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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 551

Pay Administration Under the Fair Labor Standards Act

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing an interim rule to comply with a recent decision of the U.S. Court of Appeals for the Federal Circuit concerning the computation of overtime pay for Federal employees under the Fair Labor Standards Act of 1938, as amended.

DATES: This interim rule is effective retroactively to the first day of the first full biweekly pay period beginning on or after July 21, 1987. Comments must be received on or before February 16, 1988.

ADDRESS: Comments may be sent or delivered to Barbara L. Fiss, Assistant Director for Pay and Performance Management, Personnel Systems and Oversight Group, U.S. Office of Personnel Management, Room 7H28, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: James E. Matteson, (202) 632–5056.

SUPPLEMENTARY INFORMATION: On May 14, 1987, the U.S. Court of Appeals for the Federal Circuit rendered its decision in the matter of *Chester Lanehart, et al.* v. *Constance Horner, et al.*, 818 F. 2d 1574 (Fed. Cir. 1987). At issue was the quantum of "pay" to which appellants, Federal firefighters subject to the Fair Labor Standards Act (FLSA), were and are entitled during authorized absences from work under the "leave with pay" provisions of 5 U.S.C. 6303 (annual leave), section 6307 (sick leave), section 6233 (court leave), and section 6323 (military leave). The Court of Appeals held that the "leave with pay" statutes prevent any reduction in the "customary and regular pay" of the appellants, including overtime pay under the FLSA. The U.S. Solicitor General decided not to request a rehearing of *Lanehart* before the U.S. Court of Appeals for the Federal Circuit or to appeal the decision to the U.S. Supreme Court, and the decision on the merits of the case became final on July 21, 1987.

The Court of Appeals' decision overturns a longstanding principle upon which must of the Federal Government's FLSA pay administration policy was based—namely, that the administration of pay under the FLSA is entirely separate from pay administration under Title 5, United States Code. The Court specifically concluded that the Title 5 "leave with pay" statutes must be construed as covering compensation under a different statute—i.e., the Fair Labor Standards Act (title 29).

The Office of Personnel Management has determined that the Court of Appeals' decision applies to any employee who receives additional compensation for overtime work on a "customary and regular" basis, including (1) annual premium pay for standby duty under 5 U.S.C. 5545(c) (1); (2) annual premium pay for administratively uncontrollable overtime (AUO) work under 5 U.S.C. 5545(c)(2); and (3) overtime pay for "regularly scheduled" overtime work, as defined in 5 CFR 550.103(p) and 610.102(g)—e.g., six 8-hour days each week or four 10-hour days each week (*not* under an Alternative Work Schedule).

While the Court of Appeals' decision specifically addressed the "leave with pay" statutes under sections 6303, 6307, 6322, and 6323 of Title 5, United States Code, the interim rule also encompasses "paid absences" under section 6305 (home leave and shore leave) and section 6326 (funeral leave), holidays under section 6102 of Title 5, United States Code, and excused absences. Therefore, if an employee in any of the situations described above receives pay for periods of nonwork (leave, holidays, or excused absences), the paid absence must be counted *as if* it were "hours of work" for the purpose of determining the employee's FLSA overtime pay entitlement. Additional guidance concerning implementation of this decision will be provided through the Federal Personnel Manual system.

Pursuant to section 553 (b)(3)(B) and (d)(3) of Title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking and for making this amendment effective in less than 30 days. The notice and 30-day delay in the effective date are being waived because of the need to implement the Court of Appeals' decision, which became final on July 21, 1987.

E.O. 12291, Federal Regulation

I have 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 rule will not have a significant impact on a substantial number of small entities because it will affect only Federal employees and agencies.

List of Subjects in 5 CFR Part 551

Administrative practice and procedure, Fair Labor Standards Act, Government employees, Manpower training programs, Travel, Wages.

U.S. Office of Personnel Management.
Constance Horner,
Director.

Accordingly, OPM is amending Part 551 of Title 5, Code of Federal Regulations, as follows:

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

1. The authority citation for Part 551 continues to read as follows:

Authority: Sec. 4(f) of the Fair Labor Standards Act, as amended by Pub. L. 93–259, enacted April 8, 1974, 88 Stat. 55; 29 U.S.C. 204f.

2. In § 551.401, paragraph (b) is revised, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added to read as follows:

§ 551.401 Basic principles.

* * * * *

(b) Except as provided in paragraph (c) of this section, paid periods of nonwork (e.g., leave, holidays, or excused absences) are not hours of work for the purpose of this part.

(c) Paid periods of nonwork (e.g., leave, holidays, or excused absences) are counted as hours of work for the purpose of this part for an employee who receives—

(1) Annual premium pay for standby duty under 5 CFR 550.141;

(2) Annual premium pay for administratively uncontrollable overtime work under 5 CFR 550.151; or

(3) Overtime pay for regularly scheduled overtime work, as defined in 5 CFR 550.103(p) and 610.102(g).

* * * * *

3. In § 551.511, (b) introductory text is republished for the convenience of the reader, paragraph (b)(2) is revised, paragraphs (b)(3) through (b)(7) are redesignated as paragraphs (b)(4) through (b)(8), respectively, and a new paragraph (b)(3) is added to read as follows:

§ 551.511 Hourly regular rate of pay.

* * * * *

(b) "Total remuneration" includes all remuneration for employment paid to, or on behalf of, an employee except:

* * * * *

(2) Payments for periods during which no work is performed (e.g., leave, holidays, or excused absences) for all employees except those in receipt of—

(i) Annual premium pay for standby duty under 5 CFR 550.141;

(ii) Annual premium pay for administratively uncontrollable overtime work under 5 CFR 550.151; or

(iii) Overtime pay for regularly scheduled overtime work, as defined in 5 CFR 550.103(p) and 610.102(g);

(3) Reimbursements for travel expenses, or other similar expenses, incurred by an employee in furtherance of an agency's interest, which are not related to hours of work;

* * * * *

[FR Doc. 87-28816 Filed 12-15-87; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 87-149]

7 CFR Part 301

Witchweed Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the list of suppressive areas under the witchweed quarantine and regulations by adding to, and deleting from, the list of areas in counties in North Carolina and South Carolina.

EFFECTIVE DATE: January 15, 1988.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 660, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on July 8, 1987 (52 FR 25579-25585, Docket Number 87-011), we amended the regulations at 7 CFR Part 301 by adding areas in Columbus, Cumberland, Harnett, Hoke, Lenoir, Richmond, and Wayne Counties in North Carolina, and Florence County in South Carolina, to the list of suppressive areas in § 301.80-2a.

We also deleted areas in Beaufort, Columbus, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Lenoir, Pender, Pitt, Richmond, Sampson, Scotland, and Wayne Counties in North Carolina and Florence, Horry, and Marlboro Counties in South Carolina from the list of suppressive areas in § 301.80-2a.

We did not receive any comments, which were required to be postmarked or received on or before September 8, 1987. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect 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.

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

This action affects the interstate movement of regulated articles from specified areas in North Carolina and South Carolina. Based on information compiled by the Department, we have determined that, although there are approximately 290,000 small entities that move these articles interstate from the nonregulated areas in the United States, only about 5 small entities move them interstate from these areas in North Carolina and South Carolina. Further, we have estimated the overall economic impact from this action to be less than $80.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (Agriculture), Quarantine, Transportation, Witchweed.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR Part 301 and that was published in the **Federal Register** on July 8, 1987 (52 FR 25579-25585).

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

Done at Washington, DC, this 10th day of December, 1987.

Donald Houston,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87-28791 Filed 12-15-87; 8:45 am]
BILLING CODE 3410-34-M

Farmers Home Administration

7 CFR Part 1956

Debt Settlement for Farmer Programs and Single Family Housing Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulation on debt settlement for Farmers Programs (FP) and Single Family Housing (SFH) loans. This action is taken for more efficient administration of the program. The intended effect is to permit the use of an existing short internal use form to debt settle its Single Family Housing cases.

EFFECTIVE DATE: December 16, 1987.

FOR FURTHER INFORMATION CONTACT: Betty Throne, Realty Specialist, Property Management Branch, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5309, South Agriculture Building, Washington, DC 20250, Telephone (202) 382–1452.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules.

This action, however, is not published for proposed rulemaking since it involves only matters involving internal agency management, making publication for comment unnecessary and impractical.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.410—Low Income Housing Loans and No. 10.417—Very Low Income Housing Repair Loans and Grants.

For the reasons set forth in the Final Rule related Notice(s) to 7 CFR Part 3015, Subpart V, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major fedearl action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1956

Accounting, Loan programs—Agriculture, Rural areas.

Accordingly, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1956—DEBT SETTLEMENT

1. The authority citation for Part 1956 continues to read as follows:

Authority 7 U.S.C. 1989; U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Debt Settlement—Farmer Programs and Single Family Housing

2. Section 1956.57(j)(3) is revised to read as follows:

§ 1956.57 General provisions.

* * * * *

(j) * * *

(3) If one debtor applies for compromise, adjustment, or cancellation, or if the debt is to be charged off, and the other debtor(s) is deceased or has received a discharge of the debt in bankruptcy, or the whereabouts of the other debtor(s) is unknown, or it is impossible or impracticable to obtain the signature of the other debtor(s), Form FmHA 456–1 or Form FmHA 456–2 will be prepared by showing at the top of the form the name of the debtor requesting settlement, followed by the name of the other debtor. For example, "John Doe, joint debtor with Bill Doe, deceased," "John Doe, joint debtor with Sam Doe, discharged in bankruptcy," "John Doe, joint debtor with Mary Doe, impossible or impracticable to obtain signature," as appropriate. In addition to the information concerning settlement of the debt by the applicant, information which justifies settlement of the debt as to the debtor(s) not joining in the application will be shown on Form FmHA 456–1 or Form FmHA 456–2.

* * * * *

3. Section 1956.58(b)(1) is amended by adding "or Form FmHA 456–2" after the words "Form FmHA 456–1."

4. Section 1956.58 paragraph (d) is amended by revising paragraphs (d)(1), (d)(2) and (d)(3) to read as follows:

§ 1956.58 Approval or rejection.

* * * * *

(d) * * *

(1) Insert the reasons for rejection on the form.

(2) Execute and retain the original form in the State Office.

3) Return case files and copies of the form to the employee in charge of the account.

* * * * *

5. Section 1956.70(b)(2) is amended in the last sentence by removing the period and adding the following: "or Form FmHA 456–2 for Single Family Housing loans."

6. Section 1956.70(b)(3) is revised to read as follows:

§ 1956.70 Cancellation.

* * * * *

(b) * * *

(3) *Debtors discharged in bankruptcy.* If there is no security for the debt, debts discharged in bankruptcy shall be cancelled by the use of Form FmHA 456–1, or Form FmHA 456–2 for Single Family Housing loans, with a copy of the Bankruptcy Court's Discharge Order attached. No attempt will be made to obtain the debtor's signature and County Committee review is unnecessary. If the debtor has executed a new promise to pay prior to discharge and has otherwise accomplished a valid reaffirmation of the debt in accordance with advice from OGC the debt is not discharged.

* * * * *

7. Section 1956.75, the introductory text of paragraph (a) is revised to read as follows:

§ 1956.75 Chargeoff.

(a) *Judgment debts.* Subject to the provisions of § 1956.57(g)(3), judgment debts may be charged off by use of Form FmHA 456–1 or Form FmHA 456–2 for single family housing loans upon a report and favorable recommendation of the employee in charge of the account provided:

* * * * *

8. In § 1956.75, the introductory text of paragraph (b) is amended by adding after the words, "charged off" the words "using Form FmHA 456–2."

Dated: November 5, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87–28853 Filed 12–15–87; 8:45 am]

BILLING CODE 3410–01–M

FEDERAL RESERVE SYSTEM

12 CFR Parts 204 and 217

[Regulations D and Q; Docket No. R–0624]

Reserve Requirements of Depository Institutions Interest on Deposits; Amendments to Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Recission and revision of interpretations; technical amendments of regulation.

SUMMARY: The Board is amending 12 CFR Part 204 (Regulation D—Reserve Requirements of Depository Institutions) and Part 217 (Regulation Q—Interest on Deposits) by rescinding obsolete published interpretations of Regulation Q and by revising others to reflect the expiration, on March 31, 1986, of the Depository Institutions Deregulation Act of 1980 ("DIDA"), as well as to clarify and simplify them. The Board is preserving some of the revised interpretations by reclassifying them as interpretations of Regulation D. The Board is also making technical corrections to Regulation D and to several interpretations in Regulation D by removing unnecessary references or by incorporating clarifications that have been published elsewhere.

Effective March 31, 1986, the Board amended its Regulation D and Q to reflect the expiration of the DIDA. The expiration of the DIDA and the amendments to Regulation D and Q eliminated rate ceilings on the payment of interest on deposits and rendered many of the Regulation Q interpretations obsolete. The amendments to the interpretations of Regulations D and Q adopted today are technical and conform the surviving interpretations to the current Regulations D and Q. All amendments will be effective December 31, 1987, but interested parties are encouraged to contact staff prior to that date if further information is desired.

EFFECTIVE DATE: December 31, 1987.

FOR FURTHER INFORMATION CONTACT: John Harry Jorgenson, Senior Attorney (202/452–3778), or Patrick J. McDivitt, Attorney (202/452–3818), Legal Division; for the hearing impaired *only* Telecommunications Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson (202/452–3544); Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96–221) ("DIDA") expired on March 31, 1986, and eliminated the authority of the Board and other federal agencies regulating federally insured depository institutions to set ceilings on the rates of interest paid on classes of deposits (other than demand deposits, on which no interest may be paid). Prior to the expiration of the DIDA, the Board used provisions (such as early withdrawal penalties) in Regulation Q to enforce interest rate ceilings and to distinguish between classes of deposits for purposes of Regulation D. When the DIDA expired, the Board amended its Regulation Q to reflect the removal of the authority to set ceilings on the rates of interest paid on deposits and to enforce these ceilings (51 FR 9636, March 20, 1986) and concurrently amended its Regulation D to preserve provisions (such as early withdrawal penalties and descriptions of particular deposit accounts) that it used to distinguish between classes of deposits for the purposes of Regulation D (51 FR 9629; March 20, 1986).

The Board is amending its Regulation Q by rescinding interpretations of Regulation Q that were made obsolete by the expiration of the DIDA, by revising the remaining interpretations to reflect the removal of the authority to set rate ceilings on deposits, and by clarifying and consolidating these interpretations. Where appropriate, the Board is retaining and revising interpretations concerning regulatory provisions used to distinguish between classes of deposits and, in some cases, moving them to Regulation D. Similarly, the Board is amending its interpretation on secondary market time deposit purchases to reflect the changes in the early withdrawal penalties now appearing in Regulation D and is moving the interpretation to Regulation D. Two interpretations of Regulation D are being amended to remove obsolete references to Regulation Q, and one interpretation of Regulation D is being revised to incorporate a clarification published elsewhere. Finally, the Board is amending two provisions in Regulation D to remove obsolete terms dependent upon interest rate ceiling provisions, which were removed in March of 1986.

Table 1 presents the interpretations the Board is rescinding and the reasons for rescission. Table 2 presents the interpretations the Board is revising and retaining, a description of any changes, an indication of whether the interpretation will remain an interpretation of Regulation Q or will be reclassified as an interpretation of Regulation D, and the regulatory provision related to the retained interpretations. Table 3 lists Regulation Q interpretations that are being retained in their current forms (either in Regulation Q or after their move to Regulation D) and the reasons for their retention even though portions of some of the interpretations relate to rate ceilings and thus are obsolete. Table 4 lists the Regulation D interpretations that are being amended and the reasons for the amendments.

TABLE 1—REGULATION Q INTERPRETATIONS BEING RESCINDED

A. Interest Rate Ceilings

The following interpretations address issues concerning compliance with interest rate ceilings. Because these interpretations were rendered obsolete in their entirety by the expiration of the DIDA and the consequent removal of interest rate ceilings effective April 1, 1986, the Board believes the interpretations serve no purpose and is rescinding them.

Section 217.105—Time certificate with alternate maturities. (18 FR 4005, Jul. 9, 1953)

This interpretation provides that, if a time deposit contract permits withdrawal either at a specified maturity or prior to the stated maturity after a specified period of written notice, the allowable maximum rate of interest would depend upon which of these withdrawal privileges the depositor elects and the rate applicable to the elected maturity.

Section 217.106—Rate of interest on loan secured by time deposit. (18 FR 5505, Sep. 15, 1953)

This interpretation addresses the permissible rate of interest on a loan by a member bank to its depositor "upon the security of" a multiple maturity time deposit.

Section 217.107—Time deposit, open account ["TDOA"], with alternate maturities. (18 FR 6206, Sep. 29, 1953)

This interpretation provides that the interpretation in § 217.105 should apply to multiple maturity TDOAs.

Section 217.112—Interest on time deposits with alternate maturities. (21 FR 6269, Aug. 21, 1956)

This interpretation applies fixed interest rate ceilings to these deposits.

Section 217.114—Grace period for receipt of savings deposits ending on holiday. (24 FR 8371, Oct. 15, 1959. Fed. Res. Reg. Serv. ¶ 2–448.

This interpretation disallows the use of more than the ten calendar days of grace previously specified by the regulation when computing the maximum rate payable on savings deposits in order to prevent evasion of interest rate ceilings.

Section 217.115—Time of receipt of savings deposit for grace period purposes. (25 FR 3395, Apr. 20, 1960. Fed. Res. Reg. Serv. ¶ 2–449)

This interpretation specifies the method of determining time of receipt of certain deposits for the purposes of setting the grace period when computing interest.

Section 217.116—Monthly payment by check of interest on deposits. (25 FR 5923, Jun. 28, 1960)

This interpretation provides that the monthly payment of interest would permit a depositor to redeposit the interest and thus earn an effective return in excess of the regulatory maximum of 3 percent, compounded quarterly, which would violate a then-applicable rate ceiling.

Section 217.124—Rate of interest on interest compounded quarterly at maximum rate 27 FR 2763, Mar. 24, 1962)

This interpretation provides that interest credited quarterly to an account can be compounded at the contract rate (which is based on the original maturity) on a calculation date rather than at the lower maximum ceiling based on the time the previously credited interest had been on deposit.

Section 217.131—Exchange of 12-month certificate of deposit for 90-day certificate. (28 FR 8282, Aug. 13, 1963)

This interpretation provides that a member bank may permit a depositor to exchange a one-year certificate with time remaining to maturity for a certificate paying the same rate if the original maturity on the new certificate is less than the time remaining to maturity on the old but only if an early withdrawal penalty is imposed.

Section 217.136—Deposit contract providing for three months' maturity with option to withdraw on ninety days' notice. (29 FR 8003, Jun. 24, 1964. Fed. Res. Reg. Serv. ¶ 2–454)

This interpretation states that a deposit contract providing for a fixed maturity date on each of several additional deposits with an option to withdraw the entire amount on 90 days' notice shall be treated as having a maturity equal to the shorter of the fixed date or the time to withdrawal after notice.

Section 217.139—Explanatory statement regarding maximum interest rates on deposits. (29 FR 16317, Dec. 5, 1964)

This interpretation summarizes the terms applicable to time deposits in 1964.

Section 217.141—Maximum rates on multiple maturity time deposits. (31 FR 10315, Jul. 30, 1966. Fed. Res. Reg. Serv. ¶ 2–455)

This interpretation summarizes the terms applicable to multiple maturity time deposits in 1966.

Section 217.144—5 percent multiple maturity time deposits. (33 FR 9015, Jun. 18, 1968. Fed. Res. Reg. Serv. ¶ 2–456)

This interpretation describes the limitations applicable to time deposits payable at intervals of 90 days.

Section 217.150—Rate payable when higher rate is payable only on short-term deposits. (35 FR 11780, Jul. 23, 1970)

This interpretation summarizes the terms applicable to time deposits of $100,000 or more in 1970.

Section 217.155—Pooling of funds to obtain higher interest rates. (44 FR 32353, Jun. 6, 1979. Fed. Res. Reg. Serv. ¶ 2–458)

This interpretation prohibits a member bank from promoting the pooling of deposits by customers in order to evade minimum denomination requirements for certain time deposits.

Section 217.156—Application of Regulation Q to fixed rate obligctions issued by the parent holding company of a member bank. (45 FR 72630, Nov. 3, 1980. Fed. Res. Reg. Serv. ¶ 2–460)

This interpretation clarifies how former § 217.1(h) applied Regulation Q interest rate limitations to such obligations.

Section 217.160—Loan upon the security of a time deposit. (47 FR 47231, Oct. 25, 1982. Fed. Res. Reg. Serv. ¶ 2–462.1)

This interpretation clarifies the application of the one percent spread between the rate charged on a loan and the rate paid on a time deposit securing the loan. The spread, which is no longer required, was necessary to prevent the evasion of early withdrawal penalties, particularly on longer term time deposits.

B. Definitions

The following interpretations address definitional issues in addition to issues concerning compliance with interest rate ceilings. The Board is rescinding these interpretations for the reasons stated.

(1) Definition of "deposit" generally.

Section 217.101—Time deposit of trust funds in member bank's own banking department. (14 FR 7727, Dec. 28, 1949. Fed. Res. Reg. Serv. ¶ 2–491)

This interpretation is now addressed by § 204.2(a)(2)(i) of Regulation D.

Section 217.158—Sales of Federal funds by investment companies or trusts in which the entire beneficial interest is held exclusively by depository institutions. (47 FR 8988, Mar. 3, 1982. Fed. Res. Reg. Serv. ¶ 2–419.1)

This interpretation refers to a current interpretation of Regulation D (204.123) and therefore is unnecessary.

(2) Definition of "savings deposit" and "transaction account" specifically.

The following interpretations are unnecessary because the definitions of savings deposits and transaction accounts are now fully addressed by the definitions of "savings deposit" and "transaction account" in §§ 204.2(d)(2) and 204.2(e) of Regulation D, respectively.

Section 217.103—Presentation of savings accounts passbooks. (16 FR 580, Jan. 23, 1951)

This interpretation provides that deposits to and withdrawals from a savings account could be made by mail, even though the passbook did not accompany the customer's order or directive, without affecting the account's status as a "savings deposit."

Section 217.108—Payroll deduction savings plan. (19 FR 2716, May 12, 1954)

This interpretation provides that a member bank could not offer a company an automatic savings deposit plan for company employees under which automatic payroll deductions would be posted to the credit of individual employees. The plan provided for evidence of deposits by "savings account cards" which would be replaced weekly by a new card. The Board determined that the cards were not sufficiently like a traditional passbook.

Section 217.110—Withdrawal from "savings deposit" not evidenced by a passbook. (20 FR 4209, Jun. 16, 1955)

This interpretation provides that a member bank is not permitted to pay a draft drawn on a savings deposit and payable to a third party even if the member bank and the third party agree that the draft is subject to the right of the institution to require 30 days' advance written notice prior to of withdrawal.

Section 217.111—Savings deposits without passbook. (20 FR 7355, Oct. 4, 1955)

See discussion at section 217.103 above.

Section 217.121—Savings deposits not evidenced by passbook. (26 FR 2219, Mar. 16, 1961, as amended 34 FR 7899, May 20, 1969)

This interpretation provides that allowing withdrawals only on the presentation of a passbook (or a deposit receipt) by a depositor was necessary to prevent the depositor from paying third parties by giving them withdrawal slips.

Section 217.152—Withdrawals of savings deposits by telephone. (40 FR 16831, Apr. 15, 1975. Fed. Res. Reg. Serv. ¶ 2–494)

This interpretation provides that withdrawals can be made by telephone from a savings deposit without affecting the status of the deposit for the purposes of Regulations D and Q. The status of a savings account subject to telephone withdrawals or transfers is now addressed in the definition of "savings deposit" in § 204.2(d)(2) of Regulation D.

C. Payment of Interest on Demand Deposits

The Board is rescinding the following interpretations of § 217.2(d) of Regulation Q. That section defines "interest" for purposes of that regulation, and § 217.3 prohibits the payment of interest on demand deposits. The Board's amended definition of "interest" now covers the issue addressed by these interpretations that the absorption of expenses or the forebearance from charging a fee will not constitute a payment of interest. Even though these interpretations are being rescinded, the Board's staff will still address individual cases for consistency with the regulation.

Section 217.109—Adjustment of interest on loans as payment of interest on deposit. (19 FR 3006, May 25, 1954. Fed. Res. Reg. Serv. ¶ 2–442)

This interpretation discusses two cases involving an adjustment of interest rates on loans. One case did not constitute the payment of interest on a demand deposit because the adjustment amounted to forebearance of a future charge while the other did because the adjustment amounted to a rebate of a charge already due.

Section 217.117—Absorption of exchange charged as payment of interest. (25 FR 7620, Aug. 11, 1960)

This interpretation provides that the payment of interest includes any direct or indirect payment or absorption of exchange charges by any device whatsoever, regardless of whether such payment or absorption is made directly by a member bank or indirectly through any other bank for a member bank or a depositor of such member bank.

Section 217.118—Absorption of intangible personal property tax on bank deposits. (25 FR 9845, Oct. 14, 1960. Fed. Res. Reg. Serv. ¶ 2–434)

This interpretation provides that absorption of taxes on demand deposits does not constitute a payment of interest on a demand deposit regardless of whether the tax is levied on the bank or the depositor.

Section 217.120—Authority for absorption of certain normal exchange charges. (25 FR 10866, Nov. 16, 1960)

This interpretation provides that normal exchange charges could be absorbed without constituting a payment of interest.

D. Business Savings Accounts

Because the Board removed the $150,000 limitation on business savings accounts effective April 1, 1986, the following interpretations concerning business saving accounts no longer serve a purpose. Business eligibility to maintain a NOW account is determined by federal law (12 U.S.C. 1832) and by the Board's interpretation regarding NOW account eligibility (12 CFR 217.157; Fed. Res. Reg. Serv. ¶ 2–462.5) discussed below.

Section 217.119—Associated Hospital Service ineligible to maintain savings account. (25 FR 9845, Oct. 14, 1960. Fed. Res. Reg. Serv. ¶ 2–482)

This interpretation provides that a hospital association is ineligible to maintain a savings account because it is operated as a mutual insurance company and is not operated for a charitable purpose. Thus, the interpretation is inconsistent with current law and regulations.

Section 217.132—Deposits of trustees in bankruptcy as "savings deposits."— (28 FR 9384, Aug. 27, 1963. Fed. Res. Reg. Serv. ¶ 2–488)

This interpretation provides that the nature of the beneficial owners of such deposits rather than the nature of the named accountholder trustee will determine whether the funds may be placed in a "savings deposit." The concept of looking to the beneficial owner of fiduciary accounts to determine the character of the account is now fully addressed in the definition of "nonpersonal time deposit" in § 204.2(f) of Regulation D.

Section 217.135—Savings accounts by corporations operated for profit prohibited. (29 FR 398, Jan. 16, 1964)

This interpretation states the Board's position that member banks, including national banks, were prohibited from opening savings deposits for corporations. Thus, the interpretation is inconsistent with current law and regulations.

E. Miscellaneous

Section 217.133—Withdrawal of uninsured portion of deposit after bank merger. (28 FR 12360, Nov. 22, 1983)

This interpretation provides that a member bank may permit the immediate withdrawal of time or savings deposits when the bank has absorbed another bank by merger and depositors common to both banks have such accounts in the resulting bank in excess of the amount covered by deposit insurance. This interpretation is now incorporated in footnote 1 to § 204.2(c)(1)(i) of Regulations D; therefore, it is unnecessary and is being rescinded.

Section 217.140—Reduction in rate of interest on time deposit during period of loan made on security of such deposit. (30 FR 5574, Apr. 20, 1965. Fed. Res. Reg. Serv. ¶ 2–461)

This interpretation provides that reduction of the rate of interests on the time deposit to maintain the required 2 percent spread between the rate on a loan secured by a time deposit did not amount to an evasion of the early withdrawal penalties in Regulation Q. The spread is no longer required and the interpretation is being rescinded.

TABLE 2—REGULATIONS Q INTERPRETATIONS (UNRELATED TO ADVERTISING) BEING REVISED AND RETAINED EITHER IN REGULATION Q OR IN REGULATION D

A. Revised and retained in Regulation Q

Section 217.134—Interest on time certifications falling due on holiday. (28 FR 12360, Nov. 22, 1963. Fed. Res. Reg. Serv. ¶ 2–453)

This interpretation is being retained but is being changed to reflect revised Regulation Q requirements. The revised interpretation clarifies that, although matured time deposits which have not been renewed or placed in another account upon maturity are reported as demand deposits for the purposes of Regulation D (reserves on deposits), the continued payment of interest until the next business day will not be regarded as a violation of Regulation Q.

Section 217.147—Premiums, finders fees, prepayment of interests, and payment of interest in merchandise. (48 FR 45757, Oct. 7, 1983)

This interpretation is being revised to clarify when premiums will not constitute a payment of interest on a demand deposit under § 217.3 of Regulation Q. Rules regarding finders fees, prepayment of interest, and payment of interest in merchandise are being rescinded.

B. Revised and Moved to Regulation D

Section 217.126—Foreign, international, and supranational entities exempt from interest rate limitations. 35 3FR 1156, Jan. 29, 1970; 35 FR 2953, Feb. 13, 1970. Fed. Res. Reg. Serv. ¶ 2–457)

This interpretation is moved to Regulation D as an interpretation of §§ 204.2(c)(1)(iv)(E) and 204.2(f)(1)(v)(E) of that regulation because it affects reserves on liabilities held for supranational entities.

Section 217.137—Member bank participation in "Federal funds" market. (35 FR 528, Jan. 15, 1970; as amended 44 FR 60076, Oct. 18, 1979.Fed. Res. Reg. Serv. ¶ 2–414)

Section 217.138—Nonbank participation in "Federal funds" market. (38 FR 35231, Dec. 26, 1973. Fed. Res. Reg. Serv. ¶ 2–418)

These interpretations are being retained but are being moved to Regulation D as interpretations of §§ 204.2(a)(1)(vii)(A)(1) and 204.2(a)(1)(vii)(D) of that regulation.

Section 217.146—Deposits at foreign branches guaranteed by domestic office of member bank. (35 FR 2768, Feb. 10, 1970. Fed. Res. Reg. Serv. ¶ 2–415)

This interpretation refers to a contemporaneously published interpretation of Regulation D (§ 204.112), but the text of the Regulation D interpretation has not appeared in the Code of Federal Regulations since 1980. The interpretation explains §§ 204.1(c)(5) and 204.2(t) of Regulation D. The Board is endorsing the text of the original interpretation (amended to clarify that it applies to "depository institutions" and not just to "member banks"), and it will now appear in section 204.128.

Section 217.153—Serial, sinking fund redemption, and amortized issues as capital. (41 FR 26201, Jun. 25, 1976. Fed. Res. Reg. Serv. ¶ 2-419)

This interpretation was previously incorporated at former § 217.1(f)(3) of Regulation Q and refers to a contemporaneous interpretation of Regulation D (12 CFR 204.119) which is now codified at § 204.2(a)(1)(vii)(C) of Regulation D. It establishes criteria for concluding that certain subordinated notes do not constitute deposits. The substance of the interpretation is being retained but is being revised and moved to Regulation D as an interpretation of § 204.2(a)(1)(vii)(C) of that regulation.

Section 217.157—Eligibility for NOW Accounts. (46 FR 46899, Sept. 23, 1981, as amended at 47 FR 54759, Dec. 6, 1982. Fed. Res. Reg. Serv. ¶ 2–462.5)

This interpretation is being moved to Regulation D as an interpretation of § 204.2(e) of that regulation and is being revised to clarify that sole proprietors and individuals doing business under a trade or nominal business title are eligible to maintain a NOW account. Further, section 109 of Title I of the Competitive Equality Banking Act (Pub. L. No. 100–86) amended the statutory description of NOW accounts to make non-profit political organizations eligible to maintain NOW accounts, and this interpretation is being amended to reflect the statutory change. Finally, some historical detail on the origins of NOW accounts which was used to clarify the classification of NOW accounts for the purposes of Regulations D and Q is being deleted as the account is now clearly included in the definition of "transaction account" in § 204.2(e) of Regulation D.

Section 217.159—Member bank participation in the secondary market for its own time deposits. (47 FR 37878, Aug. 27, 1982. Fed. Res. Reg. Serv. ¶ 2–425.11)

This interpretation clarifies when a member bank's purchase of its time deposits in the secondary market is considered an early withdrawal of the deposits for interest rate determination purposes. This interpretation is being retained but is being revised to apply the early withdrawal penalties for reserve requirement purposes and moved to Regulation D as an interpretation of §§ 204.2(c)(1)(i) and 204.2(f)(3) of that regulation. As a matter of policy, the Board regards the maturity of a time deposit for reserve requirement purposes to be the soonest the liability may be removed from the depository institution's banks without penalty. This and related policies concerning the application of early withdrawal penalties may be affected by a pending proposed rulemaking (51 FR 16855; May 7, 1986). That rulemaking includes a determination as to the appropriate treatment of certain transactions (including asset sales with recourse) that may give rise to deposits and to the maturity of such deposits when acceleration clauses or puts or calls are present.

C. Miscellaneous

Section 217.161—Repurchase agreements involving shares of a money market mutual fund whose portfolio consists wholly of United States Treasury and Federal agency securities. (50 FR 13012, Apr. 2, 1985. Fed. Res. Reg. Serv. ¶ 2–419.2)

Such a repurchase agreement is not a "deposit" for purposes of Regulations D and Q. Further, shares in such MMMFs are permissible investments for state member banks.

This interpretation is being retained, but the text is being replaced with a cross reference to the corresponding published interpretation under Regulation D at 12 CFR 204.124. A related interpretation also appears in Regulation H—Membership of State Banking Institutions in the Federal Reserve System at 12 CFR 208.123 (Fed. Res. Reg. Serv. ¶ 3–416.14).

TABLE 3—REGULATION Q INTERPRETATIONS BEING RETAINED UNCHANGED

The Board believes that the portions of these interpretations concerning rate ceilings were rendered obsolete by the removal of interest rate ceilings effective April 1, 1986. The remaining portions of the interpretations concern advertising of interest on deposits. The Board's rules regarding advertising are currently under review (51 FR 1379; January 13, 1986), and these interpretations are being retained now and will be addressed when the Board completes that rulemaking.

Section 217.113—Time certificate of deposit with automatic renewal. (22 FR 2533, Apr. 13, 1957)

This interpretation summarizes the basic regulatory requirements applicable to automatically renewable time deposits.

Section 217.148—Information regarding computation of interest on deposits.— (35 FR 3751, Feb. 26, 1970. Fed. Res. Reg. Serv. ¶ 2–420)

This interpretation provides that each member bank should inform its customer as to the method that will be used to compute interest on the customer's interest-bearing deposit. It also provides that notice of changes to the account should be mailed to the depositor.

Section 217.151—Payment and computation of interest on time and savings deposits. (35 FR 19663, Dec. 29, 1970. Fed. Res. Reg. Serv. ¶ 2–412)

This interpretation sets out formulae which should be used when computing interest paid on deposits.

TABLE 4—REGULATION D INTERPRETATIONS BEING REVISED

Section 204.122—Secondary market activities of International Banking Facilities. (46 FR 62812, Dec. 29, 1982. Fed. Res. Reg. Serv. ¶ 2–263)

This interpretation concerns the extent to which IBFs may purchase IBF-eligible assets from or sell such assets to third parties under Regulation D. The interpretation was approved by the Board December 16, 1981, and was effective December 22, 1981. The Board concurrently approved a letter to the Reserve Banks (letter S–2455, December 16, 1981) which contained the text of this interpretation. The S-letter was revised January 12, 1982, to clarify how Regulation D applies such purchases and sales involving an IBF of an Edge or Agreement corporation. The amendment conforms the published interpretation to letter S–2455 as revised January 12, 1982, and ratifies that revision. Fed. Res. Reg. Serv. ¶ 2–263 already reflects the revision.

Section 204.123.—Sale of Federal funds by investment companies or trusts in which the entire beneficial interest is held exclusively by depository institutions. (47 FR 8987, Mar. 3, 1982; Fed. Res. Reg. Serv. ¶ 2–419.1)

Section 204.124—Repurchase agreement involving shares of a money market mutual fund whose portfolio consists wholly of United States Treasury and Federal agency securities. (50 FR 13011, Apr. 2, 1985; Fed. Res. Reg. Serv. ¶ 2–419.2)

These two interpretations provide that the described transactions do not create "deposits" for the purposes of Regulation D. They ar being amended to remove a sentence from each that refers to a parallel provision in former 217.1(f)(2) of Regulation Q. This section was removed from Regulation Q effective March 31, 1986. Because Regulation Q now incorporates and relies upon the definitions of "deposit" in Regulation D. This cross reference is unnecessary.

Notice and Public Comment

The Board finds good cause for not asking for public comment prior to the adoption of these amendments. The amendments affect interpretations of regulations and, thus, are exempt from the public notice provisions of the Administrative Procedure Act (5 U.S.C. 553(b) and (c)(2)) so long as they are interpretative rather than substantive in nature. The Board believes these amendments fall within this exemption. The amendments are technical in nature because they rescind obsolete interpretations and clarify or simplify remaining interpretations or conform them to current regulations. Accordingly, the Board believes that notice and public participation is impracticable, unnecessary, and contrary to the public interest. Nevertheless, the Board encourages interested parties to contact Board staff directly if they wish to express their views on the rescissions and revisions.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 60.1 *et seq.*), the Board certifies that these amendments will not have a significant economic impact on a substantial number of small entities. The amendments simplify the regulatory scheme of Regulatory Q, and, other than simplifying and clarifying Regulations D and Q, will have no effect on regulatory burdens for all depository institutions generally or such burdens for small depository institutions, particularly, and have no particular effect on other small entities.

List of Subjects

12 CFR Part 204

Banks, Banking, Currency, Federal Reserve System, Penalties, Reporting requirements.

12 CFR Part 217

Advertising of deposits, Interest on demand deposits, Banks, Banking, Federal Reserve System.

Pursuant to the Board's authority under section 19 of the Federal Reserve Act (12 U.S.C. 461 *et seq.*, 371a, and 371b) the Board is amending 12 CFR Part 204 and Part 217 as follows:

1. The authority citation for Part 204 continues to read as follows:

Authority: Secs. 11(a), 11(c), 19, 25, 25(a) of the Federal Reserve Act (12 U.S.C. 248(a), 248(c), 371a, 371b, 461, 601, 611); sec. 7 of the International Banking Act of 1978 (12 U.S.C. 3105); and section 411 of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 461).

1a. The authority citation for Part 217 continues to read as follows:

Authority: 12 U.S.C. 248, 371, 371a, 371b, 461, 1828, and 3105.

PART 204—[AMENDED]

§ 204.2 [Amended]

1b. Section 204.2(a)(1)(v) is amended by removing "four" and replacing it with "one and one-half" where it refers to years.

2. Section 204.2(a)(1)(vii)(C) is amended by removing "is not subject to federal interest rate limitations,".

3. Section 204.122(b) is revised as follows:

§ 204.122 Secondary market activities of International Banking Facilities.

* * * * *

(b) Consistent with the Board's intent, IBFs may purchase IBF-eligible assets [1] from, or sell such assets to, any domestic or foreign customer provided that the transactions are at arm's length without recourse. However, an IBF of a U.S. depository institution may not purchase assets from, or sell such assets to, any U.S. affiliate of the institution establishing the IBF; an IBF of an Edge or Agreement corporation may not purchase assets from, or sell assets to, any U.S. affiliate of the Edge or Agreement corporation or to U.S. branches of the Edge or Agreement corporation or to U.S. branches of the Edge or Agreement corporation other than the branch [2] establishing the IBF; and an IBF of a U.S. branch or agency of a foreign bank may not purchase assets from, or sell assets to any U.S. affiliates of the foreign bank or to any other U.S. branch or agency of the same foreign bank.[2] (This would not pevent an IBF from purchasing (or selling) assets directly from (or to) any IBF, including an IBF of an affiliate, or to the institution establishing the IBF; such purchases from the institution establishing the IBF would continue to be subject to Eurocurrency reserve requirements except during the initial four-week transition period.) Since repurchase agreements are regarded as loans, transactions involving repurchase agreements are permitted only with customers who are otherwise eligible to deal with IBFs, as specified in Regulation D.

* * * * *

[1] In order for an asset to be eligible to be held by an IBF, the obligor or issuer of the instrument, or in the case of bankers' acceptances, the customer and any endorser or acceptor, must be an IBF-eligible customer.

[2] Branches of Edge or Agreement corporations and agencies and branches of foreign banks that file a consolidated report for reserve requirements purposes (FR 2900) are considered to be the establishing entity of an IBF.

§ 204.123 [Amended]

4. Section 204.123 is amended by removing from its first paragraph the sentence, "A parallel exemption in Regulation Q * * * (12 CFR 217.1(f)(1))."

§ 204.124 [Amended]

5. Section 204.124(a) is amended by removing the sentence, "A parallel exemption in Regulation Q * * * (12 CFR 217.1(f)(2))."

§ 204.2 [Amended]

§217.126 [Redesignated as § 204.125]

6. Footnote 4 of § 204.2(c)(1)(iv)(E) is amended by removing "217.126" and replacing it with "204.125" and § 217.126 is redesignated as § 204.125, and revised to read as follows:

§ 204.125 Foreign, international, and supranational entities whose deposits are exempt from reserves.

The entities referred to in section 204.2(c)(1)(iv)(E) are:

Europe

Bank for International Settlements.
European Atomic Energy Community.
European Coal and Steel Community.
The European Communities.
European Development Fund.
European Economic Community.
European Free Trade Association.
European Fund.
European Investment Bank.

Latin America

Andean Development Corporation.
Andean Subregional Group.
Caribbean Development Bank.
Caribbean Free Trade Association
Caribbean Regional Development Agency.
Central American Bank for Economic Integration.
The Central American Institute for Industrial Research and Technology.
Central American Monetary Stabilization Fund.
East Caribbean Common Market.
Latin American Free Trade Association.
Organization for Central American States.
Permanent Secretariat of the Central American General Treaty of Economic Integration.
River Plate Basin Commission.

Africa

African Development Bank.
Banque Centrale des Etats de l'Afrique Equatorial et du Cameroun.
Banque Centrale des Etats d'Afrique del'Ouest.
Conseil de l'Entente.
East African Community.
Organisation Commune Africaine et Malagache.
Organization of African Unity.
Union des Etats de l'Afrique Centrale.
Union Douaniere et Economique de l'Afrique Centrale.
Union Douaniere des Etats de l'Afrique de l'Ouest.

Asia

and Pacific Council.
Association of Southeast Asian Nations.
Bank of Taiwan.
Korea Exchange Bank.

Middle East

Central Treaty Organization.
Regional Cooperation for Development.

§ 217.137 [Redesignated as § 204.126]

7. Section 217.137 is redesignated as § 204.126, and revised to read as follows:

§ 204.126 Depository institution participation in "Federal funds" market.

(a) Under § 204.2(a)(1)(vii)(A), there is an exemption from Regulation D for member bank obligations in nondeposit form to another bank. To assure the effectiveness of the limitations on persons who sell Federal funds to depository institutions, Regulation D applies to nondocumentary obligations undertaken by a depository institution to obtain funds for use in its banking business, as well as to documentary obligations. Under § 204.2(a)(1)(vii) of Regulation D, a depository institution's liability under informal arrangements as well as those formally embodied in a document are within the coverage of Regulation D.

(b) The exemption in § 204.2(a)(1)(vii)(A) applies to obligations owed by a depository institution to a domestic office of any entity listed in that section (the "exempt institutions"). The "exempt institutions" explicitly include another depository institution, foreign bank, Edge or agreement corporation, New York Investment (article XII) Company, the Export-Import Bank of the United States, Minbanc Capital Corp., and certain other credit sources. The term "exempt institutions" also includes subsidiaries of depository institutions:

(1) That engage in businesses in which their parents are authorized to engage; or

(2) The stock of which by statute is explicitly eligible for purchase by national banks.

(c) To assure that this exemption for liabilities to exempt institutions is not used as a means by which nondepository institutions may arrange through an exempt institution to "sell" Federal funds to a depository institution, obligations within the exemption must be issued to an exempt institution for its own account. In view of this requirement, a depository institution that "purchases" Federal funds should ascertain the character (not necessarily the identity) of the actual "seller" in order to justify classification of its liability on the transaction as "Federal funds purchased" rather than as a deposit. Any exempt institution that has given general assurance to the purchasing depository institution that sales by it of Federal funds ordinarily will be for its own account and thereafter executes such transactions for the account of others, should disclose the nature of the actual lender with respect to each such transaction. If it fails to do so, the depository institution would be deemed by the Board as indirectly violating section 19 of the Federal Reserve Act and Regulation D.

§ 217.138 [Redesignated as § 204.127]

8. Section 217.138 is redesignated as § 204.127, and revised to read as follows:

§ 204.127 Nondepository participation in "Federal funds" market.

(a) The Board has considered whether the use of "interdepository institution loan participations" ("IDLPs") which involve participation by third parties other than depository institutions in Federal funds transactions, comes within the exemption from "deposit" classification for certain obligations owed by a depository institution to an institution exempt in § 204.2(a)(1)(vii)(A) of Regulation D. An IDLP transaction is one through which an institution that has sold Federal funds to a depository institution, subsequently "sells" or participates out that obligation to a nondepository third party without notifying the obligated institution.

(b) The Board's interpretation regarding Federal funds transactions (12 CFR 204.126) clarified that a depository institutions's liability must be issued to an exempt institution described in § 204.2(a)(1)(vii)(A) of Regulation D for its own account in order to come within the nondeposit exemption for interdepository liabilities. The Board regards transactions which result in third parties gaining access to the Federal funds market as contrary to the exemption contained in § 204.2(a)(1)(vii)(A) of Regulation D regardless of whether the nondepository institution third party is a party to the initial transaction or thereafter becomes a participant in the transaction through purchase of all or part of the obligation held by the "selling" depository institution.

(c) The Board regards the notice requirements set out in 12 CFR 204.126 as applicable to IDLP-type transactions as described herein so that a depository institution "selling" Federal funds must provide to the purchaser—

(1) Notice of its intention, at the time of the initial transaction, to sell or

participate out its loan contract to a nondepository third party, and

(2) Full and prompt notice whenever it (the "selling" depository institution) subsequently sells or participates out its loan contract to a non-depository third party.

§ 217.146 [Redesignated as § 204.128]

9. Section 217.146 is redesignated as § 204.128, and revised to read as follows:

§ 204.128 Deposits at foreign branches guaranteed by domestic office of a depository institution.

(a) In accepting deposits at branches abroad, some depository institutions may enter into agreements from time to time with depositors that in effect guarantee payment of such deposits in the United States if the foreign branch is precluded from making payment. The question has arisen whether such deposits are subject to Regulation D, and this interpretation is intended as clarification.

(b) Section 19 of the Federal Reserve Act which establishes reserve requirements does not apply to deposits of a depository institution "payable only at an office thereof located outside of the States of the United States and the District of Columbia" (12 USC 371a; 12 CFR 204.1(c)(5)). The Board rule in 1918 that the requirements of section 19 as to reserves to be carried by member banks do not apply to foreign branches (1918 *Fed. Res. Bull.* 1123). The Board has also defined the phrase "Any deposit that is payable only at an office located outside the United States," in § 204.2(t) of Regulation D, 12 CFR 204.2(t).

(c) The Board believes that this exemption from reserve requirements should be limited to deposits in foreign branches as to which the depositor is entitled, under his agreement with the depository institution, to demand payment only outside the United States, regardless of special circumstances. The exemption is intended principally to enable foreign branches of U.S. depository institutions to compete on a more nearly equal basis with banks in foreign countries in accordance with the laws and regulations of those countries. A customer who makes a deposit that is payable solely at a foreign branch of the depository institution assumes whatever risk may exist that the foreign country in which a branch is located might impose restrictions on withdrawals. When payment of a deposit in a foreign branch is guaranteed by a promise of payment at an office in the United States if not paid at the foreign office, the depositor no longer assumes this risk but enjoys substantially the same rights as if the deposit had been made in a U.S. office of the depository institution. To assure the effectiveness of Regulation D and to prevent evasions thereof, the Board considers that such guaranteed foreign-branch deposits must be subject to that regulation.

(d) Accordingly, a deposit in a foreign branch of a depository institution that is guaranteed by a domestic office is subject to the reserve requirements of Regulation D the same as if the deposit had been made in the domestic office. This interpretation is not designed in any respect to prevent the head office of a U.S. bank from repaying borrowings from, making advances to, or supplying capital funds to its foreign branches, subject to Eurocurrency liability reserve requirements.

