a course of study at an institution or higher education is considered to have no financial need if that religious order—

(i) Has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being; and

(ii) Directs the member to pursue the course of study or provides subsistence support to its members;

*(5) Is maintaining satisfactory academic progress in the course of study he or she is pursuing according to the standards and practices of that institution;

*(6) Except as provided in paragraph (b) of this section, does not owe a refund on a Pell Grant, SEOG, or SSIG received to meet the cost of attendance at that institution; and

*(7) Except as provided in paragraphs (c) and (d) of this section, is not in default on any NDSL, GSL, or PLUS received to meet the cost of attendance at that institution.

*(b) *Overpayment.* Overpayment of a grant means that a student's grant payments are greater than the amount he or she is entitled to receive. A student who owes a refund on a Pell Grant, SEOG, or SSIG due to an overpayment is eligible for CWS employment under the following conditions:

(1)(i) *Overpayment of a Pell Grant.* If an institution makes an overpayment of a Pell Grant to a student, that student is eligible for CWS employment if—

(A) The student is otherwise eligible; and

(B) The institution can eliminate the overpayment in the award year in which it occurred by adjusting subsequent Pell Grant payments for that award year.

(ii) *Overpayment of a Pell Grant due to institutional error.* It the institution makes an overpayment of a Pell Grant to a student as a result of its own error and cannot correct the overpayment as specified in paragraph (b)(1)(i)(B) of this section, the student is eligible for CWS employment if—

(A) The student is otherwise eligible; and

(B) The student acknowledges in writing the amount of overpayment and agrees to repay it in a reasonable period of time.

(2) *Overpayment of an SEOG or SSIG.* If an institution makes an overpayment of an SEOG or SSIG to a student, that student is eligible for CWS employment if—

(i) The student is otherwise eligible; and

(ii) The institution can eliminate the overpayment by adjusting financial aid payments (other than Pell Grants) in the same award period in which the overpayment occurred.

*(c) *Default on loans.* The following are the conditions under which an institution may provide CWS employment to a student who is in default on GSL, PLUS, Direct or Defense loans made for attendance at that institution:

(1)(i) *Guaranteed loan and PLUS.* An institution may provide CWS employment to a student who is in default on a Guaranteed Student Loan or a PLUS if the Secretary (for a Federally insured loan) or a guarantee agency (for a loan insured by that guarantee agency) determines that the student has made satisfactory arrangements to repay the defaulted loan.

(ii) *GSL/PLUS Reliance on student's statement.* An institution, in determining whether a student is in default on a loan made under the Guaranteed Student Loan Program, or the PLUS Program, may rely upon the student's written statement that he or she is not in default unless the institution has information to the contrary.

(2) *National Defense/Direct Student Loan.* An institution may provide CWS employment to a student who is in default on a National Defense/Direct Student Loan made at that institution if the student has made arrangements, satisfactory to the institution, to repay the loan.

*(d) *Bankruptcy.* The Secretary does not consider a loan made under the National Defense Student Loan, National Direct Student Loan, Guaranteed Student Loan, or PLUS Program that is discharged in bankruptcy to be in default for purposes of this section.

(3) *Institutional responsibility for determining eligibility.* The institution is responsible for determining the eligibility of the students participating in its program whether the students work for the institution or for a Federal, State, or local public agency or a nonprofit private organization.

(f) *Selection.* *(1) An institution shall make employment under CWS

reasonably available (to the extent of available funds) to all eligible students.

*(2) An institution shall establish selection procedures and those procedures must be—

(i) Uniformly applied;

(ii) In writing; and

(iii) Maintained in the institution's files.

(3) An institution may use up to 10 percent of its initial and supplemental CWS allocation to award CWS employment to eligible students who are enrolled on less than a half-basis.

(4) Funds allocated to an institution under section 442(f) of the Act may be used only for adminstrative expenses and to pay the Federal share of wages earned by eligible students who are residents of American Samoa or the Trust Territory of the Pacific Islands.

(20 U.S.C. 1091, 42 U.S.C. 2753)

**§ 675.10 [Reserved]**

***§ 675.11 Allowable costs of attendance.**

(a) *General.* (1) Except as provided in paragraph (d) of this section, a student's cost of attendance means—

(i) The tuition and fees charged to a full-time student for an academic year by the institution he or she is attending as determined under paragraph (b) of this action;

(ii) An allowance for room and board expenses for an academic year, as determined under paragraph (c) of this section;

(iii) A reasonable allowance determined by the institution for books and supplies for an academic year;

(iv) A reasonable allowance determined by the institution for transportation for an academic year. This allowance may include—

(A) The cost of travel between the student's residence and the institution; and

(B) The cost of travel required for completion of a course of study;

(v) A reasonable allowance determined by the institution for miscellaneous personal expenses for an academic year;

(vi) A reasonable allowance determined by the institution for an academic year for expenses related to study abroad for students enrolled in an academic program which normally includes a formal program of study outside the United States;

(vii) A reasonable allowance determined by the institution for expenses for an academic year related to child care for a student's dependent children; and

(viii) A reasonable allowance determined by the institution for a handicapped student's expenses for an academic year related to his or her handicap, if these expenses are not provided for by any other assisting agency or program. This allowance may include expenses related to special services, transportation, equipment and supplies. A handicapped student is a student who meets the definition contained in section 602(1) of the Education of the Handicapped Act, i.e., a student who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or orthopedically impaired, or is otherwise health impaired or has specific learning disabilities which require special education and related services.

(2) The institution shall take into account when determining a student's cost of attendance—

(i) The period for which financial assistance is awarded; and

(ii) Whether the student is enrolled on a full-time or less than full-time basis.

(b) *Tuition and fees.* (1) An institution shall determine the tuition and fees charged a full-time student by calculating—

(i) The actual amount charged the full-time student for tuition and fees for an academic year; or

(ii) The average amount it charges full-time students for tuition and fees for an academic year. If the institution selects this option, it shall determine an average cost for each of the following categories of students:

(A) Undergraduate students;

(B) Graduate students; and

(C) Professional students.

(2) If an institution establishes its tuition and fee charges on a residency requirement basis (e.g., In-State and Out-of-State) and elects to calculate an average charge for tuition and fees, it shall establish a separate average charge for each different residency-based classification.

(3) An institution may determine a separate average charge for any other distinct classification upon which it bases tuition and fee charges.

(c) *Room and board.* (1) The institution shall calculate a student's room and board allowance as follows—

(i) For a student who has no dependents and lives with his or her parent(s), an allowance of $1,100;

(ii) For a student who has no dependents and lives in institutionally owned or operated housing—

(A) The actual amount charged the student for room and board for an academic year; or

(B) A standard allowance based on the average amount it charges most of its student residents for room and board for an academic year;

(iii) For a student who has no dependents and does not live with his or her parent(s) or in institutionally owned or operated housing, a standard allowance determined by the institution for room and board for an academic year; or

(iv) For a student who has dependents, an allowance determined by the institution for room and board for an academic year based upon expenses incurred by the student and his or her dependent(s).

(2) For purposes of this section, a spouse is considered a dependent.

(d) *Attendance costs for students in correspondence study programs.* The cost of attendance for a student enrolled in a correspondence study program means—

(1) Actual tuition and fees charged to the student for an academic year;

(2) A reasonable allowance determined by the institution for books and supplies for an academic year, if required for the completion of the program; and

(3) If incurred in fulfilling a required period of residential training, expenses for—

(i) Room and board; and

(ii) Travel between the student's residence and the institution.

(e) *Adjustments.* The institution may, in individual cases, adjust a student's cost of attendance if the cost of attendance calculated under paragraphs (a) through (c) of this section is not a reasonable approximation of the student's actual costs.

(f) *Required documentation.* An institution must be able to justify and document the cost of attendance figures established under this section.

(20 U.S.C. 1089)

***§ 675.12 Expected family contribution.**

(a) *Annual determinations.* An institution shall determine a student's financial need at least annually.

(b)(1) To determine a student's need, an institution shall determine the student's EFC.

(2) To determine an EFC for the period of the student's award, an institution shall use one of the approved systems of need analysis as provided in § 675.13.

(c) *Native American students.* In determining a Native American's EFC, an institution may not consider the following as income or assets of the student and his or her spouse or parents—

(1) Awards made under Pub. L. 98-64, the Distribution of Judgment Funds Act (25 U.S.C. 1401 *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), and the Maine Indians

Claims Settlement Act (25 U.S.C. 1721 *et seq.*). However, if the awards under the first or second Acts individually exceed $2,000, only the awards under each of those Acts in excess of $2,000 shall be considered income or assets of the student or student's spouse or parents;

(2) Property that may not be sold or encumbered without the consent of the Secretary of the Interior; and

(3) Any other property held in trust by the U.S. Government for the student or the student's spouse or parents.

(d) *Adjustments.* An institution may, in individual cases, adjust an EFC computed according to one of the approved need analysis systems, as provided in § 675.13, if—

(1) The student financial aid administrator believes the EFC does not accurately reflect the student's, spouse's, or parent's ability to contribute; and

(2) The institution documents all adjustments in writing with an accompanying explanation.

(42 U.S.C. 2754)

***§ 675.13 Approved need analysis systems.**

(a)(1) An institution shall use a need analysis system which is approved by the Secretary in determining a student's EFC.

(2) Any system of need analysis approved by the Secretary—

(i) Must consider in determining the amount a dependent student and his or her spouse and parents are expected to contribute toward the student's costs of attendance—

(A) The number of the parents' dependent children;

(B) The number of the parents' dependent children attending institutions of higher education; and

(C) Tuition costs of dependent children attending elementary and secondary schools;

(ii) Must consider in determining the amount an independent student and his or her spouse are expected to contribute toward the student's costs of attendance—

(A) The number of the student's dependent children; and

(B) The number of the student's dependent children attending institutions of higher education;

(iii) Must produce expected parental contributions that—

(A) Increase incrementally as the parents' financial strength, measured in constant dollars, increases; and

(B) Are equal for parents of equal financial strength.

(3) The Secretary preapproves the need analysis systems described in paragraph (b) of this section, and approves other systems that meet the requirements of this section.

(b) *Preapproved systems for dependent and independent students.* The Secretary preapproves the following need analysis systems—

(1) The system that produces the expected family contribution number (FC) printed on the Student Aid Report provided to the student by the Secretary; and

(2) The EFC used in the Pell Grant Program (34 CFR Part 690).

(c) *Application requirements.* (1) An individual or organization wishing to have a need analysis system approved for an award year shall submit to the Secretary before the closing date published in the **Federal Register** the following:

(i) A complete description of its system of need analysis for dependent and independent students;

(ii) Its student application form(s) for undergraduate, graduate, and professional students;

(iii) The expected parental contributions its system produces for dependent undergraduate students under the sample cases published by the Secretary if the majority of students to be served by its system are undergraduates;

(iv) The expected parental contributions its system produces for dependent graduate or professional students under the sample cases published by the Secretary if the majority of students to be served by its system are graduate or professional students; and

(v) A complete calculation of how each expected parental contribution is derived, including enough information to allow the Secretary to duplicate these calculations and results.

(2) The Secretary does not accept the information specified in paragraph (c)(1) of this section in the form of computer programs, software, or mechanical devices.

(d) *Expected parental contributions and sample cases.* (1) For each award year, the Secretary publishes in the **Federal Register** sample cases and expected parental contributions for dependent undergraduate students, and dependent graduate or professional students.

(2) The Secretary computes the expected parental contributions for undergraduate, and graduate or professional dependent students by using sample cases which—

(i) Are based on families of varying sizes with two parents, the older of whom is 45 and is the sole wage earner, and either one is dependent undergraduate or one graduate or professional student;

(ii) Deduct from the adjusted gross income of the student's working parent—

(A) The amount of Federal income tax (based on a joint return with standard deductions) and social security tax;

(B) An 8 percent allowance on taxable income for State and other taxes; and

(C) A Standard Maintenance Allowance for the family (excluding the applicant during the academic year) using the Department of Labor's estimates for a low budget standard of living;

(iii) Determine the parents' Discretionary Net Worth deducting a Home and Other Asset Protection Allowances from the net market value of the parents' assets;

(iv) After considering the parents' available income, apply an asset conversion rate against the parents' Discretionary Net Worth;

(v) Add the amounts determined under paragraphs (d)(2)(ii) and (d)(2)(iv) of this section; and

(vi) Apply the amount determined under paragraph (d)(2)(v) of this section; taxation rate schedules for undergraduate, or graduate or professional students, respectively.

(3) The expected parental contributions published by the Secretary do not take into account—

(i) More than one family member attending an institution of higher education as an undergraduate, or graduate or professional student;

(ii) Business or farm assets;

(iii) Nontaxable income;

(iv) Unusual medical or dental expenses;

(v) Other unusual expenses; and

(vi) Elementary and secondary tuition expenses.

(4) In comparing figures from systems submitted for approval with figures from sample cases, the Secretary treats an expected parental contribution of less than zero as zero.

(5) To insure measurement in constant dollars, the Secretary revises sample case figures for inflation annually by adjusting—

(i) Deductions for family maintenance;

(ii) The standard deduction from assets; and

(iii) The rate of contribution from income and assets.

(e) *Approval of system.* (1) The Secretary approves systems of need analysis for an award year if such systems—

(i) Satisfy the criteria set forth in paragraph (a) (2) of this section; and

(ii) Produce expected parental contributions that are within $50 in 75 percent of the sample cases published by the Secretary.

(2)(i) If the Secretary approves an individual's or organization's system for dependent undergraduate students, the Secretary also approves that individual's or organization's system for independent undergraduate students, and dependent and independent graduate and professional students.

(ii) If the Secretary approves an individual's or organization's system for dependent graduate or professional students, the Secretary also approves that individual's or organization's system for dependent undergraduate students, and independent undergraduate, and graduate and professional students.

(3) For each award year, the Secretary publishes in the **Federal Register** a list of approved need analysis systems that institutions shall use in calculating awards for that year.

(4) An institution must use one system of need analysis for all of its undergraduate students and one system of need analysis for all of its graduate or professional students.

(Sec. 4 of Pub. L. 97-301 as amended by sec. 4 of Pub. L. 98-79)

**§675.14 Overaward.**

(a) *Overaward prohibited.* *(1) An institution may award CWS employment to a student if the award, when combined with the other resources the student receives, does not exceed the student's financial need.

(2) When awarding CWS employment to a student, the institution must take into account those resources it—

(i) Can reasonably anticipate at the time it awards CWS funds to the student;

(ii) Makes available to its students; or

(iii) Knows about.

(3)(i) If a student receives additional resources before the institution employs the student under the CWS program, and the total resources including the prospective CWS wages exceed the student's need, the overaward is the amount that exceeds need.

*(ii) If a student receives additional resources after the institution disburses the student's CWS wages and the total resources including the CWS wages exceed the student's need by $200 or more and the excess is not from employment, the overaward is the amount that exceeds $199.

*(4) If a student earns more money from employment than the institution anticipated or could have reasonably anticipated when it awarded the CWS employment, the institution shall treat the earnings in accordance with paragraph (c) of this section.

* (b) *Resources.* (1) The Secretary considers that "resources" include, but are not limited to, any—

(i) Funds the student is entitled to receive from a Pell Grant, regardless of whether the student applies for the Pell Grant;

(ii) Waiver of tuition and fees;

(iii) Scholarship or garant, including ROTC and an athletic scholarship;

(iv) Fellowship or assistantship;

(v) Insurance programs for the student's education, including any social security educational benefits;

(vi) Veterans benefits;

(vii) Net earnings from employment, other than CWS employment for the period of the award except as provided in § 675.23; and

(viii) Except as provided in paragraph (b)(3) of this section, long-term loans made by the institution.

(2) The Secretary does not consider as a resource any portion of the resources, described in paragraph (b)(1) of this section, that are included in the student's EFC.

(3) *Treatment of loans made under the GSL and PLUS programs.* (i) If the adjusted gross income of the student's family is $30,000 or less, the student may use a GSL as a substitute for his or her expected family contribution.

(ii) If the adjusted gross income of the student's family is greater than $30,000, the student may not use a GSL as a substitute for his or her expected family contribution.

(iii) The student may use a PLUS loan to substitute for his or her expected family contribution.

(iv) However, if the loan amounts received under the GSL or PLUS programs individually or collectively exceed the expected family contribution, the excess is a resource.

* (c) *Treatment of earnings in excess of need.* An institution shall take the following steps when it learns that a student has earned, or will earn, $200 or more over his or her financial need:

(1) The institution shall decide whether the student has increased financial need unanticipated when it awarded financial aid to the student. If the student does, no further action is necessary.

(2) If the student's earnings still exceed need by $200 or more after the institution subtracts any additional costs, it shall cancel any unpaid loan or grant (other than Pell Grants) to avoid exceeding need by more than $199.

(3) If the student's earnings still exceed his or her need by $200 or more after the institution takes the steps required in paragraphs (c) (1) and (2) of this section, and the student is enrolled for the next academic year, the institution shall consider the amount that exceeds $199 as a resource to help pay the student's cost of attendance in the following year.

(4) If the student's earnings still exceed his or her need by $200 or more after the institution takes the steps required in paragraphs (c) (1) and (2) of this section, and the student is NOT enrolled for the next academic year, no further action is necessary.

(d) An institution may continue to employ a student employed in a CWS job, during a payment period, at the time income derived from any employment (CWS or non-CWS employment) is in excess of the student's financial need for that payment period. However, as provided in § 675.24, when such excess income equals $200 or more, continued employment under CWS shall not be subsidized with CWS funds.

(42 U.S.C. 2753(b)(3))

*** § 675.15 Coordination with BIA grants.**

(a) To determine the amount of CWS compensation for a student who is also eligible for a Bureau of Indian Affairs (BIA) education grant, an institution shall prepare a package of student aid—

(1) From resources other than the BIA education grant the student has received or is expected to receive; and

(2) That is consistent in type and amount with packages prepared for students in similar circumstances who are not eligible for a BIA education grant.

(b)(1) The BIA education grant, whether received by the student before or after the preparation of the student aid package, supplements that package.

(2) No adjustment may be made to the student aid package as long as the total or the package and the BIA education grant is less than the institution's determination of that student's financial need.

(c)(1) If the BIA education grant, when combined with other aid in the package, exceeds the student's need, the excess must be deducted and may be deducted only from the other assistance, not the BIA education grant.

(2) The institution shall deduct the excess in the following sequence: Loans, work-study awards, and grants other than Pell Grants. However, the institution may change the sequence if requested by a student and the institution believes the change benefits the student.

(d) To determine the financial need of a BIA-eligible student, a financial aid administrator is encouraged to consult

with area officials in charge of BIA postsecondary financial aid.

(42 U.S.C. 2753)

**§ 675.16 Payments to students.**

(a)(1)(i) An institution shall pay a student at least once a month. The Federal share of each payment shall be paid to the student by check or similar instrument that the student can cash on his or her own endorsement.

(ii) The institution may not directly transfer the Federal share of any payment to the student's account at the institution or elsewhere.

(2) Regardless of who employs the student, the institution is responsible for ensuring that the student is paid for work performed.

(3) A student's CWS wages are earned when the student performs the work.

(4) An institution may pay a student after the student's last day of attendance for CWS wages earned while he or she was in attendance at the institution.

(b)(1) If an institution pays a student its share of his or her CWS wages by check, it shall pay the student at the same time it pays the Federal share.

(2) If an institution pays a student its CWS share for an award period in the form of tuition, fees, services, or equipment, it shall pay that share before the student's final payroll period.

(3) If an institution pays its CWS share in the form of prepaid tuition, fees, services, or equipment for a forthcoming academic period, it shall give the student a statement before the close of his or her final payroll period listing the amount of tuition, fees, services, or equipment earned.

(c) *Correspondence study.* A correspondence student shall submit his or her first completed lesson before receiving a payment.

(d) If an institution computes a student's need using estimated data submitted before January 1, of the previous calendar year, the institution shall not pay the student unless it verifies that information.

(e) The institution shall not obtain a power of attorney from a student to authorize any disbursement.

(20 U.S.C. 1091, 42 U.S.C. 2753)

***§ 675.17 Federal interest in allocated funds.**

Except for funds received for the administrative cost allowance (see § 675.18(b)), funds received by an institution under the CWS program are held in trust for the intended student beneficiaries. Funds may not be used or hypothecated (i.e., serve as collateral) for any other purpose.

(42 U.S.C 2751–56)

**§ 675.18 Use of funds.**

(a) *General.* An institution may transfer a portion of its CWS allocation to its SEOG allocation as described in paragraph (g) of this section or it may use the funds to—

(1) Pay the Federal share of CWS wages;

(2) Carry out the activities described in paragraph (b) of this section; and

(3) Meet the cost of a Job Location and Development program under Subpart B.

(b) *Administrative cost allowance.* (1) An institution participating in the CWS program is entitled to an administrative cost allowance if it provides CWS employment to its students in that award year.

(2) For any award year, the amount of the allowance equals—

(i) Five (5) percent of the first $2,750,000 of the institution's expenditures in that award year under the CWS, SEOG, and NDSL programs; plus

(ii) Four (4) percent of its expenditures which are greater than $2,750,000 but less than $5,500,000; plus

(iii) Three (3) percent of its expenditures which are in excess of $5,500,000.

(3) However, the institution shall not include, when calculating the allowance in paragraph (b)(1) of this section, the institution's CWS expenditures under the community service learning program (§ 675.26), and the amount of NDSLs it assigns to the Secretary under section 463(a)(6)(B) of the Act.

(4) An institution shall use its administrative cost allowance to offset its costs of administering the Pell Grant, CWS, SEOG, and NDSL programs. Administrative costs also include the expenses incurred for carrying out the student consumer information services requirements of Subpart D of the Student Assistance General Provisions regulations, 34 CFR Part 668.

(5) An institution may not charge for administrative expenses against the funds it receives under section 442(f) of the Act more than 5 percent of the funds it expends for CWS employment under that section, except as provided by paragraph (b)(6)(i) of this section.

(6)(i) In addition to the amount calculated in paragraph (b)(1) of this section, an institution's administrative cost allowance includes ten (10) percent of its expenditures under the community service learning program set forth in § 675.26.

(ii) This portion of its administrative cost allowance shall be taken from the institution's CWS allocation.

(iii) The institution may use this portion of its administrative cost allowance to offset the costs of administering the Pell Grant, CWS, SEOG, and NDSL programs and to pay the administrative costs of conducting its community service learning program. These latter costs may include the costs of—

(A) Developing mechanisms to assure the academic quality of a student's experience;

(B) Assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives; and

(C) Collaborating with public and private nonprofit agencies in the planning and administering of these programs.

(c) *Carry forward funds.* (1) An institution may carry forward and expend in the next award year up to 10 percent of the sum of its initial and supplemental CWS allocations for the current award year.

(2) Before an institution may spend its current year CWS allocation, it shall spend any funds carried forward from the previous year.

(d) *Carry back funds.* An institution may carry back and expend in the previous award year up to 10 percent of the sum of its initial and supplemental CWS allocations for the current award year. The institution's official allocation letter represents the Secretary's approval to carry back funds.

(e) The institution may use the funds carried forward or carried back under paragraphs (c) and (d) of this section, respectively, for activities described in paragraph (a) of this section.

(f) *Less-than-half-time students.* An institution may use up to 10 percent of the sum of its initial and supplemental CWS allocations to pay the compensation earned by less-than-half-time eligible students.

(g) *Transfer funds to SEOG.* (1) An institution may transfer up to 10 percent of the sum of its initial and supplemental CWS allocations for an award year to its SEOG program.

(2) An institution shall use transferred funds according to the requirements of the program to which they are transferred.

(3) An institution may use CWS funds transferred to the SEOG program for IY or CY grants, as it sees fit.

(4) An institution shall report any transferred funds on the Fiscal-Operations Report required under § 675.19(b).

(5) An institution shall transfer back to the SEOG program any funds unexpended at the end of the award

year that it transferred to the CWS program from the SEOG program.

(20 U.S.C. 1095, 1096; 42 U.S.C. 2753, 2756, 2756b)

**§ 675.19 Fiscal procedures and records.**

(a) *Fiscal procedures.* (1) In administering its CWS program, an institution shall establish and maintain an internal control system of checks and balances that insures that no office can both authorize payments and disburse funds to students.

(2) If an institution uses a fiscal agent, that agent may perform only ministerial acts.

(3)(i) Except as provided in paragraph (a)(3)(ii) of this section, a separate bank account for CWS funds is not required. However, an institution shall notify any bank in which it deposits CWS funds of all accounts in that bank in which it deposits Federal funds. The institution shall give this notice by including in the name of each such account the fact that Federal funds are deposited therein.

(ii) If the Secretary determines that adequate accounting records are not maintained, the institution shall be required to keep CWS funds in a separate bank account.

(b) *Records and reporting.* (1) An institution shall establish and maintain on a current basis financial records that reflect all program transactions. The institution shall establish and maintain general ledger control accounts and related subsidiary accounts that identify each program transaction and separate those transactions from all other institutional financial activity.

(2) The institution shall also establish and maintain program and fiscal records that—

(i) Include a certification that each student has worked and earned the amount being paid. The student's supervisor, an official of the institution or off-campus agency, shall sign the certification. The certification shall include, for students paid on an hourly basis, a time record showing the hours each student worked in clock time sequence;

(ii) Include a payroll voucher containing sufficient information to support all payroll disbursements;

(iii) Include a noncash contribution record to document any payment of the institution's share of the student's earnings in the form of services and equipment [see § 675.25(a)];

(iv) Are reconciled at least monthly;

(v) Identify each student's account and status;

(vi) Show the eligibility of each student aided under the program;

(vii) Show how the need was met for each student; and

(viii) Identify the administrator who determined each student's need.

(3) Each year an institution shall submit a Fiscal-Operations Report plus other information the Secretary requires. The institution shall insure that the information reported is accurate and shall submit it on the form and at the time specified by the Secretary.