§ 217.153 [Redesignated as § 204.129]

10. Section 217.153 is redesignated as § 204.129, and revised to read as follows:

§ 204.129 Serial, sinking fund redemption, and amortized issues as capital.

(a) Section 204.2(a)(1)(vii) contains several exceptions which exclude certain liabilities from the definition of "deposit." For a member bank, the exception in § 204.2(a)(1)(vii)(C) means any liability that:

(1) Bears on its face, in boldface type, the following:

"This obligation is not a deposit and is not insured by the Federal Deposit Insurance Corporation.";

(2) Is subordinated to the claims of the depositors:

(3) Is unsecured and is ineligible as collateral for a loan by the issuing bank and expressly states so on its face;

(4) (i) Has an original maturity of at least seven years or, in the case of a liability that provides for any type of scheduled repayments of principal, has an average maturity [1] of at least seven years [2] and

(ii) Provides that once any such repayment of principal begins, all scheduled repayments shall be made at least annually and the amount repaid in each year is no less than in the prior year;

(5) Is issued subject to a requirement that no repayment (other than a regularly scheduled repayment already approved by the appropriate Federal bank regulatory agency), including but not limited to a payment pursuant to acceleration of maturity, may be made without the prior written approval of the appropriate Federal bank regulatory agency; [3] and

(6) Is in an amount of at least $500.

(b) The appropriate Federal bank regulatory agency may approve the issuance of an obligation that is less than $500 if such lesser amount is necessary:

(1) To satisfy the preemptive rights of shareholders in the case of a convertible debt obligation;

(2) To maintain a ratable unit offering to holders of preemptive rights in the case of an obligation issued exclusively as part of a unit including shares of stock which are subject to such preemptive rights; or

(3) To satisfy shareholders' ratable claims in the case of an obligation issued wholly or partially in exchange for shares of voting stock or assets pursuant to a plan of merger, consolidation, reorganization, or other transaction where the issuer will acquire either a majority of such shares of voting stock or all or substantially all of the assets of the entity whose assets are being acquired; and has been approved by the appropriate Federal bank regulatory agency as an addition to the capital structure of the issuing bank.

(c) The appropriate Federal bank regulatory agency may approve the issuance of an obligation that is less than $500 if such lesser amount is necessary to meet all of the requirements in the preceding clause except the maturity requirement or the requirement that scheduled repayments shall be in amounts at least equal to those made in a previous year; and with respect to which the appropriate Federal bank regulatory agency has determined that exigent circumstances require the issuance of such obligations without regard to the provisions of this part; or was issued or publicly offered before June 30, 1970, with an original maturity of more than two years.

(d) Total outstanding capital notes should not exceed 50 percent of a State member bank's equity capital.

(e) The issuance must be consistent with the Board's capital adequacy guidelines (Appendix A to Regulation Y, 12 CFR Part 225).

§ 217.157 [Redesignated as § 204.130]

11. Section 217.157 is redesignated as § 204.130, and revised to read as follows:

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[1] The "average maturity" of an obligation or issue repayable in scheduled periodic payments shall be the weighted average of the maturities of all such scheduled repayments.

[2] In a serial issue, the member bank may offer no note with a maturity of less than five years.

[3] For the purposes of this part, the "appropriate Federal bank regulatory agency" is the Comptroller of the Currency in the case of national bank and the Board of Governors in the case of a State member bank.

§204.130 Eligibility for NOW Accounts.

(a) *Summary.* In response to many requests for rulings, the Board has determined to clarify the types of entities that may maintain NOW accounts at member banks.

(b) *Individuals.* (1) Any individual may maintain a NOW account regardless of the purposes that the funds will serve. Thus, deposits of an individual used in his or her business including a sole proprietor or an individual doing business under a trade name is eligible to maintain a NOW account in the individual's name or in the "DBA" name. However, other entities organized or operated to make a profit such as corporations, partnerships, associations, business trusts, or other organizations may not maintain NOW accounts.

(2) Pension funds, escrow accounts, security deposits, and other funds held under various agency agreements may also be classified as NOW accounts if the entire beneficial interest is held by individuals or other entities eligible to maintain NOW accounts directly. The Board believes that these accounts are similar in nature to trust accounts and should be accorded identical treatment. Therefore, such funds may be regarded as eligible for classification as NOW accounts.

(c) *Nonprofit organizations.* (1) A nonprofit organization that is operated primarily for religious, philanthropic, charitable, educational, political or other similar purposes may maintain a NOW account. The Board regards the following kinds of organizations as eligible for NOW accounts under this standard if they are not operated for profit:

(i) Organizations described in section 501(c)(3) through (13), and (19) of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 501(c)(3) through (13) and (19));

(ii) Political organizations described in section 527 of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 527); and

(iii) Homeowners and condominium owners associations described in section 528 of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 528), including housing cooperative associations that perform similar functions.

(2) All organizations that are operated for profit are not eligible to maintain NOW accounts at depository institutions.

(3) The following types of organizations described in the cited provisions of the Internal Revenue Code are among those not eligible to maintain NOW accounts:

(i) Credit unions and other mutual depository institutions described in section 501(c)(14) of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 501(c)(14));

(ii) Mutual insurance companies described in section 501(c)(15) of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 501(c)(15));

(iii) Crop financing organizations described in section 501(c)(16) of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 501(c)(16));

(iv) Organizations created to function as part of a qualified group legal services plan described in section 501(c)(20) of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 501(c)(20)); or

(v) Farmers' cooperatives described in section 521 of the Internal Revenue Code (26 U.S.C. (I.R.C. 1954) section 521).

(d) *Governmental units.* Governmental units are generally eligible to maintain NOW accounts at member banks. NOW accounts may consist of funds in which the entire beneficial interest is held by the United States, any State of the United States, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof.

(e) *Funds held by a fiduciary.* Under current provisions, funds held in a fiduciary capacity (either by an individual fiduciary or by a corporate fiduciary such as a bank trust department or a trustee in bankruptcy), including those awaiting distribution or investment, may be held in the form of NOW accounts if all of the beneficiaries are otherwise eligible to maintain NOW accounts. The Board believes that such a classification should continue since fiduciaries are required to invest even temporarily idle balances to the greatest extent feasible in order to responsibly carry out their fiduciary duties. The availability of NOW accounts provides a convenient vehicle for providing a short-term return on temporarily idle trust funds of beneficiaries eligible to maintain accounts in their own names.

(f) *Grandfather provision.* In order to avoid unduly disrupting account relationships, a NOW account established at a member bank on or before August 31, 1981, that represents funds of a nonqualifying entity that previously qualified to maintain a NOW account may continue to be maintained in a NOW account.

§ 217.159 [Redesignated as § 204.131]

12. Section 217.159 is redesignated as § 204.131, and revised to read as follows:

§ 204.131 Participation by a depository institution in the secondary market for its own time deposits.

(a) *Background.* In 1982, the Board issued an interpretation concerning the effect of a member bank's purchase of its own time deposits in the secondary market in order to ensure compliance with regulatory restrictions on the payment of interest on time deposits, with the prohibition against payment of interest on demand deposits, and with regulatory requirements designed to distinguish between time deposits and demand deposits for federal reserve requirement purposes (47 FR 37878, Aug. 27, 1982). The interpretation was designed to ensure that the regulatory early withdrawal penalties in Regulation Q used to achieve these three purposes were not evaded through the purchase by a member bank or its affiliate of a time deposit of the member bank prior to the maturity of the deposit.

(b) Because the expiration of the Depository Institutions Deregulation Act (Title II of Pub. L. 96–221) on April 1, 1986, removed the authority to set interest rate ceilings on deposits, one of the purposes for adopting the interpretation was eliminated. The removal of the authority to set interest rate ceilings on deposits required the Board to revise the early withdrawal penalties which were also used to distinguish between types of deposits for reserve requirement purposes. Effective April 1, 1986, the Board amended its Regulation D to incorporate early withdrawal penalties applicable to all depository institutions for this purpose (51 FR 9629, Mar. 20, 1986). Although the new early withdrawal penalties differ from the penalties used to enforce interest rate ceilings, secondary market purchases still effectively shorten the maturities of deposits and may be used to evade reserve requirements. This interpretation replaces the prior interpretation and states the application of the new early withdrawal penalties to purchases by depository institutions and their affiliates of the depository institution's time deposits. The interpretation applies only to situations in which the Board's regulatory penalties apply.

(c) *Secondary market purchases under the rule.* The Board has determined that a depository institution purchasing a time deposit it has issued should be regarded as having paid the

time deposit prior to maturity. The effect of the transaction is that the depository institution has cancelled a liability as opposed to having acquired an asset for its portfolio. Thus, the depository institution is required to impose any early withdrawal penalty required by Regulation D on the party from whom it purchases the instrument by deducting the amount of the penalty from the purchase price. The Board recognizes, however, that secondary market sales of time deposits are often done without regard to the identity of the original owner of the deposit. Such sales typically involve a pool of time deposits with the price based on the aggregate face value and average rate of return on the deposits. A depository institution purchasing time deposits from persons other than the person to whom the deposit was originally issued should be aware of the parties named on each of the deposits it is purchasing but through failure to inspect the deposits prior to the purchase may not be aware at the time it purchases a pool of time deposits that it originally issued one or more of the deposits in the pool. In such cases, if a purchasing depository institution does not wish to assess an applicable early withdrawal penalty, the deposit may be sold immediately in the secondary market as an alternative to imposing the early withdrawal penalty.

(d) *Purchases by affiliates.* On a consolidated basis, if an affiliate (as defined in § 204.2(q) of Regulation D) of a depository institution purchases a CD issued by the depository institution, the purchase does not reduce their consolidated liabilities and could be accomplished primarily to assist the depository institution in avoiding the requirements of the Board's Regulation D. Because the effect of the early withdrawal penalty rule could be easily circumvented by purchases of time deposits by affiliates, such purchases are also regarded as an early withdrawals of the time deposit, and the purchase should be treated as if the depository institution made the purchase directly. Thus, the regulatory requirements for early withdrawal penalties apply to affiliates of a depository institution as well as to the institution itself.

(e) *Depository institution acting as broker.* The Board believes that it is permissible for a depository institution to facilitate the secondary market for its own time deposits by finding a purchaser for a time deposit that a customer is trying to sell. In such instances, the depository institution will not be paying out any of its own funds, and the depositor does not have a guarantee that the depository institution will actually be able to find a buyer.

(f) *Third-party market-makers.* A depository institution may also establish and advertise arrangements whereby an unaffiliated third party agrees in advance to purchase time deposits issued by the institution. The Board would not regard these transactions as inconsistent with the purposes that the early withdrawal penalty is intended to serve unless a depository institution pays a fee to the third party purchaser as compensation for making the purchases or to remove the risk from purchasing the deposits. In this regard, any interim financing provided to such a third party by a depository institution in connection with the institution's secondary market activity involving the institution's time deposits must be made substantially on the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions with other similarly situated persons and may not involve more than the normal risk of repayment.

(g) *Reciprocal arrangements.* Finally, while a depository institution may enter into an arrangement with an unaffiliated third party wherein the third party agrees to stand ready to purchase time deposits held by the depository institution's customers, the Board will regard a reciprocal arrangement with another depository institution for purchase of each other's time deposits as a circumvention of the early withdrawal penalty rule and the purposes it is designed to serve.

§§ 217.101, 217.103, 217.105, 217.106 through 217.112, 217.114 through 217.121, 217.124, 217.131 through 217.133, 217.135, 217.136, 217.139 through 217.141, 217.144, 217.150, 217.152, 217.155, 217.156, 217.158, and 217.160. [Removed]

13. Sections 217.101, 217.103, 217.105, 217.106, 217.107, 217.108, 217.109, 217.110, 217.111, 217.112, 217.114, 217.115, 217.116, 217.117, 217.118, 217.119, 217.120, 217.121, 217.124, 217.131, 217.132, 217.133, 217.135, 217.136, 217.139, 217.140, 217.141, 217.144, 217.150, 217.152, 217.155, 217.156, 217.158, and 217.160 are removed.

§§ 217.113, 217.148, 217.151 [Redesignated as §§ 217.601 through 217.603]

14. Sections 217.113, 217.148, and 217.151 are redesignated as §§ 217.601, 217.602, and 217.603, respectively.

§ 217.134 [Redesignated as 217.301]

15. Section 217.134 is redesignated, and revised as § 217.301 as follows:

§ 217.301 Interest on time deposit falling due on holiday.

(a) After the date of "maturity" of any time deposit, such deposit is a demand deposit, and no interest may be paid thereon for any period subsequent to the date of maturity unless the contract provides for an extension of up to 10 calendar days as per footnote 1 to Regulation Q.

(b) The date on which an obligation is due and payable is, of course, determined by the terms of the contract subject to State law, and in most jurisdictions an obligation falling due on a Saturday, Sunday or a holiday comes due on the next succeeding business day. Under Regulation Q, the "maturity" of a time certificate is the day it is legally due and payable; and the funds represented thereby do not become a demand deposit until after that date. Accordingly, where a certificate by its terms falls due on a Saturday, Sunday or a holiday and under State law is due and payable on the next succeeding business day, this Part 217 would not preclude payment of interest on the deposit until and including the day on which it is so payable.

§ 217.147 [Redesignated as § 217.302]

16. Section 217.147 is redesignated and revised as § 217.302 as follows:

§ 217.302 Premiums on deposits.

(a) Section 19(i) of the Federal Reserve Act and § 217.3 of Regulation Q prohibits a member bank from paying interest on a demand deposit. Premiums, whether in the form of merchandise, credit, or cash, given by a member bank to a depositor will be regarded as an advertising or promotional expense rather than a payment of interest if:

(1) The premium is given to a depositor only at the time of the opening of a new account or an addition to, or renewal of, an existing account;

(2) No more than two premiums per account are given within a 12-month period; and

(3) The value of the premium or, in the case, of articles of merchandise, the total cost (including taxes, shipping, warehousing, packaging, and handling costs) does not exceed $10 for deposits of less than $5,000 or $20 for deposits of $5,000 or more.

The costs of premiums may not be averaged. The member bank should retain sufficient supporting documentation showing that the total cost of a premium, including shipping, warehousing, packaging, and handling costs, does not exceed the applicable $10/$20 limitations and that no portion of the total cost of any premium has

been attributed to development, advertising, promotional, or other expenses. A member bank is not permitted directly or indirectly to solicit or promote deposits from customers on the basis that the funds will be divided into more than one account by the institution for the purpose of providing more than two premiums per deposit within a 12-month period.

§ 217.161 [Redesignated as § 217.201]

17. Section 217.161 is redesignated and revised as § 217.201 as follows:

§ 217.201 Repurchase agreements involving shares of a money market mutual fund whose portfolio consists wholly of United States Treasury and Federal agency securities.

Such a repurchase agreement is not a "deposit" for purposes of Regulations D and Q. For the text of this interpretation, see the interpretations of the Board's Regulation D at 12 CFR 204.124. A related interpretation also appears in Regulation H—Membership of State Banking Institutions in the Federal Reserve System at 12 CFR 208.123.

* * * * *

By order of the Board of Governors, December 9, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-28694 Filed 12-15-87; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 102

Disclosure of Information and Privacy Act of 1974

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final regulation implement certain provisions of the Freedom of Information Reform Act of 1986 (Pub. L. 99-570). The effect of this final rule is to provide the public the method by which SBA would charge and waive fees in connection with requests made under the Freedom of Information Act.

EFFECTIVE DATE: These regulations are effective December 16, 1987.

FOR FURTHER INFORMATION CONTACT: Inquiries and comments should be directed to C. Nicholas Kalcounos, Director, Freedom of Information/Privacy Acts, 2100 K Street, NW., Room 303, Washington, DC 20416, (202) 653-6460.

SUPPLEMENTARY INFORMATION: The Freedom of Information Reform Act of 1986 (Pub. L. 99-570) amended the Freedom of Information Act (5 U.S.C. 552) by modifying the terms of exemption 7 and by supplying new provisions relating to the charging and waiving of fees. The Reform Act specifically required the Office of Management and Budget to develop and issue a schedule of fees and guidelines pursuant to notice and comment. That Act also required agencies to publish their own regulations for those same purposes based upon the OMB guidelines. These regulations represent SBA's response to that requirement. They are based upon the OMB guidelines and a review of public comments received in response to a Notice of Proposed Rulemaking (52 FR 18570, May 18, 1987).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory analysis (5 U.S.C. 603, 604) are not applicable to this rule because it will not have a significant economic impact on a substantial number of small entities. The rule will not impose, or otherwise cause, a significant increase in the reporting recordkeeping or other compliance burdens on a substantial number of small entities. It is not expected to have significant secondary or incidental efforts on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 of February 17, 1981, SBA has determined that this rule is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

This rule will not result in any implications pursuant to the Paperwork Reduction Act.

List of Subjects in 13 CFR Part 102

Disclosure of information, Privacy Act of 1974.

Accordingly, 13 CFR Part 102 is amended as follows:

PART 102—[AMENDED]

1. The authority citation for Part 102, Subpart A is revised to read as follows:

Authority: The Freedom of Information Act (5 U.S.C. 552), as amended; the Paperwork Reduction Act (44 U.S.C. 35); the Privacy Act of 1974 (5 U.S.C. 552a); the Budget and Accounting Act of 1921 (31 U.S.C. 1 *et seq.*); the Budget and Accounting Procedures Act (31 U.S.C. 67 *et seq.*).

2. Section 102.6 is revised to read as follows:

§ 102.6 Fees.

(a) *Definitions.* For the purpose of these regulations all the terms defined in the Freedom of Information Act apply.

(1) The term "direct costs" means those expenditures which SBA actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(2) The term "search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents.

(3) The term "duplication" refers to the process of making a copy of a document necessary to respond to an FOIA request. Such copies can take the form of paper copy, microfilm, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk) among others. The copy provided must be in a form that is reasonably usable by the requester.

(4) The term "review" refers to the process of examining documents located in response to a request that is for a commercial use (see paragraph (a)(5) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(5) The term " 'commercial use' request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, SBA will determine the use to which a requester will put the documents requested. Moreover, where SBA has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, SBA will seek additional clarification before assigning the request to a specific category.

(6) The term "educational institution" refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(7) The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as that term is referenced above, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(8) The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but SBA may also look to the past publication record of a requester in making this determination.

(b) *Basis upon which fees are to be charged.* SBA will charge fees that recoup the full allowable direct costs it incurs. SBA will use the most efficient and least costly methods to comply with requests for documents made under the FOIA.

(1) Manual searches for records. SBA will charge $9 per hour for clerical personnel and where the identification of records pertinent to a request necessitates the use of professional personnel the search charge shall be $18 per hour.

(2) Computer searches for records. SBA will charge at the actual direct cost of providing the service. This will include the cost of operating the central processing unit (CPU) for that portion of operating time that is directly attributable to searching for records responsive to a FOIA request and operator/programmer salary apportionable to the search.

(3) Review of records. Only requesters who are seeking documents for commercial use may be charged for time SBA spends reviewing records to determine whether they are exempt from mandatory disclosure. It should be noted that charges may be assessed only for the initial review; i.e., the review undertaken the first time SBA analyzes the applicability of a specific exemption to a particular record or portion of a record. SBA may not charge for review at the administrative appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review would be properly assessable, especially where that review is necessary due to a change in circumstances. SBA will charge $18 per hour for professional review of a requested record for possible disclosure.

(4) Duplication of records. SBA has established an agency-wide, per page charge for paper copy reproduction of documents of ten cents per page. This charge shall represent the reasonable direct costs of making such copies, taking into account the salary of the operators as well as the cost of the reproduction machinery. For copies prepared by computer, such as tapes or printouts, SBA shall charge the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction or duplication, SBA will charge the actual direct costs of producing the document(s).

(5) Other charges. It should be noted that complying with requests for special services such as those listed below is entirely at the discretion of SBA. Neither the FOIA nor its fees structure cover these kinds of services. SBA will recover the full costs of providing services such as those enumerated below to the extent that SBA elects to provide them:

(i) Certifying that records are true copies;

(ii) Sending records by special methods such as express mail, etc.

(6) Restrictions on assessing fees. With the exception of requesters seeking documents for a commercial use, section 4(A)(iv) of the Freedom of Information Act, as amended, requires SBA to provide the first 100 pages of duplication and the first two hours of search time without charge. Moreover, this section prohibits SBA from charging fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. These provisions work together, so that except for commercial use requesters, SBA would not begin to assess fees until after it had provided the free search and reproduction. For example, for a request that involved two hours and ten minutes of search time and resulted in 105 pages of documents, SBA would determine the cost of only 10 minutes of search time and only five pages of reproduction. If this cost was equal to or less than the cost to the agency of billing the requester and processing the fee collected, no charges would result. SBA's Freedom of Information/Appellate Office will be the entity within SBA which determines if the cost to the agency of billing the requester and processing the fee collected will be equal to or greater than the cost to be recovered.

(i) The elements to be considered in determining the "cost of collecting a fee" are the administrative costs to the agency of receiving and recording a requester's remittance, and processing the fee for deposit in the Treasury Department's special account (or the agency's account if the agency is permitted to retain the fee). The per-transaction cost to the Treasury to handle such remittances is negligible and should not be considered in the agency's determination.

(ii) For purposes of these restrictions on assessment of fees, the word "pages" refers to paper copies of a standard agency size which will normally be "8½ x 11" or "11 by 14." Thus, requesters would not be entitled to 100 microfiche or 100 computer disks, for example. A

microfiche containing the equivalent of 100 pages or 100 pages of computer printout, however, might meet the terms of the restriction.

(iii) Similarly, the term "search time" in this context has as its basis, *manual search.* To apply this term to searches made by computer, SBA will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, i.e., the operator, SBA will begin assessing charges for computer search.

(7) In practice, if SBA estimates that fees are likely to exceed $25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost. If a requester avails himself or herself of the opportunity to reformulate the request, SBA will require that the requester provide a declaration to SBA agreeing to pay up to a specified amount of charges before SBA will satisfy the request.

(c) *Fees to be charged.* Categories of Requesters. There are four categories of FOIA requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. Specific levels of fees will be charged for each of these categories.

(1) Commercial use requesters. When SBA receives a request for documents for commercial use, it will assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Requesters must reasonably describe the records sought. Commercial use requesters are not entitled to two hours of free search time nor 100 pages of reproduction of documents.

(2) Educational and non-commercial scientific institution requesters. SBA shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research. Requesters must reasonably describe the records sought.

(3) Requesters who are representatives of the news media. SBA shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must meet the criteria in section (a)(8) above, and his or her request must not be made for a commercial use. In reference to this class of requester, a request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use.

(4) All other requesters. SBA shall charge requesters who do not fit into any of the categories above fees which recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. Moreover, requests from record subjects for records about themselves filed in agencies' systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction. Requesters must reasonably describe the records sought.

(d) *Methods of assessing charges.* (1) Charging interest—notice and rate. SBA shall begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the billing was sent. Interest will be at the rate prescribed in Section 3717 of Title 31 U.S.C. and will accrue from the date of the billing.

(2) Charges for unsuccessful search. SBA may assess charges for time spent searching, even if the agency fails to locate the records or if records located are determined to be exempt from disclosure. In practice, if the agency estimates that search charges are likely to exceed $25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer the requester the opportunity to confer with SBA personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(3) Aggregating requests. Except for requests that are for a commercial use, SBA may not charge for the first two hours of search time or for the first 100 pages of reproduction. However, a requester may not file multiple requests at the same time, each seeking portions of a document or documents solely in order to avoid payment of fees. When SBA reasonably believes that a requester or, on rare occasions, a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the agency may aggregate any such requests and charge accordingly.

(4) Advance payments. SBA may not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(i) The agency estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. Then, SBA will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(ii) A requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 days of the date of the billing), SBA may require the requester to pay the full amount owed plus any applicable interest as provided above or demonstrate that he has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the SBA begins to process a new request or a pending request from that requester.

(iii) When SBA acts under paragraphs (d) (1) or (2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e, 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after the agency has received fee payments described above.

(5) Payment of fees. The requester should make all checks or money orders payable to the U.S. Small Business Administration. All checks or money orders should be forwarded by the responsible SBA employee along with a completed SBA Form 772 to the Cashier's Office, SBA Central Office, 1441 L Street, NW., Washington, DC 20416.

(e) *Fee waivers.* SBA may furnish documents under these regulations without any charge or at a reduced charge if disclosure of the information is in the public interest because it is likely to contribute to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester. All

requests for a waiver or reduction of fees should be addressed to SBA's Freedom of Information Appellate Office, 2100 K Street, NW., Room 303, Washington, DC 20416. That office will render all determinations on such requests.

Date: December 7, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-28820 Filed 12-15-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-42-AD; Amdt. 39-5810]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes equipped with Rolls Royce RB211-535C or -535E4 engines, which requires modifications to the electromagnetic protection shielding of the engine electrical/electronic control unit wires. This amendment is prompted by a review of the wiring installation between the engine and fuselage pressure seal, which has shown that not all essential engine electronic control unit wires requiring electromagnetic protection shielding are shielded. This condition, if not corrected, could lead to an electrical transient from a lightning strike to one engine, causing damage or malfunction to the unstruck engine's essential control unit; this may affect the thrust of the unstruck engine, as well as that of the struck engine.

DATE: Effective February 16, 1988.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Pasion, Aerospace Engineer, Propulsion Branch, ANM-140S; telephone (206) 431-1974. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring modifications to certain Boeing Model 757 series airplanes equipped with Rolls Royce RB211-535C or -535E4 engines to improve the electromagnetic protection shielding of the engine electrical/electronic control unit wires, was published in the **Federal Register** on June 30, 1987 (52 FR 24304).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Four comments were received requesting that the initial compliance time of 60 days be increased. Commenters stated that the total work package is significant, involving 2+ days of work for crews of two people working continuously with no disruptions. Airplane wiring changes are involved, as is the incorporation of the engine manufacturer's service bulletins. The commenters indicated that incorporation times of up to 30 months were desired, and that a 60-day compliance time would cause significant economic and scheduling impact for those airlines with large fleets.

The FAA agrees that initial compliance with the AD can be extended somewhat. The FAA's objective in establishing the initial compliance time is to have the modifications accomplished in a reasonably short timespan based on the potential for adverse effects on both engine in the event of a severe lightning strike. The FAA has determined that the initial compliance time can be extended to one year without significantly compromising safety, and has revised the final rule accordingly.

One commenter requested that a wording change be made to the summary and supplementary information sections to delete reference to Rolls Royce engine wiring since the modification specifically addresses the airplane installation wiring. The FAA agrees and has deleted from the final rule all references to Rolls Royce engine wiring.

Since the date of publication of the NPRM, the manufacturer has revised Service Bulletin 757-71A0026 to clarify the wire coding information, circuit breaker nomenclature, various wire number callouts, and interval for lockstitch installation. The final rule has been revised to reflect this latest revision to the service bulletin. The FAA has determined that this change is clarifying in nature and does not increase the economic burden on any operator or the scope of the AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest requires the adoption of the rule with the changes previously noted.

It is estimated that 31 airplanes of U.S. registry will be affected by this AD, that it will take approximately 93 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Cost of parts is $193 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $121,303.

For these reasons, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 757 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 757 series airplanes equipped with Rolls Royce RB 211-535C or -535E4 engines, specified in Boeing Alert Service Bulletin 757-71A0026, Revision 1, dated September 24, 1987, certificated in any category. Compliance required within one year after the effective date of this AD, unless previously accomplished.

To minimize the potential for total thrust loss in both engines due to a lightning strike, accomplish the following:

A. Modify engine electrical and electronic control unit wiring in accordance with Boeing Alert Service Bulletin 757-71A0026, Revision 1, dated September 24, 1987, or later FAA-approved revision.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modification required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective February 16, 1988.

Issued in Seattle, Washington, on December 9, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-28830 Filed 12-15-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-49-AD; Amdt. 39-5811]

Airworthiness Directives; McDonnell Douglas Model DC-9-10 Through -50, and C-9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all McDonnell Douglas DC-9-10 through -50, and C-9 (Military) series airplanes, which currently requires inspection and repair, as necessary, of wing rear spar lower tee caps at wing station $X_{RS}=164.00$. This amendment requires expanding the inspections to include the wing rear spar upper caps, and incorporates a provision for optional eddy current inspections. This action is prompted by recent reports of cracks found in the wing rear spar upper caps. If this condition is not corrected, spar cracks may develop and progress to a point where the structural integrity of the wing is affected.

DATE: Effective February 16, 1988.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6319.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by superseding AD 81-13-02, Amendment 39-4136 (46 FR 31878; June 18, 1981), to require inspections for cracks and repair, as necessary, of the wing rear spar lower and upper caps, at wing station $X_{RS}=164.00$ on certain McDonnell Douglas DC-9 series airplanes, was published in the **Federal Register** on July 31, 1987 (52 FR 28566). The comment period for the proposal closed September 15, 1987.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the three comments received.

The first commenter expressed concern that McDonnell Douglas DC-9 Alert Service Bulletin A57-146 lacked sufficient detail to accomplish the proposed inspection on the wing rear spar upper caps. The FAA disagrees. A thorough review of the service bulletin indicates that adequate inspection instructions exist to provide the specific instructions to inspect for cracks in the wing rear spar upper caps. However, in order to clarify this point, paragraphs B. and E. of the final rule have been revised to include additional reference to the location in the service bulletin of the specific instructions applicable to the inspection and repair requirement.

The second commenter requested clarification of the proposed inspection requirements of paragraph A., asking if it is the intent of the proposal to require inspection of the wing rear spar upper caps only if a crack is found in the rear spar lower caps. The FAA notes that the commenter has correctly understood the proposed requirement. In order to eliminate any confusion on this point, the wording in paragraph A. of the final rule has been revised and a new paragraph B. has been added to state the inspection requirement more precisely.

The FAA has determined that this revision is for clarification purposes only; it will not impose any additional economic burden on any operator, nor will it expand the scope of the AD.

The third commenter indicated that he has been inspecting his airplanes in accordance with the procedures outlined in Revision 1 of McDonnell Douglas Alert Service Bulletin A57-146, dated April 13, 1984. The commenter requested that the final rule be changed to reflect Revision 1 of the service bulletin, since Revision 2 was merely a complete reissue of Revision 1, and did not change the initial inspection instructions from what was described in Revision 1. The FAA agrees, and has revised the AD accordingly.

Paragraph H. of the final rule has been revised to reflect that an FAA Principal Maintenance Inspector, rather than an FAA Maintenance Inspector, must be involved in requests by operators to adjust repetitive inspection intervals. The FAA has determined that this change will not increase the economic burden on any operator, nor will it increase the scope of the AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule, with the changes described above.

It is estimated that 530 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $42,400.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have significant economic effect on a substantial number of small entities because few, if any, Model DC-9 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By superseding AD 81-13-02, Amendment 39-4136 (46 FR 31878; June 18, 1981), with the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-10 through -50 and C-9 (Military) series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent fatigue cracking and possible structural failure of the wing rear spar upper and lower tee caps, accomplish the following:

A. Inspect the right- and left-hand wing rear spar lower caps in the area of the No. 2 flap hinge attachment bracket at wing station $X_{RS}=164.00$, in accordance with McDonnell Douglas DC-9 Alert Service Bulletin A57-146, Revision 1, dated April 13, 1984 (hereinafter referred to as ASB 57-146), or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, as follows:

1. For airplanes with 60,000 or more landings on the effective date of this AD, accomplish the inspection in accordance with ASB 57-146 within the next 300 landings, unless already accomplished within the last 2,000 landings.

2. For airplanes with less than 60,000 landings and more than 34,999 landings on the effective date of this AD, unless already accomplished within the last 2,000 landings, inspect in accordance with ASB 57-146, in accordance with the following initial inspection schedule:

Accumulated landings	Initial inspection
35,000-44,999	2,000 landings.
45,000-54,999	1,000 landings.
55,000-59,999	500 landings.

3. For airplanes with less than 35,000 landings on the effective date of this AD, inspect in accordance with ASB 57-146 prior to the accumulation of 37,000 landings.

B. If cracks are found in the rear spar lower cap, before further flight accomplish visual and dye penetrant inspections for cracks in the rear spar upper cap, in accordance with ASB 57-146.

C. If no cracks are found, repeat the inspections required by paragraph A., above, as applicable, at intervals not to exceed 4,000 landings until such time as the preventative modification is accomplished in accordance with paragraph F., below.

D. If cracks in either the upper or lower spar caps have progressed beyond the limits indicated in paragraph (5) of "Accomplishment Instructions," ASB 57-146, prior to further flight, accomplish the permanent repair of the spar caps, in accordance with McDonnell Douglas DC-9 Service Rework Drawing SR09570019 and J060165 "G" Change or later FAA-approved service rework drawings.

E. If cracks in either the upper or lower spar caps have not progressed beyond the limits indicated in paragraph (5) of "Accomplishment Instructions," ASB 57-146, prior to further flight, accomplish one of the following:

1. The permanent repair of the spar caps, in accordance with McDonnell Douglas DC-9 Service Rework Drawing SR09570019 and J060165 "G" Change, or later FAA-approved service rework drawings contained in ASB 57-146; or

2. The temporary repair of the spar caps, identified in ASB 57-146 as J060271 "A" Change or later FAA-approved service rework drawing.

a. Subsequent to the accomplishment of the temporary repair of the spar caps, perform visual inspections of the spar caps at intervals not to exceed 1,500 landings, and perform eddy current inspections of the spar caps at intervals not to exceed 3,000 landings, in accordance with ASB 57-146, until such time as the crack preventative modification described in paragraph F., below, is accomplished.

b. If crack progression in either the upper or lower spar caps is identified during repetitive inspections, repair within 3,000 additional landings in accordance with ASB 57-146.

c. If new crack(s) are found in the rear spar, wing panel (skin), and/or temporary repair angles or doublers on airplanes with a temporary repair incorporated, prior to further flight, repair in manner approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Accomplishment of crack preventative modification in accordance with McDonnell Douglas DC-9 Service Bulletin 57-146, dated May 18, 1987, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, constitutes terminating action for this AD.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

H. Upon request of the operator, an FAA Principal Maintenance Inspector, subject to prior approval by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of that operator if the request contains substantiating data to justify the change for that operator.

I. Alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

This Amendment supersedes Amendment 39-3146.

This Amendment becomes effective February 16, 1988.

Issued in Seattle, Washington, on December 9, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-28829 Filed 12-15-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 81-ASW-32; Amdt. 39-5801]

Airworthiness Directives; Societe National Industrielle Aerospatiale (SNIAS) Model SA 360C and SA 365 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires repetitive inspections of the tail rotor hub and fairings of Aerospatiale Model SA 360C and SA 365 series helicopters. This amendment adds a dye penetrant inspection requirement, identifies approved changes or modifications to the tail rotor for certain helicopters, and eliminates further mandatory inspections of aircraft which incorporate the changes or modifications. These changes are prompted by revised manufacturer's service bulletins and availability of an improved tail rotor.

EFFECTIVE DATE: January 15, 1988. *Compliance:* As indicated in the body of the AD.

ADDRESSES: The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support. The documents may be examined at the Office of the Regional Counsel, Federal Aviation Administration, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: John Varoli, Manager, Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, APO New York 09667, or James H. Major, Rotorcraft Standards Staff, Department of Transportation, Federal Aviation Administration, Fort Worth,

Texas 76193–0111, telephone number (817) 624–5117.

SUPPLEMENTARY INFORMATION: A proposal to amend Amendment 39–4190 (46 FR 42254), AD 81–14–51, which currently requires daily visual checks and a 50-hour repetitive visual inspection of the tail rotor fairings and hub on Aerospatiale Model SA 360C and SA 365 series helicopters was published in the **Federal Register** on September 23, 1987 (52 FR 35729). This amendment revises AD 81–14–51 to coincide or agree with certain service bulletins by adding an inspection. In addition, new paragraph (i) identifies service bulletins and approved procedures and modifications for the tail rotor head with the dual hub body and excludes further AD inspections whenever the helicopter incorporates this improved tail rotor design.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposal is adopted without change.

The FAA has determined that this amendment involves 3 helicopter models of which approximately 25 are registered in the United States, and it adds repetitive inspections but allows use of modifications to relieve further inspections for these models. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By amending Amendment 39–4190 (46 FR 42254), AD 81–14–51, as follows:

(a) By revising the applicability statement to read as follows:

Societe National Industrielle Aerospatiale (SNIAS): Applies to Model SA 360C, SA 365C, and SA 365N helicopters certificated in any category (Airworthiness Docket No. 81–ASW–32;

(b) By revising paragraph (a) by inserting the words "Model SA 360C and SA 365C" between "for" and "helicopters";

(c) By revising paragraph (b) by inserting the words "Model SA 360C and SA 365C" between "those" and "helicopters"; and

(d) By adding new paragraphs (h) and (i) to read as follows:

* * * * *

(h) Within 50 hours' time in service after the effective date of this amendment and thereafter at intervals not to exceed 150 hours' time in service, inspect for cracks at the mating surfaces of the rotor hub and the external or outer fairing, after removing the fairing from the hub. Use a dye penetrant or equivalent inspection method.

(i) This AD does not apply to Model SA 365N helicopters that comply with section 2, Accomplishment Instructions, Service Bulletin 64.04, approved November 28, 1985, and to Model SA 360C and SA 365C helicopters that comply with Section 2, Accomplishment Instructions, Service Bulletin 65.17, dated December 17, 1985, which concerns the tail rotor head with dual hub body.

Note: Model SA 365N, S/N 6215 and onward, may have the tail rotor head with dual hub body installed at the factory.

* * * * *

This amendment becomes effective January 15, 1988.

This amendment amends Amendment 39–4190 (46 FR 42254), AD 81–14–51.

Issued in Fort Worth, Texas, on November 25, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87–28832 Filed 12–15–87; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Fees for Rule Enforcement and Financial Reviews

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule and final schedule of fees; Correction.

SUMMARY: This notice corrects two errors which appeared in the **Federal Register** on December 4, 1987 (52 FR 46070).

FOR FURTHER INFORMATION CONTACT: Gerry Smith, Office of Executive Director, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, DC 20581. Telephone: (202) 254-6090.

The corrections to be made are as follows:

1. On page 46070, third column, line 36, change "and" to "an".

2. On page 46072, second column, in the chart, heading of third cloumn, remove "proposed".

Dated: December 10, 1987.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–28828 Filed 12–15–87; 8:45 am]

BILLING CODE 6351–01–M

RAILROAD RETIREMENT BOARD

20 CFR Part 355

Implementation of Program Fraud Civil Remedies Act of 1986

AGENCY: Railroad Retirement Board.

ACTION: Final rule

SUMMARY: This regulation is required under the Program Fraud Civil Remedies Act of 1986 (PFCRA) because the Railroad Retirement Board (Board) is an authority within the meaning of that Act. The PFCRA establishes an administrative remedy against persons who make, submit or present fraudulent claims or statements to various federal authorities. This regulation is necessary for the Board to implement the provisions of the PFCRA.

EFFECTIVE DATE: December 16, 1987.

FOR FURTHER INFORMATION CONTACT: Stanley Jay Shuman, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4568, FTS 386–4568.

SUPPLEMENTARY INFORMATION: A proposed rule to add Subchapter E, Part 355, to the Board's regulations was published in the **Federal Register** on October 1, 1987 (52 FR 36790). No comments were received. Several typographical errors appeared in the proposed rule document, none of which changed the meaning or intent of the regulation. However, paragraph (a) of § 355.19 was inadvertently omitted from the proposed rule document, and paragraph (b) of § 355.19 was incorrectly labeled paragraph (a). The error is corrected herein. Since the omission did not change the intent of § 355.19, no

additional comment period will be required.

The PFCRA requires the promulgation of regulations by authorities in order to implement its provisions (31 U.S.C. 3809). The Board is an authority within the meaning of the PFCRA. These regulations are adopted from the final model regulations prepared by the President's Council on Integrity and Efficiency.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. In addition, this part does not impose any requirement for the collection of information within the meaning of the Paperwork Reduction Act of 1980.

List of Subjects in 20 CFR Part 355

Administrative practice and procedure, Fraud, Investigations, Organizations and functions (Government Agencies), Penalties, Railroad Retirement Board.

For the reasons set out in the Preamble, Chapter II, Title 20 of the Code of Federal Regulations is amended as follows:

1. Subchapter E, consisting of Part 355, is added to read as follows:

SUBCHAPTER E—ADMINISTRATIVE REMEDIES FOR FRAUDULENT CLAIMS OR STATEMENTS

PART 355—REGULATIONS UNDER THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

Sec.

Authority: 31 U.S.C. 3809.

§ 355.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. No. 99-509, 6101-6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801-3812. 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part—

(1) Establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 355.2 Definitions.

"ALJ" means an Administrative Law Judge detailed to the authority pursuant to 5 U.S.C. 3344.

"Authority" means Railroad Retirement Board.

"Authority head" means the three-member Railroad Retirement Board.

"Benefits" means, except as the context otherwise requires, anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

"Board" means Railroad Retirement Board.

"Claim" means any request, demand, or submission—

(a) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(1) For property or services if the United States—

(i) Provided such property or services;

(ii) Provided any portion of the funds for the purchase of such property or services; or

(iii) Will reimburse such recipient or party for the purchase of such property or services; or

(2) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(i) Provided any portion of the money requested or demanded; or

(ii) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(c) Made to the authority which has the effect of decreasing an obligation to pay or account for property, services, or money.

"Complaint" means the administrative complaint served by the reviewing official on the defendant under § 355.7.

"Defendant" means any person alleged in a complaint under § 355.7 to be liable for a civil penalty or assessment under § 355.3.

"Government" means the United States Government.

"Individual" means a natural person.

"Initial decision" means the written decision of the ALJ required by § 355.10 or § 355.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

"Investigating official" means the Inspector General of the Railroad Retirement Board or an officer or employee of the Office of the Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

"Knows or has reason to know" means that a person, with respect to a claim or statement—

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(b) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(c) Acts in reckless disregard of the truth or falsity of the claim or statement.

"Makes", wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires,

making or *made* shall likewise include the corresponding forms of such terms.

"Person" means any individual, partnership, corporation, association, private organization, state, political subdivision of a state, municipality, county, district, and Indian tribe, and includes the plural of that term.

"Presiding officer" means ALJ.

"Representative" means an attorney who is a member in good standing of the bar of any state, territory, or possession of the United States or of the District of Columbia.

"Reviewing official" means the General Counsel of the Board or his or her designee who is—

(a) Not subject to supervision by, or required to report to, the investigating official; and

(b) Not employed in the organizational unit of the authority in which the investigating official is employed; and

(c) Is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

"Statement" means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(a) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(b) With respect to (including relating to eligibility for)—

(1) A contract with, or a bid or proposal for a contract with; or

(2) A grant, loan, or benefit from the authority, or any state, political subdivision of a state, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such state, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

§ 355.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such claim.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to an authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any state or political subdivision thereof, acting for or on behalf of such authority, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damages sustained by the Government because of such claim. However, such assessment shall not be in lieu of any recovery of erroneous payments as authorized by section 10 of the Railroad Retirement Act or section 2(d) of the Railroad Unemployment Insurance Act.

(b) *Statements.* (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each such statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to an authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any state or political subdivision thereof, acting for or behalf of such authority.

(c)(1) In the case of any claim or statement made by any individual relating to any of the benefits listed in paragraph (c)(2) of this section received by such individual, such individual may be held liable for penalties and assessments under this section only if such claim or statement is made by such individual in making application for such benefits with respect to such individual's eligibility to receive such benefits.

(2) For purposes of this paragraph, the term "benefits" means any annuity or other benefit under the Railroad Retirement Act of 1974 which are intended for the personal use of the individual who receives the benefits or for a member of the individual's family.

(d) No proof of specific intent to defraud is required to establish liability under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held liable for a civil penalty under this section.

(f) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

§ 355.4 Investigation.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(1) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued and shall identify the records or documents sought;

(2) He or she may designate a person to act on his behalf to receive the documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available and the reasons therefor, or that such documents, suitably identified, have

been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to preclude or limit such official's discretion to defer or postpone a report or referral to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

§ 355.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 355.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 355.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 355.7.

(b) Such notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 355.3 this part;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information then known or an absence of any information indicating that the person may be unable to pay such an amount.

§ 355.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 355.7 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1), and

(2) In the case of allegations of liability under § 355.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 355.3(a) does not exceed $150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (*e.g.*, grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person, claims that are unrelated or were not submitted simultaneously, regardless of the amount of money or the value of property or services demanded or requested.

§ 355.7. Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 355.8.

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file and answer within 30 days of service of the complaint may result in the imposition of the maximum amount of penalties and assessments without right to appeal.

(c) At the same time the reviewing official serves the complaint, he or she shall serve the defendant with a copy of these regulations.

§ 355.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual making service;

(2) An acknowledged United States Postal Service return receipt card; or

(3) Written acknowledgment of the defendant or his representative.

§ 355.9. Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer shall be deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

§ 355.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 355.9(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 355.8, a notice that an initial decision will be issued under this section.

(c) If the defendant has failed to answer the complaint, the ALJ shall assume the facts alleged in the complaint to be true and, if such facts establish liability under § 355.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant

from filing an answer, the initial decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the initial decision in paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 355.38.

(h) The defendant may appeal to the authority head the decision denying a motion to reopen by filing a notice of appeal with the authority head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the authority head decides the issue.

(i) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the record of the proceeding to the authority head.

(j) The authority head shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the authority head decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the authority head shall remand the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the authority head decides that the defendant's failure to file a timely answer is not excused, the authority head shall reinstate the initial decision of the ALJ, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

§ 355.11 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ.

§ 355.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 355.8. At the same time, the ALJ shall send a copy of such notice to the representative for the Government.

(b) Such notice shall include—

(1) The tentative time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the Government and of the defendant, if any; and

(6) Such other matters as the ALJ deems appropriate.

§ 355.13 Parties to the hearing.

(a) The parties to the hearing shall be the defendant and the authority.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 355.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the authority who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case—

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the authority head, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ shall not be responsible to, or subject to the supervision or direction of the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Government may be employed anywhere in the authority, including in the offices of either the investigating official or the reviewing official.

§ 355.15 Ex parte contacts.

No party or person (except employees of the ALJ's office) shall communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 355.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. Such motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affidavit, the ALJ shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the case shall be reassigned promptly to another ALJ.

(3) If the ALJ denies a motion to disqualify, the authority head may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

§ 355.17 Rights of parties.

Except as otherwise limited by this part, all parties may—

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

§ 355.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the

production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to decide upon the validity of Federal statutes or regulations.

§ 355.19 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations, admissions of fact or as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

§ 355.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 355.4(b) are based unless such documents are subject to a privilege under Federal law. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 355.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 355.9.

§ 355.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 355.22 and 355.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) *Motions for discovery.* (1) A party seeking discovery may file a motion with the ALJ. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 355.24.

(3) The ALJ may grant a motion for discovery only if he or she finds that the discovery sought—

(i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 355.24.

(e) *Depositions.* (1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 355.8.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

§ 355.22 Exchange of witness lists, statements and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 355.33(b). At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds

good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section shall be deemed to be authentic for the purpose of admissibility at the hearing.

§ 355.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 355.8. A subpoena on a party or upon an individual under the control of a party may be served by first-class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

§ 355.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 355.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

§ 355.26 Form, filing and service of papers.

(a) *Form.* (1) Documents filed with the ALJ shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the ALJ, and a designation of the paper (*e.g.*, motion to quash subpoena).

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than the complaint or notice of hearing shall be made by delivering or mailing a copy to the party's last known address. When a party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

§ 355.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal government shall be excluded from the computation.

(c) Where a document has been served or issued by mail, an additional five days will be added to the time permitted for any response.

§ 355.28 Motions.

(a) Any application to the ALJ for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 355.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

§ 355.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 355.3 and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The authority shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the ALJ for good cause shown.

§ 355.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and upon appeal, the authority head, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct (*i.e.*, the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a state, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the authority head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

§ 355.32 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the ALJ.

§ 355.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 355.22(a).

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to—

(1) Make the interrogation and presentation effective for the ascertainment of the truth.

(2) Avoid needless consumption of time, and

(3) Protect witnesses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her

direct examination. To the extent permitted by the ALJ, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government engaged in assisting the representative for the Government.

§ 355.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided herein, the ALJ shall not be bound by the Federal Rules of Evidence. However, the ALJ may apply the Federal Rules of Evidence where appropriate, *e.g.*, to exclude unreliable evidence.

(c) The ALJ shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 355.24.

§ 355.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the authority head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 355.24.

§ 355.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 355.37 Initial decision.

(a) The ALJ shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 355.3;

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 355.31.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all defendants with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the authority head. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the authority head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued by the ALJ.

§ 355.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt will be presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the ALJ.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) When a motion for reconsideration is made, the time periods for appeal to the authority head contained in § 355.38, and for finality of the initial decision in § 355.36(d), shall begin on the date the ALJ issues the denial of the motion for reconsideration or a revised initial decision, as appropriate.

§ 355.39 Appeal to authority head.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the authority head in accordance with this section.

(b)(1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 355.38 has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ issues the initial decision.

(4) The authority head may extend the initial 30-day period for an additional 30 days if the defendant files with the authority head a request for an extension within the initial 30-day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the record of the proceeding to the authority head.

(d) A notice of appeal shall be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days

of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the authority head.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the authority head that additional evidene not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the ALJ for consideration of such additional evidence.

(j) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the ALJ in any initial decision.

(k) The authority head shall promptly serve each party to the appeal with a copy of the decision of the authority head. At the same time the authority head shall serve the defendant with a statement describing the defendant's right to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the authority head serves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under § 355.3 is final and is not subject to judicial review.

§ 355.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 355.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a otion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

§ 355.42 Judicial review.

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties or assessments under this part and specifies the procedures for such review.

§ 355.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 355.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 355.42 or § 355.43, or any amount agreed upon in a compromise or settlement under § 355.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 355.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 355.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 355.42 or during the pendency of any action to collect penalties and assessments under § 355.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 355.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 355.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 355.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 355.10(b) shall be deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

Dated: December 9, 1987.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 87-28821 Filed 12-15-87; 8:45 am]

BILLING CODE 7905-01-M

PEACE CORPS

22 CFR Part 302

Organization

AGENCY: Peace Corps.

ACTION: Final rule.

SUMMARY: This rule updates information regarding the Peace Corps' organization; the methods whereby the public may secure information, make submittals, or request or obtain decisions, and statements of the general course and methods by which its functions are channeled and determined; a description of major Agency forms and where they may be obtained; and the location of the Agency's substantive rules of general applicability in the Code of Federal Regulations.

EFFECTIVE DATE: January 15, 1988.

FOR FURTHER INFORMATION CONTACT: John M. von Reyn, Chief, Paperwork and Records Management Branch, Office of Administrative Services, 202-254-6020.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Peace Corps has determined that this rule is not a major rule for the purpose of E.O. 12291 because it is not likely to result in an annual effect on the economy of $100 million or more.

Paperwork Reduction Act

This rule imposes no obligatory information requirements on the public.

Regulatory Flexibility Act of 1980

The Director certifies that this rule will not have a significant impact on a substantial number of small entities.

This rule implements the provisions of section 3 of the Administrative Procedures Act [5 U.S.C. 552] that require agencies to publish information regarding their organization, the methods whereby the public can secure information, make submittals, or request or obtain decisions and statements of the general course and methods by which its functions are channeled and determined; a description of major Agency forms and where they may be obtained; and the location of the Agency's substantive rules of general applicability in the Code of Federal Regulations.

A proposed rule was published in the **Federal Register** on September 25, 1987 (52 FR 36046). No comments were received during the thirty day comment period. The Agency is adopting the proposed rule as published.

List of Subjects in 22 CFR Part 302

Organization and functions (Government agencies).

Accordingly, Title 22, Code of Federal Regulations, is being amended by revising Part 302 as follows:

PART 302—ORGANIZATION

Sec.

Authority: Sec. 4, Pub. L. 87–239, Stat. 612 (22 U.S.C. 2503, as amended); 5 U.S.C. 552; E.O. 12137, 44 FR 29023, 3 CFR, 1979 Comp., p. 389.

§ 302.1 Introduction.

The regulations of this part are issued pursuant to section 3 of the Administrative Procedure Act, 5 U.S.C. 552, effective July 4, 1967.

§ 302.2 Central and field organization, established places at which, the officers from whom, and the methods whereby the public may secure information, make submittals, or request, or obtain decisions; and statements of the general course and methods by which its functions are channeled and determined.

(a) The following are statements of the central and field organization of the Peace Corps:

(1) *Central Organization*

(i) Director. As head of the Peace Corps, the Director is responsible for all the activities of the agency. He or she is assisted by a Deputy Director, a Chief of Staff, and the following staff units:

(A) The Office of the General Counsel which provides legal advice and assistance relating to Peace Corps programs and activities;

(B) The Office of Congressional Relations which serves as primary informational contact between Congress and the Peace Corps, advising the Director and other senior managers on governmental and legislative affairs;

(C) The Office of Public Affairs which promotes awareness of the Peace Corps, monitors agency news coverage and prepares/disseminates national news releases and other information about the Peace Corps. The Office also coordinates agency activities and maintains files relating to graphic, photographic and audiovisual services and works closely with the Advertising Council on placement on public service announcements;

(D) The office of Private Sector Relations/Development Education which coordinates private sector support and participation in Peace Corps activities;

(E) The Executive Secretariat which manages correspondence and other documents on behalf of the Director.

(ii) Office of the Associate Director for International Operations consists of the Regional Offices for Africa; Inter-America; and North Africa, Near East, Asia and Pacific; and the Office of Training and Program Support. The immediate office of the Associate Director includes the Overseas Staff Training and the United Nations Volunteer Program staff.

(A) The Regional offices are responsible for the negotiation, establishment and operation of Peace Corps projects overseas and for the training of Peace Corps Volunteers for such projects. They also provide, on behalf of the Director, policy guidance and immediate supervision to Peace Corps staff and operations overseas.

(B) The Office of Training and Program Support provides technical assistance and policy direction in the development of effective program and training strategies/designs, and coordinates a wide variety of program and training services.

(iii) The Office of the Associate Director for Management consists of the following offices:

(A) The Office of Medical Services which provides medical screening for applicants and health care services to Volunteers and in-country staff.

(B) The Office of Special Services which provides personal and administrative support to Peace Corps trainees and Volunteers, and their families.

(C) The Office of Personnel Policy and Operations which provides Agency personnel services.

(D) The Office of Financial Management which provides accounting, contracting and budget operations.

(E) The Office of Planning and Policy Analysis which provides support to the Agency in the areas of policy, planning, assessment and management information.

(F) The Office of Administrative Services which provides administrative and logistical support to the Agency.

(G) The Office of Information Resources Management which manages the Agency's information resources and central computer facility.

(H) The Office of Compliance which carries out Agency audit, investigation, internal controls and equal opportunity functions.

(iv) The Office of the Associate Director for Volunteer Recruitment and Selection consists of the following offices:

(A) The Office of Recruitment which directs the operational and managerial aspects of headquarers and domestic field recruitment activities in support of the recruitment of qualified Peace Corps trainees.

(B) The Office of Placement which conducts final placement, processing and orientation of Peace Corps applicants in preparation for final selection and training.

(2) Domestic Field Organization

Regional Peace Corps Recruitment Offices: (i) Chicago Regional Office, 175 West Jackson Boulevard, Room A–531, Chicago, Illinois 60604. (Oversees Area Offices in Atlanta, Chicago, Detroit, Kansas City and Minneapolis.)

(ii) New York Regional Office, 1515 Broadway, Room 3515, New York, New York 10036. (Oversees Area Offices in Miami, Puerto Rico, Washington, DC, Philadelphia, New York City and Boston.)

(iii) San Francisco Regional Office, 211 Main Street, Room 533, San Francisco, California 94105. (Oversees Area Offices in San Francisco, Seattle, Denver, Los Angeles, and Dallas.)

(3) Foreign Field Organization

(i) Africa Region

Benin, Cotonou
Botswana, Gaborone
Burundi, Bujumbura
Cameroon, Yaounde
Central African Republic, Bangui
Chad, N'Djamena
Gabon, Libreville
The Gambia, Banjul
Ghana, Accra
Guinea, Conakry
Kenya, Nairobi
Lesotho, Maseru
Liberia, Monrovia
Malawi, Lilongwe
Mali, Bamako
Mauritania, Nouakchott
Niger, Niamey
Rwanda, Kigali
Senegal, Dakar
Sierra Leone, Freetown
Swaziland, Mbabane
Tanzania, Dar es Salaam
Togo, Lome
Zaire, Kinshasa

(ii) Inter-America Region

Belize, Belize City
Costa Rica, San Jose
Dominican Republic, Santo Domingo
Eastern Caribbean, Bridgetown, Bardados
Ecuador, Quito
Guatemala, Guatemala City
Haiti, Port-au-Prince
Hondurus, Tegucigalpa
Jamaica, Kingston
Paraguay, Asuncion
Turks and Caicos Islands (Santo Domingo, Dominican Republic)

(iii) North Africa, Near East Asia and Pacific Region

Cook Islands (Apia, Western Samoa)
Fiji, Suva
Federated States of Micronesia, Pohnpei
Kiribati (Honiara, Solomon Islands)
Marshall Islands, Majuro
Morocco, Rabat
Nepal, Kathmandu
Papua New Guinea, Port Moresby
Philippines, Manila
Republic of Palau (Pohnpei, F.S.M)
Seychelles, Victoria
Solomon Islands, Honiara
Sri Lanka, Colombo
Thailand, Bangkok
Tonga, Nuku'alofa
Tunisia, Tunis
Tuvalu (Suva, Fiji)
Western Samoa, Apia
Yemen Arab Republic, Sana's

(b) Any person desiring information concerning a matter handled by the Peace Corps, or any persons desiring to make a submittal or request in connection with such a matter, should communicate either orally or in writing with the appropriate office. If the office receiving the communications does not have jurisdiction to handle the matter, the communication, if written, will be forwarded to the proper office, or, if oral, the person will be advised how to proceed.

§ 302.3 Rules of procedure, description of forms available, the places at which forms may be obtained, and instructions as to the scope and content of all papers, reports, or examinations.

Forms regarding the following listed matters and instructions relating thereto may be obtained upon application to the offices listed below.

Application for Peace Corps, Office of Recruitment, Room P–301.

Volunteer Service, Peace Corps, 806 Connecticut Avenue NW., Washington, DC 20526, *or* the Peace Corps area recruitment offices listed in § 302.2(a)(2).

§ 302.4 Substantive rules of general applicability adopted as authorized by law, and statement of general policy or interpretation of general applicability formulated and adopted by the agency.

The Peace Corps regulations published under the provisions of the Administrative Procedure Act are found in Part 301 of Title 22 of the Code of Federal Regulations and the **Federal Register**. These regulations are supplemented from time to time by amendments appearing initially in the **Federal Register**.

Dated: December 1, 1987.

Loret Miller Ruppe,

Director.

[FR Doc. 87–28824 Filed 12–15–87; 8:45 am]

BILLING CODE 6051–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Surface Coal Mining and Reclamation Operations Under a Federal Program for Tennessee

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

ACTION: Final rule; technical amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the Department of the Interior (DOI) is making a technical amendment to the final rule promulgating a Federal program for the regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in the State of Tennessee, which was published in the **Federal Register** on October 1, 1984. The purpose of the amendment is to correct a typographical error omitting standards for revegetation success for areas to be developed for industrial, commercial, or residential use and for areas previously disturbed by mining that were not reclaimed to the regulatory requirements and that are remined or otherwise disturbed by surface coal mining operations.

EFFECTIVE DATE: December 16, 1987.

FOR FURTHER INFORMATION CONTACT: George C. Miller, Director, Knoxville Field Office, OSMRE, 530 Gay Street, SW, Knoxville, TN 37902; Telephone (615) 673–4504, or Patrick W. Boyd, Branch of Federal and Indian Programs, OSMRE, 1951 Constitution Avenue, NW, Washington, DC 20240; Telephone (202) 343–1864.

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 1984, OSMRE promulgated a Federal program for the regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian land in Tennessee, including the surface operations and impacts incident to underground coal mining (49 FR 38874). Under section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior (the Secretary) is required to promulgate a Federal program in a State for the failure of a State granted primary regulatory responsibility to adequately implement, enforce or maintain its program. Upon promulgation of a Federal regulatory program, the Secretary becomes the regulatory authority. Through delegation, the Director of OSMRE is the official directly responsible for the implementation of a Federal regulatory program.

Federal programs are promulgated by means of cross-referencing the permanent program regulations in 30 CFR Subchapters A, F, G, H, J, K, L, and M, which set the substantive standards. The Federal regulatory program for Tennessee is found in 30 CFR part 942. Sections of part 942 on various topics cross-reference the counterpart permanent program rules on those topics. Cross-referencing avoids duplication of the full text of the permanent regulatory program rules for each Federal program.

Where a particular permanent program regulation needed to be modified for use in the Tennessee Federal program, a paragraph was added to modify the permanent regulatory program standards applicable in Tennessee or to add requirements or standards. Where more than one standard needed to be modified in any particular permanent program rule, additional paragraphs have been added to the Federal program section. For example, additional performance standards for Tennessee were added to §§ 942.816 and 942.817 as paragraphs (b) through (h) and (b) through (f) respectively. This is one means of implementing the mandate of section 504(a) of SMCRA that in promulgating a Federal program the Secretary take into consideration relevant conditions in the State.

II. Discussion of Amendment

The revegetation performance standards contained in 30 CFR 816.116 (for surface mining) and 817.116 (for underground mining) state that the standards for success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in an approved regulatory program. Both 30 CFR 816.116(b) and 817.116(b) provide minimum success standards for several types of postmining land uses, including grazing or pasture land in paragraph (b)(1); cropland in paragraph (b)(2); fish and wildlife habitat, recreation, shelterbelts, or forest products in paragraph (b)(3); areas to be developed for industrial, commercial, or residential use in paragraph (b)(4); and areas previously disturbed by mining in paragraph (b)(5). In establishing revegetation success standards for use in the Tennessee Federal program, 30 CFR 942.816(f) stated,

> In lieu of the requirements of section 816.116(b)(1) through (b)(6) of this chapter, the following revegetation success standards and sampling techniques shall be used by [OSMRE].

The paragraph should have read, "In lieu of the requirements of § 816.116(b)(1) through (b)(3) * * *." (Emphasis added.) The same typographical error was made in § 942.817(e) of the Tennessee Federal program rules. The effect of the typographical error was to create the impression that OSMRE had failed to include the standards at 30 CFR 816/817.116 (b)(4) and (b)(5) in the Tennessee Federal program rules. There was no § 816/817.116(b)(6) in the permanent program rules. OSMRE intends that the standards for revegetation success contained in 30 CFR 816/817.116 (b)(4) and (b)(5) apply to the Tennessee Federal program. This rulemaking will correct the typographical error. The correction is considered a technical amendment and no change in the meaning or application of the Tennessee Federal program rules is intended.

III. Procedural Matters

Executive Order 12291 and the Regulatory Flexibility Act

OSMRE has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because the rule is an administrative correction and has no economic effect on the public. The DOI has also determined that this document will not have a significant economic effect on a substantial number of small entities and does not require a regulatory flexibility analysis under the Regulatory Flexibility Act.

National Environmental Policy Act

This rulemaking is not a major Federal action, but an administrative rule covered under previous rulemakings. Therefore, an environmental assessment is not required for this rulemaking which is covered under the environmental assessment and environmental impact statement prepared for the previous rulemaking.

Federal Paperwork Reduction Act

It has been determined that the information collection requirements do not change due to the corrections of this rulemaking and therefore, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and does not require clearance by the Office of Management and Budget.

List of Subjects in 30 CFR Part 942

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting and recordkeeping requirements.

Accordingly, OSMRE is amending 30 CFR Part 942 as set forth below.

Date: December 9, 1987.

James E. Cason,

Deputy Assistant Secretary—Land and Minerals Management.

PART 942—TENNESSEE

1. The authority citation for Part 942 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended.

2. Section 942.816 is amended by revising paragraph (f) as follows:

§ 942.816 Performance Standards—Surface Mining Activities.

* * * * *

(f) In lieu of the requirements of § 816.116 (b)(1) through (b)(3) of this chapter, the following revegetation success standards and sampling techniques shall be used by this Office.

* * * * *

3. Section 942.817 is amended by revising paragraph (e) as follows:

§ 942.817 Performance Standards—Underground Mining Activities.

* * * * *

(e) In lieu of the requirements of § 817.116 (b)(1) through (b)(3) of this chapter, the following revegetation success standards and sampling techniques shall be used by this Office.

* * * * *

[FR Doc. 87-28771 Filed 12-15-87; 8:45 am]
BILLING CODE 4310-05-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1155

Statement of Organization and Procedures

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final rule.

SUMMARY: The Architectural and Transportation Barriers Compliance Board at its September 16, 1987, meeting adopted amendments to its Statement of Organization and Procedures, which sets forth the procedures for Board and Board committee meetings. The amendments were adopted to effect changes as a result of the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506) which made several organization changes to Section 502. The amendments to the Statement of Organization and Procedures are being published so that all affected persons will be fully informed about procedures governing the meetings and to implement the act.

EFFECTIVE DATE: September 16, 1987.

FOR FURTHER INFORMATION CONTACT: Nicholas Chiarkas, General Counsel, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW., Room 1010, Washington, DC, (202) 245-1801 (voice or TDD).

SUPPLEMENTARY INFORMATION: Pursuant to section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391, as amended, the Architectural and Transportation Barriers Compliance Board (ATBCB or Board) adopted a Statement of Organization and Procedures on September 16, 1975. The Statement was published at 50 FR 1032 (1975) and codified at 36 CFR Part 1155. The Statement was amended by the Board on May 9, 1977; March 14, 1978; May 8, 1978; March 11, 1980; May 10, 1983; and May 12, 1986. On September 16, 1987, it was substantially revised primarily due to the Rehabilitation Act Amendments of 1986 (Pub. L. 99–506) which made several organization changes to Section 502 and passed in the version published here. Some of the major changes in the revised Statement of Organization and Procedures are:

(1) When the Chairperson is a public member, a Federal member will hold the position of Vice-Chairperson and vice-versa; (2) the position of Chairperson will alternate on an annual basis between a Federal member and a public member; (3) a public member whose term has expired may continue to serve until a successor has been appointed; (4) at least six of the members required for a quorum for a *Board* meeting shall be public members; (5) proxies shall not be counted for purposes of establishing a quorum for a meeting of the *Board*; (6) the General Counsel shall be nominated by the Chairperson; and (7) that Board Committee meetings shall be held in accordance with Robert's Rules of Order.

List of Subjects in 36 CFR Part 1155

Authority delegations (Government agencies), handicapped organizations and functions (Government agencies).

For the reasons stated in the preamble, Chapter XI of Title 36, Code of Federal Regulations, is amended by revising Part 1155 to read as follows:

PART 1155—STATEMENT OF ORGANIZATION AND PROCEDURES

Sec.

Authority: 29 U.S.C. 792

§ 1155.1 Organization and membership.

(a) *Name and organization.* The name of this organization is the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") as provided in section 502 of the Rehabilitation Act of 1973.

(b) *Authorization for the Board.* The statutory authorization for the Board is section 502 of the Rehabilitation Act of 1973, as amended.

(c) *Officers of the Board.* The presiding officers of the Board shall be a Chairperson and in his or her absence or disqualification a Vice-Chairperson. The Chairperson and Vice-Chairperson shall be elected by a majority of the fixed membership of the Board and shall serve for terms of one year. When the Chairperson is a member of the general public, the Vice-Chairperson shall be a Federal official; and when the Chairperson is a Federal official, the Vice-Chairperson shall be a member of the general public. Upon the expiration of the term as Chairperson of a member who is a Federal official, the subsequent Chairperson shall be a member of the general public; and vice versa. If no new Chairperson or Vice-Chairperson has been elected at the end of the one-year term, the incumbents shall continue to serve in that capacity until a successor Chairperson or Vice-Chairperson has been elected.

(d) *Membership.* The Board shall be composed of Presidentially appointed public members and the heads of each of the following departments or agencies (or their designees whose positions (or acting positions) are Executive Level IV or higher):

(1) Department of Education;
(2) Department of Health and Human Services;
(3) Department of Transportation;
(4) Department of Housing and Urban Development;
(5) Department of Labor;
(6) Department of Interior;
(7) Department of Defense;
(8) Department of Justice;
(9) General Services Administration;
(10) United States Postal Service; and
(11) Veterans Administration.

(e) *Board vacancies.* (1) If any public member becomes a Federal employee, such member may continue as a member of the Board for not longer than the sixty-day period beginning on the day he or she becomes such an employee.

(2) If any public member is unable to fulfill his or her obligation as a member, the member shall notify the Chairperson and the President.

(3) A public member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed.

(4) A public member whose term has expired may continue to serve until a successor has been appointed.

§ 1155.2 Board meetings.

Regular meetings of the Board shall ordinarily be held on the Wednesday following the second Tuesday of every other month and shall be planned for four hours duration, except as otherwise provided in paragraphs (a) (2) and (4) of this section. Whenever possible, all business shall be transacted at the regular meeting. The Board may elect to convene in executive sessions.

(a) *Prior notification.* (1) The Chairperson shall provide a written notice of scheduled Board meetings, and an agenda for the meeting, including supporting materials, to each Board member, ten (10) work days prior to the meeting.

(2) The Chairperson may cancel a regular meeting of the Board by giving written notice of the cancellation in place of the written notice of the scheduled Board meeting at least ten (10) work days prior to the meeting.

(3) Special meetings of the Board shall be called by the Chairperson to deal with important matters arising between regular meetings which require urgent action by the Board prior to the next regular meeting. Voting and discussion shall be limited to the subject matter which necessitated the call of the special meeting. All Board members shall be notified of the time, place, and exact purpose of the special meeting a reasonable time in advance.

(4) The Chairperson may reschedule a regular meeting of the Board to another date, no more than one month earlier or later than the regularly scheduled date.

(b) *Attendance.* (1) If a Board member is unable to attend a regularly scheduled meeting, he or she shall notify the Executive Director at his or her earliest convenience.

(2) A list of Board members present and those Board members absent shall become a part of the permanent record through its inclusion in the minutes.

(3) In order to maintain an orderly meeting, discussion shall be among Board members and the Executive Director. Board staff and Federal member staff may participate in the discussion of a specific issue only at the request of a Board member present at the meeting or the Executive Director, and upon recognition by the Chairperson.

(c) *Rules for Board meetings.* (1) Meetings of the Board shall be held in accordance with Robert's Rules of Order, except as otherwise prescribed herein.

(2) The Board shall not suspend the rules in taking an action concerning adoption, amendment or rescission of this Statement of Organization and

Procedures and the Board's Authorities and Delegations.

(d) *Quorum.* (1) A quorum shall be the majority (12) of the fixed membership. At least six of the members required for a quorum shall be public members.

(2) Proxies shall not be counted for purposes of establishing a quorum.

(3) The presiding officer shall not call a meeting to order unless a quorum is present. If at anytime during the meeting the Chairperson or a member notices the absence of a quorum, it shall be his or her duty to declare the fact. However, debate on a question pending may continue after a quorum is no longer present.

(4) In the absence of a quorum the Board members present may move to recess in order to contact absent members and solicit their attendance.

(e) *Voting procedure.* (1) Only Board members or Federal member designees, Executive Level IV or higher, may vote.

(2) Except as otherwise prescribed herein, at a meeting at which there is a quorum a majority vote of the members present in person or by proxy is necessary for action by the Board.

(3) The presiding officer shall have the same right to vote as any other member.

(4) *Proxy voting.* (i) Except as provided in paragraph (d)(2) of this section, proxy voting shall be permitted.

(ii) Any member may give his or her directed or undirected proxy to any other Board member or any Federal member designee, Executive Level IV or higher, present at the meeting.

(iii) Proxies are to be given in writing and submitted to the Chairperson prior to or at the meeting.

(iv) A directed proxy shall be voided as to a specific issue if the question on which the vote is eventually taken differs from the question to which the proxy is directed.

(5) A requirement of a ⅔ vote shall mean ⅔ of the members present in person or by proxy, at a meeting at which there is a quorum, except as provided in §§ 1155.6(b), 1155.7 and 1155.8 of this part.

(f) *The order of business.* Except as otherwise prescribed herein, a proposal for Board action cannot be considered by the Board unless it is placed on the agenda by the Executive Committee.

(g) *The basic procedures.* (1) Any member wishing to submit a proposal for Board action will submit it directly to the Executive Committee and all subject matter committees, by delivering copies of the proposal to the Board office, addressed to the chairpersons of the committees. The committees will then handle the preparation of the proposal for Board action.

(2) Upon receipt of a proposal from a Board member, or a proposal originating from within a committee, subject matter committees will review the proposal, including determining whether the proposal is within their jurisdiction, and, if so, identifying the issues involved, and refining the proposal. Committees may request a report from staff or the member submitting the proposal. Each committee taking any action on the proposal will submit it with an accompanying report and recommendations to the Executive Committee.

(3) The Executive Committee may take action on a member's proposal without receiving a report from a subject matter committee when, after reviewing the proposal, it determines that the proposal does not need further development for Board consideration. The Executive Committee's review may include requesting a report from staff or the member submitting the proposal, or calling a meeting of the Executive Committee.

(4) When the Executive Committee receives a recommendation from the subject matter committee, the Executive Committee will review the recommendation and take appropriate action thereon. This may result in placing the recommendation on the next Board agenda or sending it back to the subject matter committee or to another committee, for appropriate action.

(h) *Agenda.* The Executive Committee places items of business on the Board agenda. A written notice of ten (10) work days to the full Board is required for an item to become part of the Board's agenda. The ten (10) days notice requirement may be waived upon a two-thirds vote by the Board to suspend the rules of order.

(i) *Discharge procedure.* Seventy-five (75) days after a proposal is first received by the Executive Committee, any member has a right to discharge the proposal. For purposes of this paragraph, a proposal is received by the Executive Committee the day it is delivered to the Chairperson of the Executive Committee at the Board office. In order to exercise a discharge, the discharging member must provide written notice to the Executive Committee, appropriate subject matter committee(s) and the Executive Director thirty (30) days prior to the next Board meeting. Upon the Executive Committee's receipt of a timely discharge notice, the proposal must be placed on the next regular Board agenda.

(j) *Request for legal opinion from the Department of Justice.* The Board may, by a majority vote, seek legal advice on any matter from the Office of Legal Counsel, United States Department of Justice. The Board shall not be bound by the opinion of the Office of Legal Counsel.

(k) *Corrections, additions, or approval of Board minutes.* (1) The Executive Director shall send draft minutes of the previous meeting to each Board member within fifty (50) days following the meeting. Any corrections shall be submitted in writing at or before the next Board meeting.

(2) The Board will approve the final minutes after all corrections and additions have been incorporated.

§ 1155.3 Committees.

The Board may, by a two-thirds vote, establish or dissolve standing committees, and change the number, size and jurisdiction of standing committees. Meetings of the committees shall be held in accordance with Robert's Rules of Order, except as otherwise prescribed herein. A committee may establish its own additional procedures provided that they do not conflict with the provisions of this Statement, and the Committee informs the Chairperson of the Board in writing of any additional procedures.

(a) *Executive Committee*—(1) *Composition.* The Executive Committee shall be composed of six members, three Federal and three public members, elected by the full Board annually. Its chairperson shall be appointed by the Chairperson of the Board. The six person membership includes the Chairperson and Vice-Chairperson of the Board.

(2) *Quorum.* A quorum in the Executive Committee shall be one-third the actual committee membership, present in person or by proxy, with at least two present in person. In the absence of a quorum, a meeting can be held only for the purpose of discussion and no vote may be taken.

(3) *Voting.* (i) Only members of the committee may vote in the committee meetings. Any other Board member may attend and participate in the meeting, but may not vote.

(ii) Any member may give his/her directed or undirected proxy to any other committee member present at the meeting. Proxies are to be given in writing and submitted to the chairperson of the committee prior to or at the committee meeting.

(iii) A directed proxy shall be voided as to a specific issue if the question on which the vote is eventually taken differs from the question to which the proxy is directed.

(b) *Subject matter committees*—(1) *Composition.* The Chairperson of the Board shall appoint an equal number of public and Federal members and a chairperson and a vice-chairperson for each subject matter committee, totalling at least four (4) members on each committee. Each chairperson may appoint an acting chairperson when both the chairperson and vice-chairperson are absent.

(2) *Terms.* The members of each committee will serve a term of one year corresponding to that of the chairperson, and continue their duties until their successors have been appointed.

(3) *Quorum.* A quorum in a subject matter committee shall be one-third of the committee membership, present in person or by proxy, with at least two present in person. In the absence of a quorum, a meeting may be held only for the purpose of discussion.

(4) *Voting.* (i) Only committee members or the member of the committee who holds the absent member's proxy may vote in the committee meetings. Any other Board member agency staff and the Board staff may attend and participate in meetings but may not vote.

(ii) Any member may give his or her directed or undirected proxy to any other committee member present at the meeting. Proxies are to be given in writing and submitted to the chairperson of the committee prior to or at the committee meeting.

(iii) A directed proxy shall be voided as to a specific issue if the question on which the vote is eventually taken differs from the question to which the proxy is directed.

(c) *Special committees.* The Chairperson, the Board, or a standing committee may appoint a special committee to carry out a specific task. A special committee shall dissolve upon completion of its task or when dissolved by its creator.

(d) *Minutes.* Each Committee will keep a written record of the proceedings.

§ 1155.4 General Counsel.

(a) The General Counsel is nominated by the Chairperson and confirmed by the Board. He or she is responsible to the Board under the supervision of the Executive Director.

(b) The General Counsel shall attend Board meetings and provide legal counsel when requested or when he or she deems it advisable and upon recognition by the Chairperson.

§ 1155.5 Fiscal accountability.

Board funds shall not substitute for resources an agency should spend for activities under its own research and development or other programmatic or administrative authority. However, the Board may augment current studies by additional funding to insure a focus for particular information on barriers confronting handicapped individuals.

§ 1155.6 Delegations.

(a) The Board may—

(1) By majority vote delegate to the Executive Committee authority to implement its decisions, and

(2) By two-thirds vote delegate to the Executive Committee any other of its authorities, to the extent permitted by law. A separate delegation is necessary for each action the Board desires the Executive Committee to implement.

(b) The Board may, to the extent permitted by law, delegate other duties to its officers, committees, or staff by a vote of two-thirds of the membership of the Board at the time the vote is taken.

(c) Unless so permitted in the original delegation, an officer, committee, or staff person shall not redelegate authority.

§ 1155.7 Amendments to the Statement of Organization and Procedures.

In order to adopt and amend the Statement of Organization and Procedures, a vote of two-thirds of the membership of the Board at the time the vote is taken shall be required.

§ 1155.8 Amendments to the Authorities and Delegations.

In order to adopt and amend the Authorities and Delegations, a vote of two-thirds membership of the Board at the time the vote is taken shall be required.

Thomas E. Harvey,

Chairperson, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 87-28764 Filed 12-15-87; 8:45 am]

BILLING CODE 6820-BP-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 7

DEPARTMENT OF AGRICULTURE

36 CFR Part 296

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1312

DEPARTMENT OF DEFENSE

32 CFR Part 229

Protection of Archaeological Resources; Uniform Regulations

AGENCIES: Departments of the Interior, Agriculture, and Defense and Tennessee Valley Authority.

ACTION: Final rule.

SUMMARY: This final rule amends the standards for civil penalty amounts in the final uniform regulations to include determinations of archaeological value. The Archaeological Resources Protection Act of 1979 mandates that the archaeological or commercial value and the cost of restoration and repair of the archaeological resource involved be taken into account in assessing civil penalties for violations of the Act. The purpose of the amendment is to implement this provision of the Act in the final uniform regulations.

EFFECTIVE DATE: March 15, 1988.

FOR FURTHER INFORMATION CONTACT: Bennie C. Keel, National Park Service, Department of the Interior, Washington, DC, 202-343-4101; Lars Hanslin, Office of the Solicitor, Department of the Interior, Washington, DC, 202-343-7957; Evan I. DeBloois, U.S. Forest Service, Department of Agriculture, Washington, DC, 202-382-9425; Christina Ramsey, Office of the Assistant Secretary for Acquisition and Logistics, Department of Defense, Washington, DC, 202-695-7820; or Maxwell D. Ramsey, Office of Natural Resources, Tennessee Valley Authority, Norris, Tennessee, 615-632-1585.

SUPPLEMENTARY INFORMATION:

Background

This final rule amends the regulations implementing the provisions for civil penalty amounts in the Archaeological Resource Protection Act of 1979 ("Act"; Pub. L. 96-95; 93 Stat. 721; 16 U.S.C.

470aa–11). It was prepared by representatives of the Secretaries of the Interior, Agriculture, and Defense, and the Chairman of the Board of the Tennessee Valley Authority, as directed in section 10(a) of the Act.

The first purpose of the Act is to protect irreplaceable archaeological resources on public lands and Indian lands from unauthorized excavation, removal, damage, alteration, or defacement. As one of the enforcement provisions available to Federal land managers, the Act prescribes civil penalties for unauthorized use of archaeological resources. The civil penalties are to be based on standard determinatons of archaeological or commercial value and the costs of restoration and repair (section 7(2)(A) of the Act).

The final uniform regulations (43 CFR Part 7, 36 CFR Part 296, 32 CFR Part 229, and 18 CFR Part 1312) omit consideration of archaeological value in section—.16 Civil penalty amounts, paragraphs (a) (1) and (2). The amendment in this final rule revises those paragraphs to implement the provisions of the Act. Because consideration of this additional factor in assessing civil penalty amounts is mandated by the Act, no alternative approach is feasible.

The effect of the final rule is to provide consistent, standard enforcement regulations by which Federal land managers can fully exercise their authority pursuant to the Act. It affects persons who make unauthorized use of archaeological resources by providing clear guidance to Federal land managers in assessing civil penalties appropriate to the extent of violations.

Public comment was accepted for a 60-day period following publication of the proposed rule on March 31, 1987 (52 FR 10342). No written comments were received by any of the four agencies which proposed identical amendments to their respective titles of the Code of Federal Regulations. As a result, no changes were made in the final rule.

Statement of Effects

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These determinations are based on findings that the rulemaking is directed toward Federal resource management, with no economic impact on the public.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Amendments Promulgation

The Departments of the Interior, Agriculture, and Defense and the Tennessee Valley Authority are promulgating identical amendments to the uniform regulations for protection of archaeological resources and are codifying these amendments in their respective titles of the Code of Federal Regualtions. Since the regulations are identical, the text of the amendments is set out only once at the end of this document.

TITLE 43—[AMENDED]

List of Subjects in 43 CFR Part 7

Penalties.

PART 7—PROTECTION OF ARCHAEOLOGICAL RESOURCES: UNIFORM REGULATIONS

1. The authority citation for Part 7 continues to read as follows:

Authority: Pub. L. 96–95, 93 Stat. 721 (16 U.S.C. 470aa–11) (sec. 10(a).) Related Authority: Publ. L. 59–209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86–523, 74 Stat. 220, 221 (16 U.S.C. 469), as amended, 88 Stat. 174 (1974); Pub. L. 89–665, 80 Stat. 915 (16 U.S.C. 470a–t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95–341, 92 Stat. 469 (42 U.S.C. 1996).

§ 7.16 [Amended]

2. Section 7.16 is amended by revising paragraphs (a)(1) and (a)(2) to read as set forth below.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

TITLE 36—[AMENDED]

List of Subjects in 36 CFR Part 296

Penalties.

PART 296—PROTECTION OF ARCHAEOLOGICAL RESOURCES: UNIFORM REGULATIONS

1. The authority citation for Part 296 continues to read as follows:

Authority: Pub. L. 96–95, 93 Stat. 721 (16 U.S.C. 470aa–11) (sec. 10(a).) Related Authority: Pub. L. 59–209, 34 Stat. 225 (16 U.S.C. 469), as amended, 88 Stat. 174 (1974); Pub. L. 89–665, 80 Stat. 915 (16 U.S.C. 470a–t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95–341, 92 Stat. 469 (42 U.S.C. 1996).

§ 296.16 [Amended]

2. Section 296.16 is amended by revising paragraphs (a)(1) and (a)(2) to read as set forth below.

George S. Dunlop,

Assistant Secretary for Natural Resources and Environment.

TITLE 32—[AMENDED]

List of Subjects in 32 CFR Part 229

Penalties.

PART 229—PROTECTION OF ARCHAEOLOGICAL RESOURCES: UNIFORM REGULATIONS

1. The authority citation for Part 229 continues to read as follows:

Authority: Pub. L. 96–95, 93 Stat. 721 (16 U.S.C. 470aa–11) (sec. 10(a).) Related Authority: Pub. L. 59–209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86–523, 74 Stat. 220, 221 (16 U.S.C. 469), as amended, 88 Stat. 174 (1974); Pub. L. 89–665, 80 Stat. 915 (16 U.S.C. 470a–t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95–341, 92 Stat. 469 (42 U.S.C. 1996).

§ 229.16 [Amended]

2. Section 229.16 in 32 CFR Part 229 is amended by revising paragraphs (a)(1) and (a)(2) to read as set forth below.

Linda M. Bynum

Alternate OSD Federal Register Liaison Officer, Department of Defense.

TITLE 18—[AMENDED]

List of Subjects in 18 CFR Part 1312

Penalties.

PART 1312—PROTECTION OF ARCHAEOLOGICAL RESOURCES: UNIFORM REGULATIONS

1. The authority citation for Part 1312 continues to read as follows:

Authority: Pub. L. 96–95, 93 Stat. 721 (16 U.S.C. 470aa–11) (sec. 10(a).) Related Authority: Pub. L. 59–209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86–523, 74 Stat. 220, 221 (16 U.S.C. 469), as amended, 88 Stat. 174 (1974); Pub. L. 89–665, 80 Stat. 915 (16 U.S.C. 470a–t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95–341, 92 Stat. 469 (42 U.S.C. 1996).

§ 1312.16 [Amended]

2. Section 1312.16 in 18 CFR Part 1312 is amended by revising paragraphs (a)(1) and (a)(2) to read as set forth below.

C. H. Dean,

Chairman, Tennessee Valley Authority.

§ .16 Civil Penalty amounts.

(a) *Maximum amount of penalty.* (1) Where the person being assessed a civil penalty has not committed any previous violation of any prohibition in § .4 or of any term or condition included in a permit issued pursuant to this part, the maximum amount of the penalty shall be the full cost of restoration and repair of archaeological resources damaged plus the archaeological or commercial value of archaeological resources destroyed or not recovered.

(2) Where the person being assessed a civil penalty has committed any previous violation of any prohibition in § .4 or of any term or condition

included in a permit issued pursuant to this part, the maximum amount of the penalty shall be double the cost of restoration and repair plus double the archaeological or commercial value of archaeological resources destroyed or not recovered.

* * * * *

[FR Doc. 87-28886 Filed 12-15-87; 8:45 am]

BILLING CODES 4310-70, 3410-11, 3810-01, 8120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-117; RM-5522]

Radio Broadcasting Services; Cambria, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition filed by E.G. Wallenbrock, this document substitutes Channel 235B1 for Channel 232A at Cambria, California, and modifies the Class A license for Station KOTR(FM), thereby providing that community with its first wide coverage area FM service. With this action, the proceeding is terminated.

EFFECTIVE DATE: January 22, 1988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-117, adopted November 23, 1987, and released December 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under California, by substituting Channel 235B1 for Channel 232A at Cambria.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-28848 Filed 12-15-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-306; RM-5122, RM-5590 and RM-5627]

Radio Broadcasting Services; Golconda and Metropolis, IL and Reidland, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 288A to Metropolis, Illinois (instead of Channel 286A as proposed in the *Notice*), with a site restriction 3.6 kilometers north of the city, as its second FM service at the request of WMOK, Inc. In response to two counterproposals filed in this proceeding: Channel 286A is allotted to Golconda, Illinois, as a first FM service, with a 1.9 kilometer site restriction, at the request of Golconda Broadcasting; and at the request of Western Kentucky Broadcast Associates Channel 294A is allotted to Reidland, Kentucky, as that community's first FM service, with a transmitter site restriction of a least 3.3 kilometers north of Reidland. The spacing requirements for Channel 294A at Reidland, are met based on a construction permit issued to Station WWYN(FM), McKenzie, Tennessee, to relocate its transmitter to a new site (BPH8605191C), and conditioned on Station WWYN receiving a license for the new site. With this action, this proceeding is terminated.

DATES: Effective January 22, 1988. The window filing dates for Channel 288A at Metropolis, Illinois, and Channel 286A at Golconda, Illinois, will open on January 25, 1988, and close on February 24, 1988. The filing window for Channel 294A Reidland, Kentucky, will be announced at a future date.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-306, adopted November 20, 1987, and released December 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), of the Rules is amended for Golconda, Illinois, by adding Channel 286A, for Metropolis, Illinois, by adding Channel 288A, and for Reidland, Kentucky, by adding Channel 294A.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-28845 Filed 12-15-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-517; RM-5391 and RM-5881]

Radio Broadcasting Services; Midland and Alpena, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 227C2 for Channel 228A at Midland, Michigan, in response to a petition filed by JOSI Broadcasting Corporation. We shall also modify the license of Station WKQZ(FM) to specify operation on Channel 227C2. There is a site restriction 27.7 kilometers northeast of the community and Canadian concurrence has been obtained for this allotment. In response to a counterproposal filed in this proceeding by WATZ Radio, Inc., we shall allocate Channel 257C2 to Alpena, Michigan. Although there has been no elicitation of other expressions of interest in the Class C2 facility at Alpena, a staff study confirms that there is an additional equivalent channel avilable for such interests. We have also modified the license of Station WATZ-FM, to specify operation on Channel 257C2 in lieu of Channel 228A. Channel 257C2 can be allocated to Alpena, Michigan, at the current site of Station WATZ-FM. Canadian concurrence has been

obtained for this allocation. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 22, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86–517, adopted November 20, 1987, and released December 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the Table of FM Allotments is amended under Michigan by removing Channel 228A at Midland and adding Channel 227C2, and by removing Channel 228A at Alpena and adding Channel 257C2.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–28846 Filed 12–15–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–219; RM–5748]

Radio Broadcasting Services; Hugo, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Harold E. Cochran, substitutes Channel 238C2 for Channel 237A at Hugo, Oklahoma, and modifies his license for Station KITX–FM to specify operation on the higher powered channel. Channel 238C2 can be allocated to Hugo and used at Station KITX–FM's present transmitter site in compliance with the Commission's minimum distance separation requirements. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 22, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–219, adopted November 23, 1987, and released December 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Oklahoma is amended by revising the entry for Hugo by deleting Channel 237A and adding Channel 238C2.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–28844 Filed 12–15–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–201; RM–5697, RM–6044, RM–6045]

Radio Broadcasting Services; Boscawen and Belmont, NH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Steve Chartrand and New England Broadcasting Enterprises, allocates Channel 227A to Belmont, New Hampshire, as the community's first local FM service, and denies the request of Timothy Dodge to allocate Channel 227A to Boscawen, New Hampshire, as its first local FM service. Channel 227A can be allocated to Belmont in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.7 kilometers (2.3 miles) west to avoid a short-spacing to Station WMGX, Portland, Maine, and Station WMWV, Conway, New Hampshire. Canadian concurrence in the allotment has been received. With this action, this proceeding is terminated.

DATES: Effective January 25, 1988. The window period for filing applications will open on January 26, 1988, and close on February 25, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–201, adopted November 23, 1987, and released December 10, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for New Hampshire is amended by adding the entry of Belmont, Channel 227A.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–28864 Filed 12–15–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–81; RM–5610]

Radio Broadcasting Services; Los Alamos, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of KBOM Limited Partnership, substitutes Channel 294C1 for Channel 294C at Los Alamos, New Mexico, and modifies its permit for Station KBOM to

operate on the lower-powered channel. Channel 294C1 can be allocated to Los Alamos in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 25, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 87–81, adopted November 23, 1987, and released December 10, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Los Alamos, New Mexico, is amended by adding Channel 294C1 and removing Channel 294C.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–28866 Filed 12–15–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–218; RM–5753]

Radio Broadcasting Services; Alamogordo, NM

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of KINN, Inc., substitutes Channel 287C2 for Channel 288A at Alamogordo, New Mexico, and modifies the license of Station KINN–FM to specify the higher powered channel. Channel 287C2 can be allocated to Alamogordo and used at Station KINN–FM's present transmitter site, in compliance with the Commission's minimum distance separation requirements. Mexican concurrence has been received since Alamogordo is located within 320 kilometers of the United States-Mexican border. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 25, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–218, adopted November 23, 1987, and released December 10, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Alamogordo, New Mexico, is amended by removing Channel 288A and adding Channel 287C2.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–28865 Filed 12–15–87; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87–217; RM–5721]

Radio Broadcasting Service; Myrtle Beach, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Grand Strand Broadcasting Co., substitutes Channel 269C2 for Channel 269A at Myrtle Beach, South Carolina, and modifies the license of Station WKZQ to specify operation on the higher powered channel. Channel 269C2 can be allocated to Myrtle Beach in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.7 kilometers (13.5 miles) northeast to accommodate Grand Strand Broadcasting Co.'s desired site. With this action, this proceeding is terminated.

EFFECTIVE DATE: January 25, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–217, adopted November 23, 1987, and released December 10, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments for Myrtle Beach, South Carolina is amended by removing Channel 269A and adding Channel 269C2.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–28867 Filed 12–15–87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 70605–7141]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

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

ACTION: Notice of bag limit reductions.

SUMMARY: The Secretary of Commerce (Secretary) reduces to zero the bag limits in the exclusive economic zone (EEZ) for king mackerel and Spanish mackerel from the Gulf migratory group. The Acting Director, Southeast Region, NMFS, has determined that the recreational allocations for the Gulf migratory group of 1.5 million pounds for king mackerel and 1.08 million pounds for Spanish mackerel will be reached on December 15, 1987. This reduction of the bag limits is necessary to protect the overfished king and Spanish mackerel resources.

EFFECTIVE DATE: Reduction of the bag limit to zero is effective at 0001 hours, local time, December 16, 1987, until 2400 hours, local time, June 30, 1988.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP), as amended, was developed by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act, and is implemented by regulations at 50 CFR Part 642. Amendment 2 to the FMP, which went into effect on June 30, 1987 (52 FR 23836, June 25, 1987), established separate allocations for the Gulf and Atlantic migratory groups of Spanish mackerel and provided for the reduction of a bag limit to zero when the appropriate recreational allocation is reached. The regulations effective June 30, 1987, implemented catch limits recommended by the Councils for the Gulf migratory group for the fishing year (July 1 through June 30). Those regulations set the recreational allocation for king mackerel at 1.5 million pounds and for Spanish mackerel at 1.08 million pounds (52 FR 25012, July 2, 1987). The management area for the Gulf migratory group of king mackerel extends from the Mexico/United States border (1) from November 1 through March 31, east and north to a line extending directly east from the Volusia/Flagler County, Florida boundary (29°25′ N. latitude) to the outer limit of the EEZ, and (2) from April 1 through October 31, east to a line extending directly west from the Monroe/Collier County, Florida boundary (25°48′ N. latitude) to the outer limit of the EEZ. The management area for the Gulf migratory group of Spanish mackerel extends from the Mexico/United States border east and north to a line extending directly east from the Dade/Monroe County, Florida boundary (25°20.4′ N. latitude) to the outer limit of the EEZ (see Figure 2 in Appendix A to 50 CFR Part 642).

Under 642.22(b), after consulting with the Councils, the Secretary is required to reduce to zero the bag limits for king and Spanish mackerel from a migratory group when the appropriate allocation for that group is reached, or is projected to be reached, and when that group is overfished, by publishing a notice in the **Federal Register**. The Acting Regional Director, based on current catch statistics, has determined that the recreational allocations of 1.5 million pounds for the Gulf migratory group of king mackerel and 1.08 million pounds for the Gulf migratory group of Spanish mackerel will be reached on December 15, 1987. He also finds, based upon the most recent stock assessments for these fisheries, that king mackerel and Spanish mackerel from the Gulf migratory group are overfished. Further, he has consulted with the Councils and they agree with this finding and concur in this action. Hence, the bag limits for king mackerel and Spanish mackerel from the Gulf migratory group are reduced to zero effective 0001 hours, local time, December 16, 1987, through June 30, 1988, the end of the current fishing year. During this period, king mackerel and Spanish mackerel from the Gulf migratory group caught by a recreational fisherman or anyone fishing under the bag limit in the EEZ must be returned immediately to the sea with a minimum of harm to the fish. Possession of any king mackerel or Spanish mackerel on board a recreational vessel in the Gulf of Mexico is prohibited.