(4) The institution must maintain on file all CWS employment applications for those students it reports on the Fiscal-Operations Report and Application to Participate in the NDSL, SEOG, and CWS Programs (FISAP).

(c) *Retention of records.*—(1) *Records.* Each institution shall keep intact and accessible records of the receipt and expenditure of Federal funds, including all accounting records and original and supporting documents necessary to document how the funds are spent.

*(2) *Period of retention.* Except for audit questions, an institution shall keep records for an award year for five years after it submits its Fiscal-Operations Reports for that year.

*(3)(i) An institution may keep the records required in this section on microfilm or it may keep its records in computer format.

(ii) If the institution keeps its records in computer format it shall maintain, in either hard copy or microfilm form, the source documents supporting the computer input.

*(4) *Audit questions.* An institution shall keep records on any claim or expenditure questioned by Federal audit until resolution of any audit questions. However, the institution does not have to retain records beyond the 5-year period established in paragraph (c)(2) of this section if the actions taken by the United States to recover funds are barred by the Federal statute of limitations in 28 U.S.C. 2415.

(42 U.S.C. 2753 and 20 U.S.C. 1094 and 1232f)

**§ 675.20 Maintenance of effort.**

(a) For each award year it receives a CWS allocation, an institution shall spend from its own scholarship and student financial aid program at least one-third of its aid program expenditures for the 3 award years preceding the latest of the following:

(1) The effective date of any program participation agreement required by section 487 of the Act that was in effect on October 1, 1980;

(2) The award year the institution received its first CWS allocation; or

(3) The award year the institution received its first SEOG allocation.

(b) The Secretary may waive the maintenance-of-effort requirements for an award year under the following circumstances—

(1) Fund withdrawals from outside sources (Public appropriations are not considered outside sources for public institutions).

(2) Enrollment decline if the institution continues to spend from its own scholarship and student financial aid program the average amount it spent per student during the 3-year base period.

(3) Voluntary withdrawal as a GSL lender, or termination as a GSL lender by the Secretary. The Secretary waives the portion of the failure that equals one-third the amount of loans the institution made as a lender during the 3-year base period.

(4) Withdrawal from participation in the NDSL program. The Secretary waives the portion of the failure that equals one-third the amount of the institutional share of loans made during the 3-year base period.

(5) Temporary employment of students by the institution in the base period due to extraordinary circumstances if such employment did not continue as part of the institution's normal student employment program.

(c) An institution, to obtain a waiver, shall submit to the Secretary—

(1) A written request for a waiver; and

(2) A description of the circumstances justifying the waiver.

(d) An institution's "own scholarship and student financial aid program" includes—

(1) Any expenditures of its own funds for scholarships, grants, loans, tuition waivers, fee waivers, and fee remissions;

(2) The institution's employment of its graduate and undergraduate students, whether or not they are eligible for the SEOG or CWS programs; and

(3) Any funds donated to the institution for student financial aid if the institution chooses the recipients and the award amounts. However, the institution may not claim funds from Federal sources as part of its "own scholarship and student financial aid program."

(e) (1) According to an institution's stated practices, scholarships and other student financial aid given to faculty members' dependents or to institution employees may be considered as either—

(i) Student financial aid; or

(ii) Employees benefits.

(2) Fellowships and assistantships are considered financial aid unless it is the institution's stated practice to consider the holders faculty members.

(20 U.S.C. 1094)

**§ 675.21 CWS employment.**

(a) *Eligible CWS employers.* CWS employment shall involve work—

(1) For the institution itself, except in the case of a proprietary institution of higher education; or

(2) In the public interest for a Federal, State, or local public agency or a private nonprofit organization.

(b) *CWS employment by the institution.* An institution may employ CWS students in those operations, such as food service, cleaning, maintenance, or security that the institution contracts for if the contract specifies—

(1) The number of students to be employed; and

(2) That the institution selects the students to be employed and determines each student's pay rate.

(c) *CWS employment in the public interest.* The Secretary considers work in the public interest to be work performed for the national or community welfare rather than work performed to benefit a particular interest or group. Work is Not in the public interest if—

(1) It primarily benefits the members of a limited membership organization such as a credit union, a fraternal or religious order, or a cooperative;

(2) It is for an elected official outside the regular administration of Federal, State, or local government;

(3) A student's political support or party affiliation is taken into account in hiring him or her;

(4) It involves any partisan or nonpartisan political activity or is associated with a faction in an election for public or party office; or

(5) It involves lobbying on the Federal, State, or local level.

(d) *Agreement between an institution and an agency or orgnization.* (1) The institution shall enter into a written agreement with a Federal, State, or local public agency or with a nonprofit organization that employs its students. The agreement shall set forth the CWS work conditions (see Apendix B for a sample agreement). The agreement shall indicate whether the institution or the agency or organization shall pay the students employed.

(2) The institution may enter into an agreement ONLY with a reliable agency or organization that has professional direction and staff.

(3) The institution is responsible for ensuring that—

(i) Payment for work performed under each agreement is properly documented; and

(ii) Each student's work is properly supervised.

(4) The agreement between the institution and the employing agency or organization may require the employer to pay—

(i) The non-Federal share of the student earnings;

(ii) Required employer costs such as the employer's share of social security or workmen's compensation; and

(iii) The institutions' administrative costs not already paid from the institution's administrative cost allowance.

(e) *CWS employment conditions and limitations.* (1) A student's work shall be governed by employment conditions, including pay, that are appropriate and reasonable in terms of—

(i) Type of work;

(ii) Geographical region;

(iii) Employee proficiency; and

(iv) Any applicable Federal, State, or local law.

(2) CWS employment may not—

(i) Impair existing service contracts;

(ii) Displace employees;

(iii) Fill jobs that are vacant because the employer's regular employees are on strike;

(iv) Involve the construction, operation, or maintenance of any part of a facility used or to be used for religious worship or sectarian instruction; or

(v) Include employment for the U.S. Department of Education.

(3) A CWS eligible job is a job that the employer normally has paid other persons to do outside the CWS program. If no other person has held that job for that employer, it must be a job for which other employers would normally pay.

(f) *Work for academic credit.* Work that is otherwise eligible for a CWS student is not ineligible because it also satisfies a requirement for a degree or certificate.

(42 U.S.C. 2753)

**§ 675.22 Establishment of wage rate under CWS.**

(a) *Wage rates.* (1) Except as provided in paragraph (a)(3) of this section, an institution shall compute CWS compensation on an hourly wage basis for actual time on the job. An institution may not pay a student a salary, commission, or fee.

(2) An institution may not count fringe benefits as part of the wage rate.

(3) An institution may pay a graduate student it employs a salary or an hourly wage, in accordance with its usual practices.

(b) *Minimum wage rate.* The minimum wage rate for a student employee under the CWS program is the current minimum wage rate required under section 6(a) of the Fair Labor Standards Act of 1938.

(42 U.S.C. 2753)

**§ 675.23 Earnings applied to cost of attendance.**

(a)(1) The institution shall determine the amount of earnings from a CWS job to be applied to a student's cost of attendance (attributed earnings) by subtracting taxes and job related costs from the student's gross earnings.

(2) Job related costs are costs the student incurs because of his or her job. Examples are uniforms and transportation to and from work. Room and board during a vacation period may also be considered a job related cost.

(b) If a student is employed under CWS during a vacation or other period when he or she is not attending classes, the institution shall apply the attributed earnings (earnings minus taxes and job related costs) to the cost of attendance for the next period of enrollment.

(42 U.S.C. 2753)

**§ 675.24 CWS Federal share limitations.**

(a)(1) The Federal share of CWS compensation paid to a student may not exceed 80 percent, unless the Secretary approves a higher share (see paragraph (c) of this section).

(2) An institution may not use CWS funds to pay a student after he or she has earned $200 or more over his or her financial need.

(b) The institution may NOT include the following when determining the Federal share:

(1) Fringe benefits such as paid sick days, paid vacations, or paid holidays; and

(2) The employer's share of social security, workmen's compensation, retirement, or any other welfare or insurance program that the employer must pay on account of the student employee.

(c) If an institution receives more money under an employment agreement from an off-campus employer than required employer costs, its non-Federal share, and its CWS administrative costs, excess funds must be—

(1) Used to reduce the Federal share on a dollar-for-dollar basis; or

(2) Held in trust for off-campus student employment next year.

(d)(1) The Secretary may approve a Federal share greater than 80 percent of CWS compensation if the institution is designated by the Secretary as an eligible institution under the Strengthening Program (34 CFR Part 625), or the Special Need Program (34 CFR Part 626), each of which is authorized by Title III of the Higher Education Act of 1965, as amended.

(2) An institution, in order to receive a Federal share of more than 80 percent for an award year, shall indicate its

intent to request a higher Federal share as part of its regular funding application for that year.

(3) An institution must receive approval for a Federal share of more than 80 percent for the award year into which the institution is carrying funds.

(20 U.S.C. 1069a, 42 U.S.C.2753)

**§ 675.25 Nature and source of institutional share.**

(a)(1) An institution may use any resource available to it, except funds allocated under the CWS program, to pay the institutional share of CWS compensation to its students. The institutional share may be paid in the form of services and equipment, e.g., tuition, room, board, and books.

(2) The institution shall document all amounts claimed as non-cash contributions.

(3) Non-cash compensation may not include forgiveness of a charge assessed solely because of a student's employment under the CWS program.

(b) An institution may not solicit or accept fees, commissions, contributions, or gifts as a condition for CWS employment, nor permit any organization with which it has an employment agreement to do so.

(42 U.S.C. 2753)

**§ 675.26 Community service learning program.**

(a) From its allocation under the CWS program, including its allocation under section 442(f) of the Act, an institution may employ its students in a community service learning program designed to develop, improve or expand services for low-income individuals and families, or to solve particular problems related to the needs of low-income individuals.

(b) A community service learning program is a program of student work that—

(1) Provides tangible community services for or on behalf of low-income individuals; and

(2) Provides students with work-learning opportunities related to their educational or vocational programs or goals.

(c) As used in this section—

(1) Low-income individual means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(2) Community services means direct service, or planning or applied research activities, designed to—

(i) Improve the quality of life for community residents, particularly low-income individuals; or

(ii) Solve particular problems relating to the needs of low-income individuals.

(3) Community services may include activities related to such fields as health care, education, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development and community improvement.

(42 U.S.C. 2756b)

**§ 675.27 Residents of American Samoa or the Trust Territory of the Pacific Islands attending institutions of higher education outside those areas.**

(a)(1) Funds allocated to an institution under section 442(f) of the Act may be used only to—

(i) Pay the Federal share of wages earned by eligible students who are residents of American Samoa and the Trust Territory of the Pacific Islands but who attend institutions of higher education outside of these areas; and

(ii) Pay the institution an administrative cost allowance for the expenses incurred in providing employment under this section to these students.

(2) The amount of the administrative cost allowance equal five (5) percent of the institution's expenditures for an award year under this section. However, for the purpose of calculating this allowance, expenditures made under this section for a community service learning program under § 675.26 are not included.

(3) An institution shall use its administrative cost allowance to offset the costs of providing employment under this allocation.

(4) In addition to the amount calculated in paragraph (a)(2) of this section, an institution's administrative cost allowance includes 10 percent of its expenditures under this section for a community service learning program under § 675.26.

(b) *Carry forward funds.* (1) An institution may carry forward and expend in the next award year up to 10 percent of the sum of its initial and supplemental allocations for the current award year under section 442(f) of the Act.

(2) Before an institution may spend its current year allocation under section 442(f) of the Act, the institution must spend any funds carried forward under this allocation from the previous year.

(c) *Carry back funds.* An institution may carry back and expend in the previous award year up to 10 percent of the sum of its initial and supplemental allocations for the current award year under section 442(f) of the Act. The institution's official allocation letter represents the Secretary's approval to carry back funds.

(d) An institution which carries forward funds under paragraph (b) of this section or carries back funds under paragraph (c) of this section may only use these funds to—

(1) Pay the Federal share of wages earned by eligible students who are residents of American Samoa or the Trust Territory of the Pacific Islands but who attend institutions of higher education outside these areas; and

(2) Pay its administrative cost allowances in the amount described in paragraph (a) of this section for expenses incurred in providing employment for these student under this allocation and under § 675.26, respectively.

(e) *Less than half-time students.* An institution may use up to 10 percent of the sum of its initial and supplemental allocations under section 442(f) of the Act for an award year to pay the compensation of eligible students who are—

(1) Enrolled as less than half-time students; and

(2) Residents of American Samoa or the Trust Territory of the Pacific Islands but who attend institutions of higher education outside of these areas.

(20 U.S.C. 1096; 42 U.S.C. 2752 and 2753)

4. Subpart B to Part 675 would be revised to read as follows:

**Subpart B—Job Location and Development Program**

Sec.

675.31 Purpose.
675.32 Federal contribution allowed.
675.33 Allowable costs.
675.34 Multi-institutional job location and development project or arrangements with nonprofit organizations.
675.35 Agreement.
675.36 Maintenance of effort.
675.37 Procedures and records.
675.38 Termination and suspension.