Other Matters

This action is required by 50 CFR 642.22(b) and complies with E.O. 12291.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 11, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87–28899 Filed 12–15–87; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 52, No. 241
Wednesday, December 16, 1987

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Control of Aerosols and Gases

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations governing the medical uses of byproduct material by removing the requirement that radioactive aerosols be administered to patients only in rooms that are at negative pressure relative to surrounding rooms. The proposed rule, developed in response to PRM–35–6, would allow the use of radioactive aerosols in locations such as intensive care units, critical care units, and patients' rooms. Evaluation of potential radiation hazards to hospital personnel showed minimal risk when a radioactive aerosol is used with a closed, shielded system either vented to the outside atmosphere through an air exhaust or a system which provides for collection and disposal of the aerosol. The proposed rule would allow physicians greater latitude in administering necessary clinical procedures to their patients. The proposed amendment clarifies that the requirement that certain medical procedures be performed only in rooms at negative pressure relative to surrounding rooms applies to radioactive gases but not to radioactive aerosols.

DATE: Comment period expires January 15, 1988. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

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

Deliver comments to: Room 1121, 1717 H Street, NW., Washington, DC, between 7:30 a.m. and 4:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Judith Foulke, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 443–7681.

SUPPLEMENTARY INFORMATION:

Background

In 1983, NRC began authorizing medical licensees to administer radioactive aerosols (see 48 FR 5217; February 4, 1983) to patients for diagnosing lung disease. The only safety measure required specific to this clinical procedure was that the licensee had to administer the radioactive aerosol "with a closed, shielded system that either is vented to the outside atmosphere through an air exhaust or provides for collection and disposal of the aerosol," (see 10 CFR 35.14(b)(8)). In a complete revision of 10 CFR Part 35, effective April 1, 1987, NRC added the requirement that aerosols be administered only in rooms that are at negative pressure (see § 35.205(b), 51 FR 36932; October 16, 1986). In response to a letter received in February 1987 that stated that application of the requirement would have a negative impact on health care delivery, medical licensees were temporarily exempted from the requirement in § 35.205(b) (see 52 FR 9292; March 24, 1987).

Petition for Rulemaking

On March 9, 1987, Mallinckrodt, Inc., submitted a petition for rulemaking which was docketed PRM–35–6 on March 11, 1987. A copy of the petition may be obtained from the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The petitioner requests that the Commission remove the requirement that radioactive aerosols be administered in rooms that are at negative pressure relative to surrounding rooms.

The petitioner submitted literature showing that, for many hospitals, TC–99m DTPA aerosol is the preferred lung ventilation imaging procedure. For critically ill patients who cannot be moved, it has been the only lung imaging technique available. If use of aerosols is restricted to negative pressure rooms, these patients would be deprived of the benefits of lung imaging.

The petitioner described a typical radioactive aerosol delivery system. Because the only radiation safety hazard is leakage of the aerosol, three potential leakage points external to the shield were identified in drawings. Two leakage points require patient compliance for safety; the frequencies of patient non-compliance based on clinical experience were 10% and 5%. Corresponding durations of leakage were 2–3 exhalations and 1–2 exhalations. These numbers were used to calculate the average administration loss per patient. This quantity was used to calculate the maximum number of clinical procedures that could be performed in an average room per week without exceeding the maximum permissible concentration for Tc–99m in an unrestricted area. The very large number (238) of treatments possible before exceeding the maximum permissible concentration greatly exceeds the busiest work load of 30 studies per week in a large hospital. The third potential leakage point is the junction between the manifold and the plastic patient breathing tube. Leakage has been found to be negligible during routine, proper use.

Conclusion

The NRC has examined Mallinckrodt's petition and supporting information and made a determination to grant the petition. The requirement for administering radioactive aerosols in rooms at negative pressure relative to their surroundings may adversely affect the public health and safety. Some patients requiring the clinical procedure cannot be moved safely to an appropriate room or another hospital that has the required facilities. These patients would not be able to be treated unless the restriction on the negative pressure is removed. Calculations show that worker health and safety does not require negative pressure rooms for administration of radioaerosols.

The NRC notes that relief from the negative pressure requirement of § 35.205(b) does not relieve licensees from the requirements to comply with other NRC regulations, orders, or license conditions limiting maximum permissible air concentrations in controlled and uncontrolled areas.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in 10 CFR 51.22(c)(2)(i). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget approval number 3150–0010.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from (insert name, address, and telephone number of staff contact).

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed rule would remove a restriction imposed on any of the NRC's 2500 medical licensees that administer radioactive aerosols. The NRC has adopted size standards that classify a hospital as a small entity if its annual gross receipts do not exceed $3.5 million, and a private practice physician as a small entity if the physician's annual gross receipts are $1 million or less. Although some NRC medical licensees could be considered "small entities," the number that would fall into this category does not constitute a substantial number for purposes of the Regulatory Flexibility Act.

The purpose of the proposed regulation is to remove a restriction applicable to the administration of radioactive aerosols. This would benefit all medical licensees but would provide special benefits for smaller institutions by allowing the administration of a clinical procedure without imposing the burden of designing or construction additional facilities or modifying existing facilities.

Backfit Analysis

The NRC has determined that a backfit analysis is not required for this proposed rule because these amendments to not apply to 10 CFR Part 50 licensees.

List of Subjects in 10 CFR Part 35

Byproduct material, Drugs, Health facilities, Health professions, Incorporation by reference, Medical devices, Nuclear materials, Occupational safety and health, Penalty, Radiation protection, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposed to adopt the following amendment to 10 CFR Part 35.

PART 35—MEDICAL USES OF BYPRODUCT MATERIAL

1. The authority citation for Part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 35.11, 35.13, 35.20 (a) and (b), 35.21 (a) and (b), 35.22, 35.23, 35.25, 35.27 (a), (c) and (d), 35.31(a), 35.49, 35.50 (a)–(d), 35.51 (a)–(c), 35.53 (a) and (b), 35.59 (a)–(c), (e)(1), (g) and (h), 35.60, 35.61, 35.70 (a)–(f), 35.75, 35.80 (a)–(e), 35.90, 35.92(a), 35.120, 35.200(b), 35.204 (a) and (b), 35.205, 35.220, 35.310(a), 35.315, 35.320, 35.400, 35.404(a), 35.406 (a) and (c), 35.410(a), 35.415, 35.420, 35.500, 35.520, 35.605, 35.606, 35.610 (a) and (b), 35.615, 35.620, 35.630 (a) and (b), 35.632 (a)–(f), 35.633 (a)–(i), 35.636 (a) and (b), 35.641 (a) and (b), 35.643 (a) and (b), 35.645 (a) and (b), 35.900, 35.910, 35.920, 35.930, 35.932, 35.934, 35.940, 35.941, 35.950, 35.960, 35.961, 35.970, and 35.971 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 35.14, 35.21(b), 35.22(b), 35.23(b), 35.27 (a) and (c), 35.29(b), 35.33 (a)–(d), 35.36(b), 35.50(e), 35.51(d), 35.53(c), 35.59 (d) and (e)(2), 35.59 (g) and (i), 35.70(g), (35.80(f), 35.92(b), 35.204(c), 35.310(b), 35.315(b), 35.404(b), 35.406 (b) and (d), 35.410(b), 35.415(b), 35.610(c), 35.615(d)(4), 35.630(c), 35.632(g), 35.634(j), 35.636(c), 35.641(c), 35.643(c) 35.645, and 35.647(c) are issued under sec. 161o, 68 Stat. 950 as amended (42 U.S.C. 2201(o)).

2. In § 35.205, paragraphs (b) and (e) are revised to read as follows:

§ 35.205 Control of aerosols and gases.

(b) A licensee shall administer radioactive gases only in rooms that are at negative pressure compared to surrounding rooms.

* * * * *

(e) A licensee shall check the operation of reusable collection systems each month, and measure the ventilation rates available in areas of radioactive gas use each six months.

Dated at Bethesda, Maryland, this 1st day of December, 1987.

For the Nuclear Regulatory Commission.

James M. Taylor,

Acting Executive Director for Operations.

[FR Doc. 87–28921 Filed 12–15–87; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87–ASO–17]

Proposed Designation of Transition Area, Williston, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Williston, Florida, transition area to accommodate instrument flight rule (IFR) operations at the Williston Municipal Airport. This action will lower the base of controlled airspace from 1200' to 700' above the surface in the vicinity of the airport. An instrument approach procedure is being developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical operations.

DATE: Comments must be received on or before: January 20, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, ASO–530, Manager, Airspace and Procedures Branch, Docket No. 87–ASO–17, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation

Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and sugestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postacard on which the following statement is made: "Comments to Airspace Docket No. 87–ASO–17." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persosns interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Williston, Florida, transition area. This action will provide controlled airspace for aircraft executing a new instrument approach procedure to the Williston Municipal Airport. If the proposed designation of the transition area is found acceptable, the operating status of the airport will be changed to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Williston, Florida (New)

That airspace extending upward from 700' above the surface within a 7-mile radius of the Williston Municipal Airport (Lat. 29°21'30"N, Long. 82°28'15"W.).

Issued in East Point, Georgia, on December 2, 1987.

James L. Wright,

Manager, Air Traffic Division Southern Region.

[FR Doc. 87–28833 Filed 12–15–87; 8:45 am]

BILLING CODE 4910–13–M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1310

Administrative Cost Recovery

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Proposed rule.

SUMMARY: TVA proposes to amend its administrative cost recovery regulations by adding a provision for the collection of a $2 fee to accompany applications for quota turkey hunt permits at TVA's Land Between The Lakes (LBL) in western Kentucky and Tennessee. The amendment is proposed under authority of the Tennessee Valley Authority Act of 1933, as amended, and Title V of the Independent Offices Appropriations Act of 1952 which authorize TVA to prescribe for certain services or things of value provided by TVA such charge as it determines to be fair and equitable.

DATE: Comments must be received by January 15, 1988.

ADDRESS: Comments should be sent to Tennessee Valley Authority, Office of the General Counsel, 400 West Summit Hill Drive, Knoxville, Tennessee 37902. All comments will be available for public examination during regular business hours at the following locations:

1. Knoxville-TVA Technical Library, Room E2 A1, 400 West Summit Hill Drive, Knoxville, Tn. 37902.
2. Chattanooga-TVA Technical Library, Room 100, 401 Chestnut Street, Chattanogga, Tn. 37401.
3. Muscle Shoals-TVA Technical Library, A100 NFDC Building, Muscle Shoals, A1. 35660
4. Golden Pond-Land Between The Lakes, Administrative Office, Golden Pond, Ky. 42231.

FOR FURTHER INFORMATION CONTACT: Elizabeth E. Thach, Director of Land Between The Lakes, Golden Pond, Kentucky 42231, (502) 924–5602.

SUPPLEMENTARY INFORMATION: Hunters at LBL must hold a State hunting license for the State in which they are hunting (Kentucky or Tennessee), and a hunter use permit from TVA for which TVA charges a fee. Due to the quality of the hunting experience offered, LBL is a very popular turkey hunting site. Because of the large number of people desiring to hunt turkey at LBL, TVA has decided to limit participation in the turkey hunts during peak use days of the hunting season by random selection of applicants for special quota turkey hunt permits as part of an intensively managed hunting program. The special quota turkey hunts will be implemented

beginning in April 1988 for the first five days of the season. Limiting hunter density on these days should help reduce the risk of accidental injury and enhance the hunting experience. Actual quota hunt days will be publicized well in advance of each season. In order to participate in quota turkey hunts, hunters will be required to complete an application form which must be received by established deadlines. A drawing will be conducted by computer and a quota hunt permit or rejection notice mailed to the applicant.

The $2 application fee for LBL quota turkey hunt permits will recover administrative costs associated with processing the forms, conducting the drawing, and notifying applicants of rejection or selection. Applications received after the deadline would not be processed and fees would be returned to the applicants. TVA has determined that this proposed rule will not be a "major" rule under Executive Order No. 12291 and will not have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act.

TWA has determined in accordance with § 5.2.27 or TVA's procedures implementing the National Environmental Policy Act [48 FR 19264] that the proposed rule is of a type that does not have a significant impact on the human environment. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 18 CFR Part 1310

Government property, Hunting, Land, land sales.

For the reasons set forth in the preamble, TVA proposes to amend Title 18, Chapter XIII of the Code of Federal Regulations as follows:

PART 1310—ADMINISTRATIVE COST RECOVERY

1. The authority citation for 18 CFR Part 1310 continues to read as follows:

Authority. 16 U.S.C. 831–831dd, 31 U.S.C. 9701.

§ 1310.2 [Amended]

2. Section 1310.2 is amended by adding "and turkey hunt" after "deer hunt" where it appears in paragraph (c) in the heading and text.

§ 1310.3 [Amended]

3. Section 1310.3 is amended by adding "and turkey hunt" after "deer hunt" where it appears in paragraph (d) in the heading and text.

W.F. Willis,

General Manager.

[FR Doc. 87–28708 Filed 12–15–87; 8:45 am]

BILLING CODE 8120–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 128 and 143

Procedures for Clearance of Cargo Carried by Express Consignment Operators or Carriers

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs regulations to set forth revised special informal entry procedures applicable to the entry and clearance of cargo carried by the varius entities which comprise the express consignment industry. These regulations would further refine and expand the existing procedures which recognize the special needs of this growing industry. The member countries of the Customs Cooperation Council have recently examined the industry and associated issues and have adopted international guidelines which established various definitions, including the term "Express Consignment Operators or Carriers".

The overwhelming growth of this industry, which is expected to continue, requires Customs to provide more expedited clearance procedures. The proposed amendments would further promote uniform, fair, and consistent treatment of the various courier and express services, while at the same time better assuring the protection of the revenue in accord with all applicable laws and regulations.

DATES: Comments must be received on or before February 16, 1988.

ADDRESSES: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Customs Service Headquarters, Room 2324, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments relating to the information collection aspects of the proposal should be addressed to Customs, as noted above, and also the Office of Information and Regulatory Affairs, Attention: Desk Officer for U.S. Customs Service, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Operational aspects: Vincent Dantone, Office of Inspection and Control (202–566–5354);

Legal aspects: Jerry Laderberg, Entry Procedures & Penalties Division (202–566–5765).

SUPPLEMENTARY INFORMATION:

Background

All imported merchandise entering the customs territory of the U.S. is subject to procedures relating to entry and clearance. The procedures ensure the proper appraisement, valuation, and tariff classification of the merchandise for the purpose of collecting the lawful amount of duties, as well as compliance with all other laws and regulations administered and enforced by Customs. Different procedures are provided for the entry and clearance of merchandise depending upon its value. There are formal entry procedures set forth in Part 141, Customs Regulations (19 CFR Part 141), with certain exceptions, applicable to shipments of merchandise valued in excess of $1000, and informal entry procedures set forth in Part 143, Customs Regulations (19 CFR Part 143), for the most part limited to shipments of merchandise valued at $1000 or less.

Although the procedures for the informal entry of merchandise are less cumbersome and comprehensive than those for formal entry, they may still present an impediment to courier and express services.

The trend in the express consignment industry for time sensitive clearance of cargo and the processing of entry documents is well recognized by Customs. Because of the special needs of the growing express consignment industry, by T.D. 86–143, published in the **Federal Register** of July 22, 1986 (51 FR 26243), informal entry procedures were set forth in §§ 143.21(l) and 143.29, Customs Regulations (19 CFR 143.21(l), 143.29). These procedures have helped the industry and Customs cope with an ever increasing workload. However, Customs recognizes that the procedures could be improved. In reaching this conclusion, Customs has noted that major express consignment companies have averaged over a 400% increase in imported cargo carried during the last 2 years while Customs staffing levels have remained static as express industry facilities due to manpower constraints. Further, a 150% increase in volume is expected in the coming year. The Customs Cooperation Council recently examined the express consignment industry. It noted the problems raised by on-board and fast parcel services as well as the time-sensitive nature of such consignments. The Council's study, as

noted in the May 1, 1987 report of its Permanent Technical Committee (Document 34.040), highlighted the need for the Customs service of the Council's member countries to provide a rapid reliable control and clearance system for this type of traffic.

It has now been determined that more detailed and accurate information from the express consignment industry and its participation in the Customs data processing systems is necessary for Customs to streamline its processing. By providing certain advance information on incoming shipments through the automated data processing systems, and full reimbursement for services rendered, Customs would be able to assist the industry in expeditiously processing the workload while maintaining our enforcement posture.

Proposal

To set forth revised special informal entry procedures applicable to the express consignment industry, it is proposed to amend the Customs Regulations in title 19, Code of Federal Regulations (19 CFR Chapter I), by adding a new Part 128, Customs Regulations (19 CFR Part 128). The proposed new Part 128 defines an express consignment operator or carrier and certain other terms. It establishes an approval process for express consignment facilities that, in addition to other requirements, mandates participation in Customs data processing systems for entry and entry release processing. These procedures would be available to all operators, carriers, and other entities that can meet the criteria set out in these regulations.

Two types of installations presently utilized by the express consignment industry would be recognized. The first is a centralized hub facility which is a separate, unique, single purpose facility normally operating outside of Customs operating hours. The facility would have to be approved by the district director for entry filing, examination and release of express consignment shipments. The second is the express consignment carrier facility, which is a separate or shared specialized facility approved by the district director solely for the examination and release of express consignment shipments.

Because of the high volume of entries that the major overnight courier services handle under existing criteria, they could qualify to be designated as a port of entry. As such, Customs inspectional services would be provided at all times at no additional cost to the courier service. All expenses for providing the service would be allocated out of the annual Customs budget appropriations as at other designated ports of entry. Currently, in accordance with the User Charges Statute (31 U.S.C. 9701), the courier services must reimburse Customs for inspectional services occurring at places other than established ports of entry. This user fee statute was enacted to ensure that Federal Governmental services provided to individual recipients, as opposed to the general public, are self-sustaining to the greatest extent possible. The potential establishment of separate ports of entry for individual couriers would, in effect, be contrary to the Congressional intent concerning the user fee statute. Accordingly, by T.D. 87–65, published in the **Federal Register** of May 4, 1987 (52 FR 16328), the port of entry workload criteria were slightly modified to provide that no more than half of the minimum 2500 consumption entries to be filed at a port of entry can be attributed to one private party, which must generally compensate the Government for service provided under 31 U.S.C. 9701.

The proposed new regulations incorporate the current provisions of §§ 143.21(l) and 143.29, Customs Regulations (19 CFR 143.21(l), 143.29), with the following modifications. They provide for the filing of a written application and a process for Customs approval of exrpess consignment and hub facilities; establish advance manifest requirements; establish bond requirements; generally raise the informal entry ceiling to $1250 for those qualifying to use the procedures; eliminate the distinction between shipments valued at $250 or less and those valued in excess thereof; raise the value level of shipments which must be segregated if an advance manifest is used, from $5.00 to $25.00; streamline informal and formal entry procedures; require that all entry numbers be furnished to Customs in a Customs approved bar coded readable format; and permit the district director to waive production of entry documentation in certain cases. The district director's current authority to require the consolidation of shipments under one entry would also be extended. These amendments would further promote uniform, fair, and consistent treatment of the various courier and express services and make the procedures available to all operators, carriers, and other entities that can meet the criteria, while at the same time better assuring the protection of the revenue in accord with all applicable laws and regulations. Meetings have been held with industry representatives to advise them of the procedural changes and the benefits that will accrue to their industry if the changes are adopted.

The proposed new Part 128 provides for an application processing fee in connection with the facility approval process. It is Customs intent to initially implement a two teired fee system. A $500 fee would apply to the approval of facilities in existence at the time final regulations are published and to facilities which are changed or altered after having been previously approved. This would cover the exprenses of the district director's review of and response to the application, review of the proposed procedures by the port director and higher level Customs officials, as well as appropraite administrative costs. An application fee of $1000 would apply to the approval of a new or expanded facilities. This fee would cover, in addition to the expenses noted above, facility design review, including blueprint review for work flow and cargo security purposes, on-site meetings between company and Customs officials to discuss the facility design and the company's operational and procedural proposals. This fee system would be reviewed and revised periodically to reflect changes in processing expenses. Changes in the fee system would be published in the **Federal Register** and the Customs Bulletin.

Comments

Before adopting these proposed regulations, consideration will be given to any written comments (preferably in triplicate) timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Customs Service Headquarters, Room 2324, 1301 Constitution Avenue, NW., Washington, DC 20229.

E.O. 12291 and Regulatory Flexibility Act

Because the proposed amendments do not meet the criteria for a "major rule" within the meaning of E.O. 12291, a regulatory impact analysis is not necessary. Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.)*, it is certified that the amendments would not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the

regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The proposed regulations are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Accordingly, the document has been submitted to the Office of Management and Budget for review and comment pursuant to 44 U.S.C. 3504(h). Public comments relating to the information collection aspects of the proposal should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Office for U.S. Customs Service, Office of Management and Budget, Washington, DC 20503. A copy of the comments to the Office of Management and Budget should also be sent to Customs at the address set forth in the **ADDRESS** portion of this document.

Drafting Information

The principal author of this document was Arnold L. Sarasky, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 128

Carriers, Couriers, Customs duties and inspection, Express consignments, Imports.

19 CFR Part 143

Customs duties and inspection, Imports.

Proposed Amendments to the Regulations

It is proposed to amend title 19, Chapter I, Code of Federal Regulations, by adding a new Part 128, Customs Regulations (19 CFR Part 128), and to amend Part 143, Customs Regulations (19 CFR Part 143), be removing §§ 143.21(1) and 143.29, as set forth below:

PART 128—EXPRESS CONSIGNMENTS

1. The authority citation for Part 128 would read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnote. 11), 1484, 1498, 1551, 1555, 1556, 1565, 1624.

2. Chapter I of title 19, Code of Federal Regulations (19 CFR Chapter I) would be amended by adding a new Part 128 to read as follows:

S-021999 0006(00)(15-DEC-87-12:31:52)

PART 128—EXPRESS CONSIGNMENTS

Subpart A—General

Sec.
128.0 Scope.
128.1 Definitions.

Subpart B—Administration

128.2 Express consignment carrier application and approval process.
128.3 Manifest requirements.
128.4 Bonds.
128.5 Articles not requiring entry.
128.6 Informal entry procedures.
128.7 Formal entry procedures.
128.8 Simplified entry document procedures.

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnote. 11), 1484, 1498, 1551, 1555, 1556, 1565, 1624.

Subpart A—General

§ 128.0 Scope.

This part sets forth requirements and procedures for the clearance of imported merchandise carried by express consignment operators and carriers, including couriers, under special procedures.

§ 128.1 Definitions.

For the purpose of this part:

(a) *Express consignment operator or carrier.* An "Express consignment operator or carrier" is a company operating in any mode or intermodally moving cargo by special express commercial service under closely integrated administrative control. Its services are offered to the public under advertised, guaranteed timely delivery on a door-to-door basis. An express consignment operator assumes liability to Customs for the articles in the same manner as if it is the sole carrier.

(b) *Cargo.* "Cargo" means any and all shipments imported into the customs territory of the United States by an express consignment operator or carrier whether manifested, accompanied, or unaccompanied.

(c) *Courier shipment.* A "courier shipment" is an accompanied express consignment shipment.

(d) *Hub.* A "Hub" is a separate, unique, single purpose facility normally operating outside of Customs operating hours approved by the district director for entry filing, examination, and release of express consignment shipments.

(e) *Express consignment carrier facility.* An "express consignment carrier facility" is a separate or shared specialized facility approved by the district director solely for the examination and release of express consignment shipments.

(f) *Closely integrated administrative control.* The term "closely integrated administrative control" means operations must be sufficiently integrated at both ends of the service (pick-up and delivery) so that the express consignment company can exercise a high degree of control over the shipments, particularly in regard to the reliability of information supplied for Customs purposes. Such control would be implemented by substantial common ownership between the local company and the foreign affiliate and/or by a very close contractual relationship between the local company and its foreign affiliate(s) (*e.g.*, a franchise arrangement).

(g) *Reimbursable.* "Reimbursable" means all costs, including normal and special enforcement operations, incurred at an express consignment operator's hub or an express consignment carrier facility that are required to be reimbursed to the Government.

Subpart B—Administration

§ 128.2 Express consignment carrier application and approval process.

(a) *Facility application.* Requests for approval of an express consignment carrier or hub facility must be in writing to the district director.

(b) *Application contents.* The application for approval of a express consignment carrier or hub facility must include the following:

(1) A full description of the facilities, including blueprints, floor plans and facility location(s).

(2) Statement of the general character of the express consignment operations.

(3) Estimated volume of transactions by:

(i) Formal entries.

(ii) Informal entries.

(iii) Shipments not requiring entry (see § 128.5).

(4) Application processing fee, as set forth in paragraph (e).

(5) List of principal company officials or officers.

(6) Projected start-up date, days and hours of operation.

(7) An agreement that the express consignment company will:

(i) Ensure that all cargo will be processed in the Customs Automated Commercial System (ACS) and associated modules, including, but not limited to Automated Broker Interface (ABI), Automated Manifest System (AMS), Cargo Selectivity, and Statement Processing.

(ii) Sign and implement a narcotics enforcement agreement with Customs.

(iii) Provide without cost to the Government, adequate office space, equipment, furnishings, supplies and security according to Customs specifications.

(iv) Timely pay all reimbursable costs, as determined by the district director.

(v) Pay to Customs all relocation, training and other costs and expenses incurred by Customs in relocating necessary staff to the company's hub express consignment carrier facility to provide or service to the company and to pay expenses incurred by Customs due to termination or decline of operations at the facility.

(c) *Changes or alternations to facility.* All proposed changes or alternations to an existing facility must be submitted in writing to the district director for approval prior to the implementation thereof and shall contain the information specified in paragraph (b).

(d) *Appeal of denial of application.* Any express consignment operator or carrier denied approval by the district director may file a written appeal with the appropriate regional commissioner within 14 calendar days from the date of denial.

(e) *Application processing fee.* Each operator of an express consignment hub or carrier facility will be charged a fee to establish under the provisions of 31 U.S.C. 9701. The fee will be periodically reviewed and revised to reflect changes in processing expenses and any changes thereto will be published in the **Federal Register** and Customs Bulletin.

Subpart C—Procedures

§ 128.3 Manifest requirements.

(a) *Additional information.* Express consignment operators and carriers shall provide the following manifest information in advance of the arrival of all shipments in addition to the information and documents otherwise required by the Customs Regulations:

(1) Country or origin of the merchandise.

(2) Shipper name, address and country.

(3) Ultimate consignee name and address.

(4) Specific description of the merchandise with tariff item numbers. All articles for which an entry is not required as noted in § 128.5 shall be separately listed and their entry exemption status noted.

(5) Quantity.

(6) Shipping weight.

(7) Value.

(b) *Sorting of cargo.* If shipments are sorted by country or origin of the merchandise when they arrive at the hub or express consignment facility or are so presented to Customs, the advance manifest information shall also be so listed.

(c) *Explanation of manifest amendments.* Amendments to the manifest to report shortages (merchandise manifested but not found) or overages (merchandise found but not manifested) shall be made on Customs Form 5931 and submitted to Customs within 72 hours of the arrival and entry of the importing conveyance.

§ 128.4 Bonds.

All express consignment operators or carriers shall be recognized by Customs as an international carrier, be approved as a carrier of bonded merchandise and have filed bonds on Customs Form 301, containing the bond conditions set forth in §§ 113.62, 113.63 and 113.64 of this chapter, to insure compliance with Customs requirements related to the importation and entry of merchandise as well as the carriage and custody of merchandise under Customs control.

§ 128.5 Articles not requiring entry.

All articles carried by an express consignment operator or carrier shall be entered except for those specifically exempt from entry by § 321, Tariff Act of 1930, as amended (19 U.S.C. 1321), and General Headnote 5, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 128.6 Informal entry procedures.

(a) *Eligibility.* Informal entry procedures may generally be used for shipments not exceeding $1250 in value which are imported by express consignment operators and carriers. Such procedures, however, may not be used for prohibited or restricted merchandise, merchadise which is subject to a quota or other quantitative restraints, or in any instance in which the district director may require a formal entry under the provisions of § 143.22 of this chapter. In such case, individual shipments for the same consignee valued at $1250 or less may be consolidated on one entry.

(b) *Procedures.* Customs Form 3461, appropriately modified to cover all importations under the special procedures contained in this Part shall be submitted on a yearly basis with the first such form submitted prior to the commencement of hub or express consignment carrier facility operations. The party with the right to file entry may submit a copy of the invoice or the advance manifest, as described in § 128.3 in lieu of other control documents.

(c) *Alternative procedure.* The party with the right to file entry may be required to submit an individual Customs Form 3461 covering the eligible shipments on a daily basis or by flight basis. Commercial invoices or advance manifests shall be attached to the Customs Form 3461 which shall contain the entry number and other necessary information. A notation shall be placed on the Customs Form 3461 that the entry covers multiple shipments.

(d) *Low value shipments.* Shipments valued at $25 or less must be segregated from those valued at more than $25 if an advance manifest is used as the entry document.

(e) *Entry summary.* An entry summary (Customs Form 7501) must be presented in proper form, and estimated duties deposited, within 10 days of release of the merchandise under either the regular or alternative procedure described in this section.

§ 128.7 Formal entry procedures.

The district director may require a formal entry for an individual shipment or may require the consolidation of shipments under one such entry in accordance with Customs policies, procedures, and automated processing capabilities, or in accordance with the provisions of § 143.22 of this chapter. In such case, individual shipments for the same consignee valued at $1250 or less may be consolidated on one entry.

§ 128.8 Simplified entry document procedures.

(a) *Entry number.* All entry numbers must be funished to Customs in a Customs approved bar coded readable format.

(b) *Entry documentation waiver.* The district director may, at the time of entry, waive production of entry documentation for those entries designated as not requireing examination or review if the advance manifest requirements of § 128.3(a) of this chapter have been met.

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

1. The authority citation for Part 143 would continue to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498, 1624.

§ 143.21 [Amended]

2. Section 143.21 would be amended by removing paragraph (l).

§ 143.29 [Removed]

3. Part 143 would be amended by removing § 143.29.

Commissioner of Customs

William von Raab,

Approved: November 10, 1987.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 87-28890 Filed 12-15-87; 8:45 am]

BILLING CODE 4820-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 7E3532/P436; FRL-3302-2]

Pesticide Tolerance for 2-(2-Chlorophenyl)Methyl-4,4-Dimethyl-3-Isoxazolidinone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimenthyl-3-isoxazolidinone in or on the raw agricultural commodity pumpkins. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP & E3532/P4436], must be received on or before January 15, 1988.

ADDRESSES:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document 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. 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 holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 7E3532 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Stations of Illinois and Oklahoma.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone in or on the raw agricultural commodity pumpkins at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the eproposed tolerance include:

1. A rat teratology study with a maternal no-observed-effect level (NOEL) Of 100 milligrams (mg)/kilogram (kg)/day, a fetotoxic NOEL of 100 mg/kg/day and no teratogenic effects at the highest level tested (600 mg/kg/day).

2. A rabbit teratology study with a teratogenic NOEL of 700 mg/kg/day, a maternal NOEL of 240 mg/kg/day, and a fetoxicity NOEL of 240 mg/kg/day.

3. A 1-year dog feeding study with a NOEL of 12.5 mg/kg/day (500 ppm) tested at dose levels of 0, 100, 500, 2,500, and 5,000 ppm.

4. A 2-year rat feeding study with a NOEL of 4.3 mg/kg/day (100 ppm) for systemic effects and negative for oncogenic effects under the conditions of the study at all dose levels tested (20, 100, 500, 1,000 and 2,000 ppm).

5. A 2-year mouse feeding study with a NOEL of 15 mg/kg/day (100 ppm) for systemic effects and negative for oncogenic effects under the conditions of the study at all dose levels tested (20, 100, 500, 1,000 and 2,000 ppm).

6. Mutagenic studies: including an unscheduled DNA synthesis test, negative for mutagenicity; reverse mutation tests (two studies) (*Salmonella*) both negative with/without activation; a point mutation test (CHO/HGPT), weakly positive without activation; and an *in vivo* cytogenetic (chromosomal aberrations) test, negative for mutagenicity.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 4.30 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.043 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 2.6 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.000017 mg/kg/day; the current action will increase the TMRC by 0.000001 mg/kg/day. Published tolerances utilize 0.04 percent of the ADI; the current action will utilize an additional 0.001 percent.

The nature of the residues is adquately understood and an adequate analytical method, gas chromatography, is available in the Pesticide Analytical Manual, Vol. II (PAM-II), for enforcement purposes. There is no expectation of secondary residues in meat and milk since pumpkins are not an animal feed commodity. There are currently no actions pending against the continued registration of the chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.425 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 7E3532/P436]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial

number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: December 3, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.425 is amended by adding and alphabetically inserting the raw agricultural commodity pumpkins, to read as follows:

§ 180.425 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone; tolerances for residues.

* * * * *

Commodities	Parts per million
Pumpkins	0.1
* * * * *	

[FR Doc. 87-28611 Filed 12-15-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 7E3537/P437; FRL-3302-3]

Pesticide Tolerance for Pendimethalin

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the herbicide pendimethalin and its metabolite in or on the raw agricultural commodity garlic. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 7E3537/P437], must be received on or before January 15, 1988.

ADDRESSES:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document 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. 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 holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 7E3537 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Stations of California and Oregon.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the herbicide pendimethalin [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol in or on the raw agricultural commodity garlic at 0.1 part per million (ppm). The petitioner proposed that this use of pendimethalin and its metabolite on garlic be limited to California, Nevada, and Oregon based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 2-year dog feeding study (by capsule) with a no-observed-effect level (NOEL) of 12.5 milligrams (mg)/kilogram (kg)/day.

2. A 90-day rat feeding study with a NOEL of 500 ppm (50 mg/kg/day).

3. A three-generation rat reproduction study with a NOEL of 500 ppm (25 mg/kg/day).

4. A rat teratology study with teratogenic and fetotoxic NOELs of 500 mg/kg (highest dose tested).

5. A rabbit teratology study with a NOEL for teratogenic effects at 60 mg/kg (highest dose tested).

6. Mutagenicity studies as follows: a dominant lethal study negative at 2,500 ppm (highest dose tested); an Ames assay negative at 1,000 μg/plate (highest dose tested); a chromosomal aberration study, negative; a DNA repair study, negative; a mammalian cell, forward gene mutation assay, negative with S-9, inconclusive without S-9; a mouse host-mediated assay, negative at 16.6 mg/mouse (highest dose tested).

Data considered desirable but lacking include a rat feeding/oncogenicity study, currently being conducted and a mouse oncogenicity study.

The provisional acceptable daily intake (PADI), based on the 1-year dog feeding study (NOEL of 12.5 mg/kg) and using a 100-fold safety factor, is calculated to be 0.125 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 7.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.000228 mg/kg/day; the current action will increase the TMRC by less than 0.000001 mg/kg/day (0.4 percent). Published tolerances utilize 0.18 percent of the PADI; the currect action will utilize less than 0.001 percent of the PADI for purposes of this tolerance.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography with an electron capture detector, is available in the Pesticide Analytical Manual (PAM-II), for enforcement purposes. Secondary residues are not expected in meat or milk from the

proposed use since garlic is not an animal feed commodity. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.361 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 7E3537/P437]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: December 3, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.361 is amended by adding new paragraph (c), to read as follows:

§ 180.361 Pendimethalin; tolerances for residues.

* * * * *

(c) Tolerances with regional registration, as defined in § 180.1(n), are established for the combined residues of the herbicide pendimethalin [*N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethylpropyl)aminol]-2-methyl-3,5,-dinitrobenzyl alcohol in or on the following raw agricultural commodities as follows:

Commodities	Parts per million
Garlic	0.1

[FR Doc. 87–28612 Filed 12–15–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–30; RM–5562]

Radio Broadcasting Services; Dardanelle, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document dismisses a petition filed by Central Arkansas Broadcasting Company, Inc., which requested the substitution of FM Channel 271A for Channel 272A at Dardanelle, AR, and modification of its license for Station KWKK(FM). Petitioner filed comments advising it no longer desired to pursue the rule making proposal. No other comments were received.

With this action, this proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–30, adopted November 23, 1987, and released December 9, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87–28847 Filed 12–15–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 87–535, RM–5806]

Radio Broadcasting Services; Atlantic, IA

AGENCY: Federal Communications Commission.

ACTION: Propose rule.

SUMMARY: This document requests comments on a petition by Valley Broadcasting, Inc., licensee of Station KJAN–FM, Channel 279C1, Atlantic, Iowa, requesting the modification of its license to specify operation on Channel 279C. Channel 279C can be allocated to Atlantic in compliance with the Commission's minimum distance separation requirements without a site restriction and can be used at the sites specified in Station KJAN–FM's license and outstanding construction permit (BPH–870302MN). In accordance with § 1.420(g) of the Commission's Rules, we are shall not accept competing expressions of interest in use of the higher powered channel at Atlantic nor require the petitioner to demonstrate the availability of an additional equivalent channel.

DATES: Comments must be filed on or before January 31, 1988, and reply comments on or before February 16, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554 In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: George R. Borsari, Jr., Esq., Borsari & Paxon, 2100 M Street, NW., Suite 610, Washington, DC, 20037, (Counsel to Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shaprio, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of

Proposed Rule Making, MM Docket No 87–535 adopted November 23, 1987, and released December 10, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87–28869 Filed 12–15–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 87–196; RM–5492]

Radio Broadcasting Services; Lafayette, LA

AGENCY: Federal Communication Commission.

ACTION: Proposed rule; denial of proposal.

SUMMARY: This document denies a petition filed by C.R. Crisler proposing the substitution of Channel 238C2 for Channel 238A at Lafayette, Louisiana. We find that the public interest cannot benefit from the proposal at this time, in view of the objections raised to the reopening of the filing window for acceptance of new applications, the burden on Commission resources that would result in processing those applications and the delay which would be caused in providing new service to the community. With this action, this proceeding is terminated.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–196, adopted November 23, 1987, and released December 10, 1987. The full text of this Commission decision is available for inspection and copying normal business hours in the FCC Dockets Branch (Room 230) 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Mark N. Lipp,

Chief, Allocations Branch Mass Media Bureau.

[FR Doc. 87–28870 Filed 12–15–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 87–465; FCC 87–336]

Broadcast Services; Elimination of TV-to-Land Mobile Interference

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has issued a *Notice of Proposed Rule Making/Notice of Inquiry* addressing the problem of objectionable interference between television stations operating on channel 14 or 69 and land mobile stations operating on frequencies adjacent to either channel. The *Notice of Proposed Rulemaking (NPRM)* solicits comment on a proposal to resolve such interference problems by requiring new television applicants for those channels, as well as applicants for site changes and power increases, to either comply with specified spacing criteria or negotiate privately with the affected land mobile operations to resolve the interference difficulties. Because, in some communities, television applicants may not be able to meet the spacing requirements or negotiate an interference protection agreement with land mobile licensees, the related *Notice of Inquiry* (NOI) seeks comment on the possibility of using channels 14 and 69 for other than broadcast television service, rather than allowing that spectrum to lie fallow.

DATES: Interested parties may file comments on or before January 19, 1988, and reply comments on or before February 3, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Louis Whitsett, Policy and Rules Division, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: The collection of information requirement contained in this proposed rule has been submitted OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons wishing to comment on this collection of information requirement should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Office for Federal Communications Commission.

This is a summary of the Commission's *Notice of Proposed Rule Making/Notice of Inquiry* in MM Docket 87–465, adopted October 20, 1987, and released November 30, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making/Notice of Inquiry

1. The Commission initiates a two-pronged proceeding (*Notice of Proposed Rule Making/Notice of Inquiry*) aimed at solving the interference problems between television stations operating on channel 14 or 69, and adjacent-channel land mobile operations. Resolution of these interference issues would permit greater broadcast use of currently unused spectrum, and would allow the Commission to lift the current freeze on new channel 69 assignments. This TV-to-land mobile interference occurs primarily because the stronger television tramsmitter gignals overpower the weaker nearby land mobile receiver signals. While there exist some technical solutions to the problem, such as filtering, the Commission has not found these measures to be cost effective. In reaching that conclusion, the Commission notes the considerable difficulty it had in resolving interference to land mobile operations in a case involving a UHF television station on channel 69 in Atlanta, Georgia. This Atlanta experience caused the

Commission to suspend new channel 69 assignments pending the development of an adequate means of resolving the interference difficulties.

2. To address this problem, the Commission, in its *NPRM* proposes to require all new applicants for channels 14 or 69, as well as existing licensees requesting site changes and power increases on these channels, to satisfy certain technical criteria designed to protect adjacent-channel land mobile stations from UHF–TV interference. These criteria would require minimal geographical spacing bstween the proposed TV station and the existing adjacent-channel land mobile operations of frequencies within 3 MHz of the UHF–TV, channel. The degree of spacing would be less for TV stations not operating at maximum power. If the criteria cannot be meet, the Commission proposes granting an application for channel 14 or channel 69 if the TV applicant can get the affected land mobile licensees to agree to accept compensation for a certain amount of interference to the land mobile station, or to move to another frequency. The Commission asks whether the TV applicant should have to get agreements from all the affected land mobile licensees or only from most of them (e.g., 85%).

3. In some localities, we anticipate that a television applicant for a license on channel 14 or 69 may be able neither to comply with the technical criteria, nor obtain the needed land mobile consents, and, thus, those channels may, as a practical matter, be unusable for television service. In order that the channels not lie fallow, the item, in its *NOI* section, seeks public comment on two tentative proposals to allow flexible use of channels 14 and 69.

4. Under the first proposal, the television applicant who can neither meet the spacing criteria nor obtain land mobile consent would be permitted to apply to use channel 14 or 69 for other than broadcast television service. The flexible use applicant would file the application with the particular service being proposed. While there may be several methods to process such applications, the item tentatively recommends a "cutoff" procedure whereby the lead application would be placed on a cutoff list inviting competing applications for that *same* service by a certain date. This would be followed by a second cutoff list enumerating the applications filed in response to the first list and inviting the filing of petitions to deny against all of the applicants.

5. Although the *NOI* recommends allowing flexible use of channels 14 and 69, it is our preference to use these UHF channels for broadcasting if that is a viable option. To that end, we would give serious consideration to petitions to deny filed by a party making a convincing showing that it can either meet the spacing criteria or negotiate interference with land mobile stations. In addition, we want to evaluate legitimate proposals to move the allotment to communities where the channel can be used for television in order to satisfy our obligation under section 307(b) of the Communications Act. In that connection, for each vacant channel 14 or 69 allotment, we would provide a one time only window for the filing of petitions for rulemaking proposing relocation of the allotment to areas where television use would be possible. Following the close of that window, we would consider such petitions and applications for flexible use on a first come/first serve basis, i.e., when a petition to move the allotment is received, the Commission would suspend acceptance of any flexible use applications and *vice versa*.

6. In its second flexible use proposal, the *NOI* recommends that, where a new vacant channel 14 or 69 allotment is within a specified distance of existing adjacent channel land mobile operations, the allotment be designated as a "multiple use allotment." Such allotments would be available for use by not only television services but other services as well. Ideally, we would like to develop a comparative licensing process that would permit consideration of applicants for both the same service and for *different* services. To make this possible, the item encourages the development of comparative criteria that would be useful and relevant in evaluating and selecting among applicants regardless of their proposed service.

7. Finally, in the *NOI*, the Commission recognizes that the matters at issue in this proceeding may be affected by future Commission decisions in the advanced television systems (ATV) proceeding. Given the uncertainties regarding the spectrum needs of advanced television systems, the Commission has decided not to act on or implement any of the new broadcast or non-broadcast uses of channels 14 and 69 considered in the *NPRM/NOI* until it has had an opportunity to study the impact such use may have on ATV.

Ex Parte Information

8. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1231 or the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Initial Regulatory Flexibility Analysis

9. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the actions suggested in this proceeding would benefit broadcasters wishing to operate on television Channels 14 and 69, by allowing them to apply for currently vacant, frozen spectrum. The Commission believes that the proposed actions would thus provide optimum use of the spectrum, without increasing the danger of interference to nearby land mobile operators. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this *Notice of Proposed Rule Making/Notice of Inquiry*, but they must have a separate and distinct heading designating them as response to the initial regulatory flexibility analysis.

10. The Secretary shall cause a copy of the *Notice of Proposed Rule Making/ Notice of Inqury*, including the initial regulatory flexibility analysis to be sent to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act of 1980 (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*) (1982).

Paperwork Reduction Act Statement

11. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget prescribed by the Act.

Comment Information

12. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before January 19, 1988 and reply comments on or before February 3, 1988. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–28868 Filed 12–15–87; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 52, No. 241
Wednesday, December 16, 1987

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

December 11, 1987.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Papework 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 Pub. L. 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, DC 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, DC 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.

New

- Food and Nutrition Service
- Evaluation of the Extended Alternative Issuance Demonstration On occasion
- State or local governments; Businesses or other for-profit; Small businesses or organizations; 2,863 responses; 437 hours; not applicable under 3504(h)
- Carol Olander (703) 756–3115

Reinstatement

- Food and Nutrition Service
- Report of Shipment Received over, short and/or damaged
- FNS–57
- On occasion
- State or local governments; 3,200 responses; 800 hours; not applicable under 3504(h)
- Sandy Robinson (703) 756–3660

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 87–28906 Filed 12–15–87; 8:45 am]

BILLING CODE 3410-01-M

Office of Inspector General

Privacy Act of 1974; Computer Matching Programs—U.S. Department of Agriculture and U.S. Postal Service Personnel in Missouri Participating in U.S. Department of Agriculture Programs and Cross-State March of Food Stamp Program Participants in Illinois and Kansas

AGENCY: Office of Inspector General, USDA.

ACTION: Notice of matching programs—U.S. Department of Agriculture and U.S. Postal Service personnel in Missouri participating in U.S. Department of Agriculture programs and cross-State match of Food Stamp Program participants in Illinois and Kansas.

SUMMARY: The Office of Inspector General (OIG), U.S. Department of Agriculture (USDA), is providing notice that it intends to conduct a matching program to detect and prevent fraud and abuse in USDA programs. The match will compare personnel data files of the USDA and various Postal Service records with certain Food Stamp Program records for the purpose of identifying Federal personnel who nave received food stamp benefits to which they are not entitled. The match will be made under written agreements between USDA and each of the source agencies involved. Set forth below is the information required by paragraph 5f(1) of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget, 47 FR 21656 (May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Dianne Drew, Assistant Inspector General for Administration, U.S. Department of Agriculture, Office of Inspector General, Washington, D.C., 20250, telephone (202) 447–6915.

Report of Matching Programs: U.S. Department of Agriculture and U.S. Postal Service Personnel in Missouri Participating in U.S. Department of Agriculture Programs and Cross-State Wage Match of Food Stamp Program Participants in Illinois and Kansas.

a. Authority: Pub. L. 95–452, Inspector General Act of 1978, 5 U.S.C. App.

b. Program Description and Purpose: One of the responsibilities of OIG under the Inspector General Act of 1978 (Pub. L. 95–452) is to prevent and detect fraud and abuse in USDA programs. As part of the effort to meet this responsibility, OIG plans to match lists of food stamp participants in various States against personnel data files of the USDA and U.S. Postal Service (USPS) to detect underreporting of income in order to receive food stamp benefits without entitlement. This match will be done on a one-time basis for the State of Missouri and will also involve a cross match of Food Stamp Program participants in Missouri to participants in Illinois and Kansas.

All matches will be accomplished through the use of computer files and will identify common elements of USDA program files and respective Federal personnel. Such elements will include comparing social security numbers (SSN) or some combination of SSN with name and/or date of birth. OIG will follow up on these matches of common elements or "hits" through review of USDA program records and matching source records, and interviews of the "matching" individuals as necessary. Instances where this followup work identifies abuse or fraud may be referred to the program agency for

corrective action or to the proper authorities for prosecution, as appropriate.

c. Files to be used in this matching program are:

(1) U.S. Department of Agriculture:

(i) State agency food stamp recipient information files for Illinos, Kansas, and Missouri;

(ii) Central Personnel Data File (CPDF) within the Personnel and Payroll System for USDA Employees (USDA/OP-1), 49 FR 48071.