## Subpart B—Job Location and Development Program

**§ 675.31 Purpose.**

The purpose of the job location and development (JLD) program is to expand off-campus job opportunities for students enrolled in eligible institutions

of higher education who want jobs, regardless of their financial need.

(42 U.S.C. 2756a)

**§ 675.32 Federal contribution allowed.**

To create a JLD project or expand an existing one, an institution may use from its CWS allocation for each award year, the lesser of—

(a) 10 percent of the sum of its initial and supplemental CWS allocation for the award year; or

(b) $25,000.

(42 U.S.C. 2756a)

**§ 675.33 Allowable costs.**

(a)(1) *Allowable and unallowable costs.* Except as provided in paragraph (a)(2) of this section, costs reasonably related to carrying out a JLD project are allowable.

(2) Costs related to the purchase, construction, or alteration of physical facilities or indirect administrative costs are NOT allowable.

(b) *Federal share of allowable costs.* An institution may use CWS funds, as provided in § 675.32, to pay up to 80 percent of allowable costs.

(c) *Institutional share of allowable costs.* An institution's share of allowable costs may be in cash or in the form of services. The institution shall keep records documenting the amount and source of its share.

(42 U.S.C. 2756a)

**§ 675.34 Multi-institutional job location and development project, or arrangements with nonprofit organizations.**

(a) An institution participating in the CWS program may enter into a written agreement to establish and operate a JLD program for its students with—

(1) Other participating institutions; or

(2) A nonprofit organization. The nonprofit organization must have professional direction and staff.

(b) The agreement described in paragraph (a) of this section shall—

(1) Designate the administrator of the JLD project; and

(2) Specify the terms, conditions, and performance standards of the project.

(c) Each institution retains responsibility for the proper disbursement of the Federal funds it contributes under an agreement with other eligible institutions or with a nonprofit organization.

(42 U.S.C. 2756a)

**§ 675.35 Agreement.**

(a) A CWS participating institution, to establish or expand a JLD project, shall enter into an agreement with the Secretary.

(b) The agreement shall provide—

(1) That the institution will administer the JLD project in accordance with the Act, the provisions of this part, and the Student Assistance General Provisions regulations, 34 CFR Part 668;

(2) That the institution will submit to the Secretary an annual report on the use of the funds and an evaluation of the project's effectiveness in benefiting the institution's students; and

(3) Satisfactory assurances that—

(i) The institution will not use project funds to develop jobs at an eligible institution;

(ii) The institution will use projects funds to locate and develop jobs for students during and between periods of attendance at the institution, NOT upon graduation;

(iii) The project will not displace employees or impair existing service contracts;

(iv) Project funds can realistically be expected to generate total student wages exceeding the total amount of the Federal funds spent under this subpart; and

(v) If the institution uses Federal funds to contract with another organization, suitable performance standards will be part of that contract.

(42 U.S.C. 2756a)

**§675.36 Maintenance of effort.**

(a) An institution shall continue to spend in each award year on its own JLD project (from sources other than CWS funds) at least one-third of its expenditures for locating jobs for its students during the 3 most recent fiscal years preceding the effective date of its JLD agreement.

(b) An institution's "own JLD project" includes any expenditures of institutional funds to create off-campus jobs for enrolled students. This includes costs for staff salaries, travel, printing and mailing, telephone calls, and project equipment furnished by the institution.

(42 U.S.C. 2756a)

**§ 675.37 Procedures and records.**

Procedures and records concerning the administration of a JLD project established and operated under this subpart are governed by applicable provisions of § 675.19.

(42 U.S.C. 2756a)

**§ 675.38 Termination and suspension.**

(a) If the Secretary terminates or suspends an institution's eligibility to participate in the CWS program, the action also applies to the institution's job location and development project.

(b) The Secretary pays an institution's financial obligations incurred and allowable before the termination but not incurred—

(1) During a suspension; or

(2) In anticipation of a suspension.

(c) However, the institution must cancel as many outstanding obligations as possible.

(42 U.S.C. 2756a)

5. Appendix B to Part 675 would be revised to read as follows:

**Appendix B—Model Off-campus Agreement**

(The paragraphs below are suggested as models for the development of a written agreement between an institution of higher education and a Federal, State, or local public agency or private nonprofit organization which employs students participating in the College Work-Study program. Institutions and agencies or organizations may devise additional or substitute paragraphs which are not inconsistent with the statute or regulations.)

This agreement is entered into between _____, hereinafter known as the "Institution," and _____, hereinafter known as the "Organization," a (Federal, State, or local public agency), (private nonprofit organization), (strike one), for the purpose of providing work to students eligible for the College Work-Study program (CWS).

Schedules to be attached to this agreement from time to time must be signed by an authorized official of the institution and the organization and must set forth—

(1) brief descriptions of the work to be performed by students under this agreement;

(2) the total number of students to be employed;

(3) the hourly rates of pay, and

(4) the average number of hours per week each student will be used.

These schedules will also state the total length of time the project is expected to run, the total percent, if any, of student compensation that the organization will pay to the institution, and the total percent, if any, of the cost of employers' payroll contribution to be borne by the organization. The institution will inform the organization of the maximum number of hours per week a student may work.

Students will be made available to the organization by the institution to perform specific work assignments. Students may be removed from work on a particular assignment or from the organization by the institution, either on its own initiative or at the request of the organization. The organization agrees that no student will be denied work or subjected to different treatment under this agreement on the grounds of race, color, national origin, or sex. It further agrees that it will comply with the provisions of the Civil Rights Act of 1964 (Pub. L. 88-352; 78 Stat. 252) and Title IX of the Education Amendments of 1972 (Pub. L. 92-318) and the Regulations of the Department of Education which implement those Acts.

(Where appropriate any of the following 3 paragraphs or other provisions may be included.)

(1) Transportation for students to and from their work assignments will be provided by the organization at its own expense and in a manner acceptable to the institution.

(2) Transportation for students to and from their work assignments will be provided by the institution at its own expense.

(3) Transportation for students to and from their work assignments will not be provided by either the institution or the organization.

(Whether the institution or the organization will be considered the employer of the students covered under the agreement depends upon the specific arrangement as to the type of supervision exercised by the organization. It is advisable to include some provision to indicate the intent of the parties as to who is considered the employer. As appropriate, one of the following two paragraphs may be included.)[1]

(1) The institution is considered the employer for purposes of this agreement. It has the ultimate right to control and direct the services of the student for the organization. It also has the responsibility to determine whether the students meet the eligibility requirements for employment under the College Work-Study program, to assign students to work for the organization, and to determining that the students do perform their work in fact. The organization's right is limited to direction of the details and means by which the result is to be accomplished.

(2) The organization is considered the employer for purposes of this agreement. It has the right to control and direct the services of the student, not only as to the result to be accomplished, but also as to the means by which the result is to be accomplished. The institution is limited to determining whether the students meet the eligibility requirements for employment under the College Work-Study program, to assigning students to work for the organization, and to determine that the students do perform their work in fact.

(Wording of the following nature may be included, as appropriate, to locate responsibility for payroll disbursements and payment of employers' payroll contributions.)

Compensation of students for work performed on a project under this agreement will be disbursed—and all payments due as an employer's contribution under State or local workmen's compensation laws, under Federal or State social security laws, or under other applicable laws, will be made—by the (organization) (institution) (strike one).

(Where appropriate any of the following paragraphs may be included.)

(1) At times agreed upon in writing, the organization will pay to the institution an amount calculated to cover the organization's share of the compensation of students employed under this agreement.

(2) In addition to the payment specified in paragraph (1) above, at times agreed upon in writing, the organization will pay, by way of reimbursement to the institution, or in advance, an amount equal to any and all payments required to be made by the institution under State or local workmen's compensation laws, or under Federal or State social security laws, or under any other applicable laws, on account of students participating in projects under this agreement.

(3) At times agreed upon in writing, the institution will pay to the organization an amount calculated to cover the Federal share of the compensation of students employed under this agreement and paid by the organization. Under this arrangement the organization will furnish to the institution for each payroll period the following records for review and retention:

(a) Time reports indicating the total hours worked each week in clock time sequence and containing the supervisor's certification as to the accuracy of the hours reported;

(b) A payroll form indentifying the period of work, the name of each student, each student's hourly wage rate, the number of hours each student worked, each student's gross pay, all deductions and net earnings, and the total Federal share applicable to each payroll;[2] and

(c) Documentary evidence that students received payment for their work, such as photographic copies of cancelled checks.

[1] It should be noted that although the following paragraphs attempt to fix the identity of the employer, they will not necessarily be determinative if the actual facts indicate otherwise. Additional wording which specifies the employer's responsibility in case of injury on the job may also be advisable, since Federal funds are not available to pay for hospital expenses or claims in case of injury on the job. In this connection it may be of interest that one or more insurance firms in at least one State have in the past been willing to write a workmen's compensation insurance policy which covers a student's injury on the job regardless of whether it is the institution or the organization which is ultimately determined to have been the student's employer when he or she was injured.

[2] These forms, when accepted, must be countersigned by the institution as to hours worked as well as to the accuracy of the total Federal share which is to be reimbursed to the organization or agency.

## PART 676—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Part 676 of Title 34 of the Code of Federal Regulations would be amended as set forth below:

**Note.**—An asterisk (*) indicates provisions that are common to Parts 674, 675, and 676. The use of asterisks will assure participating institutions that a provision of one regulation is identical to the corresponding provisions in the other two.

1. The authority for Part 676 reads as follows:

**Authority:** Sec. 413A–413D of Title IV–A–2 of the Higher Education Act of 1965, as amended, (20 U.S.C. 1070b–1070b–3), unless otherwise noted.

2. Sections 676.1 and 676.2 would be revised to read as follows:

### § 676.1 Purpose and identification of common provisions.

(a) The Supplemental Educational Opportunity Grant (SEOG) Program awards to financially needy students attending institutions of higher education to help them pay their educational costs.

*(b) Provisions in these regulations that are common to all campus-based programs are identified with an asterisk.

(20 U.S.C. 1070b)

### § 676.2 Definitions.

*(a) Subpart A of the Student Assistance General Provisions, 34 CFR Part 668, sets forth definitions of the following terms used in this part:

*Academic year;*
*Act;*
*Award year;*
*Campus-based programs;*
*Clock hour;*
*College Work-Study (CWS) Program;*
*Defense loan;*
*Dependent student;*
*Direct loan;*
*Guaranteed Student Loan (GSL) Program;*
*Independent student;*
*National Defense Student Loan Program;*
*National Direct Student Loan (NDSL) Program;*
*National of the United States;*
*One-year training program;*
*Parent;*
*Pell Grant Program;*
*PLUS Program;*
*Postsecondary vocational institution;*
*Proprietary institution of higher education;*
*Public or private nonprofit institution of higher education;*
*Recognized equivalent of a high school diploma;*
*Regular student;*
*Secretary;*
*Six-month training program;*
*State;*
*State Student Incentive Grant (SSIG) Program; and*
*Supplemental Educational Opportunity Grant (SEOG) Program.*

(b) The Secretary defines other terms used in this part as follows:

*Continuing year grant (CY):* An SEOG to a student who has received an initial year grant (see initial year grant).

* *Eligible program:* An undergraduate program of education or training that—

(1) Admits as regular students only persons who—

(i) Have a high school diploma;

(ii) Have a General Education Development (GED) Certificate or a State certificate received after passing a State-authorized examination which the State recognizes as the equivalent of a high school diploma; or

(iii) Are beyond the age of compulsory school attendance in the State in which the institution is located, and have the

ability to benefit from the education or training offered.

(2)(i) Leads to a bachelor's, associate, or undergraduate professional degree;

(ii) Is at least a two-year program that is acceptable for full credit toward a bachelor's degree;

(iii) Is at least a one-year program leading to a certificate or degree that prepares a student for gainful employment in a recognized occupation; or

(iv) Is, for a proprietary institution of higher education or a postsecondary vocational institution, at least a six-month program leading to a certificate or degree which prepares a student for gainful employment in a recognized occupation.

**Expected family contribution (EFC):* The amount a student and his or her spouse and family are expected to pay toward the student's cost of attendance.

**Financial need:* The difference between a student's cost of attendance and his or her EFC.

*Half-time student:* An enrolled student who is carrying a half-time academic work load, as determined by the institution, which amounts to at least half the work load of the appropriate minimum requirement of a full-time student. However, the institution's half-time standards must equal or exceed the equivalent of the following minimum requirements:

(1) 6 semester hours or 6 quarter hours per academic term for an institution using a standard semester, trimester, or quarter system;

(2) 12 semester hours or 18 quarter hours per academic year for an institution using standard credit hours to measure progress, but not using a standard semester, trimester, or quarter system, or the prorated equivalent for a program of less than one year;

(3) 12 clock hours per week for an institution using clock hours; or

(4) 12 hours of preparation per week for a student enrolled in a program of study by correspondence. Regardless of the work load, no student enrolled solely in correspondence study will be considered more than half-time.