(2) U.S. Postal Service, USPS 050.020, Payroll System, 52 FR 6251.

d. Projected starting and ending dates: The matching programs for Illinois, Kansas, and Missouri are scheduled for fiscal year 1988.

e. Security safeguards: Computer files used in the matching program will be stored in secure libraries and access will be restricted to only those individuals who have a legitimate need to handle the material in order to accomplish the matches. The personal privacy of individuals identified on the files will be protected by strict compliance with the Privacy Act of 1974. Information concerning "non-matching" individuals will not be extracted for any purpose and source files will not be used for any matches without specific written agreement between USDA and the respective agency.

f. Disposition of source records and "hits": All files received will be destroyed or returned to their source at the completion of the matches. Resulting "hit" information may be retained in audit workpapers.

Dated: December 10, 1987.

Robert W. Beuley,

Inspector General.

[FR Doc. 87-28858 Filed 12-15-87; 8:45 am]

BILLING CODE 3410-23-M

Soil Conservation Service

Finding of No Significant Impact; North Fork Wolf River Watershed, TN

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 North Fork Wolf River Watershed, Fayette and Hardeman Counties, Tennessee.

FOR FURTHER INFORMATION CONTACT: Jerry S. Lee, State Conservationist, Soil Conservation Service, 675 Estes Kefauver FB—USCH, Nashville, TN 37203, telephone 615/736-5471.

SUPPLEMENTARY INFORMATION: The environmental assessment of 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, Jerry S. Lee, 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 accelerated land treatment or erosion control and water quality maintenance. The planned works of improvement include conservation tillage systems, crop rotation, stripcropping, grassed waterways and outlets, tree planting and critical area treatment. Federal financial assistance will be provided only to accelerate technical assistance for land treatment.

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 Jerry S. Lee.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Jerry S. Lee,

State Conservationist.

Date: December 8, 1987.

[FR Doc. 87-28838 Filed 10-15-87; 8:45 am]

BILLING CODE 3410-16-M

Finding of No Significant Impact; Big Creek Watershed, TN

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 Big Creek Watershed, Shelby and Tipton Counties, Tennessee.

FOR FURTHER INFORMATION CONTACT: Jerry S. Lee, State Conservationist, Soil Conservation Service, 675 Estes Kefauver FB-USCH, Nashville, TN 37203, telephone 615/736-5471.

SUPPLEMENTARY INFORMATION: The environmental assessment of 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, Jerry S. Lee, 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 accelerated land treatment or erosion control and water quality maintenance. The planned works of improvement include conservation tillage systems, crop rotation, stripcropping, grassed waterways and outlets, tree planting and critical area treatment. Federal financial assistance will be provided only to accelerate technical assistance for land treatment.

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 Jerry S. Lee.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372, which requires

intergovernmental consultation with State and local officials.)

Jerry S. Lee,

State Conservationist.

Date: December 8, 1987.

[FR Doc. 87-28839 Filed 12-15-87; 8:45 am]

BILLING CODE 3410-16-M

Finding of No Significant Impact; Beaver Creek Watershed, TN

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 Beaver Creek Watershed, Fayette, Haywood, Shelby and Tipton Counties, Tennessee.

FOR FURTHER INFORMATION CONTACT: Jerry S. Lee, State Conservationist, Soil Conservation Service, 675 Estes Kefauver FB-USCH, Nashville, TN 37203, telephone 615/736-5471.

SUPPLEMENTARY INFORMATION: The environmental assessment of 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, Jerry S. Lee, 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 accelerated land treatment or erosion control and water quality maintenance. The planned works of improvement include conservation tillage systems, crop rotation, stripcropping, grassed waterways and outlets, tree planting and critical area treatment. Federal financial assistance will be provided only to accelerate technical assistance for land treatment.

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 Jerry S. Lee.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials)

Jerry S. Lee,

State Conservationist.

Date: December 8, 1987.

[FR Doc. 87-28840 Filed 12-15-87; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

[Transmittal No. 06-10-88012-01; Project I.D. No. 06-10-88012-01]

New Mexico; Albuquerque Minority Business Development Center Application

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a three (3) year period, subject to available funds. The cost of performance for the first twelve (12) months is estimated at $194,118 for the project's performance period of July 1, 1988 to June 30, 1989. The MBDC will operate in the Albuquerque, New Mexico Standard Metropolitan Statistical Area (SMSA).

The first year's cost for the MBDC will consist of:

Name	Federal	Non-federal	Total
Albuquerque SMSA...	$165,000	$29,118 [1]	$194,118

[1] Can be a combination of cash, in-kind contribution and fee for service.

The funding instruments for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assistance (M&TA) to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance (M&TA); and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA, based on such factors as an MBDC's satisfactory performance, the availabilty of funds, and Agency priorities.

Closing Date: The closing date for the receipt of application is January 31, 1988.

ADDRESS: MBDA—Dallas Regional Office, 1100 Commerce Street, Suite 7B23 Dallas, Texas 75242-0790.

FOR FURTHER INFORMATION CONTACT: Bobby Jefferson, Chief, Business Development Group, Dallas Regional Office, 214/767-8001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-bid conference will be held in Dallas on January 8, 1988 at 10:00 a.m. at the following location: Earl Cabel Building, Federal Building, 1100 Commerce St., Room 5044, Dallas, Texas 75242.

Additional RFAs will be available at the conference site.

December 10, 1987.

Melda Cabrera,

Regional Director, Minority Business Development Agency.

Section B. Project Specifications

Program Number and Title: 11.800 Minority Business Development.

Project Name: Albuquerque MBDC.

Project Identification Number: 01–10–88012–01.

Project Start and End Dates: 07/01/88 to 06/30/89.

Project Duration: 12 Months.

Total Federal Funding (85%) $165,000.

Minimum Non-Federal Funding Sharing (15%) $29,118.

Total Project Cost (100%) $194,118.

Closing Date for Receipt of this Application: January 31, 1988.

Geographic Specification: The Minority Business Development Center shall offer assistance in the geographic area of: Albuquerque, New Mexico.

Eligibility Criteria: There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian Tribes, and educational institutions.

Project Period: The competitive award period will be for approximately three years consisting of three separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance, and Agency priorities.

MBDA's minimum levels of efforts:

Financial Packages $2,747,000
Billable M&TA $84,000
Number of Professional Staff 3
Procurements $5,493,000
Number of Clients 76

[FR Doc. 87–28878 Filed 12–15–87; 8:45 am]

BILLING CODE 3510–21–M

[Transmittal No. 06–10–88011–01; Project I.D. No. 06–10–88011–01]

Oklahoma, Oklahoma City Minority Business Development Center Application

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SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a three (3) year period, subject to available funds. The cost of performance for the first twelve (12) months is estimated at $194,118 for the project's performance period of July 1, 1988 to June 30, 1989. The MBDC will operate in the Oklahoma City, Oklahoma Standard Metropolitan Statistical Area (SMSA).

The first year's cost for the MBDC will consist of:

Name	Federal	Non-federal	Total
Oklahoma City SMSA...	$165,000	[1] $29,118	$194,118

[1] Can be a combination of cash, in-kind contribution and fee for service.

The funding instruments for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assistance (M&TA) to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance (M&TA); and serve as a conduit of information and assistance regarding minority business.

Applciations will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA, based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for the receipt of application is January 31, 1988.

ADDRESS: MBDA—Dallas Regional Office, 1100 Commerce Street, Suite 7B23 Dallas, Texas 75242–0790.

FOR FURTHER INFORMATION CONTACT: Bobby Jefferson, Chief, Business Development Group, Dallas Regional Office, 214/767–8001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

A pre-bid conference will be held in Dallas on January 8, 1988 at 10:00 a.m. at the following location: Earl Cabel Building, Federal Building, 1100 Commerce St., Room 5044, Dallas, Texas 75242.

Additional RFAs will be available at the conference site.

December 10, 1987.

Melba Cabrera,

Regional Director, Minority Business Development Agency.

Section B. Project Specifications

Program Number and Title: 11.800 Minority Business Development.

Project Name: Oklahoma City MBDC.

Project Identification Number: 01–10–88011–01.

Project Start and End Dates: 07/01/88 to 06/30/89.

Project Duration: 12 Months.

Total Federal Funding (85%) $165,000.

Minimum Non-Federal Funding Sharing (15%) $29,118.

Total Project Cost (100%) $194,118.

Closing Date for Receipt of this Application: January 31, 1988.

Geographic Specification: The Minority Business Development Center shall offer assistance in the geographic area of: Oklahoma City, Oklahoma.

Eligibility Criteria: There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian Tribes, and educational institutions.

Project Period: The competitive award period will be for approximately three years consisting of three separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance, and Agency priorities.

MBDA's minimum levels of efforts:

Financial Packages $2,747,000
Billable M&TA $84,000
Number of Professional Staff 3
Procurements $5,493,000
Number of Clients 76

[FR Doc. 87–28880 Filed 12–15–87; 8:45 am]

BILLING CODE 3510–21–M

[Transmittal No. 06-10-88013-01; Project I.D. No. 06-10-88013-01]

Texas; San Antonio Minority Business Development Center Application

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a three (3) year period, subject to available funds. The cost of performance for the first twelve (12) months is estimated at $442,218 for the project's performance period of July 1, 1988 to June 30, 1989. The MBDC will operate in the San Antonio, Texas Standard Metropolitan Statistical Area (SMSA).

The first year's cost for the MBDC will consist of:

Name	Federal	Non-federal	Total
San Antonio SMSA...	$375,800	$66,318*	$442,118

*Can be a combination of cash, in-kind contribution and fee for service.

The funding instruments for the MBDC will be a cooperative agreement and competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assistance (M&TA) to eligible clients for the establishment and operation of businesses. the MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance (M&TA); and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the need of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA, based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing Date: The closing date for the receipt of application is January 31, 1988.

ADDRESS: MBDA—Dallas Regional Office, 1100 Commerce Street, Suite 7B23 Dallas, Texas 75242-0790.

FOR FURTHER INFORMATION CONTACT: Bobby Jefferson, Chief, Business Development Group, Dallas Regional Office, 214/767-8001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address

A pre-bid conference will be held in Dallas on January 8, 1988 at 10:00 a.m. at the following location: Earl Cabel Building, Federal Building, 1100 Commerce St., Room 5C44, Dallas, Texas 75242.

Additional RFAs will be available at the conference site.

December 10, 1987.

Melda Cabrera,

Regional Director, Minority Business Development Agency.

Section B. Project Specifications

Program Number and Title: 11.800 Minority Business Development.

Project Name: San Antonio MBDC.

Project Identification Number: 01-10-88013-01.

Project Start and End Dates: 07/01/88 to 06/30/89.

Project Duration: 12 Months.

Total Federal Funding (85%) $375,800.

Minimum Non Federal Funding Sharing (15%) $66,318

Total Project Cost (100%) $442,118.

Closing Date for Receipt of this Application: January 31, 1988.

Geographic Specification: The Minority Business Development Center shall offer assistance in the geographic area of: San Antonio, Texas.

Eligibility Criteria: There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian Tribes, and educational institutions.

Project Period: The competitive award period will be for approximately three years consisting of three separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of the three budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance, and Agency priorities.

MBDA's minimum levels of efforts:
Financial Packages $6,253,000
Billable M&TA $192,000
Number of Professional Staff 3
Procurements $12,507,000
Number of Clients 172

[FR Doc. 87-28879 Filed 12-15-87; 8:45 am]
BILLING CODE 3510-21-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

December 11, 1987.

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 December 17, 1987. For further information contact Pamela Smith, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port of call (202) 566-8791. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the import restraint limits for textiles and textile products in Groups I, II, and III, and certain specified individual limits within the groups, produced or manufactured in Taiwan and exported during 1987.

Background

A CITA directive dated December 23, 1986 (52 FR 447) established import restraint limits for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Groups I, II and III, and individual limits and sublimits within

the groups, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

The bilateral textile agreement of November 18, 1982, as amended and extended, concerning cotton wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products from Taiwan, provides, among other things, for percentage increases in certain categories during the agreement year for special shift, provided corresponding reductions in equivalent square yards are made in other specific limits (or sublimits) during the same agreement year, and for swing, provided the group limits are not exceeded, and carryover. Pursuant to the terms of the agreement, the import restraint limits established for cotton, wool and man-made fiber textile products for Categories 300–320, 360–369, 400–429, 464–469, 600–627 and 665–670, as a group (Group I), within the group individual Categories 301, 310/318, 317, 319, 320, 360, 361, 363, 369–L, 604, 611, 612, 614–P, 669–G, 669–P, 669–T, 670–A, 680–F, 670–H, 670–L, 670–T and 670–U; Categories 330–359, 431–459 and 630–659, as a group (group II), within the group individual Categories 331, 333/334, 335, 337, 341, 350, 351 352, 353/354/653/654, 359–H, 433, 434, 435, 436, 438, 440, 442, 443, 445/446, 447/448, 631, 632, 636, 637, 639, 640, 641, 643, 649, 650, 652, 659–B, 659–H, 659–I and 659–S; Categories 831–844 and 846–859, as a group (Group III), and Categories 845 and 870, are being adjusted, variously, for special shift, swing and carryover.

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), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of The United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 11, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 23, 1986, issued to you by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on December 17, 1987, the directive of December 23, 1986 is hereby further amended to include adjusted limits for the following categories, under the terms of the bilateral textile agreement of November 18, 1982, as amended and extended. [1]

Category	Adjusted 12-mo limit [1]
Group I:	
300–320, 360–369, 400–429, 464–469, 600–627 and 665–670, as a group.	656,991,641 square yards equivalent.
Sublevels within the Group:	
301	442,500 pounds.
310/318	6,354,180 square yards.
317	21,394,694 square yards.
319	20,176,581 square yards.
320	94,523,390 square yards.
360	895,922 numbers.
361	1,129,030 numbers.
363	12,544,196 numbers.
369–L [2]	2,282,750 pounds.
604	494,545 pounds.
611	1,334,467 square yards.
612	10,033,660 square yards.
614–P [3]	15,800,350 square yards.
669–F [4]	1,186,631 pounds.
669–P [5]	553,757 pounds.
669–T [6]	1,811,751 pounds.
670–F [7]	3,935,984 pounds of which not more than 115,912 pounds shall be in TSUSA number 706.3425 (670–T)
670–H [8]	33,357,108 pounds of which not more than 459,136 pounds shall be in TSUSA number 706.3405 (670–A)
670–L [9]	78,061,641 pounds of which not more than 3,574,203 pounds shall be in TSUSA number 706.3415 (670–U)
Group II:	
330–359, 431–459 and 630–659, as a group.	980,921,058 square yards equivalent
Sublevels within the Group:	
331	511,490 dozen pairs.
333/334	78,946 dozen.
335	97,162 dozen.
337	154,825 dozen.
341	403,745 dozen.
350	107,425 dozen.
351	347,215 dozen.
352	970,171 dozen.
353/354/653/654.	235,200 dozen.
359–H [10]	4,244,525 dozen.
433	13,405 dozen.
434	9,952 dozen.
435	21,625 dozen.
436	4,482 dozen.
438	36,279 dozen.
440	10,303 dozen.
442	40,116 dozen.
443	4,201 dozen.
445/446	136,561 dozen.
447/448	18,555 dozen.
631	4,033,233 dozen pairs.
632	4,350,639 dozen pairs.
636	351,674 dozen.
637	392,854 dozen.
638	1,744,755 dozen.
639	5,127,664 dozen.
640	3,418,457 dozen.
641	754,418 dozen.
643	50,586 dozen.
649	682,308 dozen.
650	46,784 dozen.
652	1,511,dozen.
659–B [11]	1,575,195 pounds.
659–H [12]	5,334,478 pounds.
659–I [13]	3,918,687 pounds.
659–S [14]	4,447,942 pounds.
Group III:	
831–844 and 846–859, as a group.	4,926,532 square yards equivalent.
Other Categories:	
845	853,571 dozen.
870	5,283,801 pounds.

[1] The agreement provides, in part, that: (1) Specific limits or sublimits within a group may be exceeded by certain designated percentages, provided that the group limit is not exceeded; (2) certain specific limits or sublimits may be increased for carryforward; (3) special shift may be applied to certain categories, provided an equal amount in square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustements may be made to resolve problems arising in the implementation of the agreement.

[1] These limits have not been adjusted to account for any imports exported after December 31, 1986.

[2] In Category 369–L, only TSUSA numbers 706.3210, 706,3650 and 706.4111.

[3] In Category 614–P, only TSUSA numbers 338.5040, 338.5045, 338.5051, 338.5056, 338.5061, 338.5065, 338.5069, 338.5072, 338.5075, 338.5079, 338.5084, 338.5087, 338.5092, 338.5095 and 338.5098.

[4] In Category 669–F, only TSUSA numbers 355.4520 and 355.4530.

[5] In Category 669–P, only TSUSA number 385.5300.

[6] In Category 669–T, only TSUSA numbers 368.1105 and 389.6210.

[7] In Category 670–F, only TSUSA numbers 706.3900 and 706.3425.

[8] In Category 670–H, only TSUSA numbers 706.4125 and 706.3405.

[9] In Category 670–L, only TSUSA numbers 706.3415, 706.4130 and 706.4235.

[10] In Category 359–H, only TSUSA numbers 702.0600 and 702.1200.

[11] In Category 659–B, only TSUSA numbers 384.1815 an 384.8022.

[12] In Category 659–H, only TSUSA numbers 703.0510, 703.0520, 703.0530, 703.0540, 703.0550, 703.0560, 703.1000, 703.1610, 703.1620, 703.1630, 703.1640, and 703.1650.

[13] In Category 659–I, only TSUSA numbers 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2448, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359, and 383.9365.

[14] In Category 659–S, only TSUSA numbers 381.2340, 381.3170, 381.9100, 381.9570, 384.1920, 384.2339, 384.8300, 384.8400 and 384.9353.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–28882 Filed 12–15–87; 8:45 am]

BILLING CODE 3510–DR–M

Announcement of Negotiated Settlement on Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka; Correction

December 11, 1987.

In footnote 1 of the letter to the Commissioner of Customers published in the **Federal Register** on December 3, 1987 (52 FR 45989), correct TSUSA number for Category 359–C to read 381.6510 instead of 381.0510.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–28883 Filed 12–15–87; 8:45 am]

BILLING CODE 3510–DR–M

Amendment of an Import Limit and Restraint Period for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Costa Rica

December 11, 1987.

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 December 17, 1987. For further information contact Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to amend the import restraint limit for cotton and man-made fiber textile products in Category 340/640, produced or manufactured in Costa Rica and exported to the United States during the amended restraint period which began on May 3, 1987 and extends through May 2, 1988.

Background

A CITA directive dated July 6, 1987 (52 FR 25900) established a prorated import restraint limit for certain cotton and man-made fiber textile products in Category 340/640, produced or manufactured in Costa Rica and exported during the prorated period which began on May 3, 1987 and extends through December 31, 1987.

The United States, at the request of the Government of Costa Rica, has decided to replace the prorated limit with a full twelve-month limit. The amended limit will be for a twelve-month period which began on May 3, 1987 and extends through May 2, 1988.

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), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 11, 1987.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on July 6, 1987 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports of certain cotton and man-made fiber textile products in Category 340/640, produced or manufactured in Costa Rica and exported during the prorated period which began on May 3, 1987 and extends through December 31, 1987.

Effective on December 17, 1987, the directive of July 6, 1987 is hereby amended to include an amended import restraint limit of 490,249 dozen [1] for cotton and man-made fiber textile products in Category 340/640, produced or manufactured in Costa Rica and exported during the new twelve-month import restraint period which began on May 3, 1987 and extends through May 2, 1987.

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 (a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–28884 Filed 12–15–87; 8:45 am]

BILLING CODE 3510–DR–M

Announcement of Negotiated Settlement on an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the Union of Soviet Socialist Republics

December 11, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority

[1] The limit has not been adjusted to account for any imports exported after May 2, 1987.

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 December 17, 1987. For further information contact Janet Heinzen, Intenational Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 313/315/320pt., produced or manufactured in the Union of the Soviet Socialist Republics and exported during the five-month period August 1, 1987 through December 31, 1987, in excess of the designated limit.

Background

A CITA directive dated August 11, 1987 was published in the **Federal Register** (52 FR 30423) which established an import restraint limit for certain cotton textile products, produced or manufactured in the Union of Soviet Socialist Republics and exported during the twelve-month period which began on July 22, 1987 and extends through July 21, 1988.

During consultations held October 23–24, 1987 between the Governments of the United States and the Union of Soviet Socialist Republics, agreement was reached on a new bilateral textile agreement concerning imports into the United States of cotton sheeting and printcloth in Categories 313/315/320pt. The agreement establishes specific limits for Categories 313/315/320pt., produced or manufactured in the Union of Soviet Socialist Republics and exported during the period which began on August 1, 1987 and extends through December 31, 1988.

The United States Government has decided to control imports of Categories 313/315/320pt. at the agreed level for the first agreement period which begins on August 1, 1987 and extends through December 31, 1987.

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), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 11, 1987.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directive issued to you on August 11, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of cotton textile products in Categories 313.320pt.,[1] produced or manufactured in the Union of Soviet Socialist Republics and exported during the twelve-month period which began on July 22, 1987 and extends through July 21, 1988.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Textile Agreement of December 4, 1987, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 17, 1987, enter into the United States for consumption and withdrawal from warehouse for consumption, of certain cotton textile products in Categories 313/315320pt.,[2] produced or manufactured in the Union of Soviet Socialist Republics and exported during the five-month period which began on August 1, 1987 and extends through December 31, 1987, in excess of 6,000,000 square yards equivalent.[3]

Textile products in Categories 313/315/320pt. which has been exported to the United States prior to August 1, 1987 shall not be subject to this directive.

Textile products in Categories 315/320pt.[4] which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The limit set forth above is subject to adjustment in the future according to the provisions of the Bilateral Textile Agreement of October 24, 1987 between the Governments of the United States and the Union of Soviet Socialist Republics, which provide, in part, that any specific limit may be exceeded in any agreement period by carryforward and/or carryover of 11 percent, of which carryover shall not exceed 11 percent and carryforward shall not constitute more than 6 percent. No carryover shall be available in the first agreement period and no carryforward shall be available in the final agreement period.

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 hs determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–28885 Filed 12–15–87; 8:45 am]

BILLING CODE 3510–DR–M

[1] Category 313 and in Category 320pt., sheeting in TSUSA items 320.——through 331.—— with statistical suffixes 38, 80 and 82.

[2] Categories 313, 315 and in Category 320, sheeting and printcloth in TSUSA items 320.—— through 331.——, with statistical suffixes 31, 38, 80 and 82.

[3] The limit has not been adjusted to account for any imports exported after July 31, 1987.

[4] Category 315 and in Category 320pt., printcloth in TSUSA items 320.—— through 331.——, with statistical suffix 31.

Announcement of New Category Structure

December 11, 1987

The Committee for the Implementation of Textile Agreement, has determined to implement a new category structure, on January 1, 1988. In the event that the impending Harmonized System (HS) is not effective on January 1, 1988, the U.S. will implement the new category structure based on the Tariff Schedules of the United States Annotated (TSUSA). A Supplement which updates the 1987 TSUSA to 1988 and incorporates the new category structure is available from the Government Printing Office.

The interim CORRELATION based upon the TSUSA, to be used pending implementation of the HS, is available, at a cost of $30.00, from the Office of Textiles and Apparel, 14th and Constitution Avenue, NW., Room H3100, U.S. Department of Commerce, Washington, DC 20230, Attn: Interim CORRELATION.

The CORRELATION based upon the HS is also available, at a cost of $30.00, from the Office of Textiles and Apparel, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Room H3100, Washington, DC 20230, Attn: Proposed HS CORRELATION.

All interested parties should be aware that: 1. All shipments exported in 1987 will be charged to the appropriate unfilled 1987 limit.

2. For countries with a correct category and correct quantity visa system, all goods exported prior to January 1, 1988, should be covered by a visa showing the correct 1987 category number and unit of measurement. Entry will not be denied to merchandise which is properly visaed and exported in 1987 but which arrives in the U.S. in 1988. If the applicable 1987 quota is filled, this merchandise willbe charged to the applicable 1988 quota(s).

3. All goods exported on and after January 1, 1988 must be covered by a visa showing the correct 1988 category number and unit of measure. Under the Interim CORRELATION, merchandise will continue to be measured in square yards and pounds. Once the HS is implemented, merchandise which is currently measured in square yards or pounds will be measured in square meters and kilograms, and the visa requirements will be amended accordingly. Attached is a list of the new category structure with the corresponding units of measure.

4. Garments for boys is sizes greater than 24 months will require the appropriate men's and boys' category.

5. The following new categories can not be completely implemented under an interm arrangement:

(a) *Category 239:* In the 1988 TSUSA this category will appear only opposite the statistical provisions for cotton and man-made fiber infants' sets. Under the Interim CORRELATION, garments in sizes 0–24 months, other than infants' sets, will continue to take the appropriate women's girls' and infants' category.

(b) *Categories 439 and 839:* These categories can not be implemented in the 1988 TSUSA and will not appear in the interim CORRELATION.

(c) *Category 611:* In the 1988 TSUSA this category will continue to apply only to woven fabrics "of" non-continuous rayon or acetate yarn. It will not be limited to fabrics containing 85 percent or more by weight of artificial staple fibers until actual implementation of the HS.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

New Textile Category Structure

Categories numbered in the—

- 200 series are of cotton or man-made fiber.
- 300 series are of cotton.
- 400 series are of wool.
- 600 series are of man-made fiber.
- 800 series are of silk blends or non-cotton vegetable fibers.

Category	*Description*	*Unit of Measure under the Iterim plan (TSUSA)*	Unit of measure under HS
Yarn:			
200	Yarns put up for retail sale and sewing thread	Lb.	Kg.
201	Specialty yarns	Lb.	Kg.
300	Carded yarns	Lb.	Kg.
301	Combed yarns	Lb.	Kg.
400	Wool yarns	Lb.	Kg.
600	Textured filament yarn	Lb.	Kg.
603	Yarn containing 85% or more by weight artificial staple fiber	Lb.	Kg.
604	Yarn containing 85% or more by weight synthetic staple fiber	Lb.	Kg.
606	Non-textured filament yarn	Lb.	Kg.
607	Other staple fiber yarn	Lb.	Kg.
800	Silk blends and non-cotton vegetable fiber yarn	Lb.	Kg.
Fabric:			
218	Of yarns of different colors	Syd.	M2
219	Duck	Syd.	M2
220	Fabric of special weave	Syd.	M2
222	Knit fabric	Lb.	Kg.
223	Non-woven fabrics	Lb.	Kg.
224	Pile & Tufted fabrics	Syd.	M2
225	Denim	Syd.	M2
226	Cheesecloth, batistes, lawns, or violes	Syd.	M2
227	Oxford cloth	Syd.	M2
229	Special purpose fabric	Lb.	Kg.
313	Sheeting	Syd.	M2
314	Poplin & broadcloth	Syd.	M2
315	Printcloth	Syd.	M2
317	Twills	Syd.	M2
326	Sateens	Syd.	M2.
410	Woven fabrics	Syd.	M2
414	Other wool fabrics	Lb.	Kg.
611	Woven fabrics containing 85% or more by weight art. staple	Syd.	M2
613	Sheeting	Syd.	M2
614	Poplin & broadcloth	Syd.	M2
615	Printcloth	Syd.	M2
617	Twills & sateens	Syd.	M2
618	Woven cellulosic filament	Syd.	M2
619	Polyester filament fabric, less than 5oz. per Syd.	Syd.	M2
620	Other non-cellulosic filament fabric	Syd.	M2

Category	Description	Unit of Measure under the Iterim plan (TSUSA)	Unit of measure under HS
621	Impression fabric	Lb.	Kg.
622	Glass fiber fabric	Syd.	M2
624	Woven man-made fiber fabric, containing more than 15% but less than 36% wool.	Syd.	M2
Staple/Filament combinations:			
625	Poplin & broadcloth	Syd.	M2
626	Printcloth	Syd.	M2
627	Sheeting	Syd.	M2
628	Twills & sateens	Syd.	M2
629	Other	Syd.	M2
810	Woven fabric of silk blends or non-cotton vegetable fiber	Syd.	M2
Apparel:			
239	Infants' apparel	Lb.	Kg.
330	Handkerchiefs	Doz.	Doz.
331	Gloves and mittens	Dpr.	Dpr.
332	Hosiery	Dpr.	Dpr.
333	M&B suit-type coats	Doz.	Doz.
334	Other M&B coats	Doz.	Doz.
335	W&G coats	Doz.	Doz.
336	Dresses	Doz.	Doz.
337	Playsuits, sunsuits, etc.	Doz.	Doz.
338	M&B knit shirts	Doz.	Doz.
339	W&G knit shirts & blouses	Doz.	Doz.
340	M&B shirts, not knit	Doz.	Doz.
341	W&G shirts & blouses, not knit	Doz.	Doz.
342	Skirts	Doz.	Doz.
345	Sweaters	Doz.	Doz.
347	M&B trousers, slacks & shorts	Doz.	Doz.
348	W&G trousers, slacks & shorts	Doz.	Doz.
349	Brassieres & body supporting garments	Doz.	Doz.
350	Dressing gowns, etc.	Doz.	Doz.
351	Nightwear and pajamas	Doz.	Doz.
352	Underwear	Doz.	Doz.
353	M&B down-filled coats	Doz.	Doz.
354	W&G down-filled coats	Doz.	Doz.
359	Other cotton apparel	Lb.	Kg.
431	Gloves and mittens	Dpr.	Dpr.
432	Hosiery	Dpr.	Dpr.
433	M&B suit-type coats	Doz.	Doz.
434	Other M&B coats	Doz.	Doz.
435	W&G coats	Doz.	Doz.
436	Dresses	Doz.	Doz.
438	Knit shirts & blouses	Doz.	Doz.
439	Infants' apparel	(1).	Kg.
440	Shirts & blouses, not knit	Doz.	Doz.
442	Skirts	Doz.	Doz.
443	M&B suits	No.	No.
444	W&G suits	No.	No.
445	M&B sweaters	Doz.	Doz.
446	W&G sweaters	Doz.	Doz.
447	M&B trousers, slacks, and shorts	Doz.	Doz.
448	W&G trousers, slacks, and shorts	Doz.	Doz.
459	Other wool apparel	Lb.	Kg.
630	Hankerchiefs	Doz.	Doz.
631	Gloves and mittens	Dpr.	Dpr.
632	Hosiery	Dpr.	Dpr.
633	M&B suit-type coats	Doz.	Doz.
634	Other M&B coats	Doz.	Doz.
635	W&G coats	Doz.	Doz.
636	Dresses	Doz.	Doz.
637	Playsuits, sunsuits, etc.	Doz.	Doz.
638	M&B knit shirts	Doz.	Doz.
639	W&G knit shirts & blouses	Doz.	Doz.
640	M&B shirts, not knit	Doz.	Doz.
641	W&G shirts and blouses, not knit	Doz.	Doz.
642	Skirts	Doz.	Doz.
643	M&B suits	No.	No.
644	W&G suits	No.	No.
645	M&B sweaters	Doz.	Doz.

Category	Description	Unit of Measure under the Iterim plan (TSUSA)	Unit of measure under HS
646	W&G sweaters	Doz.	Doz.
647	M&B trousers, slacks and shorts	Doz.	Doz.
648	W&G trousers, slacks and shorts	Doz.	Doz.
649	Brassieres & body supporting garments	Doz.	Doz.
650	Dressing gown, etc	Doz.	Doz.
651	Nightwear and pajamas	Doz.	Doz.
652	Underwear	Doz.	Doz.
653	M&B down-filled coats	Doz.	Doz.
654	W&G down-filled coats	Doz.	Doz.
659	Other man-made fiber apparel	Lb.	Kg.
831	Gloves and mittens	Dpr.	Dpr.
832	Hosiery	Dpr.	Dpr.
833	M&B suit-type coats	Doz.	Doz.
834	Other M&B coats & jackets	Doz.	Doz.
835	W&G coats & jackets	Doz.	Doz.
836	Dresses	Doz.	Doz.
838	Knit shirts, blouses & tops	Doz.	Doz.
839	Infants' apparel	(1)	Kg.
840	Not knit shirts & blouses	Doz.	Doz.
842	Skirts	Doz.	Doz.
843	M&B suits	No.	No.
844	W&G suits	No.	No.
845	Sweaters of non-cotton vegetable fibers	Doz.	Doz.
846	Sweaters of silk	Doz.	Doz.
847	Trousers, slacks, & shorts	Doz.	Doz.
850	Robes & dressing gowns	Doz.	Doz.
851	Nightwear & pajamas	Doz.	Doz.
852	Underwear	Doz.	Doz.
858	Neckwear	Lb.	Kg.
859	Other apparel	Lb.	Kg.
Made-Up & Miscellaneous Textiles:			
360	Pillowcases	No.	No.
361	Sheets	No.	No.
362	Bedspreads & Quilts	No.	No.
363	Terry & other pile towels	No.	No.
369	Cotton manufactures, nspf	Lb.	Kg.
464	Blankets	Lb.	Kg.
465	Floor coverings	Sft.	M2
469	Wool manufactures nspf	Lb.	Kg.
665	Floor coverings	Sft.	M2
666	Other furnishings	Lb.	Kg.
669	Man-made fiber manufactures, nspf	Lb.	Kg.
670	Flatgoods, handbags, & luggage	Lb.	Kg.
863	Towels	No.	No.
870	Luggage	Lb.	Kg.
871	Handbags and Flatgoods	Lb.	Kg.
899	Other made-ups	Lb.	Kg.

[1] Category does not exist under interim plan.

Note: Under the interim plan, all categories with women's and girls' (W&G) include infants'.

[FR Doc. 87-28881 Filed 12-11-87; 3:45 pm]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of information collection.

SUMMARY: The Commodity futures Trading Commission has submitted information collection 3038-0013, "Hedging Exemptions", to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. The information collected is designed to assist the Commission in monitoring compliance with federal speculative position limits specified in Part 150 of the regulation under the Commodity Exchange Act.

ADDRESS: Persons wishing to comment on this information collection should contact Robert Neal, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503, (202) 395-7340. Copies of the submission are available from Joseph G. Salazar, Agency Clearance Officer, (202) 254-9735.

Title: Hedging Exemptions.

Control Number: 3038-0013.

Action: Extension.

Respondents: Businesses (excluding small businesses).

Estimated Annual Burden: 30 hours.

Estimated Number of Respondents: 10 (1 per year by 10 respondents).

Issued in Washington, DC on December 11, 1987.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-28874 Filed 12-15-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement

Reason for This Notice: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form and Applicable OMB Control Number: Prisoner of War (POW) Medal Application/Information; DD Form XXXX; No OMB Control Number.

Type of Request: New.

Annual Burden Hours: 3,380.

Annual Responses: 20,285.

Needs and Uses: The Prisoner of War (POW) Medal Application/Information may be used by former POWs or their next of kin to request issue of the POW Medal authorized by Pub. L. 99-145.

Affected Public: Former POWs or their next of kin.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Edward Springer at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone 202/746-0933.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 11, 1987.

[FR Doc. 87-28918 Filed 12-15-87; 8:45 am]

BILLING CODE 3810-01-M

Advisory Council on Dependents' Education; Meeting

AGENCY: Department of Defense Dependents Schools (DoDDS), Office of the Secretary of Defense, DOD.

ACTION: Notice of meeting.

SUMMARY: This notice set forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Dependents' Education. It also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act. Although the meeting is open to the public, because of space constraints, anyone wishing to attend the meeting should contact the DoDDS coordinator.

DATES: January 15, 1988, 9 a.m. to 4:30 p.m.; January 16, 1988, 9 a.m. to 4 p.m.

ADDRESS: January 15, 1988, Pentagon, Room 3E752, Washington, DC; January 16, 1988, Embassy Suites Hotel Conference Facility, 1300 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mrs. Kay Templeton Garvey, Public Affairs Officer, DODDS, 2461 Eisenhower Avenue, Alexandria, Virginia 22331-1100 (202/325-0867).

SUPPLEMENTARY INFORMATION: The Advisory Council on Dependents' Education is established under title XIV, section 1411, of Public Law 95-561, Defense Dependents' Education Act of 1978, as amended by title XII, section 1204(b)(3)(-(5), of Pub. L. 99-145, Department of Defense Authorization Act of 1986 (20 U.S.C., chapter 25A, section 929, Advisory Council on Dependents' Education). The Council is co-chaired by designees of the Secretary of Defense and the Secretary of Education. In addition to a representative of each of the Secretaries, 12 members are appointed jointly by the Secretaries. Members include representatives of educational institutions and agencies, professional employee organizations, unified military commands, school administrators, paretnts of DoDDS students, and one DoDDS student. The Director, DoDDS, serves as the Executive Secretary of the Council. The purpse of the Council is to advise the Secretary of Defense and the DoDDS Director about effective educational programs and practices that should be considered by DoDDS and to perform other tasks as may be required by the Secretary of Defense. The agenda includes an overview of the DoDDS budget process and responses to the recommendations made by the Council in its August meeting.

Linda M. Bynum,

Alterate OSD Federal Register Liaison Officer, Department of Defense.

December 11, 1987.

[FR Doc. 87-28916 Filed 12-15-87; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement

AGENCY: Department of Defense.

ACTION: Public information collection requirement.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension—Reference Contact Letter; DIS FL 4

The Defense Investigative Service (DIS) is responsible for conducting personnel security investigations (PSIs) to determine an individual's suitability for a position of trust. This form is used to contact references not readily available for interview so that an appointment may be made to personally interview the reference to elicit information concerning the loyalty, character, and reliability of the person being investigated to determine his or her suitability for such a position. The increase in "responses" and "burden" hours are the consequence of an increased agency work force.

Individuals; Responses 27,506; Burden Hours 2,200.

OMB Desk Officer: Mr. Edward Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Edward Springer at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mrs. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from Mrs. Pearl Rascoe-Harrison at WHS/DIOR, 1215 Jefferson Davis Highway, Suite

1204, Arlington, Virginia 22202–4302, telephone 202/746–0933.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 11, 1987.

[FR Doc. 87–28917 Filed 12–15–87; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 7 and 8 January 1988.

Time: 0800–1600 hours, each day.

Place: University of Idaho; Moscow, Idaho.

Agenda: The Army Science Board's Ad Hoc Subgroup on Water Supply and Management on Western Installations will meet for the purpose of writing the final draft of the report. This meeting is open to the public. Any person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sandra F. Gearhart,

Acting Administrative Officer, Army Science Board.

[FR Doc. 87–28834 Filed 12–15–87; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 6 and 7 January 1988.

Time: 0100–1600 hours, both days.

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board's Ad Hoc Subgroup on Competition in Contracting will meet to gather facts for the study. This meeting is open to the public. Any person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sandra F. Gearhart,

Acting Administrative Officer, Army Science Board.

[FR Doc. 87–28835 Filed 12–15–87; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Availability of Roof Blister Pressure Relief Valve for Exclusive Licensing

In accordance with 37 CFR 404.7 announcement is made of the availability of a roof blister pressure relief valve for exclusive licensing. Inventors at the U.S. Army Cold Regions Research and Engineering Laboratory (USACRREL) have applied for a patent on a new roof blister pressure relief valve. The rights to the valve belong to the United States Government.

This new valve is used to relieve the internal pressure of roofing blisters, thereby preventing blister growth. It consists of a hollow threaded shaft covered by a membrane permeable to air but impermeable to water. Other than to set up mass production, no additional research and development is needed to begin manufacturing the device.

Under the authority of section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and section 207 of title 35, United States Code, the Department of the Army as represented by USACRREL wishes to exclusively license rights to the roof blister pressure valve to a party interested in manufacturing and selling the valve.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Korhonen, U.S. Army Cold Regions Research and Engineering Laboratory, 72 Lyme Road, Hanover, NH 03755–1290, (603) 646–4436.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 87–28836 Filed 12–15–87; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER88–51–000, et al.]

Electric Energy, Inc., et al.; Electric Rate and Corporate Regulation Filings

December 10, 1987.

Take notice that the following filings have been made with the Commission:

1. Electric Energy, Inc.

[Docket No. ER88–51–000]

Take notice that on December 7, 1987, Electric Energy, Inc. (EEInc.) tendered for filing, at the request of the Commission Staff, additional information with respect to the two agreements filed in this proceeding, Modification No. 12 between EEInc. and the United States Department of Energy (DOE) and the Power Supply Agreement between EEInc. and its four Sponsoring Companies, Central Illinois Public Service Company (CIPS), Illinois Power Company (IP), Kentucky Utilities Company (KU) and Union Electric Company (UE).

Copies of the filing were served on DOE, the four Sponsoring Companies and the Illinois Commerce Commission.

Comment date: December 21, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Appalachian Power Company

[Docket Nos. ER87–105–005 and ER87–106–006]

Take notice that on December 4, 1987, Appalachian Power Company (Appalachian) tendered for filing pursuant to Commission Order dated October 30, 1987, its required compliance filing. Appalachian states that its compliance filing sets forth the calculation of the amounts in excess of the Commission-approved settlement rate levels collected by Appalachian from Kingsport Power Company and its Sales-for-Resale customers, together with interest computed under § 35.19a of the Commission's regulations. According to Appalachian, refund checks in the appropriate amounts were mailed to its wholesale customers on November 20, 1987.

Appalachian further states that a copy of its compliance filing was either served upon or supplied to all parties of record, each of its affected wholesale customers, the Virginia State Corporation Commission, the Public Service Commission of West Virginia, and the Tennessee Public Service Commission.

Comment date: December 28, 1987, in accordance with Standard Paragraph E at the end of this document.

3. Niagara Mohawk Power Corporation

[Docket No. ER87–418–002]

Take notice that on December 4, 1987, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing pursuant to Commission Order dated November 4, 1987, a compliance filing with a superseding rate schedule sheet setting forth revised rates reflecting a

14.30% rate of return on common equity. The compliance rates are $2.02 per kW per month (firm) and $2.77 per mWh (interruptible). Niagara Mohawk states that it has also filed revised Statement AV, Schedule 1, Sheet 1 of 7, for Period II and revised Statement BK, Schedules 1, 2, and 3, for Period II reflecting a return of 14.30%.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: December 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Portland General Electric Company

[Docket No. ER88-129-000]

Take notice that on December 7, 1987, Portland General Electric Company (PGE) tendered for filing a Sales Agreement with the City of Santa Clara for the sale during a nineteen-month period beginning on October 1, 1987, of up to 379,920 MWh of firm energy surplus deliverable at rates not in excess of 40 MW per hour.

The contract rates for energy to be sold are based upon PGE's incremental cost production plus an additional amount for fixed charges (not exceeding fully distributed fixed charges) plus the costs of transmission.

PGE states the reason for the proposed Sales Agreement is to allow it to recover a portion of its fixed charges applicable to certain of its thermal generating resources during a short period of time when such thermal resources are not required for its system loads.

PGE requests an effective date of October 1, 1987 and therefore requests a waiver of the Commission's notice requirements.

Copies of the filing have been served upon the City of Santa Clara and the Oregon Public Utility Commission.

Comment date: December 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Tucson Electric Power Company

[Docket No. ER88-125-000]

Take notice that on December 7, 1987, Tucson Electric Power Company (Tucson) tendered for filing an Interconnection Agreement (the Agreement) between Tucson and the City of Azusa, California. The primary purpose of the Agreement is to establish the terms and conditions for the interconnection of the electrical systems of Tucson and the City of Azusa and the exchange of economy energy between the two systems. Tucson states that services may be provided under Section Schedule A to the Agreement entitled "Economy Energy Interchange."

Tucson requests an effective date of October 29, 1987, and therefore requests waiver of the Commission's notice requirements.

Tucson states that copies of the filing were served upon the City of Azusa.

Comment date: December 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Tucson Electric Power Company

[Docket No. ER88-126-000]

Take notice that on December 7, 1987, Tucson Electric Power Company (Tucson) tendered for filing an Interconnection Agreement (the Agreement) between Tucson and the City of Colton, California. The primary purpose of the Agreement is to establish the terms and conditions for the interconnection of the electrical systems of Tucson and the City of Colton and the exchange of economy energy between the two systems. Tucson states that services may be provided under Service Schedule A to the Agreement entitled "Economy Energy Interchange."

Tucson requests an effective date of October 29, 1987, and therefore requests waiver of the Commission's notice requirements.

Tucson states that copies of the filing were served upon the City of Colton.

Comment date: December 28, 1987, in accordance with Standard Paragraph E at the end of this document.

7. Tucson Electric Power Company

[Docket No. ER88-127-000]

Take notice that on December 7, 1987, Tucson Electric Power Company (Tucson) tendered for filing an Interconnection Agreement (the Agreement) between Tucson and the City of Banning, California. The primary purpose of the Agreement is to establish the terms and conditions for the interconnection of the electrical systems of Tucson and the City of Banning and the exchange of economy energy between the two systems. Tucson states that services may be provided under Service Schedule A to the Agreement entitled "Economy Energy Interchange."

Tucson requests an effective date of October 29, 1987, and therefore requests waiver of the Commission's notice requirements.

Tucson states that copies of the filing were served upon the City of Banning.

Comment date: December 28, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28897 Filed 12-15-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-53-000]

KN Energy, Inc.; Proposed Changes in FERC Gas Tariff

December 9, 1987.

Take notice that K N Energy, Inc. On December 3, 1987, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes will adjust K N's rates charged its jurisdictional customers pursuant to the Gas Research Institute charge adjustment provision (section 22) of K N's FERC Gas Tariff, Third Revised Volume No. 1. Such adjustment is to track the increased GRI rate set, effective January 1, 1988, per Opinion No. 283 issued on September 29, 1987. Copies of this filing were served upon the company's jurisdictional customers and interested public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before December 16, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28896 Filed 12-15-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-98-000]

Shell Western E&P Inc.; Petition for Declaratory Order Disclaiming Jurisdiction

December 10, 1987.

Take notice that on November 25, 1987, Shell Western E&P Inc. (Shell Western), P.O. Box 2463, Houston, Texas 77252-2463, filed in Docket No. CP88-98-000 a petition for an order disclaiming jurisdiction under Section 1(b) of the Natural Gas Act over certain natural gas gathering facilities currently owned by Southern Natural Gas Company (Southern) in the Lips Ranch Field in Hidalgo and Brooks Counties, Texas, if the Lips Ranch facilities are acquired by Shell Western to further a settlement agreement between Shell Western and Southern.

Shell Western states that it owns, with others, natural gas production facilities operated by Hilliard Oil and Gas Incorporated in the Lips Ranch Field, in Brooks and Hidalgo Counties, Texas. It is stated that natural gas produced from the Lips Ranch Field presently is sold to Southern at the wellhead. It is also stated that Southern then takes the gas through the Lips Ranch facilities to the pipeline of Florida Gas Transmission Company (FGT). It is further stated that in settlement of certain claims and alleged liabilities, Southern's right, title and interest in and to the Lips Ranch facilities, on the condition that the Commission issue a declaratory order that disclaims jurisdiction under the Natural Gas Act over the Lips Ranch facilities if they are owned and operated by Shell Western.

It is stated that the Lips Ranch facilities consist of a 10.76 mile gathering system consisting of a main pipeline 10¾ inches in diameter running from FGT's pipeline measurement station in Hidalgo County to the Barbara Lips No. C-1 Well pipeline pig launching station in Brooks County. In addition, it is stated that a 4½-inch line runs from the main field line 0.33 mile to the Barbara Lips No. 2 Well and a 4½-inch line runs from the main field line 1.34 miles to the Barbara Lips No. A-1 Well.

Shell Western states that upon acquisition of the Lips Ranch facilities, it plans to perform a gathering service for itself and other working interest owners in the Lips Ranch Field. Shell Western also states that gathering services on behalf of other working interest owners would be performed by Shell Western on a contract basis without taking title to the gas gathered. It is stated that compression, if any, would be limited to that required for the gas to enter the line from low pressure wells.

Any person desiring to be heard or to make any protest with reference to said petition should on or before December 31, 1987, file with the Federal Energy Regulatory Commission, Washington DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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 must file a motion to intervene. Copies of this filing are on file with the Commissions and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 87-28895 Filed 12-15-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-36151; FRL-3302-4]

Pesticide Registration Standard; Availability for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of draft Standard for comment.

SUMMARY: This notice announces the availability of a draft pesticide Registration Standard document for comment. The Agency has completed a review of the listed pesticide and is making available a document describing its regulatory conclusions and actions.

DATE: Written comments on the Registration Standard should be submitted on or before February 16, 1988.

ADDRESSES: Three copies of comments identified with the docket number listed with the Registration Standard should be submitted to: By mail: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, deliver comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment in response to 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 docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index 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: To request a copy of a Registration Standard, contact Frances Mann of the Information Services Section, in Rm. 236 at the address given above (703-557-3262). Requests should be submitted no later than January 15, 1988, to allow sufficient time for receipt before the close of the comment period.