*Initial year grant (IY):* The first SEOG awarded and paid to a student by any institution for either—

(1) An academic year; or

(2) A portion of an academic year if the student was not enrolled for the entire year.

**Institution of higher education (institution):* A public or private nonprofit institution of higher education, a proprietary institution of higher education, or a postsecondary vocational institution.

**Payment period:* A semester, trimester, or quarter. For an institution not using those academic periods, it is the period between the beginning and the midpoint or between the midpoint and the end of an academic year.

*Undergraduate student:* A student who is in an undergraduate course of study that usually does not exceed 4 academic years, or is enrolled in a 4-to-5-academic-year program designed to lead to a first degree. A student enrolled in any other length program is considered an undergraduate student for only the first 4 academic years.

(20 U.S.C. 1070b–1070b–3, unless otherwise noted)

3. Sections 676.8 through 676.20 would be revised to read as follows:

**§ 676.8 Program participation agreement.**

To participate in the SEOG program, an institution shall enter into a participation agreement with the Secretary. The participation agreement provides that the institution shall—

(a) Use the funds it receives solely for the purposes specified in this part; and

(b) Administer the SEOG program in accordance with the Act, the provisions of this part, and the Student Assistance General Provisions regulations, 34 CFR Part 668.

(20 U.S.C. 1070b *et seq.*, and 1094)

**§ 676.9 Student eligibility and selection requirements.**

(a) *Eligibility.* A student is eligible to receive an SEOG at an institution of higher education if the student—

*(1) Is a regular student;

(2) Is enrolled or accepted for enrollment in an eligibile program as an undergraduate student;

(3) Has not been awarded a bachelor's or first professional degree;

*(4)(i) Is a U.S. citizen or National;

(ii) Is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands; or

(iii) Provides evidence from the U.S. Immigration and Naturalization Service that he or she—

(A) Is a permanent resident of the U.S.; or

(B) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident.

*(5) Has financial need. A member of a religious order (an order, community, society, agency, or organization) who is pursuing a course of study at an institution of higher education is considered to have no financial need if that religious order—

(i) Has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being; and

(ii) Directs the member to pursue the course of study, or provides subsistence support to its members;

*(6) Is maintaining satisfactory academic progress in the course of study he or she is pursuing according to the standards and practices of that institution;

*(7) Except as provided in paragraph (b) of this section, does not owe a refund on a Pell Grant, SEOG, or SSIG received to meet the cost of attendance at that institution; and

*(8) Except as provided in paragraph (c) of this section, is not a default on any NDSL, GSL, or PLUS loan received to meet the cost of attendance at that institution.

*(b) *Overpayment.* Overpayment of a grant means that a student's grant payments are greater than the amount he or she is entitled to receive. A student who owes a refund on a Pell Grant, SEOG, or SSIG due to an overpayment is eligible to receive an SEOG under the following conditions:

(1)(i) *Overpayment of a Pell Grant.* If an institution makes an overpayment of a Pell Grant to a student, that student is eligiblè to receive an SEOG if—

(A) The student is otherwise eligible; and

(B) The institution can eliminate the overpayment in the award year in which it occurred by adjusting subsequent Pell Grant payments for that award year.

(ii) *Overpayment of a Pell Grant due to institutional error.* If the institution makes an overpayment of a Pell Grant to a student as a result of its own error, and cannot correct the overpayment as specified in paragraph (b)(1)(i)(B) of this section, the student is eligible to receive an SEOG if:

(A) The student is otherwise eligible; and

(B) The student acknowledges in writing the amount of overpayment and agrees to pay it in a reasonable period of time.

(2) *Overpayment of an SEOG or SSIG.* If an institution makes an overpayment of an SEOG or SSIG to a student, that student is eligible to receive an SEOG if—

(i) The student is otherwise eligible; and

(ii) The institution can eliminate the overpayment by adjusting financial aid payments (other than Pell Grants) in the same award period in which the overpayment occurred.

*(c) *Default on loans.* The following are the conditions under which an institution may pay an SEOG to a student who is in default on loans made for attendance at that institution:

(1)(i) *Guaranteed loan and PLUS.* An institution may pay an SEOG to a student who is in default on a Guaranteed Student Loan or a PLUS if the Secretary (for a Federally insured loan) or a guarantee agency (for a loan insured by that guarantee agency) determines that the student has made satisfactory arrangements to repay the defaulted loan.

(ii) *GSL/PLUS—Reliance on a student's statement.* An institution, in determining whether a student is in default on a loan made under the Guaranteed Student Loan Program or the PLUS program, may rely upon the student's written statement that he or she is not in default unless the institution has information to the contrary.

(2) *National Defense/Direct Student Loan.* An institution may pay an SEOG to a student who is in default on a National Defense/Direct Student Loan made at that institution if the student has made arrangements, satisfactory to the institution, to repay the loan.

*(d) *Bankruptcy.* The Secretary does not consider a loan made under the National Defense Student Loan, National Direct Student Loan, Guaranteed Student Loan, or PLUS Program that is discharged in bankruptcy to be in default for purposes of this section.

(e) *Duration of student eligibility.* A student is eligible to receive an SEOG for the period of time needed to complete the first undergraduate baccalaureate course of study being pursued by that student.

(f) *Selection.* *(1) An institution shall make SEOG funds reasonably available (to the extent of available funds) to all eligible students.

*(2) An institution shall establish selection procedures and these procedures must be—

(i) Uniformly applied;

(ii) In writing; and

(iii) Maintained in the institution's files.

(3) An institution may use up to 10 percent of its IY and CY initial and supplemental SEOG allocation to award SEOGs to eligible students who are enrolled on less than a half-time basis.

(20 U.S.C. 1070b–1, 1070b–2, 1091)

**§ 676.10 Amount and types of SEOG awards.**

(a) *Amount of SEOG.* (1) An insitution may award an SEOG for an academic year in an amount it determines a student needs to continue his or her studies. However, an SEOG may not be awarded for a full academic year that is—

(i) Less than $200; nor

(ii) More than $2,000.

(2) For a student enrolled for less than a full academic year, the minimum allowable SEOG may be proportionately reduced.

(b) *Types of SEOG awards.* (1) An institution may award one IY grant to a student. The maximum duration of an IY grant is one academic year.

(2) If a student receives an IY grant from one institution and transfers to another, the Secretary considers the grant awarded by the second institution to be a CY grant.

(20 U.S.C. 1070, 1070b–l)

***§ 676.11 Allowable costs of attendance.**

(a) *General. (1)* Except as provided in paragraph (d) of this section, a student's cost of attendance means—

(i) The tuition and fees charged to a full-time student for an academic year by the institution he or she is attending as determined under paragraph (b) of this section;

(ii) An allowance for room and board expenses for an academic year, a determined under paragraph (c) of this section;

(iii) A reasonable allowance determined by the institution for books and supplies for an academic year;

(iv) A reasonable allowance determined by the institution for transportation for an academic year. This allowance may include—

(A) The cost of travel between the student's residence and the institution; and

(B) The cost of travel required for completion of a course of study;

(v) A reasonable allowance determined by the institution for miscellaneous personal expenses for an academic year;

(vi) A reasonable allowance determined by the institution for an academic year for expenses related to study abroad for students enrolled in an academic program which normally includes a formal program of study outside the United States;

(vii) A reasonable allowance determined by the institution for expenses for an academic year related to child care for a student's dependent children; and

(viii) A reasonable allowance determined by the institution for a handicapped student's expenses for an academic year related to his or her handicap, if these expenses are not provided for by any other assisting agency or program. This allowance may include expenses related to special services, transportation, equipment and supplies. A handicapped student is a student who meets the definition contained in section 602(1) of the Education of the Handicapped Act; i.e., a student who is mentally retarded, hard of hearing, deaf, speech impired, visually handicapped, seriously emotionally disturbed, or othopedically impaired, or is otherwise health impaired or has specific learning disabilities which require special education and related services.

(2) The institution shall take into account when determining a student's cost of attendance—

(i) The period for which financial assistance is awarded; and

(ii) Whether the student is enrolled on a full-time or less-than-full-time basis.

((b) *Tuition and fees.* (1) An institution shall determine the tuition and fees charged a full-time student by calculating—

(i) The actual amount charged the full-time student for tuition and fees for an academic year; or

(ii) The average amount it charges full-time undergraduate students for tuition and fees for an academic year.

(2) If an institution establishes its tuition and fee charges on a residency requirement basis (e.g., In-State and Out-of-State) and elects to calculate an average charge for tuition and fees, it shall establish a separate average charge for each different residency based classification.

(3) An institution may determine a separate average charge for any other distinct classification upon which it bases tuition and fee charges.

(c) *Room and board.* (1) The institution shall calculate a student's room and board allowance as follows—

(i) For a student who has no dependents and lives with his or her parent(s), an allownace of $1,100;

(ii) For a student who has no dependents and lives in institutionally owned or operated housing—

(A) The actual amount charged the student for room and board for an academic year; or

(B) A standard allowance based on the average amount it charges most of its student residents for room and board for an academic year;

(iii) For a student who has no dependents and does not live with his or her parent(s) or in institutionally owned or operated housing, a standard allowance detemined by the institution for room and board for an academic year; or

(iv) For a student who has dependents, an allownace determined by the institution for room and board for an academic year based upon expenses incurred by the student and his or her dependent(s)

(2) For purposes of this section, a spouse is considered a dependent.

(d) *Attendance costs for students in correspondence study programs.* The cost of attendance for a student enrolled in a correspondence study program means—

(1) Actual tuition and fees charged to the student for an academic year;

(2) A reasonable allowance determined by the institution for books and supplies for an academic year, if required for the completion of the program; and

(3) If incurred in fulfilling a required period of residential training, expenses for—

(i) Room and board; and

(ii) Travel between the student's residence and the institution.

(e) *Adjustments.* The institution may, in individual cases, adjust a student's cost of attendance if the cost of attendance calculated under paragraphs (a) through (d) of this section is not a reasonable approximation of the student's actual costs.

(f) *Required documentation.* An institution shall be able to justify and document the cost of attendance figures established under this section.

(20 U.S.C. 1089)

***§ 676.12 Expected family contribution.**

(a) *Annual determinations.* An institution shall determine a student's financial need at least annually.

(b)(1) To determine a student's financial need, an institution shall determine the student's EFC.

(2) To determine an EFC for the period of the student's award, an institution shall use one of the approved systems of need analysis as provided in § 676.13.

(c) *Native American students.* In determining a Native American's EFC, an institution may not consider the following as income or assets of the student and his or her spouse or parents—

(1) Awards made under Pub. L. 98–64, the Distribution of Judgment Funds Act (25 U.S.C. 1401 *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), and the Maine Indians Claims Settlement Act (25 U.S.C. 1721 *et seq.*). However, if the awards under the first or second Acts individually exceed $2,000, only the awards under each of those Acts in excess of $2,000 shall be considered income or assets of the student or the student's spouse or parents;

(2) Property that may not be sold or encumbered without the consent of the Secretary of the Interior; and

(3) Any other property in trust by the U.S. Government for the student or the student's spouse or parents.

(d) *Adjustments.* An institution may, in individual cases, adjust an EFC computed according to one of the approved need analysis systems, as provided in § 676.13, if—

(1) The student financial aid administrator believes the EFC does not accurately reflect the student's, spouse's, or parent's ability to contribute; and

(2) The institution documents all adjustments in writing with an accompanying explanation.

(20 U.S.C. 1070b–2)

***§ 676.13 Approved need analysis systems.**

(a)(1) An institution shall use a need analysis system which is approved by the Secretary in determining a student's EFC.

(2) Any system of need analysis approved by the Secretary—

(i) Must consider in determining the amount a dependent student and his or her spouse and parents are expected to contribute toward the student's costs of attendance—

(A) The number of the parents' dependent children;

(B) The number of the parents' dependent children attending institutions of higher education; and

(C) Tuition costs of dependent children attending elementary and secondary schools;

(iii) Must consider in determining the amount an independent student and his or her spouse are expected to contribute toward the student's costs of attendence—

(A) The number of the student's dependent children; and

(B) The number of the student's dependent children attending institutions of higher education;

(ii) Must produce expected parental contributions that—

(A) Increase incrementally as the parents' financial strength, measured in constant dollars, increases; and

(B) Are equal for parents of equal financial strength.

(3) The Secretary preapproves the need analysis systems described in paragraph (b) of this section, and approves other systems that meet the requirements of this section.

(b) *Preapproved systems for dependent and independent students.* The Secretary preapproves the following need analysis systems—

(1) The system that produces the expected family contribution number (FC) printed on the Student Aid Report provided to the student by the Secretary; and

(2) The EFC used in the Pell Grant Program (34 CFR Part 690).

(c) *Application requirements.* (1) An individual or organization wishing to have a need analysis system approved for an award year shall submit to the Secretary before the closing date published in the **Federal Register** the following:

(i) A complete description of its system of need analysis for dependent and independent students;

(ii) Its student application form(s) for undergraduate, graduate and professional students;

(iii) The expected parental contributions its system produces for dependent undergraduate students under the sample cases published by the Secretary if the majority of students to be served by its system are undergraduates;

(iv) The expected parental contributions its system produces for dependent graduate or professional students under the sample cases published by the Secretary if the majority of students to be served by its system are graduate or professional students; and

(v) A complete calculation of how each expected parental contribution is derived, including enough information to allow the Secretary to duplicate these calculations and results.