For technical questions related to the Registration Standard, contact the Product Manager listed for that Standard, at the phone number given.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency conducts a systematic review of pesticides to determine whether they meet the criteria for continued registration under section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). That review culminates in the issuance of a Registration Standard, a document describing the Agency's regulatory conclusions and positions on the continued registrability of the pesticide. In accordance with 40 CFR 155.34(c), before issuing certain Registration Standards, the Agency makes the draft document available for public comment.

A draft Registration Standard for the following pesticide is now available:

Name of pesticide	Docket No.	Contact person
Chlorinated Isocyanurates.	2782-57-2	Jeff Kempter, Product Manager 32, 703-557-3964.

Copies of the Registration Standard may be obtained from the Agency at the address listed under **FOR FURTHER INFORMATION CONTACT.** Because of the length of the Standard and the limited number of copies available for distribution, only one copy can be provided by mail to any one individual or organization. The Registration

Standard is also available for inspection and copying in EPA Regional offices at the addresses listed below after January 15, 1988.

List of EPA Regional Offices

Pesticides and Toxic Substances Branch, EPA—Region I, JFK Federal Building, Boston, MA 02203, Contact person: Marvin Rosenstein
Pesticides and Toxic Substances Branch, EPA—Region II, Woodbridge Avenue, Edison, NJ 08837, Contact person: Ernest Regna
Toxics and Pesticides Branch, EPA—Region III, 6th and Walnut Sts., Philadelphia, PA 19106, Contact person: Larry Miller
Pesticides and Toxic Substances Branch, EPA—Region IV, 345 Courtland St., NE., Atlanta, GA 30365, Contact person: Acting Chief
Pesticides and Toxic Substances Branch, EPA—Region V, 230 South Dearborn St., Chicago, IL 60604, Contact person: Phyllis Reed
Pesticides and Toxic Substances Branch, EPA—Region VI, 1201 Elm St., Dallas, TX 75270, Contact person: Norman Dyer
Pesticides and Toxic Substances Branch, EPA—Region VII, 324 East 11th St., Kansas City, MO 64106, Contact person: Leo Alderman
Toxic Substances Branch, EPA—Region VIII, 1860 Lincoln St., Suite 900, Denver, CO 80295, Contact person: C. Alvin York
Pesticides and Toxics Branch, EPA—Region IX, 215 Fremont St., San Francisco, CA 94105, Contact person: Rich Vaille
Pesticides and Toxic Substances Branch, EPA—Region X, 1200 6th Ave., Seattle, WA 98101, Contact person: Anita Frankel

Dated: December 1, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 87-28613 Filed 12-15-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-300174; FRL-3301-6]

Filing of Petition To Revoke Food Additive Regulation for Ethylene Oxide; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing; Request for comments.

SUMMARY: This notice announces the filing of a petition requesting that the Agency revoke the food additive regulation in 21 CFR 193.200 for ethylene oxide (ETO) as a fumigant for controlling microorganisms and insect infestation in ground spices and other processed natural seasoning materials, and requests comments from interested and/or affected persons.

DATE: Written comment on this notice must be received on or before February 16, 1988.

ADDRESS: Written comments, identified by the document control number, [OPP-300174], should be submitted to: Information Services Branch, Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

Anita Schmidt, Review Manager, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 1006, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703)-557-0481.

SUPPLEMENTARY INFORMATION: EPA has received a petition from Mr. Russell N. Stein, 178 Decker Rd., Andover NJ 07821, requesting that it revoke the food additive regulation for ethylene oxide on ground spices and processed seasonings. Section 193.200 sets a maximum allowable limit of 50 parts per million (ppm) of ethylene oxide in ground spices and other processed natural seasoning materials. A tolerance of 50 ppm is also established for residues of ethylene oxide in the raw agricultural commodities whole spices, black walnut meats, and copra (40 CFR 180.151).

Mr. Stein contends that the "present use of ethylene oxide fumigation on food products is an 'unsafe' practice and therefore should not be allowed a tolerance" under the directive of the Delaney Clause in section 409(c)(3)(A) (21 U.S.C 348(c)(3)(A)) of the Federal Food, Drug, and Cosmetic Act. In support of his petition, Mr. Stein contends that "ethylene oxide is an animal carcinogen and is a suspected human carcinogen," citing the Fourth Annual Report on Carcinogens, Summary 1985, U.S. Department of Health and Human Services, Public Health Service, and the June 22, 1984 Occupational Safety and Health Administration's Final Standard for occupational exposure to ethylene oxide (49 FR 25734; June 22, 1984). Mr. Stein also contends that the use of ethylene oxide on food is growing rapidly.

Mr. Stein also has requested that the Agency waive the fees normally required with a pesticide petition, citing the public interest criteria of PR Notice 77-4, dated July 15, 1977. The Agency has granted the waiver of fees.

The Agency is requesting comments on the petition and is particularly interested in information in the following areas:

1. Current use information for ethylene oxide on spices and seasonings;
2. Use information on alternatives to ethylene oxide on spices and seasonings;
3. Potential human health effects resulting from the revocation of the ethylene oxide food additive regulation, including risks of alternative treatment methods;
4. Residue levels of ethylene oxide in treated spices and seasonings; and
5. Impact that revocation of the food additive regulation would have on the herb, spice, and other affected industries.

Dated: December 2, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-28510 Filed 12-15-87; 8:45 am]

BILLING CODE 6560-50-M

[PP 4G2988/T551; FRL-3301-5]

Renewal of Temporary Tolerances; American Cyanamid Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION Notice.

SUMMARY: EPA is amending the notice of renewed temporary tolerances for residues of the herbicide AC 222,293 resulting from application of the sulfate salts in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire June 3, 1988.

FOR FURTHER INFORMATION CONTACT: By mail:

Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1800.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 22, 1987 (52 FR 27575), EPA announced a renewal of temporary tolerances for the herbicide AC 222,293 [a mixture of *m*-toluic acid (6-(4-isopropyl-4-methyl-*s*-oxo-2-imidazolin-2-yl)methylester) and *p*-toluic acid (2-(4-isopropyl-4-methyl-5-oxo-2-

imidazolin-2-yl)methylester)] to the American Cyanamid Co., Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540, in connection with experimental use permit 241–EUP–109, for application in or on the raw agricultural commodities wheat, grain at 0.05 ppm and barley, grain at 0.5 ppm. This notice announces that the tolerance declaration is being amended to establish combined residues of AC 222,293 (ASSERT® herbicide [a mixture of methyl 2-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl)-*p*-toluate and methyl 6-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl)-*m*-toluate] and its acid metabolite, CL 263,840 [a mixture of 2-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl)-*m*-yl)-*p*-toluic acid] and 6-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl)-*m*-toluic acid] in or on the following raw agricultural commodities: wheat grain at 0.10 ppm, wheat straw at 2.00 ppm, barley grain at 0.10 ppm, barley straw at 2.00 ppm, and sunflower seed at 0.10 ppm.

Background information, data, and conditions of use were discussed in the **Federal Register** notice of July 22, 1987 (52 FR 27575).

Authority: 21 U.S.C. 346a(j).

Dated: December 2, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87–28511 Filed 12–15–87; 8:45 am]

BILLING CODE 6560–50–M

[PF–488; FRL–3301–4]

Pesticide Tolerance Petitions; Dennis Edwards et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petitions proposing the establishment of tolerances and/or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

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. 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 holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (TS–767C), Attention: Product Manager (PM) (named in the petition), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person, contact the PM named in each petition at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
Dennis Edwards (PM 12).	Rm. 202, CM #2, 703–557–2386.	EPA, 1921 Jefferson Davis Hwy., Arlington, VA 22202.
Lois Rossi (PM 21).	Rm. 227, CM #2, 703–557–1900.	Do.
Richard Mountfort (PM 23).	Rm. 237, CM #2, 703–557–1830.	Do.
Robert Taylor (PM 25).	Rm. 245, CM #2, 703–557–1800.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and/or food and feed additive (FAP) petitions as follows proposing the establishment and or amendment of tolerances or regulations for residues of certain pesticide chemicals in or on certain agricultural commodities.

Initial Filings

1. *PP 7F3558.* Mr. Bob McBrayer, 4350 E. Acampo St., Acampo, CA 95220, proposes amending 40 CFR Part 180 by establishing a regulation to exempt from the requirement of a tolerance the residues of the pesticide chemical sesame stalks in or on field crops vegetables, small fruits, nut trees, berries, deciduous fruits, citrus, grapes, and horticultural plants. (PM 21).

2. *PP 8F3573.* ICI Americas, Inc., Agricultural Products, Concord Pike & New Murphy Rd., Wilmington, DE 19897, proposes amending 40 CFR 180.411 by establishing a regulation to permit the residues of the herbicide [R]-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoic acid (fluazifop), both free and conjugated, and of [R]-butyl-2-[4-[[5-trifluoromethyl)-2-pyridinyl]oxy]phenoxy] propanoate (fluazifop-butyl), all expressed as fluazifop, in or on apples, grapes, pecans, and stone fruits at 0.03 ppm. The proposed analytical method for determining residues is nuclear magnetic resonance spectroscope. (PM 23).

3. *PP 8F3576.* Igene Biotechnology, Inc., 9110 Red Branch Rd., Columbia, MD 20145, proposes amending 40 CFR Part 180 by establishing a regulation for an exemption from the requirement of a tolerance for chitin-protein complex (poly-D-glucosamine) and urea. (PM 21).

4. *PP 8F3578.* Rhone-Poulenc Ag. Co., P.O. Box 12014, T.W. Alexander Drive, Research Triangle Park, NC 27709, proposes amending 40 CFR 180.407 by establishing a regulation for the insecticide thiodicarb (dimethy N,N-[thiobis[[(methylimino) carbonyl] oxy]]bis[ethanimidothioate]) and its metabolite methomyl (*S*-methy1 N-[(methylcarbamoyl)oxy]-thioacetimidate) in or on sweet corn forage at 40.0 ppm and peppers at 5.0 ppm. The proposed analytical method for determining residues is gas chromatography. (PM 12).

5. *PP 8F3579.* Ecogen, Inc., 2005 Cabot Blvd. West, Langhorne, PA 19047-1810, proposes amending 40 CFR Part 180 by establishing a regulation to exempt from the requirement of a tolerance the residues of the fungicide *Pseudomonas fluorescens* in or on cotton. (PM 21).

6. *FAP 8H5546.* Sandoz Crop Protection Corp., 341 East Ohio St., Chicago IL 60611, proposes amending 21 CFR 193.465 by establishing a regulation to permit the residues of the herbicide dicamba (3,6-dichloro-*o*-anisic acid) and its metabolite 3,6-dichloro-5-hydroxy-*o*-anisic acid in or on palm oil at 0.05 ppm. (PM 25).

7. *FAP 8H5547.* American Cyanamid Co., Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540, proposes amending 21 CFR Part 193 by establishing a regulation to exempt from the requirement of a tolerance the residues of the herbicide imazapyr (2-[4,5-dihydro-4-methyl-4-(1-methyl)-5-oxo-lH-imidazol-2-yl]-3-pyridinecarboxylic acid) in or on palm oil. (PM 25).

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

Dated: December 1, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87–28509 Filed 12–15–87; 8:45 am]

BILLING CODE 6560–50–M

[OPP-180749; FRL-33028]

Receipt of Applications for Specific Exemptions To Use Methyl 3-[[[[(4-Methoxy-6-Methyl-1,3,5-Triazin-2-YL) Amin]Carbonyl]Amino]Sulfonyl]-2-Thiophenecarboxylate; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Illinois Department of Agriculture, and the Virginia Department of Agriculture and Consumer Services (hereafter referred to individually by State or collectively as "Applicants") for use of the unregistered product Harmony to control wild garlic in wheat in Illinois, and wheat and barley in Virginia. Harmony, manufactured by E.I. duPont de Nemours and Company, contains the unregistered active ingredient methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amin]carbonyl]amino]sulfonyl]-2-thiophenecarboxylate. EPA is soliciting comment before making the decision whether or not to grant these specific exemption requests.

DATE: Comments must be received on or before December 31, 1987.

ADDRESS: Three copies of written comments, bearing the identifying notation "OPP-180749," should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for 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: By mail: Robert A. Forrest, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716C, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7889).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicants have requested the Administrator to issue specific exemptions to permit the use of the unregistered product, Harmony, to control wild garlic in wheat and barley. Information in accordance with 40 CFR Part 166 was submitted as part of these requests.

The Applicants have requested a maximum of one postemergence application of Harmony. Applications will be made between the two-leaf and boot stage of wheat and barley when wild garlic is 6 to 12 inches high. A maximum of 0.67 ounce of product is proposed to be applied per acre in Illinois and Virginia. A maximum of 900,000 acres of wheat is proposed to be treated in Illinois, and a maximum of 100,000 acres of wheat and barley in Virginia. If all of the acreage were treated, a maximum of 37,688 pounds of product would be needed in Illinois, and a maximum of 4,188 pounds of product would be needed in Virginia.

Applications are proposed to be made using either aerial or ground equipment. All applications are proposed to be made by or under the direct supervision of certified applicators. Illinois and Virginia have requested authorization to make treatments through April 1988.

The Applicants claim that emergency conditions exist due to the presence of wild garlic bulblets in harvested wheat and barley. Grain sold with garlic bulblets present is generally docked on a per-bulblet basis. The Applicants claim that the new regulations under the U.S. Grain Standards Act which lower by two-thirds the amounts of wild garlic allowable in marketed wheat and barley have contributed to the need for a better means of controlling garlic. If these new standards cannot be met, prices will be docked severely or the grain may be refused altogether. In either event, the economic consequences could be substantial if growers are unable to control wild garlic in wheat and barley.

The Applicants claim that the registered alternatives currently available do not provide a sufficient level of control of wild garlic. The Applicants claim that wheat and barley growers have traditionally used 2,4-D and dicamba to control this weed. Specifically, the Applicants claim that these pesticides only provide 20 to 75 percent control of wild garlic.

This notice does not constitute a decision by EPA on the application itself. It is the Agency's policy to solicit public comment on applications involving unregistered active ingredients. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above. The comments must be received on or before December 31, 1987 and should bear the identifying notation "OPP-180749." All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM# 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the Illinois Department of Agriculture, and the Virginia Department of Agriculture and Consumer Services.

Dated: November 25, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-28755 Filed 12-15-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. W-29]

Filing of FM Broadcast Applications

Release: December 8, 1987.

Notice is hereby given that applications for vacant FM broadcast allotment listed below may be submitted for filing during the period beginning December 8, 1987 and ending January 14, 1988 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

Channel—258 A

Hamburg—AR
Little Rock—AR
Eldora—IA
Ruston—LA
Pittsfield—ME

Republic—MO
ST James—MO
Ripley—OH
Mount Union—PA
Reynoldsville—PA
Scranton—PA
Bryan—TX
Emporia—VA
Point Pleasant—WV

Channel—257 A

Bakersfield—CA

Channel—244A

Plainville—KS

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 87-28849 Filed 12-15-87; 8:45 am]
BILLING CODE 6712-01-M

[Report No. 1696]

Petitions for Reconsideration and Applications for Review of Actions in Rulemaking Proceedings

December 8, 1987.

Petitions for reconsideration and applications for review have been filed in the Commission rule making proceeding listed in this Public notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202-857-3800). Oppositions to these petitions and applications must be filed. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Hinesville, Georgia) (RM-5657) Number of petitions received: 1

Ssubject: Use of Certain Generally Accepted Accounting Principles in Part 32 of the Commission's Rules. (RM-5835) Number of petitions received: 1

Subject: Amendment of § 73.606(b), Table of Assignments TV Broadcast Stations. (Ventura, California) (MM Docket No. 85-390) Number of petitions received: 2

Subject: Amendment of § 73.202(b), Table of Allotments FM Broadcast Stations. (Churubusco, Huntington, Roanoke, and South Whitley, Indiana) (MM Docket No. 86-359, RM's 5369, 5587, 5664 & 5665) Number of petitions received: 1

Subject: Amendment of § 73.606(b), Table of Allotments, TV Broadcast Stations. (Santa Barbara, Ventura, And Bakersfield, California; Streator and Galesburg, Illinois. (MM Docket No. 85-251) Number of applications received: 2

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 87-28850 Filed 12-15-87; 8:45 am]
BILLING CODE 6712-01-M

Applications for Consolidated Proceeding; Dianne E. Ellis et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MMDocket No.
A. Dianne E. Ellis	Linden, Alabama	BPH-860703MK	87-539
B. Terry C. King	Linden, Alabama	BPH-860703ML	
C. Linden Radio Joint Venture	Linden, Alabama	BPH-860707NE	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. Comparative	All.
2. Ultimate	All.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplication contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857-3800).

W. Jan Cay,
Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-28842 Filed 12-15-87; 8:45 am]
BILLING CODE 6712-01-M

Applications for Consolidated Hearing; Gainesville Broadcasters et al.

1. The Commission has before it the following mutually exclusive applications for a new AM station:

Applicant	City/State	File No.	MM Docket No.
A. Gainesville Broadcasters	Gainesville, Fl	BP-861030AI	87-536
B. Matthew Provenzano	Gainesville, Fl	BP-87030AD	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. Air Hazard	B.
2. Comparative	Both applicants.
3. Ultimate	Both applicants.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–28843 Filed 12–15–87; 8:45 am]

BILLING CODE 6712-01-M

Information Collection Requirement Approval by Office of Management and Budget

December 7, 1987.

The following information collection requirements have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). For further information contact Terry Johnson, Federal Communications Commission, telephone (202) 632–7513.

OMB No.: 3060–0029.

Title: Application for New Broadcast Station License.

Form No.: FCC 302.

A revised application form FCC 302 has been approved for use through 9/30/90. The December 1984 edition with a previous expiration of 9/30/87 will remain in use until revised forms are available.

OMB No.: 3060–0034.

Title: Application for Construction Permit for Noncommercial Educational Broadcast Station.

Form No.: FCC 340.

A revised application form FCC 340 has been approved for use through 9/30/90. The May 1985 edition with a previous expiration of 9/30/87 will remain in use until updated forms are available.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87–28871 Filed 12–15–87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Proceeding

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Hameed Ahmad; Juneau, Alaska.	BPH–840319CG	87–540
B. Golden Bear Communications General Partnership; Juneau, Alaska.	BPH–840907IA	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Financial Qualifications, B
2. Environmental Impact, A, B
3. Air Hazard, B
4. Comparative, A, B
5. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–28872 Filed 12–15–87; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Owen D. Woodward & J. David Bullion d/b/a Breckenridge Broadcasting Company; Stephenville, Texas.	BPH–850711PS	87–541
B. Michelle Anderton; Stephenville, Texas.	BPH–850712S3	.....
C. Cross Timbers Broadcasters, a limited partnership; Stephenville, Texas.	BPH–850712S4	.....

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and applicant(s)

1. Air Hazard, C
2. Comparative, A,B,C
3. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–28873 Filed 12–15–87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Training and Fire Programs Directorate; Board of Visitors for the National Fire Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name: Board of Visitors (BOV) for the National Fire Academy (NFA).

Dates of Meeting: January 25–26, 1988.

Place: National Emergency Training Center, G Bldg., 2nd Floor Conference Room, Emmitsburg, Maryland 21727

Time:

January 25—8:30 a.m. to 5:00 p.m.
January 26—8:30 a.m. to agenda completion

Proposed Agenda: Old Business; New Business; Preparation of Annual Report

The meeting will be open to the public with seating available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, Training and Fire Programs Directorate, 16825 South Seton Avenue, Emmitsburg, Maryland, 21727 (telephone number, 301–447–1123) on or before January 15, 1988.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Associate Director's Office, Training and Fire Programs Directorate, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, MD, 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: December 3, 1987.

Caesar A. Roy,

Deputy Associate Director, Training and Fire Programs.

[FR Doc. 87–28852 Filed 12–15–87; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–009831–007.

Title: New Zealand/U.S. Atlantic and Gulf Shipping Lines Rate Agreement.

Parties:

PACE Line
Columbus Line

Synopsis: The proposed amendment would add authority to serve inland and coastal points in the United States, Puerto Rico and the Virgin Islands via U.S. Atlantic, Gulf, Puerto Rican and Virgin Island agreement ports. The parties have requested a shortened review period.

Agreement No.: 202–010676–028.

Title: South Europe/U.S.A. Freight Conference.

Parties:

Achille Lauro, C.I.A.
Venezolana de Navegacion
Compania Trasatlantica Espanola, S.A.
Costa Container Lines, S.p.A.
Evergreen Marine Corporation (Taiwan) Ltd.
Farrell Lines, Inc.
Italia di Navigazione S.p.A.
Jugolinija
Jugooceanija
Lykes Lines
A. P. Moller-Maersk Line
Nedlloyd Lines
Sea-Land Service, Inc.
Trans Freight Lines
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would suspend the operation of the Spanish Olive Section from January 18, 1988, through December 31, 1988.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: December 11, 1987.

[FR Doc. 87–28801 Filed 12–15–87; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200075.

Title: Long Beach Preferential Assisgnment Agreement.

Parties:

The City of Long Beach (City)
Koch Carbon, Inc. (Lessee)

Synopsis: The proposed agreement authorizes the lease and a non-exclusive preferential assignment of property located on Pier A in the Harbor District of the City of Long Beach. The term of the lease shall be for a period of five (5) years with seven (7) five-year renewal options.

Agreement No.: 224–200074.

Title:

Alabama State Docks Department Freight Handling Service Agreement

Parties:

Alabama State Docks Department
The Southern International Service Company, Inc. (SISCO)

Synopsis: The proposed agreement would grant SISCO authority to perform or have performed cargo and freight handling services at the Department's port facilities in Mobile, Alabama. The term of the agreement is for one year with automatic renewal for additional one-year terms.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: December 10, 1987.

[FR Doc. 87–28802 Filed 12–15–87; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bank of New England Corp. et al.; Applications To Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of

Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 6, 1988.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of New England Corporation,* Boston, Massachusetts; to engage *de novo* through its subsidiary, Conifer Life Insurance Company, Inc., Phoenix, Arizona, in underwriting, as reinsurer, credit life insurance and credit accident and health insurance directly related to extensions of credit by banking subsidiaries of Applicant pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. This activity will be conducted in the states of Massachusetts, Connecticut, Maine, Rhode Island, New Hampshire, and Vermont.

B. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mount Sterling National Holding Company,* Mount Sterling, Kentucky; to engage *de novo* through its subsidiary, Independence Financial, Inc., Mount Sterling, Kentucky, in the issuance and sale at retail of money orders and similar consumer-type payment instruments having a face-value of not more than $1,000 pursuant to § 225.25(b)(12) of the Board's Regulation Y. This activity will be conducted in the Commonwealth of Kentucky.

Board of Governors of the Federal Reserve System, December 10, 1987.

James McAfee,

Associated Secretary of the Board.

[FR Doc. 87-28804 Filed 12-15-87; 8:45 am]

BILLING CODE 6210-01-M

The Hong Kong and Shanghai Banking Corp.; Proposal To Engage in Certain Foreign Exchange Spot, Forward, Futures and Options Transactions

The Hong Kong and Shanghai Banking Corporation, Hong Kong; Kellett N.V., Curacao, Netherlands Antilles; HSBC Holdings B.V., Amsterdam, Netherlands; and Marine Midland Banks, Inc., Buffalo, New York (collectively "Applicants") have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permisison to engage *de novo* through their indirect subisdiary, Carroll McEntee & McGinley Incorporated, New York, New York ("Company"), in the activities of trading as a principal in certain foreign exchange spot, forward, futures, and options transactions.

These activities would involve the trading of foreign currency futures, options and options on futures, and spot and forward currency transactions outside the hours when the foreign currency futures and options markets are open. The futures and options transactions would be executed through CM&M Futures, Inc., an affiliated futures commission merchant, on the Philadelphia Stock Exchange and the International Monetary Market of the Chicago Mercantile Exchange, and the spot and forward trades would generally be executed through Applicants' indirect subsidiary, Marine Midland Bank, N.A.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors,* 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 **Federal Register** 806 (1984).

The Board has previously approved the activity of trading in foreign exchange spot and forward contracts for the company's own account by specific order under Section 4(c)(8) of the BHC Act (*See European-American Bancorp.* 63 Federal Reserve Bulletin 595 (1977)).

The Board has not previously approved the activity of dealing in foreign exchange futures, options, or options on futures for the company's own account as a primary activity under section 4(c)(8) of the BHC Act. The Board has permitted hedging with certain of these instruments as an incidental activity for companies engaging in futures commission merchant activities pursuant to § 225.25(b)(18)(ii) of Regulation Y (12 CFR 225.25(b)(18)(ii)).

Applicants state that the proposed activities are so closely related to banking or controlling banks as to be a proper incident thereto on the basis of their belief that banks engage in activites that are functionally and operationally similar to those involved in the application, including the purchase and sale of foreign currency for their own account.

In determining whether a particular activity is a proper incident to banking, the Board considers whether the performance of the activity by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. Applicants maintain that permitting bank holding companies to engage in the proposed activities would be procompetitive and would enable holding companies to provide greater convenience and increased services to customers. Applicants believe that the proposal will provide Company with a valuable risk management and market intelligence gathering tool and additional flexibility in its activities, thereby increasing its efficiency and financial strength. In addition, Applicants believe the proposal would not result in adverse effects.

Applicants state that the proposed foriegn exchange activity would be conducted at all times in accordance with the statement of policy concerning bank holding companies engaging in futures, forwards and options contracts on U.S. government and agency securities and money market

instruments adopted pursuant to § 225.142 of the Board's Regulation Y (12 CFR 225.142).

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the BHC Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the applcation and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Comments are requested on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether the proposal as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on these questions must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically and 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.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than January 14, 1988.

Board of Governors of the Federal Reserve System, December 10, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-28803 Filed 12-15-87; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 31, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *David E. Rainbolt,* Oklahoma City, Oklahoma, to acquire 25 percent; and Leslie J. Rainbolt Troszak, Oklahoma City, Oklahoma, to acquire 25 percent of the voting shares of First American Bancorporation, Inc., Stonewall, Oklahoma, and thereby indirectly acquire First American Bank, Stonewall, Oklahoma.

Board of Governors of the Federal Reserve System, December 10, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-28805 Filed 12-15-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Grants Administration; Debarment; Stephen E. Breuning

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice of debarment.

SUMMARY: This notice announces the debarment of Stephen E. Breuning, Ph.D. from eligibility for direct or indirect financial assistance under any discretionary program awarded or administered by the Department of Health and Human Services.

DATES: The debarment became effective August 26, 1987 and ends ten years from that date.

FOR FURTHER INFORMATION CONTACT: Wright Williamson, Policy Officer of Ethics and Science, Alcohol, Drug Abuse and Mental Health Administration, Public Health Service, 5600 Fishers Lane, Parklawn Building, Room 9-95, Rockville, Maryland 20857. Telephone: (301) 4432-4673.

SUPPLEMENTARY INFORMATION: Pursuant to 45 CFR Part 76, Stephen E. Breuning, Ph.D., Polk Center, Route 62, Polk, Pennsylvania 16342 has been debarred from receiving or applying for, directly or indirectly, any form of financial assistance under any discretionary program awarded or administered by the Department of Health and Human Services. The debarment applies to assistance provided through grants, cooperative agreements, fellowships, traineeships, loans, loan guarantees, and interests subsidies, as well as contracts, subcontracts, and subgrants supported by such assistance. It also debars Dr. Breuning from service or participation in the conduct or performance of an assisted project. The debarment become effective on August 26, 1987. After ten years from that date, Dr. Breuning may again apply to the Department of Health and Human Services for receipt of financial assistance.

This debarment action is based upon findings of an investigation conducted by the National Institute of Mental Health which concluded that Dr. Breuning "knowingly, willfully, and repeatedly engaged in misleading and deceptive practices in reporting results of research supported by or citing Public Health Service grants MH 32206 and MH 37449."

Specifically, the instances of misleading and deceptive practices set forth in the investigative report reflect a lack of integrity and honesty that is so compelling as to seriously and directly affect Dr. Breuning's present qualification to participate in HHS sponsored assistance. These findings clearly demonstrate the existence of the causes of debarment under 45 CFR 76.10 (d), (e), and (g).

Dated: December 8, 1987.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

[FR Doc. 87-28902 Filed 12-15-87; 8:45 am]

BILLING CODE 4150-04-M

Grants Administration; Debarment; Charles J. Glueck

AGENCY: Department of Health and Human Services (HHS).

ACTION: Notice of suspension.

SUMMARY: This notice announces the suspension of Charles J. Glueck, M.D. from eligibility for direct or indirect financial assistance under any discretionary program awarded or administered by the Department of Health and Human Services.

DATES: The suspension became effective October 15, 1987 and is for a temporary period pending the completion of debarment proceedings.

FOR FURTHER INFORMATION CONTACT: Robert B. Lanman, Esq., Chief, National Institutes of Health Branch, Public Health Division, Office of General Counsel, 9000 Rockville Pike, Building 31, Room 2B–50, Bethesda, Maryland 20892. Telephone: (301) 496–4108.

SUPPLEMENTARY INFORMATION: Pursuant to 45 CFR Part 76, Charles J. Glueck, M.D., Director, The Cholesterol Center, The Jewish Hospital of Cincinnati, Inc., 3200 Burnet Avenue, Cincinnati, Ohio 45229, has been suspended from receiving or applying for, directly or indirectly, any form of financial assistance under any discretionary program awarded or administered by the Department of Health and Human Services. It also suspends Dr. Glueck from service or participation in the conduct or performance of an assisted project. The suspension became effective on October 15, 1987 and is for a temporary period pending the completion of debarment proceedings. This action is being taken pursuant to the HHS Financial Assistance Debarment and Suspension Regulations pertaining to grants and other forms of financial assistance, 45 Code of Federal Regulations, Part 76.

The basic for the suspension action is that there is reasonable evidence Dr. Glueck has committed irregularities of a serious nature which would be grounds for debarment under 45 CFR 76.10. In published papers, he misrepresented both the design and findings of a study supported by the National Institutes of Health. In conducting the study and reporting the results, he reached conclusions on the basis of his memory of the data, misrepresented data and otherwise seriously deviated from acceptable research practices. The seriousness of this misconduct was magnified by the fact that the conclusions of the paper could influence the course of treatment for children with elevated cholesterol levels.

Dated: December 8, 1987.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

[FR Doc. 87–28900 Filed 12–15–87; 8:45 am]

BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 77F–0304]

Glyptal Co.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal without prejedice to a future filing of a petition proposing that the food additive regulations concerning catalysts and cross-linking agents for epoxy resins be amended to include the morpholine salt of para-toluene sulfonic acid as a catalyst for epoxy resins.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administraion, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 7, 1977 (42 FR 54623), FDA published a notice that it had filed a petition (FAP 6B3237) from General Electric Co., 305 Eastern Ave., Chelsea, MA 02150, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) be amended by including the morpholine salt of para-toluene sulfonic acid as a catalyst for epoxy resins. This division of General Electric Co. was subsequently sold to Glyptal Co., Chelsea, MA, and Glyptal has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: December 7, 1987.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87–28823 Filed 12–15–87; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Program Announcement for Grants for Two-Year Programs of Schools of Medicine or Osteopathy

The Health Resources and Services Administration announces that applications for Fiscal Year 1988 Grants for Two-Year Programs of schools of Medicine or Osteopathy are now being accepted under the authority of section 788(a) of the Public Health Service Act, as amended by Pub. L. 99–129.

Section 788(a) authorizes the award of grants to maintain and improve schools which provide the first or last two years of education leading to the degree of doctor of medicine or osteopathy. Grants provided under this authority to schools that were in existence on September 30, 1985, may be used for construction and purchase of equipment.

To be eligible for a grant under this authority, the applicant must be a public or nonprofit, private school providing the first or last two years of education leading to the degree of doctor of medicine or osteopathy and be accredited or be operated jointly with a school that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

The review of applications will take into consideration the following criteria:

1. The extent to which the project meets the intent of section 788(a) legislation;

2. The administrative and management ability to the applicant to carry out grant-supported objectives in a cost effective manner;

3. The adequacy of the qualifications and experience of the staff and faculty; and

4. The relative effectiveness of the proposed project in improving the quality of and/or access to medical education.

5. The extent to which the project is effective in its recruitment and retention of minority and disadvantaged students.

The Administration's budget request for Fiscal Year 1988 does not include funding for this program. This notice regarding applications does not reflect any change in this policy. However, should funds become available unexpectedly for this purpose, this contingency action will assure that grants can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year.

Application materials will be sent only upon request. Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D31), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6880.

To receive consideration applications must meet the deadline of January 8, 1988, which means they must be either:

(1) *received* on or before the deadline date, or

(2) *postmarked* on or before the deadline date, and received in time for submission to the independent review group.

A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Should additional programmatic information be required, please contact: Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building,

Room 4C–16, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6817.

The standard application and general instructions Form PHS 6025–1 HRSA Competing Training Grant Application and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

This program is listed at 13.149 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement that request construction assistance are subject to intergovernmental review under provisions of Executive Order 12372, as supplemented by 42 CFR Part 100, Intergovernmental Review of Federal Programs. Applications submitted for program support only are not subject to intergovernmental review under these provisions.

Dated: November 5, 1987.

David N. Sundwall, M.D.

Administrator, Assistant Surgeon General.

[FR Doc. 87–28822 Filed 12–15–87; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Office of Disease Prevention and Health Promotion; Public Hearings (7)

AGENCY: Office of the Assistant Secretary for Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) and the Office of the Assistant Secretary for Health are announcing a series of public hearings for purposes of receiving testimony relative to the establishment of national health objectives for the Year 2000. Each of seven scheduled hearings will be a day and a half in length and will provide an opportunity for individuals to present oral testimony of up to ten minutes duration. The purpose of the testimony is to guide the drafting of health objectives within special areas of concern. The 1990 Objectives for the Nation were previously drafted by expert working groups in 1979 and have served as national targets for improved health in fifteen priority areas since 1980 (see *Promoting Health/Preventing Disease—Objectives for the Nation,* or *The 1990 Health Objectives for the Nation: A Midcourse Review).*

Regional sites were selected for the hearings so as to maximize the opportunity for individual, regional and local perspectives to be presented.

Date, Place and Principal Local Sponsor for Hearings

January 14–15, 1988, Birmingham, Alabama, University of Alabama School of Public Health

January 22–23, 1988, Los Angeles, California, University of California Los Angeles School of Public Health

January 27–28 1988, Houston, Texas, Southwest Center for Prevention Research and Texas Department of Health

February 5–6, 1988, Seattle, Washington, University of Washington School of Public Health and Community Medicine

February 18–19 1988, Denver, Colorado, University of Colorado Health Sciences Center

March 3–4, 1988, Detroit, Michigan, Wayne State Unviersity School of Medicine

March 10–11, 1988, New York, New York, National Center for Health Education

FOR FURTHER INFORMATION CONTACT: Written requests to participate in the hearing process by providing written and/or oral testimony should be sent to: Dr. Michael Stoto, Project Director, Year 2000 Health Objectives, Institute of Medicine, 2101 Constitution Avenue, Washington, DC 20418. Persons desiring additional information regarding conduct of the hearings, suggested approaches, priority areas for testimony, etc. should contact Dr. Stoto at (202) 334–3935.

Agenda: Open Public Hearings (dates listed above).

The PHS previously identified fifteen priority areas around which 226 quantified, time-limited national health objectives for 1990 were established. These hearings will solicit testimony on priority areas of concern for developing a successor set of national health objectives for the 1990s. Copies of a "blueprint" suggestive of topic areas for which individuals may wish to present testimony are available from the contact person listed above.

Since the time available within any hearing schedule is limited and since it is desirable that a wide range of relevant topics be addressed at each hearing, decisions on selection of individuals to testify and scheduling of the testimony will be made by the Office of Disease Prevention and Health Promotion and the Institute of Medicine. Notification of decisions on requests to testify will be made by the contact person listed above. At each hearing, several open periods of testimony will be scheduled to supplement testimony from individuals selected in advance of the hearings to testify. Those wishing to testify in these open periods will be allowed five minute periods to testify based on order of sign-up at the time of the hearing. The presiding officer of the hearing panel will make these determinations, as well as others arising during the course of the hearings. Individuals who are selected to provide oral testimony are strongly encouraged to submit written testimony at the time of their oral presentation. Additionally, individuals not selected to provide oral testimony, or who desire to submit only written testimony, are encouraged to provide written testimony. Written testimony should be forwarded to the contact person listed above by March 31, 1988. Earlier submission is encouraged.

Individuals who provide written and/or oral testimony should consider in their testimony, areas of disease prevention and health promotion, whether diseases, conditions, risk factors, or population groups, wherein concerted actions by public or private programs, practitioners, or individuals, using available or anticipated technology and resources, that can contribute to improved health status by Year 2000. General areas of concern, desirable goals, organizational and technical approaches with potential for success, surveillance issues, etc. are all appropriate areas for testimony.

SUPPLEMENTARY INFORMATION: Specific locations and daily schedules for the hearings are not available at this time, but will be available by contacting the contact person listed above.

A list of hearing panel members will be available at the hearing.

J.M. McGinnis,

Deputy Assistant Secretary for Health, Director, Office of Disease Prevention and Health Promotion.

[FR. Doc. 87–28905 Filed 12–45–87; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-050-08-7122-14-X218; A-23079]

Temporary Closure of Selected Public Lands In La Paz County, AZ, and San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of selected public lands in La Paz County, Arizona, and San Bernardino County, California, during the operation of the 1988 SCORE Parker 400 Off-Road Vehicle Race.

SUMMARY: The District Managers of the Yuma District, the California Desert District, and the Phoenix District jointly announce the temporary closure of selected public lands under their respective administration. This action is being taken to provide for public safety and prevent unnecessary environmental degradation during the official permitted running of the 1988 SCORE Parker 400 off-road vehicle race.

DATES: January 28, 1988, through January 31, 1988.

FOR FURTHER INFORMATION CONTACT: Merv Boyd, Concession Management Specialist, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86403, 602–855–8017; Phil Damon, Outdoor Recreation Planner, Needles Resource Area, P.O. Box 888, Needles, California 92363, 619–326–3896; or Mike Feeney, Natural Resource Specialist, Lower Gila Resource Area, 2015 West Deer Valley Road, Phoenix, Arizona 85027, 602–863–6711.

SUPPLEMENTARY INFORMATION: Specific restrictions and closure periods are as follows:

California Loop

1. The entire course is closed to public vehicle use from 6 a.m., Thurday, January 28, 1988, to 6 p.m. Sunday, January 31, 1988 (PST).

2. Between noon, Friday, January 29, 1988, and 3 p.m., Saturday, January 30, 1988 (PST), vehicles are prohibited within 1 mile of either side of existing roads making up the California Loop of the officially approved course. Access routes leading to the course are also closed. All closed routes will be posted throughout the closure period.

3. Spectator viewing is limited to four designed spectator areas located at:

a. Start/Finish area (approximately 5 miles east of Vidal Junction off State Route 62).

b. Vidal Junction (approximately 2 miles north of Vidal Junction adjacent to U.S. Highway 95).

c. Rice (approximately 18 miles west of Vidal Junction off State Route 62).

d. Thunder Alley (approximately 25 miles west of Vidal Junction off Cadiz Road).

Vehicle travel or parking outside these designated locations is prohibited. All vehicles operated within these four locations shall be legally registered for street and highway operation.

4. The previously used spectator viewing area located adjacent to U.S. Highway 95, approximately 18 miles north of Vidal Junction, is open *only* to official pitting activity. No spectators will be allowed at this location.

5. Spectators and vehicle parking along U.S. Highway 95 is prohibited.

6. All vehicles operated within designated pit areas shall be legally registered for street and highway operation.

Arizona Loop

1. The portion of the course comprised of BLM roads and ways is closed to public vehicle use from 6 a.m., Thursday, January 28, 1988, to 6 p.m., Sunday, January 31, 1988 (MST).

2. Vehicles are prohibited from the following five Wilderness Study Areas:

a. AZ–050–12 (Gibraltar Mountain)
b. AZ–050–14A/B (Cactus Plain)
c. AZ–050–15A (Swansea)
d. AZ–050–17 (East Cactus Plain)
e. AZ–050–71 (Buckskin Mountains)

3. The entire area encompassed by the Arizona Loop and all areas within 1 mile outside the Arizona Loop are closed to vehicles unless otherwise posted. Access routes leading to the course are closed to vehicles. All closed routes will be posted throughout the closure period.

4. Spectator viewing is limited to two designated spectator areas located at:

a. Arizona Start/Finish area (along Shea Road east of Parker, Arizona).

b. Bouse Road (about 1½ miles north of Bouse, Arizona).

Camping is allowed only in the two designated spectator areas. Vehicle travel or parking outside these designated locations is prohibited. All vehicles operated within these two locations shall be legally registered for street and highway operation.

5. Spectators and vehicle parking along Bouse Road, Shea Road, and Swansea Road is prohibited except for the two designated spectator areas.

6. All vehicles operated within designated pit areas shall be legally registered for street and highway operation.

Signs and maps directing the public to the Arizona and California spectator areas will be provided by the Bureau of Land Management and the event sponsor.

The above restrictions do not apply to emergency vehicles and vehicles owned by the United States, the States of Arizona and California, or the Counties of La Paz and San Bernardino. Vehicles under permit for operation by event participants must follow the race permit stipulations. Operators of permitted vehicles shall maintain a maximum speed limit of 30 mph on all BLM roads and ways. This speed limit shall not apply to vehicles entered in the race during race day, Saturday, January 30, 1988.

Authority for closure of public lands is found in 43 CFR Part 8340, Subpart 8341; 43 CFR Part 8360, Subpart 8364.1, and 43 CFR Part 8372. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $1,000 and/or imprisoned for not more than 12 months.

J. Darwin Snell,
Yuma District Manager.
Date: November 8, 1987.
Gerald E. Hillier
California Desert District Manager.
Date: November 23, 1987.
Herman L. Kast
Acting Phoenix District Manager.
Date: December 8, 1987.

[FR Doc. 87–28815 Filed 12–15–87; 8:45 am]
BILLING CODE 4310–32–M

[AZ–010–08–4322–02]

Arizona Strip District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Arizona Strip District Grazing Advisory Board will meet Monday, January 11, 1988 at the Holiday Inn, 850 South Bluff Street in St. George, Utah. Primary topics are range improvement projects and the District's resource management plan, update on land exchanges, and monitoring assistance.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, Arizona Strip District, 390 North 3050 East, St. George, Utah 84770 (Ph. 801/673–3545).

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Any person may attend, file a written statement by mail or appear before the Board at 9 a.m.

G. William Lamb,
District Manager.
Dated: December 7, 1987.

[FR Doc. 87–28812 Filed 12–16–87; 8:45 am]
BILLING CODE 4310–32–M

[AZ–010–08–4410–02]

Arizona Strip District Advisory Council

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Arizona Strip District Advisory Council will meet at the Hilton Inn, 1450 South Hilton Drive in St. George, Utah to discuss issues

concerning the districtwide Resource Management Plan now being developed on 2.8 million acres of public lands.

DATES: Wednesday, January 13, 1988 from 8 a.m. until 4:30 p.m. and Thursday, January 14 from 8 a.m. until noon.

FOR FURTHER INFORMATION CONTACT: G. William Lamb, District Manager, 390 North 3050 East, St. George, Utah 84770 (Ph. 801/673-3545).

SUPPLEMENTARY INFORMATION: Other matters on the agenda are election of officers and updates on district programs, including land exchanges and wilderness management plans. The meeting is open to the public. Interested persons may make oral statements at 8 a.m. Thursday or file written statements for the Council's consideration.

G. William Lamb,

Arizona Strip District Manager.

Dated: December 7, 1987.

[FR Doc. 87-28813 Filed 12-15-87; 8:45 am]

BILLING CODE 4310-32-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48110-AU has been received covering the following lands:

Kateel River Meridian, Alaska

T. 21 S., R. 22 E.,
Sec. 21 SE¼SE¼.
(40 acres.)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from September 1, 1987, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48110-AU as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective September 1, 1987, subject to the terms and conditions cited above.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

Dated: December 8, 1987.

[FR Doc. 87-28809 Filed 12-15-87; 8:45 am]

BILLING CODE 4310-JA-M

[AZ-020-08-4212-12; A 20346-T]

Realty Action; Exchange of Public Lands, Pinal County, AZ

BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

The following described public lands are being considered for disposal by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridan, Arizona

T. 5 S., R. 12 E.,
Secs. 8, 9, 10, 11.
T. 7 S., R. 13 E.,
Sec. 27, SE¼SW¼, SW¼SE¼;
Sec. 34, N½NW¼, SW¼NW¼.
Containing 2,760 acres, more or less.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the public lands, as described in this Notice, from appropriation under the public land laws, and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Henri R. Bisson,

District Manager.

Date: November 3, 1987.

[FR Doc. 87-28814 Filed 12-15-87; 8:45 am]

BILLING CODE 4310-32-M

Minerals Management Service

[DES 87-37]

Pacific Outer Continental Shelf Region; Availability of the Draft Environmental Impact Statement and Locations and Dates of Public Hearings Regarding Proposed Lease Sale 91 in the Northern California Planning Area

The Minerals Management Service (MMS) has prepared a draft Environmental Impact Statement (EIS) relating to proposed 1989 Outer Continental Shelf (OCS) Oil and Gas Lease Sale 91 in the Northern California Planning Area. The proposed sale will offer for lease approximately 1.1 million acres. Single copies of the draft EIS can be obtained from the Minerals Management Service, Office of Leasing and Environment, 1340 West Sixth Street, Los Angeles, California 90017.

Copies of the final EIS are available for review at the following libraries: Corte Madera Library, 707 Meadowsweet Drive, Corte Madera, California; County of Humbolt, 636 F Street, Eureka, California; Documents Library Sonoma County, 3rd and E Streets Santa Rosa, California; Fairfax Library, 2097 Sir Francis Drake Boulevard, Fairfax, California; Healdburg Library, 221 Matheson Street, Healdsburg, California; John Steinbeck Library, 110 W. San Luis Street, Salinas, California; Long Beach Library and Information Center, 101 Pacific Avenue, Long Beach, California; Mendocino County Library, 353 N. Main Street, Ft. Bragg, California; Mendocino County Library, 105 N. Main Street, Ukiah, California; Mill Valley Public Library, 375 Throckmorton Avenue, Mill Valley, California; Monterey Public Library, 625 Pacific Street, Montery, California; Morro Bay Public Library, 410 Morro Bay Boulevard, Morro Bay, California; Novato Branch Library, 1720 Novato Boulevard, Novato, California; Pacific Grove Library, 550 Central Avenue, Pacific Grove, California; Pacific Public Library, Hilton at Palmetta, Pacifica, California; Petaluma Regional Library, 100 Fairgrounds Drive, Petaluma, California; Redwood City Library, 881 Jefferson Avenue, Redwood City, California; Richmond Public Library, Civic Center Plaza, Richmond, California; San Diego County Library, 5555 Overland Drive, San Diego, California; San Francisco Public Library, Civic Center, San Francisco, California; Santa Cruz Public Library, 224 Church Street, Santa Cruz, California; Santa Monica Pubic Library, 1343 6th Street, Santa Monica California; Sebastopol Public Library, 7140 Bodega Avenue, Sebastopol, California; and Stinson Library, 3470 Shoreline Highway, Stinson Beach, California.

In accordance with 30 CFR 256.26, public hearings pertaining to the draft EIS for proposed Sale 91 will be held at the following locations during the week of February 1-5, 1988:

Eureka, California Monday, February 1, 1988, from 9 a.m. to 8 p.m. or until all testimony has been heard, Red Lion Motor Inn, 1929 Fourth Street, Eureka, California.

Ft. Bragg, California Wednesday, February 3, 1988, from 9 a.m. to 8 p.m. or until all testimony has been heard.

Eagles Lodge, N. Corry Street, Ft. Bragg, California.

The purpose of the public hearings is to provide the Department of the Interior and the MMS with information from individuals, public and private groups, and Government Agencies to further evaluate the potential effects of the proposed lease sale. Pertinent testimony and comments will be addressed in the final EIS for Sale 91. Persons who wish to testify at these hearings are requested to sign in with the receptionist at the hearing.

Testimony will be received on a first-come-first-served basis, with all participants given a chance to testify for 10 minutes or less. Oral testimony may be supplemented by a written statement which, if submitted at a hearing, will be considered as part of the hearing record. Those unable to attend the hearing may submit written statements until the close of the comment period, February 12, 1988. Written statements will receive the same degree of consideration in the final EIS as oral testimony presented at the hearings. All commenters, including those submitting oral and written testimony, are asked to provide three printed copies of their testimony to the MMS at the address listed below. All comments concerning the draft EIS will be accepted through February 12, 1988, and should be addressed to: Regional Director, Minerals Management Service, Sale 91 EIS Comments, 1340 West Sixth Street, Los Angeles, California 90017.

Thomas A. Readinger

Acting Associate Director for Offshore Minerals Management.

Approved:

Bruce Blanchard Director,

Office of Environmental Project Review.

Date: December 10, 1987.

[FR Doc. 87-28808 Filed 12-15-87; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Development Operations Coordination; Chevron U.S.A. Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0420, Block 154, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on December 4, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: December 7, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-28811 Filed 12-15-87; 8:45 am]

BILLING CODE 4310-MR-W

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-242]

Certain Dynamic Random Access Memories, Components Thereof and Products Containing Same; Modification of Limited Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice is given that the Commission has modified the limited exclusion order issued on September 21, 1987, in the above-captioned investigation. Commission Action and Order, September 21, 1987, 52 FR 36640. As modified, the limited exclusion order prohibits the unlicensed importation of certain dynamic random access memories (DRAMs) of 64 and 256 kilobits, or any combinations thereof (such as DRAMs of 128 kilobits), manufactured abroad by Samsung Company, Ltd. and/or Samsung Semiconductor & Telecommunications Co., Ltd., or any of their affiliated companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns, whether assembled or unassembled, or incorporated into a carrier of any form, including Single-Inline-Packages and Single-Inline-Modules, or assembled onto circuit boards of any configuration. The order also prohibits the unlicensed importation of computers (such as mainframe, personal, and small business computers), facsimile equipment, telecommunications switching equipment, and printers manufactured by Samsung Company, Ltd. and/or Samsung Semiconductor & Telecommunications Co., Ltd., or any of their affiliated companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns, which contain infringing DRAMs of 64 or 256 kilobits (or any combinations thereof such as 128 kilobits) manufactured by Samsung Company, Ltd. and/or Samsung Semiconductor & Telecommunications Co., Ltd., or any of their affiliated companies, parents, subsidiaries, licensees, or other related business entities, or their successors or assigns.

Authority: The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 211.57 of the Commission's Rules of Practice and Procedure (19 CFR 211.57).

FOR FURTHER INFORMATION CONTACT: Judith M. Czako, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0359.

SUPPLEMENTARY INFORMATION: On September 21, 1987, the Commission determined to issue a limited exclusion order in the above captioned investigation. On November 24, 1987, pursuant to 19 U.S.C. 1337(g), the President disapproved the Commission's determination, for policy reasons. The Commission, on its own motion, determined to modify the original limited exclusion order. The Commission reconsidered the issues of the appropriate remedy, bonding, and the public interest in this investigation.

Notice of this investigation was published in the **Federal Register** of March 19, 1986 (51 FR 9537).

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, DC 20436, telephone 202–523–0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commisison's TDD terminal on 202–724–0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: December 10, 1987.

[FR Doc. 87–28907 Filed 12–15–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–264]

Certain Mail Extraction Desks and Components Thereof; Designation of Investigation as More Complicated

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination (ID) declaring the above-captioned investigation "more complicated" and extending the deadline for completion of the investigation by 6 months.

SUMMARY: Notice is hereby given that the Commission has determined not to review the presiding administrative law judge's (ALJ's) November 5, 1987, ID (Order No. 7) designating this investigation "more complicated" and extending the deadline for completion of the investigation by 6 months, i.e., until October 17, 1988.

FOR FURTHER INFORMATION CONTACT: Mitchell W. Dale, Esquire, Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1641.

SUPPLEMENTARY INFORMATION: The authority for the Commission's action in this matter is found in section 337(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(1)) and § 210.59 of the Commission's Rules of Practice and Procedure (19 CFR 210.59).

On November 5, 1987, the ALJ issued an ID (Order No. 7) designating this investigation "more complicated" and extending the deadline for completion of the investigation by 6 months. The ID was based on the involved nature of the subject matter of the investigation; the ALJ's need, because of the volume of other matters pending before her, for additional time in which to try the evidentiary hearing and issue an ID and the parties' need for additional time for discovery and trial preparation. No petitions for review or Government agency comments were received.

Although the Commission notes that it does not approve the ALJ's finding that it was proper for the parties to have suspended prehearing discovery pending its earlier review and reversal of an ID terminating the case (52 FR 41541 (Oct. 28, 1987)), the Commission nonetheless determines not to review the ALJ's extension of the deadline for completion of this investigation.

Copies of the ALJ's 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. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–724–002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: December 4, 1987.

[FR Doc. 87–28908 Filed 12–15–87; 8:45 am]

BILLING CODE 7020–02–M

Certain Minoxidil Powder, Salts and Compositions for Use in Hair Treatment; Commission Decision not to Review Initial Determination Terminating One Respondent on the Basis of a Settlement Agreement

[Investigation No. 337–TA–267]

AGENCY: U.S. International Trade Commission.

ACTION: Termination of respondent Mastey Distributors, Inc. on the basis of a settlement agreement.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) terminating Mastey Distributors, Inc. as a respondent in the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–3395.

SUPPLEMENTARY INFORMATION: On November 6, 1987, the presiding administrative law judge issued an ID (Order No. 33) granting the joint motion of complainant The Upjohn Company and respondent Mastey Distributors, Inc. to terminate the investigation with respect to Mastey Distributors, Inc. on the basis of a settlement agreement. No petitions for review of the ID and no government agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.53(h).

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.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: December 8, 1987.

[FR Doc. 87–28909 Filed 12–15–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–270]

Certain Noncontact Tonometers; Initial Determination Terminating Respondent on the Basis of Settlement 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 settlement agreement: P.A. Consulting Services, Ltd.

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 December 9, 1987.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436,

telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

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, DC 20436, no later that 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.

Kenneth R. Mason,

Secretary

Issued: December 9, 1987.

[FR Doc. 87–28910 Filed 12–15–87; 8:45 am]

BILLING CODE 7020-02-W

[Investigation No. 337–TA–263]

Certain Office Filing Cabinets; Commission Decision Not To Review an Initial Determination Terminating Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination (ID) terminating all respondents in the above-captioned investigation on the basis of a settlement agreement; termination of the investigation.

SUMMARY: The Commission has determined not to review an ID (Order No. 25) terminating respondents Tukaway Computer Cabinets, Inc., Desks, Inc., and Compania Internacional de Muebles de Acero from this investigation on the basis of a settlement agreement. Termination of these respondents terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0350.

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).

On September 24, 1987, complainants and all respondents filed a joint motion (Motion No. 263–21) to terminate the investigation on the basis of a settlement agreement. The Commission investigative attorney filed a public interest statement supporting the motion to terminate the investigation. On November 6, 1987, the presiding administrative law judge issued an ID granting the joint motion to terminate the investigation on the basis of the settlement agreement. No petitions for review or Government agency or public comments were received.

Copies of the nonconfidential version 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. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: December 7, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–28911 Filed 12–15–87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–269]

Certain Picture-in-a-Picture Video Add-on Products and Components Thereof; Commission Decisions to Review and Reverse an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement and to Terminate the Investigation with Prejudice on the Basis of Certain Stipulations

AGENCY: U.S. International Trade Commission.

ACTION: Review and reversal of an initial determination terminating the investigation on the basis of a settlement agreement, termination of the investigation with prejudice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review and reverse an initial determination (ID) (Order No. 11) terminating the above-captioned investigation on the basis of a settlement agreement, and instead to terminate the investigation with prejudice on the basis of stipulations.

FOR FURTHER INFORMATION CONTACT: Stephen A. McLaughlin, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone 202–523–0421.

SUPPLEMENTARY INFORMATION: On June 17, 1987, complainant MultiVision Products, Inc. (MultiVision) filed a complaint alleging that certain proposed respondents had engaged in unfair trade practices, including misappropriation of trade secrets and fraud, in the importation and sale of articles, the effect or tendency of which is to destroy or substantially injure an efficiently and economically operated domestic industry. The complaint contained omissions of certain material facts regarding the existence and definition of the domestic industry. Subsequently, on October 8, 1987, Multivision and respondents moved to terminate this investigation on the basis of a settlement agreement whereby the respondents agreed to pay Multivision a certain sum of money contingent upon termination with prejudice of the investigation and dismissal of a related state court proceeding.

On October 23, 1987, the IA and Multivision jointly moved for termination of the investigation with prejudice based on the following stipulations:

1. Multivision failed to include in its complaint certain material facts regarding the alleged domestic industry's actual or proposed foreign activities.

2. Multivision's acknowledgement of the omissions of material fact from the complaint does not constitute an admission that the omissions were intentional or grossly negligent.

(Motion Docket No. 269–17). Despite this joint motion by the IA and Multivision, the ALJ issued the subject ID terminating the investigation on the basis of the settlement agreement rather than on the basis of the stipulations. The ALJ stated that his determination was based on the failure to establish culpability on the part of Multivision.

On November 13, 1987, the Commission investigative attorney (IA) filed a petition for review of the ID. On November 19, 1987, the complainant filed an opposition to the IA's petition. No other petitions for review or agency or public comments were received.

The Commission has determined to review and reverse the ID terminating

the investigation on the basis of a settlement agreement, and instead to terminate the investigation with prejudice on the basis of stipulations. The above-quoted stipulations clearly indicate that both the IA and Multivision agreed to terminate the investigation with prejudice on the basis of the stipulations and not upon any finding of culpability on the part of Multivision. In order to preserve the integrity of the Commission's *ex parte* process for determining whether to institute section 337 investigations, complainants must not be permitted to make misstatements and/or omissions of material fact in their complaints and then obtain setttlement agreement termination of the investigation following disclosure of their misstatements and/or omissions.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.55 and 210.56.

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.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: December 9, 1987.

[FR Doc. 87–28912 Filed 12–15–87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–254]

Certain Small Aluminum Flashlights and Components Thereof; Extension of Administrative Deadline for Final Commission Determination

AGENCY: U.S. International Trade Commission.

ACTION: Extension of deadline for final Commission determination in the above-captioned investigation to Monday, January 25, 1988.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493. Hearing-impaired persons may contact the Commission's TDD terminal at 202–724–0002.

SUPPLEMENTARY INFORMATION: On October 1, 1987, the Commission determined to review an initial determination of no violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the above-captioned investigation on the issues of patent validity, patent enforceability, patent infringement, trademark infringement, and injury. 52 FR 37538 (Oct. 7, 1987). Because of the complexity of the issues raised, the Commission has determined to extend the administrative deadline for completion of its review and issuance of the Commission's final determination to January 25, 1988.

Copies of all 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.

Kenneth R. Mason,

Secretary.

Issued: December 9, 1987.

[FR Doc. 87–28913 Filed 12–15–87; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–3; Sub-No. 66]

Missouri Pacific Railroad Co.; Abandonment in Muskogee, Wagoner and Tulsa Counties, OK; Findings

The Commission has issued a certificate authorizing the Missouri Pacific Railroad Company to abandon its 46.1-mile line of railroad between milepost 100.2 at Muskogee and milepost 146.3 at Tulsa, in Muskogee, Wagoner, and Tulsa Counties, OK. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envolope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

Decided: December 9, 1987.

Noreta R. McGee,

Secretary.

[FR Doc. 87–28851 Filed 12–15–87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States v. Concord Electronics Corp.*, Civil Action No. 85–9664, was lodged with the United States District Court for the Southern District of New York on December 2, 1987. The Decree requires payment of a civil penalty of $26,000.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States v. Concord Electronics Corp.*, D.J. Ref. No. 90–5–1–1–12473.

The consent decree may be examined at the office of the United States Attorney, Southern District of New York, One St. Andrews Plaza, New York, New York 10007; at the Region II office of the Environmental Protection Agency, 27 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.70 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–28841 Filed 12–15–87; 8:45 am]

BILLING CODE 4410-01-M

[Civil Action No. S–87–0914 RAR/JFM]

Lodging of Consent Decree Pursuant to the Clean Air Act; Ultrapower Energy Resources, Inc., et al.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on November 24, 1987, a proposed consent decree in *United States of America v. Ultrapower 2, A*

General Partnership; Ultrapower Energy Resources, Inc.; and Pacific Energy Resources, Inc., Civil Action No. S–87–0914 RAR/JFM, was lodged with the United States District Court for the Eastern District of California. The complaint sought the imposition of injunctive relief and civil penalties under the Clean Air Act against the defendants for failure to obtain a Prevention of Significant Deterioration (PSD) permit prior to construction and operation of its Westwood, California facility.

The consent decree requires the defendants to pay a civil penalty of $54,000. EPA Region IX issued a PSD permit for this facility on November 20, 1986, and defendants are awaiting final action on the permit by the Administrator of EPA. Under the terms of the consent decree, if the PSD permit is modified, the United States retains the right to seek judicial enforcement of the modified permit as of the date of any modification, and such judicial action may include a request for both civil penalties and injunctive relief.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Ultrapower 2, A General Partnership; Ultrapower Energy Resources, Inc.; and Pacific Energy Resources, Inc.*, D.J. Ref. 90–5–2–1–1097.

The proposed consent decree may be examined at the office of the United States Attorney, 3305 Federal Building, 650 Capitol Mall, Sacramento, California 95814, or the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. Copies of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87–28837 Filed 12–15–87; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 86–87]

Robert L. Venman, M.D.; Denial of Application

On October 23, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert L. Venman, M.D., Porter Hospital, South Street, Middlebury, Vermont (Respondent) proposing to deny his application for a DEA Certificate of Registration dated July 3, 1986. The statutory basis for the Order to Show Cause was that Respondent's registration with the DEA would be inconsistent with the public interest as evidenced by his failure to keep complete and accurate records of the acquisition and dispensing of controlled substances, his acquisition of controlled substances by fraud and misrepresentation, and the material falsification of his application for registration.

Respondent, through counsel, requested a hearing by a letter dated November 20, 1986. The matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing filings, a hearing was held in Boston, Massachusetts on April 28, 1987. On September 3, 1987, Judge Bittner issued her opinion and recommended ruling, findings of fact, conclusion of law and decision. Government counsel filed exceptions to the Administrative Law Judge's opinion, and Respondent's counsel filed a response. On October 19, 1987, the Administrative Law Judge transmitted the entire record to the Administrator. The Administrator has considered the record in its entirety and pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon the findings of fact and conclusions of law as hereinafter set forth.

Respondent received his medical degree in 1965. Following his internship and surgical training he served as a surgeon in Vietnam for one year. During this time he used marijuana occasionally, took Valium, and drank beer, sometimes heavily. After leaving the Army, Respondent joined the staff of Porter Medical Center, a small general hospital in Middlebury, Vermont. Between 1973 and 1982 Respondent admitted to using codeine, alcohol, and occasionally smoking marijuana. He also indicated he may have begun using Percocet. Following a motocycle accident in 1982, Respondent increased his use of Percocet until, by 1986, Respondent was taking large doses of Percocet several times a day. Percocet is a Schedule II narcotic controlled substance.

In March 1984, a DEA Diversion Investigator conducted an investigation at the Porter Medical Center pharmacy in which he noted that four or five physicians had written 79 prescriptions for Schedule II controlled substances for office use. DEA order forms, not prescriptions, are required for such transactions. Respondent wrote eight of the 79 prescriptions. All were for Percocet. Civil complaints were filed against the hospital and some of the physicians, including the Respondent. On June 4, 1985, the United States District Court for the District of Vermont issued a consent decree which required Respondent to pay a $1,000 fine and enjoined him to maintain proper records with respect to the receipt and purchase of controlled substances.

After receiving information that Respondent was purchasing unusually large quantities of controlled substances, DEA and state investigators went to Respondent's office on May 22, 1986. Respondent produced his records as requested by investigators, conceding that they were not complete and accurate. Included in the records produced by Respondent were instances of dispensing of Percodan and Percocet to the family dog. In addition, after advising investigators that he had no controlled substances on hand, investigators discovered and inventoried quantities of Percocet, Tylenol #3, and Valium in a closet in Respondent's office. An audit of available records for the period April through December of 1985, revealed substantial shortages of Percodan, Prcocet, Tylenol #3, and Valium. These included an over 3,500 dosage unit shortage of Percodan and Percocet in the eight-month period.

On May 23, 1986, Respondent initially advised the investigators that he was taking four to eight Percodan or Percocet per day. He later indicated that it might be as high as 15 to 18 tablets a day. In response to a request from investigators, Respondent surrendered his DEA Certificate of Registration.

Respondent was admitted to the Ripley Program of the Brattleboro Retreat for treatment of substance abuse on June 3, 1986. He was discharged on July 1, 1986. On July 3, 1986, Respondent submitted an application for a DEA Certificate of Registration in Schedules II through V. Respondent indicated on that form that he had never surrendered a CSA registration. Respondent later stated that he thought he was applying for reinstatement of the registration he

surrendered on May 23, and that it was his understanding that the question only applied to some other previous registration.

On July 11, 1986, Respondent entered into a stipulation with the Vermont Board of Medical Practice which required the Respondent to comply with certain provisions including that he not possess or store controlled substances or dispense them from his office, that he would agree to random urine testing for two years and that he would obtain counselling and attend three Alcoholics and Narcotics Anonymous meetings per week for two years. Respondent's performance was to be reviewed by the Board after two years from July, 1986.

Respondent has been involved in several community activities regarding the areas of drug abuse since being released from the Battleboro Retreat.

The Administrative Law Judge recommended to the Administrator that Respondent be granted a registration subject to strict controls. The Administrator does not concur with the recommendation of the Administrative Law Judge. Base upon Respondent's historical lack of responsibility in handling controlled substances, and the extent of Respondent's abuse problem relative to his length of rehabilitation, the Administrator concludes that at this time Respondent's registration would be inconsistent with the public interest. After two years of successful completion of the requirements imposed by the Vermont State Board of Medical Practice, the Administrator will give serious consideration to granting Respondent a restricted DEA registration.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for a DEA Certificate of Registration executed by Respondent on July 3, 1986, and any other pending applications submitted by Respondent be, and they hereby are, denied. This order is effective December 16, 1987.

John C. Lawn,

Administrator.

Dated: December 10, 1987.

[FR Doc. 87-28875 Filed 12-15-87; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 87-54]

Robert F. Witek, D.D.S.; Suspension of Registration

On April 23, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert F. Witek, D.D.S., P.O. Box 175, Mt. Prospect, Illinois (Respondent). The Order to Show Cause sought to revoke Respondent's DEA Certificate of Registration AW5065570 due to the fact that the State of Illinois Department of Registration and Education suspended his dental license and controlled substance license on June 30, 1986.

Respondent, through counsel, requested a hearing by letter dated July 1, 1987. The matter was docketed before Administrative Law Judge Mary Ellen Bittner. In response to an order for prehearing statements, counsel for the agency filed a Motion for Summary Disposition on July 30, 1987. The motion was supported by copies of documents regarding the suspension of Respondent's dental and controlled substance licenses by the State of Illinois Department of Registration and Education. On September 21, 1987, Respondent's counsel filed a response to the agency's motion. This response asserted that (1) it was a denial of due process to require Respondent to file a prehearing statement and permit the Government to file a Motion for Summary Disposition; (2) the State of Illinois had not held a hearing or made a final determination regarding Respondent's state dental and controlled substance licenses, and thus the proceeding is premature; and (3) revocation or suspension of Respondent's DEA registration without a hearing would be a denial of due process. Respondent did not deny that his state dental and controlled substance licenses had been summarily suspended. Judge Bittner issued her opinion and recommended decision on October 5, 1987.

The Administrative Law Judge found that Respondent was not currently licensed to handle controlled substances in the State of Illinois. She further found that the Controlled Substances Act does not require that a state action be final or that a hearing be held before the state agency. The law only requires that a DEA Certificate of Registration may be suspended or revoked where the registrant's state license has been suspended.

The Administrative Law Judge further found that the Drug Enforcement Administration does not have the statutory authority under the Controlled Substances Act to maintain a Certificate of Registration for a practitioner unless the practitioner is authorized by the state in which he practices to dispense controlled substances. See 21 U.S.C. 802(21). The Administrator has consistently so held. See *Emerson Emery, M.D.*, Docket No. 85-46, 51 FR 9543 (1986); *Avner Kauffman, M.D.*, Docket No. 85-8, 50 FR 34208 (1985); *Agostino Carlucci, M.D.*, Docket No. 85-20, 49 FR 33184 (1984).

The Administrative Law Judge further concluded that in a case such as this, a Motion for Summary Disposition is properly entertained and must be granted. It is settled that when no fact question is involved, or when the facts are agreed, a plenary adversary administrative proceeding is not required, even though a pertinent statute prescribes a hearing. In such situations it can be concluded that Congress did not intend administrative agencies to perform meaningless tasks. *U.S.* v. *Consolidated Mines and Smelting Co., Ltd.*, 445 F.2d 432, 453 (9th Cir. 1971). See *NLRB* v. *Interntional Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977); *Alfred Tennyson Smurthwaite, N.D.*, Docket No. 77-29, 43 FR 11873 (1978); *Philip E. Kirk, M.D.*, Docket No. 82-36, 48 FR 32887 (1983), aff'd *sub nom Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984).

The Administrative Law Judge recommended that the Administrator suspend Respondent's DEA Certificate of Registration, that jurisdiction should be retained pending final action by the state licensing authorities, and that upon completion of the state proceedings, the Administrative Law Judge should take such action as is appropriate.

The Administrator adopts the opinion and recommended decision of the Administrative Law Judge in its entirety. The Administrator concludes that there is a lawful basis for the suspension of Respondent's DEA Certificate of Registration. The Administrator directs the Administrative Law Judge to retain jurisdiction of this matter, and upon completion of the state proceedings, to conduct further proceedings or make further recommendations as may be appropriate.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AW5065570 be, and it hereby is, suspended. The Administrator further orders that such registration shall remain suspended pending final action by the Illinois Department of Registration and Education regarding Respondent's authority to handle controlled substances. The suspension shall remain in effect as long as Respondent is not authorized to handle controlled

substances in the State of Illinois. This order is effective December 16, 1987.

Dated: December 10, 1987.

John C. Lawn,

Administrator.

[FR Doc. 87-28876 Filed 12-15-87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Proposed Performance Standards for Program Year (PY) 1988

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed revisions to the Secretary's Performance Standards; requests for comments.

SUMMARY: Section 106 of the Job Training Partnership Act (JTPA) requires the Secretary of Labor to prescribe performance standards for adult and youth training programs under Title II-A and dislocated worker programs under Title III. The Secretary may modify these performance standards no more than every two years, and such modifications cannot be retroactive. Based on new information obtained from participants after they leave JTPA programs, four additional postprogram performance standards are being proposed for the next two Program Years (PY) 88-89 (July 1, 1988-June 30, 1990). A new youth measure—the rate of youth employability enhancements—is proposed to replace the current youth entered employment rate. New numerical levels for the six existing standards for Title II-A are also proposed to reflect more recent JTPA program experience.

DATE: Written comments are invited from the public. Comments must be submitted on or before January 11, 1988.

ADDRESS: Comments should be addressed to the Assistant Secretary of Labor, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Karen Greene, Chief, Adult and Youth Standards Unit.

FOR FURTHER INFORMATION CONTACT: Karen Greene. Telephone (202) 535-0687.

SUPPLEMENTARY INFORMATION:

A. Purpose of Performance Standards

The Secretary of Labor (Secretary) issues performance standards pursuant to section 106 of the Job Training Partnership Act (JTPA) in order to determine whether the basic objectives of JTPA, increased earnings and employment and reduced welfare dependency, are being met. On the basis of the Secretary's performance standards, Governors must set standards for each of their service delivery areas (SDAs). Since JTPA's inception, the seven measures set by the Secretary have remained unchanged. For Program Years (PY) 88-89 (July 1, 1988-June 30, 1989), the Secretary is proposing to add four postprogram standards and to replace the youth entered employment rate with a new measure of youth employability enhancements. New numerical levels for the six current standards are also proposed. The proposed issuance, appended to this notice, consolidates into one document the implementation instructions for all eleven performance measures.

B. Authority to Issue Performance Standards

Section 106 of the Act directs the Secretary to establish performance standards for Title II-A adult and youth and Title III dislocated worker programs.

C. Public Comment and Participation

The Department of Labor (Department) is committed to a participatory process in the development of performance standards through the periodic convening of State, SDA, private industry council (PIC) representatives, and members of public interest groups to address performance standards issues. Four meetings were held between June and October 1987 to provide the Department with necessary field information critical to the development of these standards. This request for comment is another important part of that process.

The Secretary especially requests comments on the following issues:

Youth Employability Enhancements. Would the proposed standard, as measured on the proposed JASR, yield information that is objective and consistent across SDAs? Would the data be of sufficient quality and comparability to provide the basis for a national performance standard? Is it appropriate to eliminate the youth entered employment rate?

Post-Program Standards. Does the Department's proposed approach of maintaining 11 standards impose too great an administrative burden on States and SDAs? Would it be more appropriate to eliminate comparable termination-based standards (entered employment rate, welfare entered employment rate and average wage at placement)?

Currently, in calculating all follow-up standards, adjustments are required to account for differences in the portion of respondents who are employed at termination as compared to those who are not placed. Research shows that those who are placed in jobs at termination are easier to contact and more likely to be employed at follow-up. Therefore an adjustment for differences in response rates between these two groups is necessary to have better estimates of the employment rate and other follow-up measures. Should the worksheet for adjusting performance measures be required in all instances, not just those where the response bias is minimal? What other adjustment procedures should be required for reporting follow-up data to ensure that bias is minimized?

Numerical Levels for Cost Standards. Are the proposed numerical costs levels (cost per entered employment and cost per positive termination) appropriate to promote more intensive and comprehensive serivces?

D. Rationale for the New Standards

In 1986 the Department announced its intention to begin the development of postprogram standards in order to encourage placement of adults in longer-term, more stable jobs. Now that JTPA postprogram data are available, the Secretary is able to set four standards that measure the long-term performance of the system. These new measures will focus program operators on the employment and earnings and job retention of adults three months after termination. This focus should strengthen the quality of program design and service delivery that leads to placement in longer-term, more stable jobs.

On the basis of its Workforce 2000 initiatives, youth program experience, and the intent of Congress as expressed in the JTPA legislation, the Department believes that more emphasis must be placed on intensive investments in youth within JTPA. The JTPA statute recognizes two legitimate outcomes for youth; placement and employability enhancement. The Department believes that it should be a goal of the UTPA system to ensure that a significant portion of youth who participate, whether they are placed in a job or receive employability enhancement, should receive competency-based instruction in either basic education or occupational skills. The Department further believes this objective should be reflected in the performance standards

system. This competency-based instruction could be provided either directly through JTPA or through formal linkage with other service providers, such as the secondary education, vocational education and post-secondary education systems or through structured work-site training. To begin this effort, the Department is proposing revisions to its youth standards to better account for youth competency attainment. The Department proposes to add a new employability enhancement standard, retain the positive termination rate, and discontinue a separate entered employment rate, which is already captured in the rate of positive terminations.

The current youth standards focus programs design on job placement. Concerns have been raised that the standards create incentives for quick job placement and discourage investments in basic education and occupational skills development for youth. The proposed standards do not deemphasize placement as a legitimate outcome, rather they emphasize that competency-based education, remediation, and job skills instruction are critical to future earnings, employment and welfare reduction for youth, particularly school dropouts, potential dropouts, and youth from AFDC welfare families, who are most at-risk of chronic unemployment.

E. Rationale for the New Numerical Levels

The Secretary's national numerical standards for PY 88–89 are set on the basis of the most recent JTPA performance data available (PY 86.) In general, performance under JTPA has improved with each successive year of experience, and as a consequence, SDAs have generally exceeded most of their standards. The numerical values of the standards are generally set so that if SDAs continue to perform in the same manner as they did in PY 86, 75% of the system should exceed their standards.

The proposed numerical standards for the two cost measures are set at a more lenient level than other standards. At the 25th percentile, the adult cost per entered employment is $3,800 and the youth cost per positive termination is $3,000. The proposed level for the adult cost standard represents the 10th percentile; while the youth standard has been retained at the same level since the beginning of JTPA. It is anticipated that setting a higher adult cost standard nationwide will encourage providing more comprehensive programs where appropriate and necessary.

The proposed standard for youth employability enhancements reflects the 25th percentile of previous performance in those SDAs that have fully developed youth competency systems providing basic education and job specific skills instruction.

The proposed numerical standard for the average wage at placement has been set above the 25th percentile to highlight the importance of placing adults in better paying jobs. The rate of employment at follow-up for welfare recipients is also set at slightly above the 25th percentile to emphasize the Departmental commitment to achieving more stable employment for welfare recipients, thereby reducing their dependence on welfare.

Signed at Washington, DC this 11th day of December, 1987.

Robert T. Jones,

Deputy Assistant Secretary for Employment and Training.

Appendix

Training and Employment Information Notice No. _____ January 1988.

Performance Standards for PY 1988

Authority: Job Training Partnership Act, Pub. L. 97–300, Section 106, Implementing Regulations, 20 CFR 629.46, March 15, 1983.

1. *Purpose.* To transmit to State JTPA Liaisons the Secretary's national numerical standards and implementing instructions for Program Years (PY) 88–89.

2. *Background.* Section 106 of JTPA directs the Secretary to establish performance standards for adult, youth, and dislocated worker programs. These standards are updated every two years based on the most recent JTPA program experience. The Secretary also issues instructions for implementing standards and parameter criteria for States to follow in adjusting the Secretary's Standards for SDAs.

3. *Performance Management Goals for PY 88.* Program Year 1988 (PY 88) will begin the third two-year cycle of the performance management system under JTPA. As the system matures, the effects of performance standards on program design, service delivery, and participants served have drawn increased attention. In response, the Department has set the following goals for the performance management system in PY 88. To encourage:

- Increased service to individuals at risk of chronic unemployment, particularly youth;
- The provision of training which leads to long-term employability;
- Increased basic skills and youth employment competency training; and
- The implementation of postprogram performance measures.

These goals are reflected in the proposed refinements to the Secretary's measures, national numerical levels, and Federal reporting requirements. An integral part of the Federal strategy for meeting these goals is to encourage Governors to use their discretion in allowing further adjustments to SDA standards and their authority in developing innovative incentive policies. Thus, SDAs will be rewarded for performance which not only exceeds numerical performance standards, but which addresses these broader performance management concerns. This issuance introduces new postprogram standards, a new measure of youth employability enhancements which replaces the current youth entered employment rate, and revised numerical levels of the current Title II-A standards. A new performance level is set for Title III programs, and the implementing instructions are updated to accommodate the new postprogram standards.

4. *Performance Measures for PY 88 for Title II–A.* Six of the current performances measures will be retained for PY 88. These measures are the entered employment rates for adults and welfare recipients, the average wage at placement, the youth positive termination rate, the cost per entered employment for adults and the cost per positive termination for youth.

A new measure of youth employability enhancements will replace the current youth entered employment rate. This measure strengthens the importance of increasing the long-term employability enhancements.

Four new measures of long-term performance introduced for PY 88, will focus on the employment, earnings and job retention of participants three months after termination. These measures are: an employment rate at follow-up for adults and welfare recipients, average weekly earnings of those employed at follow-up, and average weeks worked during the 13-week follow-up period.

5. *Secretary's National Numerical Standards for PY 88 for Title II–A.* The numerical standards are derived from PY 86 performance data reported on the JTPA Annual Status Report (JASR) and are generally set at a level which approximately 75% of the SDAs are expected to exceed. Continued improved performance in obtaining jobs for all JTPA participants is reflected in higher national entered employment rates for adults and welfare recipients than the levels set for these measures in PY 86. Although actual program costs have been steadily declining, the cost measures for adults and youth are set at more lenient levels in anticipation of more comprehensive programming and increased services to individuals in need of more intensive training.

The new employability enhancement rate is based upon employability enhancements reported on the PY 86 JTPA Annual Status Report and competency attainments from a sample of participants in the PY 86 Job Training Longitudinal Survey. These data show in PY 86 that 46% of the youth attained one or more competencies, at least 25% of the youth attained competencies in basic education or job specific skills and, on average, another 8% of the youth attained an employability enhancement that was not a youth competency attainment (e.g., returned to school or achived a major educational level). Thus, the employability enhancement standard is set at a level which most SDAs will exceed if their competency systems are fully developed.

The Secretary's Stanards for the average wage at placement has previously reflected a

policy determined performance goal for the system that was considerably higher than actual program performance. Again this year the Secretary's average wage at placement standard was set at a higher level than other standards to emphasize the importance of placing participants in better than entry-level jobs.

Three of the four postprogram standards are set at the 25th percentile. The rate of employment at follow-up for welfare recipients is set at this higher level to reinforce the Department's commitment to long-term employment and reduced welfare dependency.

The Secretary's Standards for PY 88–89 are as follows:

Adults

A. *Entered Employment Rate: 68%.*
B. *Cost per Entered Employment: $4500.*
C. *Average Wage at Placement: $4.95.*
D. *Welfare Entered Employment Rate: 56%.*

Youth

A. *Positive Termiantion Rate: 75%.*
B. *Employability Enhancement Rate:* 30%.
C. *Cost per Positive Termination:* $4900.

Postprogram

A. *Follow-up Employment Rate:* 60%.
B. *Welfare Follow-up Employment Rate:* 50%.
C. *Weeks Worked in the Follow-up Period:* 8.
D. *Weekly Earnings of all Employed at Follow-up:* $177.

6. *Implementation Provisions.* The following implementation requirements must be followed:

A. *Required Standards.* Governors are required to set for each SDA a numerical performance standard for at least seven of the Secretary's Standards.

B. *Setting the Standards.* The Governor may set the SDA's standards by using the Secretary's numerical standards or by adjusting these standards. Such adjustments must conform to the Secretary's parameters described below:

1. Procedures must be:
- Responsive to the intent of the Act,
- Consistently applied among the SDAs,
- Objective and equitable throughout the State,
- In conformance with widely accepted statistical criteria;

2. Source data must be:
- Of public use quality,
- Available upon request;

3. Results must be:
- Documented,
- Reproducible; and

4. Adjustment factors must be limited to:
- Economic factors,
- Labor market conditions,
- Characteristics of the population to be served,
- Geographic factors,
- Types of services to be provided.

The Department has developed an adjustment methodology which is available for Governors to use at their option. The Department's methodology conforms to the parameter criteria cited above. Should the Governor choose to use an alternate methodology, or further adjust the Departmental model, it must conform to the parameter criteria and be documented in the Governor's Coordination and Special Services Plan prior to the program year to which it applies.

In the case of an appeal from an SDA concerning the imposition of a reorganization plan for failure to meet the performance standards for two consecutive years, the Secretary will make the final decision in accordance with section 106(h)(4) of the Act and 20 CFR 629.46(d)(6). In making this decision, the Secretary will be predisposed to uphold the Governor's determination concerning the application of the performance standards, if the Governor elects to use the nationally developed adjustment methodology to vary the performance standards. If the Governor, however, uses an alternative methodology to vary the standards, the Secretary will review, on a case-by-case basis, the validity of the methodology and its uniform application throughout the State.

The State Job Training Coordinating Council must have an opportunity to consider adjustments to the Secretary's Standards and to recommend variations.

C. *Performance Standards Definitions.* Governors must compute the performance of their SDAs according to the definitions included in the attachment and on the basis of data reported on the JASR.

D. *Application of the Performance Standards.* Performance standards are to be applied to all programs funded under section 202(a)(1) and incentive funds received under section 202(b)(3) of the Act. In applying the Secretary's Standards, Governors may select any combination from among the eleven measures to form the basis of incentive and sanction policies as long as the following criteria are met:

1. The Governor must designate at least seven Secretary's Standards for consideration in making awards.

2. An SDA cannot be precluded from receiving an incentive award in accordance with section 202(b)(3)(B) if it exceeds at least seven of the Secretary's Standards selected by the Governor and designated in the Governor's Coordination and Special Services Plan. Additional State standards and/or any undesignated Secretary's Standards can also be considered in making rewards.

3. Among those Secretary's Standards which a Governor designates for making incentive and sanction determinations, at least one "quality of placement" standard must be included—the average wage at placement or the weekly earnings at follow-up.

4. An SDA can only be sanctioned under Section 106(h) for failure to meet the Secretary's Standards. Sanctioning is required if an SDA fails to meet for two consecutive years seven of the Secretary's Standards designated by the Governor.

5. Eligibility for incentive awards pursuant to section 202(b)(3)(B) must be based on exceeding, not just meeting, standards.

6. To determine whether an SDA has exceeded a performance standard, Governors must use actual end-of-year program data to recalculate the performance standards.

7. Incentive policies may include adjustments to the incentive award amount based upon grant size, service to the hard-to-serve and expenditure level.

8. Governors must specify their incentive award policy under section 202(b)(3)(B) and sanctions policy under section 106(h). State sanctioning policy must include a definition of "failure to meet" and the timeframe that constitutes the period on which sanction action will be taken. The failure to receive incentive funds for two consecutive years does not necessarily constitute failure to meet the standards under Section 106(h).

E. *Performance Standards Provisions for Title III.* Governors are required to set an entered employment rate standard for their Title III formula-funded programs and are encouraged to establish an average wage at placement goal. Because there are no incentive or sanction provisions for Title III performance, the Title III standard serves as a guide for the expected level of performance. In addition, the Secretary is specifying a national goal of 64% for the entered employment rate. This goal has been established on the same basis as the Secretary's Standards for Title II–A. If Title III programs continue to perform in the same manner as they did in PY 86, 75% of the system should exceed the goal.

F. *Inquiries.* Questions concerning this issuance may be directed to Karen Greene on (202) 535–0687.

Attachment

Definitions for Performance Standards

The following defines the Title II–A performance standards:

Adult

1. *Entered Employment Rate*—Number of adults who entered employment at termination as a percentage of the total number of adults who terminated.

2. *Cost per Entered Employment*—Total expenditures for adults divided by the total number of adults who entered employment.

3. *Average Wage at Placement*—Number of adult welfare recipients who entered employment at termination as a percentage of the total number of adult welfare recipients who terminated.

Postprogram

5. *Follow-up Employment Rate*—Number of adult respondents who were employed during the 13th week after program termination divided by the total number of respondents (terminees who completed follow-up interview).

6. *Welfare Follow-up Employment Rate*—Number of adult welfare respondents who were unemployed during the 13th week after program termination, divided by the total number of adult welfare respondents.

7. *Weekly earnings at Follow-up*—Total gross weekly earnings of respondents who were employed at the 13th week divided by the total number of respondents employed at the 13th week.

8. *Weeks Worked in the Follow-up Period.*—Total number of weeks worked in the 13-week follow-up period for all

respondents divided by the total number of respondents.

Youth

9. *Positive Termination Rate*—Number of youth who entered employment or attained one of the youth employability enhancements as a percentage of the total number of youth who terminated.

10. *Employability Enhancement Rate*—Number of youth who attained one of the employability enhancements whether or not they also obtained a job as a percentage of the total number of youth who terminated.

Youth Employability Enhancements include:

a. Attained PIC-Recognized Youth Employment Competencies

b. Enter Non-Title II Training

c. Returned to Full-Time School

d. Completed Major Level of Education

e. Completed Program Objectives (14–15 year olds)

11. *Cost per Positive Termination*—Total expenditures for youth divided by the total number of youth who either entered employment or met one of the above employability enhancements.

Computation formulas, with relevant references to specific line items in the JTPA Annual Status Report, will not be available until the Federal reporting requirements are finalized. An addendum to the issuance will be published including JASR line item references at a later date.

[FR Doc. 87–28915 Filed 12–15–87; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: Office of Records Administration, National Archives and Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATE: Requests for copies must be received in writing on or before February 1, 1988. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Army, Office of the Chief Signal Officer, (N1–111–87–1). Records accumulated ca. 1940–60 pertaining to such facilitative matters as travel, finance and accounting, personnel assignments, procurement and supplies, and transportation. (Records documenting substantive programs and policies are permanent.)

2. Farm Credit Administration, Records and Projects Division (N1–103–87–2). Reports of examination and related work papers and reference material.

3. Farm Credit Administration, Records and Projects Division (N1–103–87–3). Copies of minutes of meetings of the Farm Credit Administration Board and the Federal Farm Credit Board other than the official minutes which are designated for permanent retention, background information on nominees for Board membership, and routine administrative records of both Boards.

4. Farm Credit Administration, Records and Projects Division (N1–103–87–4). Routine election material, background information on nominees for district Boards of Directors, and litigation case files in which the FCA is indirectly involved.

5. Farm Credit Administration, Records and Projects Division (N1–103–87–5). Closed loan case files.

6. The Federal Maritime Commission (N1–358–88–1). Reduction in the retention period of minutes and related records in Agreement Files (Terminals).

7. Department of Commerce, International Trade Administration (N1–151–88–1). Miscellaneous records of the Office of Strategic Information (OSI).

8. Department of Health and Human Services, Social Security Administration (N1–47–88–2). Reduction in retention period for claims materials relating to Retirement and Suvivors Insurance, Disability Insurance, and Supplemental Security Income.

9. Office of Personnel Management, Office of Testing and Examining (N1–146–87–3). Working papers pertaining to the development of assembled and unassembled examinations.

10. Tennessee Valley Authority, Office of Employee Relations, Division of Personnel (N1–142–88–1). Management Training and Development (Fast Track) Program assessment and selection data.

11. Tennessee Valley Authority, Office of Corporate Services, Division of Property and Services (N1–142–88–2). Inventory control system used by the Transportation Services Branch to track fuel and spare parts for TVA vehicles.

12. Department of Transportation

National Highway Traffic Safety Administration, General Services Division (N1–416–86–1). Comprehensive schedule.

13. Department of the Treasury, Internal Revenue Service (N1–58–87–5). Records created in the development and use of the Workload Selection System.

Dated: December 10, 1987.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 87–28919 Filed 12–15–87; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL COUNCIL ON PUBLIC WORKS IMPROVEMENT

Meeting

The National Council on Public Works Improvement will hold a meeting open to the public on January 15, 1988, from 9:00 a.m. to 12:00 p.m. in Conference Room 4830 of the U.S. Department of Commerce, Main Entrance at 14th Street between Constitution and Pennsylvania Avenues, Washington, DC. If you are interested in attending this meeting, for security purposes you must contact the Council office at 653–0298, so a list of attendees can be provided to the Commerce Department security personnel.

The Council will meet with Advisory Group members to discuss the draft final report.

The National Council on Public Works Improvement was created by Congress to report to the President and the Congress on the state of the nation's infrastructure.

Nancy S. Rutledge,

Executive Director.

[FR Doc. 87–28806 Filed 12–15–87; 8:45 am]

BILLING CODE 6115–01–M

NATIONAL SCIENCE FOUNDATION

Committee Management; Establishment of Advisory Panel for EXPRES, etc.

The Assistant Director for Computer and Information Science and Engineering has determined that the establishment of the Advisory Panel for EXPRES and Related Multimedia Electronic Communication and Collaboration Technologies is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Advisory Panel for EXPRES and Related Multimedia Electronic Communication and Collaboration Technologies.

Purpose: Primarily, to advise on the progress of technological advancement being made in the Experimental Research in Electronic Submission (EXPRES) Program, to recommend for further pursuit appropriate research areas and methodologies to foster and support the development and use of electronic communication and collaboration technologies for research and education in the sciences, and to advise of the merit of proposals submitted and the progress and impact (actual and probable) of awards made in this area. Additionally, the Panel provides oversight, general advice, and policy guidance to the programs (dealing with electronic communication and collaboration technologies) within the Division of Networking and Communications Research and Infrastructure.

M. Rebecca Winkler,

Committee Management Officer.

December 11, 1987.

[FR Doc. 87–28861 Filed 12–25–87; 8:45 am]

BILLING CODE 7555–01–M

Committee Management; Establishment of Committee To Review the Graduate Fellowship Program

The Deputy Director of the National Science Foundation has determined that the establishment of the Committee to Review the Graduate Fellowship Program is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Committee to Review the Graduate Fellowship Program.

Purpose: To conduct a review of the Foundation's Graduate Fellowship Program, the Minority Graduate Fellowship Program, and other Foundation programs for direct support of graduate students.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87–28862 Filed 12–15–87; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from November 23, 1987 through December 4, 1987. The last biweekly notice was published on December 2, 1987 (52 FR 45883).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resource Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 15, 1988 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 expira tion of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (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 (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: August 5, 1987

Description of amendment request: The proposed amendment would change Technical Specification Surveillance Requirement 4.6.1.2 to reference ANSI/ANS 56.8-1981, instead of the current reference ANSI N45.4-1972. This would allow the use of the mass-point method (also known as the mass-plot method) for calculating containment leakage. In

addition, a paragraph is added to Bases section 3/4 6.1.2 to describe the basis of the proposed amendment. The licensee has also, in the same submittal, requested an exemption from Appendix J, paragraph III.A.3 to allow the use of the mass-point method for calculating containment leakage as described in ANSI/ANS 56.8-1981.

Basis for proposed no significant hazard consideration determination: The Commission has provided standards for determining whether a no significant hazard consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. The Mass-Point technique for calculation of the containment leakage rate is a newer, more accurate and NRC staff-endorsed method. It, or any other calculational method used to determine containment leakage rates during testing, is not considered to be an initiator of any accident previously evaluated.

The Mass-Point technique is judged to be superior method for calculating containment leakage rates, and thereby a better method of verifying that leakage from the containment is maintained within allowable limits. By employing a more reliable calculational technique, the assessment of containment integrity, through integrated leak rate testing is enhanced. As such, the consequences of previously evaluated accidents are not negatively impacted.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment provides for the use of a newer, more accurate technique for calculation of the leakage rate during a containment integrated leak rate test. No possibility of a new or different kind of accident is created since the technique used to calculate leak rates in itself is not considered to be the initiator of any accident, transient, incident, or event.

3. The proposed amendment does not involve a significant reduction in a margin of safety. The proposed change allows the use of the Mass-Point technique to calculate the leakage rate from the containment when performing a containment integrated leak rate test. The Mass-Point technique is a newer, more accurate method which has been endorsed by the NRC staff. By adopting this technique, the licensee will be able to make a more reliable determination of containment leakage during an integrated leak rate test. As such, the degree of confidence in containment integrity would be enhanced. Therefore, this proposed revision does not impact the margin of safety.

Based on the above reasoning, the licensee has determined that the proposed changes involve no significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposed to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for the licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, NC 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, et al., Docket No. 50-324, Brunswick Steam Electric Plant, Unit No. 2, Brunswick County, North Carolina

Date of application for amendment: August 17, 1987

Description of amendment request: The licensee submitted a request on August 17, 1987 to revise the Brunswick Steam Electric Plant (BSEP), Unit 2, Technical Specifications (TS) to reflect modifications being made to the plant during the upcoming Reload 7 outage. These modifications are being done to bring the unit into compliance with the requirements of paragraph (c)(40) of 10 CFR 50.62 which states, in part:

> Each boiling water reactor must have a standby liquid control system with a minimum flow capacity and boron content equivalent in control capacity to 86 gallons per minute of 13-weight percent sodium pentaborate solution.

As stated in their October 10, 1985 submittal in response to reporting requirements in the ATWS rule, the licensee evaluated several options by which the equivalent injection rate requirement could be met. Carolina Power & Light Company has determined that two-pump operation with a sodium pentaborate solution concentration maintained at greater than or equal to 13-weight percent is the preferred option. Since the ATWS function of the standby liquid control system (SLCS) is a backup to other safety-related systems, new requirements due to the ATWS modifications are not needed in the SLCS section of the TS. This has been agreed to by the NRC staff. Only the areas of the TS that cover specific SLCS physical characteristics need to be revised as a result of 10 CFR 50.62.

The existing SLCS includes two positive displacement pumps connected in parallel. The SLCS pump motor control logic is currently configured so that only one of the two pumps may be operated at any time. Modifications are planned for the upcoming Reload 7 outage to permit two-pump operation. To account for the higher system pressures associated with two-pump operation, the SLCS pump relief valve setpoint will be increased from 1400 $\pm$ 50 psig to 1450 $\pm$ 50 psig. The licensee contacted the manufacturer and determined that the relief valves are capable of operating at the proposed setpoint without damage or malfunction. The portions of the SLCS affected by the increased setpoint were evaluated by the licensee and determined to be capable of performing at the increased pressure without compromising the system integrity or function. In addition, the licensee performed tests on Unit No. 2 during the Reload 6 outage in 1986 to verify that the SLCS is capable of operating under the increased pressures associated with two-pump operation.