(2) The Secretary does not accept the information specified in paragraph (c)(1) of this section in the form of computer programs, software, or mechanical devices.

(d) *Expected parental contributions and sample cases.* (1) For each award year, the Secretary publishes in the **Federal Register** sample cases and expected parental contributions for dependent undergraduate students, and dependent graduate or professional students.

(2) The Secretary computes the expected parental contributions for undergraduate, and graduate or professional dependent students by using sample cases which—

(i) Are based on families of varying sizes with two parents, the older of whom is 45 and is the sole wage earner, and either one dependent undergraduate or one graduate or professional student;

(ii) Deduct from the adjusted gross income of the student's working parent—

(A) The amount of Federal income tax (based on a joint return with standard deductions) and social security tax;

(B) An 8 percent allowance on taxable income for State and other taxes; and

(C) A standard maintenance allowance for the family (excluding the applicant during the academic year) using the Department of Labor's

estimates for a low budget standard of living;

(iii) Determine the parents' Discretionary New Worth by deducting a Home and Other Asset Protection Allowance from the net market value of the parents' assets;

(iv) After considering the parents' available income, apply an asset conversion rate against the parents' Discretionary Net Worth.

(v) Add the amounts determined under paragraph (d)(2)(ii) and (d)(2)(iv) of this section; and

(vi) Apply to the amount determined under paragraph (d)(2)(v) of this section, taxation rate schedules for undergraduate, or graduate or professional students, respectively.

(3) The expected parental contributions published by the Secretary do not take into account—

(i) More than one family member attending an institution of higher education as an undergraduate, or graduate or professional student;

(ii) Business or farm assets;

(iii) Nontaxable income;

(iv) Unusual medical or dental expenses;

(v) Other unusual expenses; and

(vi) Elementary and secondary tuition expenses.

(4) In comparing figures from systems submitted for approval with figures from sample cases, the Secretary treats an expected parental contribution of less than zero as zero.

(5) To insure measurement in constant dollars, the Secretary revises sample case figures for inflation annually by adjusting—

(i) Deductions for family maintenance;

(ii) The standard deduction from assets; and

(iii) The rate of contribution from income and assets.

(e) *Approval of systems.* (1) The Secretary approves systems of need analysis for an award year if such systems—

(i) Satisfy the criteria set forth in paragraph (a)(2) of this section; and

(ii) Produce expected parental contributions that are within $50 in 75 percent of the sample cases published by the Secretary.

(2)(i) If the Secretary approves an individual's or organization's system for dependent undergraduate students, the Secretary also approves that individual's or organization's system for independent undergraduate students, and dependent and independent graduate and professional students.

(ii) If the Secretary approves an individual's or organization's system for dependent graduate or professional students, the Secretary also approves that individual's or organization's system for dependent undergraduate students, and independent undergraduate, and graduate and professional students.

(3) For each award year, the Secretary publishes in the Federal Register a list of approved need analysis systems that institutions shall use in calculating awards for that year.

(4) An institution must use one system of need analysis for all of its undergraduate students.

(Sec. 4 of Pub. L. 97-301 as amended by sec. 4 of Pub. L. 98-79)

### §676.14 Overaward

(a) *Overaward prohibited.* *(1) An institution may award or disburse an SEOG to a student if the SEOG, when combined with the other resources the student receives, does not exceed the student's financial need.

(2) When awarding and disbursing an SEOG to a student, the institution must take into account those resources it—

(i) Can reasonably anticipate at the time it awards SEOG funds to the student.

(ii) Makes available to its students; or

(iii) Knows about.

(3)(i) If a student receives additional resources before the institution disburses the SEOG, and the total resources including the SEOG exceed the student's need, and the excess is not from employment, the overaward is the amount that exceeds need.

*(ii) If a student receives additional resources after the institution disburses the SEOG, and the total resources including the SEOG exceed the student's need by $200 or more, and the excess is not from employment, the overaward is the amount that exceeds $199.

*(4) If a student earns more from employment than the institution anticipated or could have reasonably anticipated when it awarded or disbursed the SEOG, the institution shall treat the earnings in accordance with paragraph (d) of this section.

* (b) *Resources.* (1) The Secretary considers that "resources" include but are not limited to any—

(i) Funds the student is entitled to receive from a Pell Grant, regardless of whether the student applies for the Pell Grant;

(ii) Waiver of tuition and fees;

(iii) Scholarship or grant, including ROTC and an athletic scholarship;

(iv) Fellowship or assistantship;

(v) Insurance programs for the student's education, including any social security educational benefits;

(vi) Veterans benefits;

(vii) Net earnings from employment other than CWS employment for the period of the award except as provided in 34 CFR 675.23; and

(viii) Except as provided in paragraph (b)(3) of this section, long-term loans made by the institution.

(2) The Secretary does not consider as a resource any portion of the resources described in paragraph (b)(1) of this section that are included in the student's EFC.

(3) *Treatment of loans made under the GSL and PLUS programs.* (i) If the adjusted gross income of the student's family is $30,000 or less, the student may use a GSL as a substitute for his or her expected family contribution.

(ii) If the adjusted gross income of the student's family is greater than $30,000, the student may not use a GSL as a substitute for his or her expected family contribution.

(iii) The student may use a PLUS loan to substitute for his or her expected family contribution.

(iv) However, if the loan amount received under the GSL or PLUS programs individually or collectively exceed the student's expected family contribution, the excess is a resource.

(c) *Liability for and recovery of overpayments.* (1) The student is liable for any SEOG overpayment made to him or her.

(2) The institution is also liable for an overpayment if the overpayment occurred because it failed to follow the procedures set forth in this Part. The institution shall restore an amount equal to the overpayment to its SEOG account even if it cannot collect the overpayment from the student.

(3) If an institution makes an overpayment for which it is not liable, it must help the Secretary recover the overpayment by making a reasonable effort to contact the student and recover the overpayment.

*(d) *Treatment of earnings in excess of need.* An institution shall take the following steps when it learns that a student has earned, or will earn, $200 or more over his or her financial need:

(1) The institution shall decide whether the student has increased financial need unanticipated when it awarded financial aid to the student. If the student does, no further action is necessary.

(2) If the student's earnings still exceed need by $200 or more after the institution subtracts any additional costs, it shall cancel any unpaid loan or grant (other than Pell Grants) to avoid exceeding need by more than $199.

(3) If the student's earnings still exceed his or her need by $200 or more after the institution takes the steps required in the two preceding

subparagraphs, and the student is enrolled for the next academic year, the institution shall consider the amount that exceeds $199 as a resource to help pay the student's cost of attendance in the following year.

(4) If the student's earnings still exceed his or her need by $200 or more after the institution takes steps required in subparagraphs (1) and (2) of this paragraph, and the student is NOT enrolled for the next academic year, no further action is necessary.

(20 U.S.C. 107b–1)

***§ 676.15 Coordination with BIA grants.**

(a) To determine the amount of an SEOG for a student who is also eligible for a Bureau of Indian Affairs (BIA) education grant, and institution shall prepare a package of student aid—

(1) From resources other than the BIA education grant the student has received or is expected to receive; and

(2) That is consistent in type and amount with package prepared for students in similar circumstances who are not eligible for BIA education grant.

(b)(1) The BIA education grant, whether received by the student before or after the preparation of the student aid package, supplements that package.

(2 No adjustment may be made to the student aid package as long as the total of the package and the BIA education grant is less than the institution's determination of that student's financial need.

(c)(1) If the BIA education grant, when combined with other aid in the package, exceeds the student's need, the excess shall be deducted and may be dedûcted from the other assistance, not the BIA education grant.

(2) The institution shall deduct the excess in the following sequence: loans, work-study awards, and grants other than Pell Grants. However, the institution may change the sequence if requested by a student and the institution believes the change benefits the student.

(d) To determine the financial need of a BIA-eligible student, a financial aid administrator is encouraged to consult with area officials in charge of BIA postsecondary financial aid.

(20 U.S.C. 1070b–1).

**§ 676.16 Payment of an SEOG.**

(a)(1) Except as provided in paragraphs (b) and (e) of this section, an institution shall pay in each payment period a portion of an SEOG awarded for a full academic year.

(2) The institution determines the amount paid each payment period by the following fraction:

$$\frac{\text{SEOG}}{\text{N}}$$

Where:

SEOG = the total SEOG awarded for an academic year and N = the number of payment periods that the institution expects the student will attend in that year.

(3) An institution may pay the student, within each payment period, at such times and in such amounts as it determines best meets the student's needs.

(b) If a student incurs uneven cost or resources during an academic year and needs additional funds in a particular payment period, the institution may pay SEOG funds to the student for those uneven costs.

(c) The institution may pay the student directly by check or by crediting his or her account with the institution. The institution shall notify the student of the amount he or she can expect to receive, and how and when that amount will be paid.

(d)(1) An institution may not pay an SEOG to student for a payment period until the student registers for that period.

(2) The earliest an institution may directly pay a registered student is 10 days before the first day of classes of a payment period.

(e)(1) The institution shall return to the SEOG account any funds paid to a student who, before the first day of classes—

(i) Officially or unofficially withdraws; or

(ii) Is expelled.

(2) A student who does not begin class attendance is deemed to have withdrawn.

(f) Only one payment is necessary if the total amount the institution awards a student for an academic year under the SEOG and NDSL program is less than $501.

(g) A correspondence student shall submit his or her first completed lesson before receiving an SEOG payment.

(h) If an institution computes a student's need using estimated data submitted before January 1 of the previous calendar year, the institution shall not pay the student an SEOG unless it verifies that information.

(20 U.S.C. 1070b, 1091)

***§ 675.17 Federal interest in allocated funds.**

Except for funds received for the administrative cost allowance (see § 676.18(b)), funds received by an institution under the SEOG program are held in trust for the intended student beneficiaries. Funds may not be used or hypothecated (i.e., serve as collateral) for any other purpose.

(20 U.S.C. 1070b-1070b–3)

**§676.18 Use of funds.**

(a) *General.* (1) An institution may transfer a portion of its SEOG allocation to its CWS allocation as described in paragraph (d) of this section or it may use the funds to—

(i) Make grants to eligible students; and

(ii) Carry out the activities described in paragraphs (b) and (c) of this section.

(2) An institution may use—

(i) Its IY allocation for initial and continuing grants; and

(ii) Its CY allocation for initial and continuing grants.

(3) An institution shall not transfer funds between its IY and CY accounts.

(4) An institution must report exependitures from its IY allocation and expenditures from the CY allocation separately on the Fiscal-Operations Report required under § 676.19(b).

(b) *Administrative cost allowance.* (1) An institution participating in the SEOG program is entitled to an administrative cost allowance for an award if year—

(i) From its IY allocation it award IY or CY grants to students in that year; or

(ii) From the CY allocation it award IY or CY grants to students in that year.

(2) For any award year, the amount of the allowance equals—

(i) Five (5) percent of the first $2,750,000 of the institution's expenditures in that award year under the CWS, SEOG, and NDSL programs; plus

(ii) Four (4) percent of its expenditures which are greater than $2,750,000 but less than $5,500,000; plus

(iii) Three (3) percent of its expenditures which are in excess of $5,500,000.

(3) However, the institution shall not include, when calculating the allowance in paragraph (b)(1) of this section, the institution's CWS expenditures under the community service learning program (34 CFR 675.26), and the amount of NDSLs it assigns to the Secretary under section 463(a)(6)(B) of the Act.

(4) An institution shall use its administrative cost allowance to offset its costs of administrating the Pell Grant, CWS, SEOG, and NDSL programs. Administrative costs also include the expenses incurred for carrying out the student consumer information services requirements of Subpart D of the Student Assistance General Provisions regulations, 34 CFR Part 668.

(5) An institution may not charge for administrative expenses against the funds it receives under section 442(f) of the Act more than 5 percent of the funds it expends for CWS employment under that section, except as provided by 34 CFR 675.18(b)(6)(i).

(c) *Less-than-half-time students.* An

institution may use up to 10 percent of the sum of its initial and supplemental IY and CY SEOG allocations to make awards to less-than-half-time eligible students.

(d) *Transfer funds to CWS.* (1) An institution may transfer up to 10 percent of the sum of its initial and supplemental IY and CY SEOG allocations for an award year to its CWS program.

(2) An institution must use transferred funds according to the requirements of the program to which they were transferred.

(3) An institution may transfer SEOG funds without regard to whether they were allocated for IY or CY grants.

(4) An institution may use CWS funds transferred to the SEOG program for IY or CY grants, as it sees fit.

(5) An institution shall report any transferred funds on the Fiscal-Operations Report required under § 675.19(b).

(6) An institution shall transfer back to the CWS program any funds unexpended at the end of the award year that it transferred to the SEOG program from the CWS program.

(20 U.S.C. 1070b *et seq.*, 1095 and 1096)

**§ 676.19 Fiscal procedures and records.**

(a) *Fiscal procedures.* (1) In administering its SEOG program, an institution shall establish and maintain an internal control system of checks and balances that insures that no office can both authorize payments and disburse funds to students.

(2)(i) Except as provided in paragraph (a)(2)(ii) of this section, a separate bank account for SEOG funds is not required. However, an institution shall notify any bank in which it deposits SEOG funds of all accounts in that bank in which it deposits Federal funds. The institution shall give this notice by including in the name of the account the fact that Federal funds are deposited therein.

(ii) If the Secretary determines that adequate accounting records are not maintained, the institution shall be required to keep SEOG funds in a separate bank account.

(b) *Record and reporting.* (1) An institution shall establish and maintain on a current basis financial records that reflect all program transactions. The institution shall establish and maintain general ledger control accounts and related subsidiary accounts that identify each program transaction and separate those transactions from all other institutional financial activity.

(2) The institution shall also establish and maintain program and fiscal records that—

(i) Are reconciled at least monthly;

(ii) Identify each student's account and status including separation of IY and CY grant amounts;

(iii) Show the eligibility of each student aided under the program;

(iv) Show how the need was met for each student; and

(v) Identify the administrator who determined each student's need.

(3) The institution shall maintain on file all SEOG applications for those students it reports on the Fiscal-Operations Report and Application to Participate in the NDSL, SEOG, and CWS Progams (FISAP).

(4) Each year an institution shall submit a Fiscal-Operations Report plus other information the Secretary requires. The institution shall insure that the information reported is accurate and shall submit it on the form and at the time specified by the Secretary.

(c) *Retention of records*—(1) *Records.* Each institution shall keep intact and accessible records of the receipt and expenditure of Federal funds, including all accounting records and original and supporting documents necessary to document how the funds are spent.

(2) *Period of retention.* Except for audit questions, an institution shall keep records for an award year for five years after it submits its Fiscal-Operations Reports for that year.

(3)(i) An institution may keep the records required in this section on microfilm or it may keep its records in computer format.

(ii) If the institution keeps its records in computer format it shall maintain, in either hard copy or microfilm form, the source documents supporting the computer input.

(4) *Audit questions.* An institution shall keep records in any claim or expenditure questioned by Federal audit until resolution of any audit questions. However, the institution does not have to retain records beyond 5 years if the actions taken by the United States to recover funds are barred by the Federal statute of limitation in 28 U.S.C. 2415(b).

(20 U.S.C. 1070b, 1094, and 1232f)

**§ 676.20 Maintenance of effort.**

(a) For each award year it receives an SEOG allocation, an institution shall spend from its own scholarship and student financial aid program at least one-third of its aid program expenditures for the three award years preceding the latest of the following:

(1) The effective date of any program participation agreement required by section 487 of the Act that was in effect on October 1, 1980;

(2) The award year the institution received its first CWS allocation; or

(3) The award year the institution received its first SEOG allocation.

(b) The Secretary may waive the maintenance-of-effort requirement for an award year under the following circumstances—

(1) Fund withdrawals from outside sources (Public appropriations are not considered outside sources for public institutions).

(2) Enrollment decline if the institution continues to spend from its own scholarship and student financial aid program the average amount it spent per student during the three-year base period.

(3) Voluntary withdrawal as a GSL lender, or termination as a GSL lender by the Secretary. The Secretary waives the portion of the failure that equals one-third the amount of loans the institution made as a lender during the three-year base period.

(4) Withdrawal from participation in the NDSL program. The Secretary waives the portion of the failure that equals one-third the amount of the institutional share of loans made during the three-year base period.

(5) Temporary employment of students by the institution in the base period due to extraordinary circumstances if such employment did not continue as part of the institution's normal student employment program.

(c) An institution, to obtain a waiver, shall submit to the Secretary—

(1) A written request for a waiver; and

(2) A description of the circumstances justifying the waiver.

(d) An institution's "own scholarship and student financial aid program" includes—

(1) Any expenditures of its own funds for scholarships, grants, loans, tuition waivers, fee waivers, and fee remissions;

(2) The institution's employment of its graduate and undergraduate students, whether or not they are eligible for the SEOG or CWS programs; and

(3) Any funds donated to the institution for students financial aid if the institution chooses the recipients and the award amounts. However, the institution may not claim funds from Federal sources as part of its "own scholarship and student financial aid program."

(e)(1) According to an institution's stated practices, scholarships and other student financial aid given to faculty members's dependents or to institution employees may be considered as either—

(i) Student financial aid; or

(ii) Employee benefits.

(2) Fellowships and assistanceships are considered financial aid unless it is the institution's stated practice to consider the holders faculty members.

(20 U.S.C. 1094)

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Part III

# Department of Energy

## Office of Equal Opportunity

10 CFR Part 1040

**Nondiscrimination on the Basis of Age; Age Discrimination Act of 1975, as Amended; Final Rule**

**DEPARTMENT OF ENERGY**

**Office of Equal Opportunity**

**10 CFR Part 1040**

## Nondiscrimination on the Basis of Age; Age Discrimination Act of 1975, as Amended

**AGENCY:** Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** This rule implements various statutes that prohibit discrimination on the grounds of race, color, national origin, sex, handicap, or age in programs and activities receiving Federal financial assistance from the Department of Energy (DOE). The rule sets out the requirements of the Federal laws implemented and the procedures to be followed by appropriate officials within the Department of Energy to enforce them. The requirements of this part apply to each recipient, direct or indirect, of Federal financial assistance from the Department of Energy.

Section 602 of Title VI of the Civil Rights Act of 1964 provides that a recipient or applicant is entitled to a hearing on the record before financial assistance is terminated or withheld because of a violation of that Act. Under section 402(d) of the DOE Organization Act, the Federal Energy Regulatory Commission (FERC) has jurisdiction within the Department over matters required by law to be determined on the record after an opportunity for an agency hearing. Accordingly, FERC will promulgate regulations regarding the conduct of hearings to deny or terminate Federal financial assistance for failure to comply with these regulations.

**EFFECTIVE DATE:** March 29, 1985.

**FOR FURTHER INFORMATION CONTACT:** Charles Agnew, Jr., Special Assistant for Civil Rights, MA-273, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252-2230.

### I. Background

In November 1975, Congress enacted the Age Discrimination Act (42 U.S.C. 6101, *et seq.*) as part of the Amendments to the Older Americans Act (Pub. L. 94-135, November 28, 1975). At that time, the express purpose of the Act was to prohibit unreasonable discrimination based on age in programs and activities receiving Federal financial assistance, including the State and Local Fiscal Assistance Act of 1972. However, the Act also permitted Federally assisted programs and activities, and recipients of Federal funds, to continue to use: (1) some age distinctions and (2) "reasonable factors other than age." The Act applies to persons of all ages.

Prior to enactment of any regulations, the Act required the U.S. Commission on Civil Rights to conduct a study of age discrimination in federally funded programs and activities. The Commission transmitted its study to the President and the Congress on January 10, 1978. The Act also required each affected Federal agency to respond to the Commission's findings and recommendations.

After receipt of the report of the U.S. Commission on Civil Rights and the Federal agency responses to the report, Congress amended the Age Discrimination Act of 1975 by enacting the Comprehensive Older Americans Act of 1978 (Pub. L. 95-478, October 18, 1978). Among other changes, Congress struck the word "unreasonable" from the statement of purpose clause. Therefore, the purpose of the Act is to prohibit discrimination—not unreasonable discrimination—based on age in programs and activities receiving Federal financial assistance. However, the Congress retained the exceptions to the prohibition against age discrimination. Thus, the Act still permits the use of: (1) Some age distinctions, and (2) "reasonable factors other than age." The Act continues to apply to persons of all ages.

### II. Overview of Regulations

These regulations consist of five (5) major areas including General Provisions, Standards for Determining Age Discrimination, Responsibilities of the Department of Energy (DOE) Recipients, Investigation, Conciliation, and Enforcement Procedures, and DOE Federally Assisted Programs containing Age Distinctions.

The General Provisions section explains the purpose of the Age Discrimination Act, the programs and activities covered by the Act and the meaning of important terms used in these regulations. Definitions already contained in Subpart A of 10 CFR Part 1040 also apply to these regulations. The Act generally covers all programs and activities which receive Federal financial assistance. However, the Act does not apply to age distinctions "established under any law" (interpreted by the Department of Health and Human Services (HHS) to include Federal, State and local laws adopted by elective general purpose bodies) which provide benefits on the basis of age or in age-related terms. Thus, age distinctions which are "established under authority of any law" may continue in use.

The Act also excludes from its coverage most employment practices, except for public service employment programs funded under the public service titles of the Comprehensive Employment and Training Act (CETA) (Pub. L. 93-203, December 28, 1973). These proposed regulations cover any program or activity which is both a program of Federal financial assistance and provides employment such as the College Work Study Program (42 U.S.C. 2751 *et seq.*) and the Work Incentive Program (45 U.S.C. 630, *et seq.*). The principal tool for combatting age discrimination in employment continues to be the Age Discrimination in Employment Act (ADEA) (Pub. L. 90-202, December 15, 1967) which is administered by the Equal Employment Opportunity Commission (EEOC). The ADEA protects persons between the ages of 40 and 70 in non-federal employment from discrimination in employment based on age.

The section of the regulations entitled under "Standards for Determining Age Discrimination" contains the rules prohibiting age discrimination and the conditions under which the statutory exceptions apply. Section 1040.84 (a) contains the following general prohibition: no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

As a general rule, separate or different treatment which denies or limits services from or participation in a program receiving Federal financial assistance will be prohibited by these regulations. This general rule is limited by the exceptions which are contained in section 304 of the Act and which are explained in §§ 1040.86-1040.87 of these regulations. The specific prohibited actions do not include an absolute prohibition on separate or different treatment on the basis of age. The regulations permit the provision of special benefits to the elderly or children and youth in a program which serves the elderly or children or youth as part of a larger eligible population (Sec. 1040.84). (This section is discussed in more detail in the next section of this preamble).

The regulations provide definitions for two terms which are essential to an understanding of the exceptions to prohibited age discrimination: "normal operation" and "statutory objective" (Sec. 1040.85). "Normal operation" is defined in a way that does not require a program to make significant changes in

its operation if those changes would impair achievement of its objectives. At the same time, a change that merely disturbs administrative routine or convenience would be required. "Statutory objective" is defined to mean any purpose which is explicitly stated in a Federal, State, or local statute or ordinance.

The regulations established a four-part test, all parts of which must be met for an explicit age distinction to satisfy one of the statutory exceptions and to continue in use in a Federally assisted program (Sec. 1040.86). An explicit age distinction is more likely to qualify under one of the statutory exceptions if it is applied flexibly, rather than automatically barring all those who do not meet the specific protected age categories.

Recipients of Federal funds are also permitted to take action otherwise prohibited by the Act, if the action is based on "reasonable factors other than age." In that event, the action may be taken even though it has a disproportionate effect on persons of different ages. However, according to the regulations (Sec. 1040.87), such other than age factor must bear a necessary relationship to the program's normal operation or to the achievement of a statutory objective.

The regulations place on the recipient the burden of proving that an age distinction or a factor other than age does qualify for an exception (Sec. 1040.89).

The three sections under "Responsibilities of DOE Recipients" explain the responsibilities that recipients of Federal financial assistance have to comply with the Act and with these regulations. The three areas of responsibility focus on the general requirement to comply with provisions of the Act and with these regulations, requirements to notify subrecipients of their obligations to comply with these regulations, and the requirement to make information available to DOE to determine whether the recipient is complying with the Act and these regulations.

Appendix A, DOE Federally Assisted Programs Containing Age Distinctions, is attached.

DOE has determined that this rulemaking will not impose a gross economic annual cost of $100 million or more; will not impose a major increase in cost or prices for consumers, individual industries, Federal, State and local government agencies, geographic regions, or demographic groups; will not have a substantial effect on any of the objectives of national energy policy or energy statutes; will not have an adverse impact 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; and has not been considered by the Secretary to have a major impact for any other reason. An initial regulatory analysis has been performed.

Note.—The Department of Energy has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis (EIA) statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

### List of Subjects in 10 CFR Part 1040

General provisions, Standards for determining age discrimination, Responsibilities of DOE recipients, Civil rights.

Age Discrimination Act of 1975, as Amended (43 U.S.C. 6101) *et seq.*; 45 CFR Part 90. For the reasons set out in the preamble Part 1040, Subpart E, chapter X of Title 10, is amended as set forth below.

Issued in Washington, DC, February 19, 1985.

**John S. Herrington,**

*Secretary of Energy.*

### Amendatory language

10 CFR Part 1040 is amended by adding a new Subpart E, reading as follows:

## PART 1040—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

### Subpart E—Nondiscrimination on the Basis of Age—Age Discrimination Act of 1975, as Amended.

**General Provisions**

Sec.

1010.81 Purpose.
1040.82 Application.
1040.83 Definitions.

**Standards for Determining Age Discrimination**

1040.84 Rules against age discrimination.
1040.85 Definitions of "Normal Operation" and "Statutory Objective".
1040.86 Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.
1040.87 Exceptions to the rules against age discrimination. Reasonable factors other than age.
1040.88 Remedial and affirmative action by recipients.
1040.89 Burden of proof.

**Responsibilities of DOE Recipients**

1040.89-1 General responsibilities.
1040.89-2 Notice to subrecipients.
1040.89-3 Information requirements.

**Investigation, Conciliation and Enforcement Procedures**

1040.89-4 Compliance reviews.
1040.89-5 Complaints.
1040.89-6 Mediation.
1040.89-7 Investigation.
1040.89-8 Prohibition against intimidation or retaliation.
1040.89-9 Compliance procedure.
1040.89-10 Hearings, decisions, post-termination proceedings.
1040.89-11 Remedial action by recipients.
1040.89-12 Alternate funds disbursal procedure.
1040.89-13 Exhaustion of administrative remedies.
Appendix A—DOE Programs Containing Age Distinctions

**Authority:** Age Discrimination Act of 1975, as amended, Pub. L. 94-135, November 28, 1975 (43 U.S.C. 6101) *et seq.*; 45 CFR Part 90.

### General Provisions

#### § 1040.81 Purpose.

The purpose of these regulations is to implement the Age Discrimination Act of 1975, as Amended, which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. In accordance with the Age Discrimination Act, federally assisted programs and activities and recipients of Federal funds may continue to use age distinctions and factors other than age which meet the requirements of the Act and these regulations.

#### § 1040.82 Application.

(a) These regulations apply to each program or activity which receives or benefits from Federal financial assistance provided by DOE.

(b) These regulations do not apply to—

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

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

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

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

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program.

**§ 1040.83 Definitions.**

(a) "Act" means the Age Discrimination Act of 1975 as amended Title III of Pub. L. 94–135, 42 U.S.C. 6101 *et seq.*

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

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

(d) "Age distinction" means any action using age or an age-related term (for example, "18 or over").

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

(f) "Days" mean calendar days.

(g) "Discrimination" means unlawful treatment based on age.

(h) "FERC" means the Federal Energy Regulatory Commission.

(i) "Field Civil Rights Officer" means the official in each DOE field office with responsibility for administering DOE's Civil Rights Program related to nondiscrimination in Federally assisted programs and activities.

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

(k) "Secretary" means the Secretary, Department of Energy.

**Standards for Determining Age Discrimination**

**§ 1040.84 Rules against age discrimination.**

The rules stated in this section are limited by the exceptions contained in § 1040.86 and of these regulations.

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

(b) *Specific rules:* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

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

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

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

**§ 1040.85 Definitions of "Normal Operation" and "Statutory Objective".**

For purpose of §1040.86 and 1040.87, the terms "normal operation" and "statutory objective" shall have the following meanings:

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

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

**§ 1040.86 Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.**

A recipient is permitted to take an action, otherwise prohibited by § 1040.84, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation of a program or activity if:

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

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

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

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

**§ 1040.87 Exception to the rules against age discrimination reasonable factors other than age.**

A recipient is permitted to take an action otherwise prohibited by § 1040.84 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

**§ 1040.88 Remedial and affirmative action by recipients.**

(a) Where a recipient is found to have discriminated on the basis of age, the recipient shall take such remedial action as the Director, Office of Equal Opportunity (OEO), considers necessary to overcome the effects of the discrimination.

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

(c) If a recipient operating a program which serves the elderly or children, in addition to persons of other ages, provides special benefits to the elderly or to children, the provision of those benefits shall be presumed to be voluntary affirmative action provided that it does not have the effect of excluding otherwise eligible persons from participation in the program.

**§ 1040.89 Burden of proof.**

The burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 1040.86 and 1040.87 is on the recipient of Federal financial assistance.

**Responsibilities of DOE Recipients**

**§ 1040.89–1 General responsibilities.**

Each DOE recipient has primary responsibility to ensure that its programs and activities are in compliance with the Act and these regulations. A recipient also has responsibility to maintain records, provide information, and afford access to its records to DOE, to the extent required to determine whether it is in compliance with the Act and these regulations.

**§ 1040.89–2 Notice to subrecipients.**

Where a recipient awards Federal financial assistance from DOE to its subrecipients, the recipient shall provide the subrecipients written notice of their obligations under these regulations.

**§ 1040.89–3 Information requirements.**

Each recipient shall:

(a) Upon request make available to DOE information necessary to determine whether the recipient is complying with the Act and these regulations.

(b) Permit reasonable access by DOE, upon request, to the books, records, accounts, and other recipient facilities and sources of information to the extent necessary to determine whether the recipient is in compliance with the Act and these regulations.

**Investigation, Conciliation and Enforcement Procedures**

**§ 1040.89–4 Compliance reviews.**

(a) DOE may conduct preaward and postaward compliance reviews of recipients as prescribed in this part or use other similar procedures that will permit it to investigate and correct violations of the Act and these regulations. DOE may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

(b) If a compliance review indicates a violation of the Act or these regulations, DOE will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, DOE will arrange for enforcement as described in § 1040.89–10.

**§ 1040.89–5 Complaints.**

(a) Any person, individually or as a member of a class or on behalf of others, may file a written complaint with DOE alleging discrimination prohibited by the Act or these regulations. A complainant must file a complaint within 180 days from the date he/she first had knowledge of the alleged act of discrimination. For good cause shown, however, the Director, Office of Equal Opportunity (OEO), may extend the time limit for filing a complaint. Complaints may be submitted to Field Civil Rights Officers located in DOE's field offices or to the Director, OEO, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

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

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

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

(3) Widely disseminating information regarding the obligations of recipients under the Act and these regulations.

(4) Notifying the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure.

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

(c) The Director, OEO, will refer any complaint outside the jurisdiction of DOE to the proper Federal department or agency and will also notify the complainant and the recipient of the referral. The notification will contain an explanation for the referral and the name, telephone number, and address of the Federal department or agency office having jurisdiction over the matter complained.

**§ 1040.89–6 Mediation.**

(a) Referral of complaints for mediation. DOE will refer to the Federal Mediation and Conciliation Service, in accordance with 45 CFR 90.43(c)(3), all complaints that:

(1) Fall within the jurisdiction of the Act and these regulations; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. There must be at least one meeting with the mediator before the Director, OEO, will accept a judgment that an agreement is not possible. However, the recipient and the complainant need not meet with the mediator at the same time.

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

(d) DOE will use the mediation process for a maximum of 60 days after referring a complaint to mediation. Mediation ends if:

(1) 60 days elapse from the time the mediation agency receives the complaint; or

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

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

(e) The mediator shall return unresolved complaints to the Director, OEO, DOE.

**§ 1040.89–7 Investigation.**

(a) *Informal Investigation.* (1) The Director, OEO, will review complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(2) As part of this review, Field Civil Rights Officers will use informal fact finding methods, including joint or separate discussions with the complainant and recipient, to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties.

(3) If the complaint is resolved during the informal investigation, DOE will put the agreement in writing and have it signed by the parties and the Director, OEO.

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

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

(b) *Formal Investigation.* If Field Civil Rights Officers cannot resolve the complaint through informal inquiry, the Director, OEO, will assign an Investigator to conduct a formal investigation of the complaint. If the investigation indicates a violation of the Act or these regulations, DOE will attempt to obtain voluntary compliance. If DOE cannot obtain voluntary compliance, it will begin enforcement as described in § 1040.89–10 and 10 CFR Part 1040, Subpart H, § 1040.111.

**§ 1040.89–8 Prohibition against intimidation or retaliation.**

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

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

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

**§ 1040.89–9 Compliance procedure.**

(a) DOE may enforce the Act and these regulations through procedures precribed in Subpart H of DOE regulation 10 CFR Part 1040—Nondiscrimination in Federally Assisted Programs, which calls for—

(1) Termination of a recipient's Federal financial assistance from DOE under the program or activity involved where the recipient has violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before the Federal Energy Regulatory Commission (FERC). Therefore, cases which are settled in mediation, or prior to a hearing, will not involve termination of a recipient's Federal financial assistance from DOE under this section.

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

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

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

(b) DOE will limit any termination under § 1040.89–9(a)(1) to the particular recipient and particular program or activity DOE finds in violation of these regulations. DOE will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from DOE.

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

(1) The Director, OEO, has advised the recipient of its failure to comply with the Act, these regulations, or the terms of the Federal financial assistance and has determined that voluntary compliance cannot be obtained.

(2) Thirty (30) days have elapsed after the Secretary or the Secretary's designee has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. The Secretary will file a report whenever any action is taken under paragraph (a).

(d) DOE also may defer granting new Federal financial assistance to a recipient when a hearing under § 1040.89–10 is initiated.

(1) New Federal financial assistance from DOE includes all assistance for which DOE requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities during the deferral period. New Federal financial assistance from DOE does not include increases in funding as a result of changes, computation of formula awards, or assistance awarded prior to the beginning of a hearing under § 1040.89–10.

(2) DOE will not defer new assistance until the recipient has received a notice of an opportunity for a hearing under § 1040.89–10. DOE will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and FERC. DOE will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing resulted in a finding against the recipient.

**§ 1040.89–10 Hearings, decisions, post-termination proceedings.**

DOE procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to DOE enforcement of these regulations. They are 10 CFR Subpart H §§ 1040.121 through 1040.124.

**§ 1040.89–11 Remedial action by recipients.**

Where the Director, OEO, finds a recipient has discriminated on the basis of age, the recipient shall take such remedial action as the Director, OEO, may require to end the discrminatory practice or policy and/or to overcome the effects of the discrimination.

**§ 1040.89–12 Alternate funds disbursal procedure.**

(a) When DOE withholds funds from a recipient under these regulations, the Secretary or designee may disburse the withheld funds directly to an alternate recipient(s), any public or private organization or agency, or State or political subdivision of the State.

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

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

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

**§ 1040.89–13 Exhaustion of administrative remedies.**

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

(1) One hundred eighty (180) days have elapsed since the complainant filed the complaint and DOE has made no findings with regard to the complainant; or

(2) DOE issues any findings in favor of the recipient.

(b) If DOE fails to make a finding within 180 days or issues a finding in favor of the recipient, the Director, OEO, will:

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

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

(3) Inform the complainant:

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

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

(iii) That, before commencing the action, the complainant shall give 30 days notice, by registered mail, to the Secretary of DOE, the Secretary of the Department of Health and Human Services, the Attorney General of the United States, and the recipient;

(iv) That the notice must state: the alleged violation of the Act and these regulations; the relief requested; the court in which the complainant is bringing the action; and whether or not attorney fees are demanded in the event the complainant prevails; and

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

APPENDIX A.—DOE FEDERALLY ASSISTED PROGRAMS CONTAINING AGE DISTINCTIONS

| Statutre, Name, Public Law, and U.S. Code | Section and age distinction | Use of age/age related term | | | Popular name or program | CFDA No. |
|---|---|---|---|---|---|---|
| | | Conditions benefits or assistance | Establishes criteria for participation | Describes beneficiaries or target groups | | |
| Energy Conservation and Production Act, Title IV, Part A; Public Law 94-385, 42 U.S.C. 6861-6870. | Section 413(a). The Administrator shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Administrator may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d), to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, in which the head of the household is a low-income person. | | | X | Weatherization Assistance Program for Low-Income Persons. | 81.042 |
| Interagency Agreement between the United States Department of Energy and the United States Department of Labor, Interagency Agreement No. 99-9-1656-07-11; Authority: Comprehensive Employment and Training Act of 1978 (CETA) (Pub. L. 95-524, October 27, 1978, 92 Stat. 1909; 29 U.S.C. 801), the Energy Reorganization Act of 1974, as amended (Pub. L. 93-438, October 11, 1974; 88 Stat. 1233), and the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91, August 4, 1977); 91 Stat. 565; 42 U.S.C. 7101). | Interagency Agreement, Section 1, Purpose: "The purpose of this agreement is to provide for a transfer of funds from the Department of Labor, Employment and Training Administration (ETA), Office of Youth Programs (OYP) to the Department of Energy, Directorate of Administration (AD), Office of Industrial Relations (OIR), to fund the Summer Science Student Program (SSSP). The SSSP will grant monies from DOL through DOE/OIR to DOE contractors to fund 480 participant slots for economically disadvantaged youths in an integrated program of career motivation and basic academic skill enrichment. The program is designed to motivate economically disadvantaged and academically talented youths to continue their education and to pursue energy-related careers upon graduation from high school. | | | X | Summer Science Student Program | N/A |
| Executive Office of the President, Office of Science and Technology Policy, Memorandum, Subject: Research Apprenticeships for Minority High Schoolers, dated October 23, 1979. | Quotation from October 23, 1979 memorandum, paragraph 2, "The objectives are to stimulate broader interest in the minority communities in careers in science and engineering and to establish individual working relationships of high school students with active researchers who may become helpful mentors when students need advice on college and careers and need letters of recommendation". | | | X | Summer Research Apprenticeship Program. | N/A |

[FR Doc. 85-4825 Filed 2-26-85; 8:45 am]

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