Figure 3.1.5-1 has also been revised to set the lower limit for the sodium pentaborate concentration at 13-weight percent. This is consistent with the requirements of paragraph (c)(4) of 10 CFR 50.62.

An administrative change has been made to Surveillance Requirement 4.1.5.c.2. The current requirement is to demonstrate achievability of the minimum flow requirement of 41.2 gpm at a pressure of greater than or equal to 1190 psig. The revision specifies that this requirement is 41.2 gpm per pump, avoiding possible confusion under two-pump operation. The 86 gpm 13-weight percent sodium pentaborate requirements specified by paragraph (c)(4) of 10 CFR 50.62 are the values used in NEDE-24222, "Assessment of BWR Mitigation of ATWS, Volumes I and II," December 1979, for BWR/5 and BWR/6 plants with a 251-inch inside diameter vessel. NEDE-24222 recognized that different values would be

equivalent for smaller plants. NEDE-24222 states that a 66 gpm control liquid injection rate in a 218-inch diameter vessel, as used at BSEP, is equivalent to the 86 gpm injection rate for a 251-inch vessel. Maintaining the minimum flow requirement of 41.2 gpm per pump ensures that an injection rate in excess of 66 gpm will be achieved during two-pump operation.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazard consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that:

1. The proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated because the ATWS function of the SLCS merely provides a backup to other safety-related systems. The effects of the increase in the SLCS pump relief valve setpoint from 1400 ± 50 psig to 1450 ± 50 psig were evaluated, and it was determined that the system is capable of being operated at the increased pressure without compromising system integrity or function. The revision to Figure 3.1.5-1 ensures that the concentration of sodium pentaborate solution is maintained at or above 13-weight percent. This is in accordance with the requirements of 10 CFR 50.62. The change to Surveillance Requirement 4.1.5.c.2 is administrative in nature and, therefore, cannot increase the probability or consequences of any accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because neither the safety function performed by the SLCS, nor the operability of the SLCS, is affected by the proposed TS revisions or the accompanying plant modifications. The proposed TS changes will ensure that the SLCS is maintained so that it is capable of fulfilling the operability requirements of 10 CFR 50.62.

3. The proposed amendment does not involve a significant reduction in a margin of safety. The proposed revisions are in accordance with the requirements of 10 CFR 50.62 and provide additional assurance that the SLCS is capable of safely shutting down the reactor should an ATWS event occur. The effects of the increase in the SLCS pump relief valve setpoint were evaluated, and it was determined that the system is capable of being operated at the increased pressure without compromising system integrity or function. The revision to Figure 3.1.5-1 ensures that the concentration of sodium pentaborate solution is maintained at or above 13-weight percent, which is more restrictive than the current specification. The revision to Surveillance Requirement 4.1.5.c.2 is administrative in nature and, therefore, cannot cause a decrease in the margin of safety. As such, the proposed amendment leads to an increase in the margin of safety.

Based on the above reasoning, the licensee has determined that the proposed changes involve no significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposed to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, et al., Docket No. 50-324, Brunswick Steam Electric Plant, Unit No. 2, Brunswick County, North Carolina

Date of application for amendment: September 29, 1987, as supplemented November 24, 1987

Description of amendment request: The proposed amendment would change the reactor water level setpoint for the isolation of the Group 1 primary containment isolation valves from low level 2 to low level 3. The proposed amendment also corrects the existing master trip unit numbers to agree with current plant conventions.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazard consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee evaluated the proposed changes in accordance with the standards in 10 CFR 50.92(c) and determined that:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previous evaluated. The setpoint change was evaluated with respect to several operating parameters, including the minimum critical power ratio (MCPR), peak vessel pressure, radiation release, and shutdown capability during abnormal operating transients. Fuel cladding integrity during a loss-of-coolant accident (LOCA) and the reactor response during an ATWS event were also evaluated. Results of this evaluation are provided in the GE Topical Report NEDC-30601-P, "Safety Review of Water Level Setpoint Change for Brunswick Steam Electric Plant, Units 1 and 2." As stated in Section 4.2.3 and 4.2.4 of that report, the change will not cause a reduction in MCPR, an increase in the peak pressure, an increase in radiation release, a cause of equipment damage, a reduction in plant shutdown capability, or a decrease in core cooling capability. The MSIV level setpoint change has no impact on LOCA events previously evaluated, nor does it cause consequences of accidents previously evaluated to be increased.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Several operating parameters, including MCPR, peak vessel pressure, radiation release, and shutdown capability during abnormal operational transients were evaluated with respect to this change. Fuel cladding integrity during a LOCA and reactor response during and ATWS event were also evaluated, and the results provided in NEDC-30601-P. None of these evaluations indicated that any new or different type of accident would be created by the change. In addition, the present function and structure of the Group 1 isolation valves remains unchanged, thereby eliminating possible operator confusion and training problems that could lead to a new or different type of accident.

3. The proposed amendment does not involve a significant reduction in a margin of safety. The effects of the

setpoint change for LOCA events has been reviewed, and it has been determined that the change has no impact. As stated in NEDC-30601-P, large and intermediate LOCA events will not be affected because the rapid depressurization and rapid inventory loss will cause the MSIV to close almost immediately after the accident, before any fuel failure could occur. Thus, the lower MSIV trip will not increase inventory loss from the reactor core or radiation release to the environment. For a small break LOCA, the highest peak cladding temperature for the worst case single failure (i.e., failure of the HPCI system) is considerably less than the 2200 F peak clad temperature limit. Therefore, the setpoint change will have no effect on the limiting maximum average planar linear hear generation rate (MAPLHGR).

For a loss of feedwater flow event under the proposed amendment, the reactor would not be isolated while HPCI and RCIC are operating. Reactor core isolation cooling system flow would compensate for steam flow through the turbine control valves to the main condenser, thereby maintaining water level above Low Level 3, keeping the MSIVs open, and preventing the safety/relief valves from opening. Thus, the MSIV setpoint change will not compromise core cooling capability for the loss of feedwater flow event. Furthermore, it reduces suppression pool heatup for this event because the main condenser is available for a longer time.

The Low Level 3 reactor water level setpoint for the Group 1 primary containment isolation system valves still "ensures the effectiveness of the instrumentation used to mitigate the consequences of accidents" as demonstrated by the evaluation in Sections 4 and 5 of NEDC-30601-P. Thus, for the reasons described above, the margin of safety is not reduced and may actually be increased.

Based on the above, the licensee has determined that the proposed amendment does not involve a significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, North Carolina Eastern Municipal Power Agency, Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Dates of amendment request: May 26, 1987, as supplemented by submittal dated November 2, 1987.

Description of amendment request: The amendment would modify Specification 5.3 of the Technical Specifications (TS) to allow only storage and handling of fuel elements having a maximum fuel enrichment of 4.2 weight percent (w/o) U-235. The current TS restrict the maximum fuel enrichment to 3.9 w/o U-235. The Carolina Power & Light Company (CP&L or the licensee) submittal of May 26, 1987, includes a Westinghouse report, "Criticality Analysis of Shearon Harris Fuel Racks," January 1987, which supports the requested amendment.

Because use of the higher enrichment fuel (4.2 w/o U-235) in the reactor core will be demonstrated to be acceptable by a cycle specific reload safety evaluation performed prior to each fuel loading, any change in criticality potential related to the proposed amendment is only associated with the handling or storage of the new unirradiated fuel or spent fuel with the higher enrichment in the fuel storage racks. The licensee's May 26, 1987, submittal describes its criticality analysis, which demonstrates the existing fuel racks can safely accommodate new or spent fuel at the proposed enrichment.

The amendment will permit the storage of more highly enriched fuel elements designed to achieve longer cycle lengths and higher burnups. Under normal conditions, there are no changes in effluents from the plant because the fission product inventory associated with higher burnup is retained within the fuel cladding. Accidents and fuel failure scenarios would result in no significant increase in effluents because the most important isotopes are relatively short-lived and thus in equilibrium and not significantly changed with burnup.

Effluents released by the nuclear fuel cycle are little changed by high burnup. Chemical effluents may be slightly higher (less than one percent) in the range of 50,000 - 60,000 MWD/MT due to the logarithmic relationship of enrichment and separative work. Radiological effluents associated with the front end of the fuel cycle decrease due to reduced ore and yellow cake requirements as burnup increases. The release of relatively short-lived fission products would decrease since these fission products do not increase with burnup and fewer fuel assemblies are discharged. The potential release of long-lived radionuclides as effluents is essentially unchanged because the increase due to higher burnup is offset by the need for fewer fuel assemblies.

Under normal conditions shielding of spent fuel assemblies by the fuel pool water would result in insignificant increases in individual occupational exposure even with higher bundle specific activity. Cumulative occupational exposure will be reduced because fewer assemblies would be handled during a refueling; and refuelings are less frequent. Under accident scenarios, there would be no significant increase in radiation exposure because the major contributors are relatively short-lived gaseous or volatile radioisotopes that are in equilibrium and whose amounts are not significantly increased by burnup.

The major exception is Kr-85, which is a small contributor to the dose resulting from an accident. The expected increase in Kr-85 would not result in a significant change to accident doses.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether or not a no significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the 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 determined and the NRC staff agrees that the proposed amendment will not:

(1)Involve a significant increase in the probability or consequences of an accident previously evaluated. Fuel handling accidents remain bounded by the original FSAR analysis. The only accident scenarios for which the probability of occurrence are affected by fuel enrichment involve criticality events during fuel handling and storage. The licensee's criticality safety analysis demonstrates that the calculated K_{eff} during fuel handling and storage is

adequate to ensure subcriticality for all defined accident conditions. Since subcriticality is maintained, no releases result from the above fuel handling criticality accident scenarios. Therefore, the consequences of these accidents are not increased.

(2)Create the possibility of a new or different kind of accident from any accident previously evaluated. The only potential impact of increased enrichment upon fuel storage and handling involves the potential for criticality, which has been addressed above.

(3)Involve a significant reduction in the margin of safety. The submitted criticality analysis demonstrates that there is adequate margin to ensure subcriticality of the fuel during storage and handling operations. The margin of safety of other fuel handling accidents remains within that included in the original FSAR Analysis.

Accordingly, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Richard B. Harrison Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, North Carolina Eastern Municipal Power Agency, Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: November 23, 1987

Description of amendment request: The proposed change deletes Surveillance Requirement 4.4.11.1, which requires quarterly testing of the reactor coolant system (RCS) vent path block valves because it is redundant. The testing is already required by Technical Specification 4.0.5, which requires testing of these valves by the In-service Testing Program. Surveillance Requirement 4.4.11.2b will be modified to include the testing of the above cited block valves to demonstrate their operability at least once every 18 month interval. The RCS vent system provides a means of venting the reactor coolant system to enhance natural circulation following a loss-of-coolant accident.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability 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 licensee has evaluated the proposed amendment against the standards in CFR 50.92(c) and has determined:

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the remaining Technical Specification required surveillances provide adequate assurance of block valve operability. The RCS Head Vent System provides a means to vent noncondensible gases from the RCS which may inhibit core cooling during natural circulation. The proposed amendment does not affect the method in which the RCS Head Vent System fulfills this function nor does it result in a reduction in the confidence level of the system operating properly if required.

(2) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated, above, the requested change does not affect the method in which the RCS Head Vent System performs its intended safety function. In fact, there is no physical alteration to the facility whatsoever resulting from this amendment. As such, the proposed amendment cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed amendment does not involve a significant reduction in a margin of safety. The purpose of the requested amendment is to delete the testing required by Surveillance 4.4.11.1. Operability of the block valves will be adequately demonstrated by Surveillance Requirements 4.0.5 and the revised 4.4.11.2. In addition, by eliminating a test which degrades the RCS boundary during testing, the margin of safety is increased. Therefore, this change does not involve a significant reduction in a margin of safety.

Based on the above, the licensee has determined that the proposed amendment does not involve a significant hazards consideration. The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: Richard B. Harrison Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610

Attorney for licensees: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: September 11, 1987, as amended September 18, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications to allow a one-time extension of 16 local leak rate test (LLRT) intervals until the first refueling outage, beginning in January 1989. These tests would otherwise come due between January 24, 1988, and June 15, 1988.

Basis for proposed no significant hazards consideration determination: The licensee has provided an analysis pursuant to 10 CFR 50.91 as to whether the proposed amendment would involve a significant hazards consideration. The licensee has stated that the isolation valves listed on the table contained in their submittal were all tested successfully in early 1986. The total of the measured Type C leakage rates for these valves is not a significant portion (4.13%) of the allowable leakage limit (0.6 L_a). Reactor Coolant System Pressure Isolation Valve (PIV) leakage rates are all less than 5% of their allowable leakage rates. Deterioration in the overall integrity of isolation valves is normally a gradual process.

The licensee has further stated that NUREG/CR 4330, "Review of Light Water Reactor Regulatory Requirements," has shown that containment leakage is a relatively minor contributor to overall plant risk. In addition, the licensee states that inherent BWR design features would assist in maintaining the offsite doses below 10 CFR Part 100 limits.

The licensee also argues that the intent of the Technical Specification leak rate testing intervals for PIVs and

containment isolation valves is to require testing of the isolation valves once every fuel cycle. A normal reactor fuel load is designed to provide an 18-month cycle with approximately 16 months of full power operations. Consequently, the primary containment/pressure isolation valves are normally exposed to 18 months of rated temperature conditions between each leak rate test. Since the initial leak rate tests at the Perry Nuclear Power Plant, these valves will have been subjected to rated temperature conditions approximately equal to one 18-month operating cycle by the first refueling outage.

On this basis, the licensee argues that granting the extension of the testing interval to the first refueling outage would not subject the valves to a cumulatively more harsh environment from a temperature/pressure/time standpoint than expected during an 18-month interval of full power operation. Consequently, the licensee believes that granting of the one-time extension would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated since the extension of the surveillance intervals is consistent with the intent of the regulations when considering the operating conditions to which the subject valves have been exposed; or

2. Create the possibility of a new type of accident or a different kind of accident from any accident previously analyzed in that current analyses assume certain values of containment leakage; therefore, new accident scenarios are not credible based upon scheduling of this testing alone; or

3. Involve a significant reduction in the margin of safety because, based on initial leak rate test results, these valves have exhibited a high degree of leak tight reliability. Additionally, the valves will be exposed to operating conditions consistent with those normally experienced between testing intervals. Furthermore, the leak rate historically experienced by these valves is only a small fraction of the allowable leak rate (0.6 L_a).

The Commission's staff has reviewed the licensee's analysis and concurs with their determination. Therefore, the staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Martin J. Virgilio.

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 6, 1987, as supplemented November 24, 1987

Description of amendment request: The proposed amendment would revise Technical Specifications (TS) 3.5.G, and associated bases, to allow a different method for ensuring the High Pressure Core Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) systems discharge lines are filled.

Existing TS 3.5.G.2 requires that the discharge lines of both the low pressure (Low Pressure Core Injection and Core Spray) and the high pressure (HPCI and RCIC) Emergency Core Cooling Systems (ECCS) are maintained between 40 psig 90 psig by using an ECCS fill system pump. However, in actual operation only the low pressure systems need to use a fill pump. For the high pressure systems, ensuring filled discharge lines is achievable by maintaining an adequate level in the Contaminated Condensate Storage Tank, which is the normal water source for both HPCI and RCIC. This passive method for filling HPCI and RCIC discharge lines is preferable from a reliability point of view, rather than an active system dependent on a single fill pump. Furthermore, it is also more consistent with the actual plant instrumentation which only provides for pressure switches and control room alarms on the discharge lines of the low pressure systems.

This amendment request was originally noticed in the **Federal Register** (52 FR 39297) on October 21, 1987. Since then, the licensee has submitted a minor revision to TS 4.5.G.4, dated November 24, 1987. The revised TS would now require system venting every 24 hours, vice every month, whenever HPCI/RCIC are aligned to the Torus.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; 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 10 CFR.91(a), the licensee has provided the following analysis in their amendment application addressing the three standards.

Commonwealth Edison (the licensee) has evaluated the proposed TS amendment request and determined that operation of Quad Cities in accordance with the proposed changes:

(1) Will not involve a significant increase in the probability or consequences of an accident previously evaluated because the change is in the conservative direction and therefore has lessened the probability or consequences of an accident as previously evaluated. Conservatism has been added by specifying a passive method for maintaining filled discharge lines in the high pressure cooling systems which is more reliable than an active method that is dependent on a single fill pump.

(2) Will not create the possibility of a new or different kind of accident from any accident previously evaluated because the change does not affect the requirement for maintaining filled discharge piping but only clarifies the actual method of ensuring filled discharge piping for RCIC and HPCI systems. The method utilized does not change the HPCI and RCIC system piping configurations or normal source of coolant nor does it change system setpoints or flow capacities. The only change relative to the method indicated by the current Technical Specifications is the valving out of an active component (ECCS fill pump) since a passive method provides the same function of maintaining filled discharge lines.

(3) Will not involve a significant reduction in the margin of safety since the proposed amendment does not affect the operation of the HPCI or RCIC systems. System setpoints and flow capacities remain the same.

The Commission has reviewed the licensee's TS amendment request and concurs with the analysis for no significant hazards consideration determination. Accordingly, the Commission proposes to determine the aforementioned amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esq., Isham, Lincoln, & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: Daniel R. Muller

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: June 12, 1987, supplemented August 3, 1987.

Description of amendment request: The proposed amendment would revise the Technical Specifications to change the operability requirements of the containment fan cooler units, delete the requirements of their HEPA filters, charcoal adsorbers and associated fire protection and detection equipment and revise the amount of time one containment spray pump may be inoperable. The licensee has indicated that the revision to the Technical Specifications would increase the performance characteristics, operational flexibility and reliability of the essential service water system by reducing the flow requirements of the containment fan cooler units during a loss of coolant accident (LOCA). The reduction in service water flow would be accomplished by decreasing the heat removal requirements of the containment fan cooler units, and removing the HEPA filters and charcoal adsorbers from the fan cooler units. As a result of charcoal filter removal, the licensee has indicated that the Technical Specifications addressing the fan cooler charcoal filter dousing system and fire detection instrumentation would no longer be required. The licensee indicated that the change to increase the amount of time one containment spray pump may be inoperable is to provide operational flexibility and reduce cycling of the unit.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will involve a no significant hazards consideration if the proposed amendment does 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 previously evaluated, or (3) involve a significant reduction in margin of safety.

The licensee provided the following analysis:

"...operation of Indian Point Unit No. 2 in accordance with this change would not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed revisions are based on conservative analyses utilizing new, refined and more accurate methodologies. One analysis shows that with a reduction in fan cooler heat removal rate under post-LOCA accident conditions, containment pressure would be maintained well below its design value of 47 psig. The second analysis shows the fan cooler charcoal adsorbers can be removed without significantly affecting the radiological consequences of a postulated LOCA, and that the calculated off-site doses would remain within the 10 CFR Part 100 guidelines. If the charcoal adsorbers were removed, the reason for the charcoal fire detection instrumentation and dousing system would be eliminated and therefore the safety significance of its removal would become non-existent. Additionally, by increasing the containment spray pump out-of-service time, on-line maintenance can more readily be performed, which should enhance overall pump availability. Thus, the same safety criteria as previously evaluated are still met with the proposed changes. The allowance of additional out-of-service time for one spray pump is consistent with the allowable time approved for more recently licensed nuclear plants whose accident analyses have been found acceptable for licensing purposes.

2. create the probability of a new or different kind of accident from any accident previously evaluated. The proposed change to containment cooling system operability requirements does not modify the plant's configuration or operations, and therefore the identical postulated accidents are the only ones that require analysis and resolution. Nothing would be added or removed that would introduce a new or different kind of accident mechanism or initiating circumstances than that previously evaluated. The same is true for the proposed deletion of the HEPA filters and charcoal adsorbers associated with the containment fan cooler units. The original intent of these systems was to reduce the concentrations of radioiodines in the containment atmosphere following a LOCA. Their removal is consistent with current, state-of-the-art analysis and could not introduce a new or different postulated accident to the safety analysis of the plant. In fact, one potential accident is eliminated, i.e., a fire in the charcoal adsorbers themselves. This postulated accident had called out the need for a fire protection instrumentation and charcoal dousing system. Such a mitigation system would no longer be required should the potential fire hazard be eliminated by reason of the implementation of this proposed change to the Technical Specifications. Thus, the removal of a mitigation system for a potential hazard that no longer exists could not introduce a new or different accident than any previously evaluated.

The aspect of the proposed change which extends the amount of time a containment spray system may be inoperable during operation does not alter plant configuration or operation from that assumed in current analyses which bound those for Indian Point 2. A potentially longer time of inoperability for this system does not change the nature of the accident for which this engineered safeguard has been installed. Since no change to the system or its operation is involved, there is no potential for a new or different accident from any previously evaluated.

In general, the proposed changes do not adversely affect the ability of the plant's containment heat removal systems to perform their required safety functions, and allow the containment safeguards to mitigate the consequences of a design basis LOCA in a manner equivalent to that previously approved.

3. involve a significant reduction in a margin of safety. With the proposed change, all safety criteria previously evaluated are still met, remain conservative, and are in fact increased with respect to the service water system flow demands.

The safety function of the fan coolers is to recirculate and cool the containment atmosphere in the event of a loss of coolant accident, thereby reducing the likelihood that the containment pressure would exceed its design value of 47 psig. Worst case containment pressure transients during hypothetical loss of coolant accidents were reanalyzed as a basis for evaluating the proposed change in the minimum containment cooling system operability requirements. This reanalysis was conducted using the latest methodology/computer model. The analysis shows that even during the worst case LOCA with minimum safeguards (3 fan coolers, 1 containment spray pump) the maximum containment pressure does not exceed 40.5 psig, which is well below design value.

The proposed deletion of the requirement for the HEPA filters and the charcoal adsorbers has been analyzed to determine the effect on the margin of safety. The analysis shows that the containment fan cooler HEPA filters and charcoal adsorbers can be removed without significantly affecting the radiological consequences of a postulated LOCA, that the calculated off-site doses would remain within the 10 CFR Part 100 guidelines, and that the calculated control room doses would be consistent with those originally reported in the FSAR. An assessment of the potential impact to the environmental qualification of equipment due to this change was also conducted. The assessment concluded that the margins in the current environmental qualification program are not adversely affected by this change.

The proposed change in the amount of time a containment spray system can be inoperable during plant operation has also been reviewed to determine a potential effect on the margin of safety. With the new containment integrity analysis we have established that the IP-2 containment has substantial margins compared to its design pressure following a worst case loss of coolant accident."

The staff has reviewed the predicted offsite dose values contained in the licensee's submittal and compared them to the values contained in the current Final Safety Analysis Report. This comparison indicates that, in addition to the statement by the licensee that the values remain within 10 CFR Part 100 guidelines, the predicted offsite doses do not increase significantly.

Therefore, based on the above, the staff proposes to determine that the

proposed changes would not constitute a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003

NRC Project Director: Robert A. Capra, Acting Director

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: September 8, 1987

Description of amendment request: The proposed amendments would change Technical Specification 5.3.1 "Fuel Assemblies" by increasing the maximum allowable fuel enrichment to 4.0 weight percent (w/o) U-235 from the present value of 3.5 w/o U-235.

Basis for proposed no significant hazards consideration determination: The principal hazards considerations associated with the proposed amendments are the potential effects on criticality safety from the use of more highly enriched fuel in the reactor core and from its storage as new fuel and as spent fuel.

The use of higher enrichment fuel in the reactor core will be demonstrated to be acceptable by cycle-specific reload safety evaluations (RSEs) performed prior to each fuel loading. For this demonstration the RSE will use the standard reload design methods described in the Topical Reports WCAP-9272 and 9273, "Westinghouse Reload Safety Evaluation Methodology."

The criticality aspects of storing the more highly enriched fuel (1) as new fuel in the new fuel dry storage racks and in the spent fuel pool, and (2) as spent fuel in the spent fuel pool racks, were analyzed in the licensee's letter of September 8, 1987. Preliminary review of these analyses by the NRC staff supports the licensee's conclusion that the existing new fuel and spent fuel storage racks can safely accommodate the higher enrichment fuel.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the 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 proposed amendments will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because criticality safety, the principal hazards consideration associated with using new fuel enriched to 4.0 w/o U-235, will not be significantly affected. Before any of the new fuel is loaded into the reactor core, its higher enrichment will be included in the cycle-specific reload safety evaluation, which considers in detail the effect of fuel enrichment on core operating parameters.

The higher enrichments will facilitate extended fuel cycles. An extended fuel cycle will not increase the fuel rod gap activity since the activity reaches an equilibrium value prior to the end of the current fuel cycle. Consequently, the off-site dose consequences of a fuel handling accident will not be increased significantly due to an extended fuel cycle.

Criticality analyses have shown that the existing new fuel and spent fuel storage facilities can safety accommodate the storage of new fuel enriched to 4.0 w/o U-235.

The proposed amendments will not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change only seeks to increase the enrichment of the fuel pellets. No hardware changes are necessary. The maximum power operation level will not be increased. Therefore, the requested change will not create a new or different kind of accident.

The proposed amendments will not (3) involve a significant reduction in a margin of safety because (a) the safety of using the more highly enriched fuel in the reactor core will be assured by a cycle-specific reload safety evaluation, and (b) the criticality evaluation provided by the licensee shows that the existing new and spent fuel storage facilities may safely be used for the more highly enriched fuel.

Based on the above considerations, the Commission proposes to determine that the above changes involve no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: Kahtan N. Jabbour, Acting Director

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: October 21, 1987

Description of amendment request: This amendment would modify the Technical Specifications for Hatch Units 1 and 2 with the following changes:

Change 1 would revise the formula for calculating Tau_B, the Option B Operating Limit Minimum Critical Power Ratio (OLMCPR) statistical scram speed limit as given in the existing Unit 2 Technical Specifications, would move the revised formula to the Bases section of the Technical Specifications, and would reference the plant procedures for a detailed discussion of how scram speed is calculated.

Change 2 would reduce the Option A MCPR limit for Unit 2 from 1.37 to 1.33 for all 8x8 fuel in order to maximize the MCPR margin for all scram speeds.

Change 3 would revise the Unit 2 Technical Specifications to add data to existing Figures 3.2.1-9 and 3.2.1-12 regarding new 9x9 type fuel that will be tested in Hatch 2 during cycle 8.

Change 4 would revise the Refueling and Design Features sections of the echnical Specifications for both Units 1 and 2 to allow a maximum loading of any four fuel assemblies around each source range monitor prior to a full core reload, while concurrently ensuring that all fuel designs from any fuel vendor will remain subcritical in such a four-bundle array by establishing an acceptance criterion based upon reactivity.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR Part 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee, in its October 21, 1987 submittal, provided the following evaluations of the proposed changes with regard to these three standards:

Proposed Change 1 does not involve a significant hazards consideration because it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because no change in plant operation will occur as a result of this change. The definitions of Tau, Tau_A, Tau_B, Tau_{avg}, and OLMCPR Option A and Option B will remain the same and will be monitored at the site in the same manner as before. The value for Tau_B will change as a result of a reevaluation of the BWR scram time data base. The new scram time distribution that was used to determine Tau_B for the Option B MCPR limit was reviewed and approved by the NRC in their consideration of the GEMINI application methodology.

2. Create the possibility of a new or different kind of accident from any previously analyzed because no change in plant equipment or operations will occur as a result of this change.

3. Involve a significant reduction in the margin of safety because the OLMCPR will continue to be based upon either actual measured scram speeds or a conservative assumption relative to scram speeds. Both of these methods have been previously approved by the NRC.

Proposed Change 2 does not involve a significant hazards consideration because it would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because no change in equipment operations will occur as a result of this change. The new Option A MCPR value derived for use with GEMINI methodology will still ensure fuel design limits will be met because the initial operating value assumed in the LOCA analyses will be conservative for all operating conditions, and that with 50% confidence, 99.9% of the fuel rods will avoid boiling transition during a core wide transient.

2. Create the possibility of a new or different kind of accident from any previously analyzed because no change in plant equipment or operations will occur as a result of this change.

3. Involve a significant reduction in the margin of safety because the method used to determine the Option A limit is consistent with the application of GEMINI. This method has been reviewed and approved by the NRC for use by BWR utilities.

Proposed Change 3 does not involve a significant hazards consideration because it would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated because:

a. This does not involve any change in ECCS equipment response since there is no change to ECCS equipment, configuration or setpoints.

b. Analyses performed by Advanced Nuclear Fuels Corporation (ANF) have determined that, in comparison to GE 8x8R fuel, the 9x9 fuel has an equivalent or improved ECCS-LOCA response. This is due to the lower stored energy in the fuel rods, better heat transfer characteristics, and less restrictive countercurrent flow as a result of a more open upper tie plate.

c. The 9x9 assemblies have been designed to withstand the same mechanical forces as the current fuel, and analyses have shown that they meet the operating and design safety limits.

d. ANF has determined that there will be less radioactivity released from the LFAs than GE's 8x8R fuel in the event of an accident in which fission gas is released.

e. The weight and mass distribution of the LFAs is very similar to the GE assemblies. (The 9x9 bundles weigh slightly less than their GE counterparts.)

f. The ANF bundles will be fully compatible with all fuel handling equipment including the fuel grapple.

g. The channel and number of bundle spacers will be exactly the same as the GE fuel.

h. This does not involve any change in the control rods or the control rod drive system.

i. ANF has determined that the enthalpy deposited in the 9x9 LFAs will not exceed 280 cal/gm in the unlikely event of a Control Rod Drop accident.

2. Create the possibility of a new or different kind of accident from any previously analyzed because no change in plant design or operation is involved except for relatively minor changes in the mechanical, thermal-hydraulic, and nuclear aspects of the fuel design for a small quantity of assemblies.

3. Involve a significant reduction in the margin of safety because the MCPR safety limit for the 9x9 LFAs is the same as the 8x8 assemblies and the operating limits for existing fuel are conservative for application to the LFAs. ANF has shown that their fuel complies with all Specified Acceptable Fuel Design Limits, and the performances delineated in 10 CFR 50.46 are complied with by conservative application of the B/P8DRB284H APLHGR limits to the LFAs.

Proposed Change 4 does not involve a significant hazards consideration because the changes would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated because there will be a reduction in fuel handling operations and the number of core configurations. This reduction in operations and configurations will reduce the probability of occurrence of a fuel handling accident and a fuel loading error. It was reported in the Hatch 2 FSAR that any credibly postulated 2x2 fuel assembly array cannot become critical even under the most limiting conditions.

2. Create the possibility of a new or different kind of accident from any previously analyzed because no significant change in plant equipment or operations will occur as a result of this change.

3. Involve a significant reduction in the margin of safety because the analysis documented in the Hatch 2 FSAR shows that there is considerable margin to criticality for any limiting 2x2 fuel array. This conclusion has been reviewed and approved by the NRC as part of the initial licensing submittal for Hatch 2.

The staff has considered the proposed amendment and agrees with the licensee's evaluation of each of the proposed changes with respect to the three standards.

On this basis, the Commission has concluded that the requested changes meet the three standards and, therefore, has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Kahtan N. Jabbour, Acting Project Director

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: September 4, 1987

Description of amendment request: The proposed amendment would revise Table 4.3.6-1, Control Rod Block Instrumentation Surveillance Requirements, of the Technical Specifications (TSs). The proposed amendment would delete the requirement to perform the daily Channel Functional Test for the Rod Pattern Control System low power setpoint (LPSP) and high power setpoint (HPSP). The Channel Functional Test will continue to be performed prior to startup and every 31 days thereafter; however, in the case of the high power setpoint, the requirement to perform the

functional test every 31 days is applicable when the thermal power is greater than the low power setpoint.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided an analysis that addressed the above three standards in the amendment application.

1. No significant increase in the probability or the consequences of an accident previously evaluated results from this change because:

There have been no reported failures of this surveillance due to failures related to these trip units since River Bend Station (RBS) has been performing this daily Channel Functional Test. Additionally, a review of the NPRDS data base revealed no reported failures that could have been detected by this required daily Channel Functional Test. Therefore, the reliability of the system is adequately ensured by the performance of the Channel Functional Tests prior to startup and monthly thereafter. The change to the applicability of the HPSP is based on actual system design as was the intent. This change does not involve a design change or physical change to the plant, and therefore, does not increase the probability of a control rod drop or rod withdrawal accident. No other safety analyses as discussed in Final Safety Analysis Report (FSAR) Chapters 6 and 15 would be changed.

Thus, there is no increase in the probability or consequences of any accident previously evaluated.

2. This change would not create the possibility of a new or different kind of accident from any accident previously evaluated because:

This change is a clarification of intent. The reliability of the system is not changed by performance of the Channel Functional Tests prior to startup and monthly thereafter as shown by the absence of any failures of this STP at RBS during this daily performance. The NPRDS data identified no reported failures that could have been detected by this required daily Channel Functional Test. Additionally, this change does not involve a design change or physical change and therefore, does not change the system design, function, or operation as previously described in the RBS FSAR.

Thus, no new or different accident scenario is introduced by this revised frequency of surveillance and clarification of surveillance intent.

3. This change would not involve a significant reduction in the margin of safety because:

There have been no reported failures of this surveillance due to failures related to these trip units since RBS has been performing this daily Channel Functional Test. Therefore, the reliability of the system is adequately ensured by the performance of the Channel Functional Tests prior to startup and monthly thereafter. The clarification of applicability is consistent with the actual design. Additionally, the Technical Specification Bases do not define a margin of safety as applied to the daily Surveillance Requirement.

Thus, the margin of safety is not significantly reduced.

Since the proposed amendment is consistent with current design and adequately maintains the reliability of the RPCS, the proposed amendment does not increase the probability or consequences of any previously evaluated accidents, does not create the possibility of a new or different type of accident, and does not involve a significant reduction in a margin of safety. Therefore, Gulf States Utilities proposes that no significant hazards considerations are involved.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the analysis.

Local Public Document Room Location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Troy B. Conner, Jr., Esq., Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Jose A. Calvo

Indiana and Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: November 2, 1987 as supported by letter dated August 28, 1987.

Description of amendments request: The amendment would revise the Technical Specifications by adding limits on releases and test requirements for the incineration of contaminated waste oil in the Auxiliary Boiler System.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (51 FR 7751). One of these examples, (ii), involves a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed amendment is directly related to this example. The radioactive effluent releases and the procedures for review and analysis were previously approved under the Radiological Effluent Technical Specifications (RETS) program for DC Cook, Units 1 and 2. The implementation of the Technical Specifications for the RETS program overlooked the release pathway through the Auxiliary Boiler System although the releases have been accounted for and reported as appropriate. This proposed amendment would correct the oversight by adding the limits and test requirements to the Technical Specification. On this basis, the staff proposes to determine that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Kenneth E. Perkins.

Long Island Lighting Company, Docket No. 50-322, Shoreham Nuclear Power Station, Suffolk County, New York

Date of amendment request: September 4, 1987 and supplemented on November 19 1987

Description of amendment request: The proposed amendment would revise the Technical Specification definition of Core Alteration (Section 1.0, definition 1.7) to exclude normal movements of in-core instruments. The footnotes to Sections 3.1.1, 4.1.3.2, 3.9.2, 3.9.5 and Table 3.3.1-1 would be revised for consistency with the proposed definition. The proposed amendment would also add a footnote to Surveillance Requirements 4.1.2.a such that surveillance for reactivity anomaly after Core Alteration conditions, (Operating Condition 5) during which there was no core change except for the return of control rods with their normal drive mechanism to their fully inserted position, would not be required.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3)

involve a significant reduction in a margin of safety.

The NRC staff has reviewed and agrees with the licensee's evaluation and determination that the proposed amendment does not constitute a significant hazards consideration by meeting each of the above three standards as follows.

These changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The normal movement of core instruments and the normal movement of control rods (i.e., in their drive system and returning to the fully inserted position) during Core Alteration conditions will not cause any of the following:

1. Decrease in core coolant temperature
2. Increase in reactor pressure
3. Decrease in reactor coolant flow rate
4. Reactivity and power distribution anomalies
5. Change in reactor coolant inventory

Since there will be no change in these reactor parameters, the proposed changes do not affect the probability or consequences of previously evaluated accidents.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because there is only an insignificant perturbation of reactivity involved in the normal movement of core instruments during Core Alteration conditions. The normal movement of control rods (i.e., in their drive mechanisms), which returns them to their fully inserted position, during Core Alteration conditions, does not affect the reactivity worth of any core component.

The proposed changes do not involve a significant reduction in margins of safety because normal movement of in-core instruments do not affect Technical Specification limits or limiting safety system settings. In addition, the normal movement of control rods (i.e., in their drive mechanisms) which returns them to their fully inserted position, does not affect the reactivity worth of any core components.

Based on the analysis above, the staff proposes to determine that the proposed amendment involves no significant hazards considerations.

Local Public Document Room location: Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786

Attorney for licensee: W. Taylor Reveley, III, Esq., Hunton and Williams, P. O. Box 1535, Richmond, Virginia 23212

NRC Project Director: Walter R. Butler

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: August 28, 1987

Description of amendment request: The proposed changes would revise Technical Specification Limiting Condition for Operation (LCO) 3.1.1.1, Shutdown Margin - Any CEA Withdrawn and Technical Specification LCO 3.1.1.2, Shutdown Margin - All CEAs Inserted. The reason for these changes is to make the actual value of shutdown margin that is required when all CEAs are inserted (LCO 3.1.1.2) consistent with the value that was used in the Cycle 2 safety analysis. In addition, several administrative changes are being proposed to clarify LCOs 3.1.1.1 and 3.1.1.2 and make them consistent with normal plant operating procedures.

The proposed changes consist of the following:

1. Eliminate the Mode 2 Applicability and associated notes from LCO 3.1.1.2. Since Mode 2 requires a k-eff of equal to or greater than 0.99 and the Shutdown Margin LCO when all CEAs are inserted requires a shutdown margin of at least 1.0% (higher if T-cold is greater than 400° F), the two conditions are mutually exclusive. That is, it is impossible to satisfy the Shutdown Margin requirements of LCO 3.1.1.2 and, at the same time, achieve Mode 2 operation.

2. Delete surveillance requirements 4.1.1.2.1a and 4.1.1.2.2 because both of these requirements were applicable only during Mode 2 operation. Since LCO 3.1.1.2 will no longer be applicable in Mode 2, these surveillance requirements are superfluous.

3. Delete the reference to Modes 3, 4 and 5 from surveillance requirement 4.1.1.2.1b and incorporate the remaining requirements into associated with this LCO and it will be applicable whenever the LCO is applicable.

4. Change the index page and the headings of both LCO 3.1.1.1 and LCO 3.1.1.2 to refer to "full length CEAs" rather than "CEAs". This is merely a clarification to reflect the fact that Part-Length CEAs (PLCEAs) were not credited in the safety analysis that was performed to justify this change nor are they credited in the actual calculation of Shutdown Margin as discussed in the Definitions (Section 1.0) of the Technical Specifications.

5. Change the required value of Shutdown Margin in Figure 3.1-0 (LCO 3.1.1.2) from 4.15% to 4.10% when T-cold is greater than 500° F. This change simply reflects the actual value of Shutdown Margin that was assumed in the Cycle 2 Safety Analysis.

Although the proposed changes are being submitted to correct some minor inconsistencies between the current Shutdown Margin LCO's and the Cycle 2 safety analysis, it is anticipated that the proposed changes will remain bounding for Cycle 3 as well.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes that the proposed changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of any 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 the margin of safety. The basis for this proposed finding is given below.

(1) The proposed change is primarily administrative and will therefore have no impact on the Cycle 2 safety analysis. If the reactor has a neutron multiplication factor (k-eff) of equal to or greater than 0.99 (Mode 2) it would be impossible to maintain a shutdown margin equal to or greater than 1.0% with all full-length CEAs inserted. The proposed change simply removes this impossible condition from the Technical Specifications. Changing the required Shutdown Margin when all full length CEAs are inserted and the RCS inlet temperature (T-cold) is greater than 500° F from 4.15% to 4.10% is being done to make the Technical Specification Shutdown Margin requirement consistent with the Cycle 2 safety analysis. That is, for those safety analysis events that are affected by Shutdown Margin with all CEAs inserted, a Shutdown Margin value of 4.10% was assumed. Since the proposed change is consistent with the safety analysis and since the results of the safety analysis have been shown to be acceptable for all events, the proposed change will not result in a significant increase in the probability or consequences of any accident previously evaluated.

(2) The proposed changes do not involve any new equipment, or procedures nor do they result in any physical change to plant systems, structures or components. Although approval of the proposed changes would allow minor revisions to the Shutdown

Margin surveillance procedure, these revisions will be reviewed and approved by appropriate plant personnel prior to implementation as required by the Administrative Controls in the Technical Specifications. Thus, operation of the facility in accordance with the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The intent of these Technical Specifications is to ensure that the reactor remains subcritical following any design basis event (DBE) or anticipated operational occurrence (AOO). Since Mode 2 cannot be achieved under the conditions of LCO 3.1.1.2, removal of those portions of the LCO which involve Mode 2 operation is strictly an administrative change and will have no effect on the capability of the plant safety systems to maintain the reactor in a subcritical condition following any DBE or AOO. In addition, since the proposed Shutdown Margin value of 4.10% for LCO 3.1.1.2 was used as a direct input to the Cycle 2 safety analysis and since the results of the Cycle 2 safety analysis are acceptable for all events, the proposed changes will not involve a significant reduction in the margin of safety.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (52 FR 7751) of amendments that are considered not likely to involve significant hazards consideration. Example (i) relates to a change which is purely administrative: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature.

With the exception of lowering the required Shutdown Margin (described in item 5), the proposed changes are similar to Example (i). Removing the Mode 2 Applicability from LCO 3.1.1.2 (described in item 2) is clearly an administrative change because Mode 2 cannot be acheived when all full-length CEAs are inserted. Similarly, deleting the surveillance requirements associated with Mode 2 operation and rearranging the remaining surveillance requirement (described in items 2 and 3), represent administrative changes to provide consistnecy within the Technical Specification identifying CEAs as full-length CEAs in the title of both LCOs (described in item 4) is strictly an editorial change consistent with definition of Shutdown Margin in Section 1.28 of the Technical Specifications.

Lowering the required Shutdown Margin from 4.15% to 4.10%, although not an administrative change, is consistent with the safety analysis and, as described previously, satisfies the criteria of 10 CFR 50.92(c).

The staff has reviewed the licensee's no significant hazards consideration analysis. Based on the review and above discussions the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana.

Date of amendment request: October 8, 1987.

Description of amendment request: The proposed change would revise the Action statements associated with Technical Specification Limiting Condition for Operation (LCO) 3.2.1, Linear Heat Rate and Technical Specification LCO 3.2.4, DNBR Margin. LCOs 3.2.1 and 3.2.4 currently require core power to be maintained less than the linear heat rate (LHR) and DNBR power operating limits calculated by the Core Operating Limits Supervisory System (COLSS). If COLSS is out of service, the LHR and DNBR must be maintained within a more restrictive set of limits based on the Core Protection Calculators (CPCs). With these limits not being maintained, corrective action must be initiated within 15 minutes to restore the LHR and DNBR to within the applicable set of limits (depending on whether or not COLSS is operable) within 1 hour or the plant must be in at least Hot Standby within the next 6 hours.

The proposed change adds a distinction between the Action requirements for exceeding a COLSS-calculated power operating limit and the Action requirements for exceeding a CPC calculated operating limit (when COLSS is out of service). When COLSS is in service, the present Action remains essentially unchanged except that the power level that must be maintained if the LHR or DNBR limits cannot be restored will be increased to be consistent with the present Technical Specification applicability. However, with COLSS out of service, the proposed change will replace the current 15-minute time limit for initiating corrective action with a requirement to return COLSS to service within 2 hours. The time allowed for restoration of the DNBR and LHR limits would then increase from 1 hour to 2 hours. If the DNBR and LHR limits are not restored within 2 hours, the proposed change would require reactor power to be reduced to less than or equal to 20% of Rated Thermal Power within the next 6 hours.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes to determine that the proposed change does not involve a significant hazards consideration. As required by 10 CFR 50.92(c), a proposed change to an Operating License involves No Significant Hazards Consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) The proposed change does not modify the requirement to operate within the alternate LHR and DNBR limits nor does it modify the actual LHR or DNBR limits themselves. The proposed change makes a distinction between the Action requirements associated with exceeding a COLSS calculated power operating limit and the Action requirements associated with exceeding a CPC-calculated operating limit following a loss of COLSS.

The primary consideration in extending the COLSS out of service time limit is the remote possibility of a slow, undetectable transient that degrades the LHR and/or DNBR slowly over the 2 hours and is then followed by an anticipated operational occurrence or an accident. By increasing the monitoring frequency of the CPC calculated values of LHR and DNBR from every 2 hours to once every 15 minutes, additional assurance will be provided that potential reductions in core thermal margin will be quickly detected and should it prove necessary, result in a decrease in reactor power and subsequent compliance with the existing COLSS out of service Technical Specification limits.

Changing the core power which must be maintained if the LHR and/or DNBR

limits cannot be restored is consistent with Technical Specification philosophy. That philosophy requires the reactor to be placed in an Operational Mode in which the LCO is no longer applicable if that LCO or its associated Action statements cannot be satisfied.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed change does not alter the current power operating limits nor does it involve any changes to COLSS or CPC software. There has been no change to plant systems, structures or components nor will the proposed change affect the ability of any of the safety-related equipment required to mitigate anticipated operational occurrences or accidents. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The intent of LCOs 3.2.1 and 3.2.4 is to maintain the reactor within the range of initial conditions that was assumed in the Safety Analysis. Since there has been no change in the requirement to operate the reactor within the LHR and DNBR limits and no change to the actual LHR and DNBR limits themselves, the accident analyses described in Chapter 15 of the Final Safety Analysis Report will not be affected.

The staff has reviewed the licensee's no significant hazards consideration analysis. Based on the review and above discussions, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for Licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 27, 1987

Description of amendment request: The proposed amendment will increase the low pressure turbine disc inspection interval based on installation of an improved disc design. In order to minimize the probability of turbine missile generation, Surveillance Requirement 4.3.4.2 directs that testing and inspection be conducted on various aspects of the turbine overspeed protection system. In particular, Surveillance Requirement 4.3.4.2e requires inspection of the low pressure turbine discs at least once per 40 months. The proposed change will increase the inspection interval for installed "heavy" discs, retain the 40-month inspection interval for "light" discs and clarify that the inspection interval refers to time periods of actual turbine operation.

Waterford 3 has replaced one low pressure turbine disc with a new Westinghouse design known as a heavy disc. The remaining two rotors will be replaced with the heavy disc at the upcoming second refueling outage. The Westinghouse heavy disc design resulted from efforts to minimize the efforts of stress corrosion-induced cracking. Disc bore keyways, a major source of stress corrosion cracking, have been eliminated and replaced by a disc/keyplate combination. The heavy disc has a lower yield strength than the light disc material, thereby reducing the likelihood of cracking and slowing the crack propagation rate should cracking occur. In addition, the extra mass of the heavy disc results in a reduction in the applied bore stresses.

The NRC staff has previously reviewed and approved methodologies for calculation of an acceptable low pressure turbine inspection interval. One such approach, Westinghouse Memorandum MSTG-1-P (June, 1981), bases the inspection interval on the time necessary for a disc crack to grow to 50% of the critical crack size, where the critical crack size would result in disc destruction at design overspeed. Westinghouse has performed calculations using the methodology of MSTG-1-P to certify to the licensee that the heavy disc design installed at Waterford 3 would allow an inspection interval of at least 60 months.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes that the proposed changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), 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 the margin of safety. The basis for this proposed finding is given below.

(1) The proposed changes meet the acceptance criteria of an approved methodology for determining the low pressure turbine disc inspection interval and, therefore, will not increase the probability or consequences of previously evaluated accidents.

(2) No new failure mechnisms or modes of operation will be introduced through adoption of the proposed changes. Therefore, the possibility of a new or different kind of accident has not been created.

(3) By utilizing an approved methodology, the licensee has preserved existing margins of safety based on critical crack growth.

The staff has reviewed the licensee's no significant hazards consideration analysis. Based on the review and above discussions, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: November 5, 1987, supercedes in its entirety previous amendment request dated July 29, 1987, published September 9, 1987 (52 FR 34012).

Description of amendment request: The proposed amendment will increase the maximum allowable internal containment pressure at Waterford 3 based on a reanalysis of the limiting Main Steam Line Break (MSLB) and Loss of Coolant Accident (LOCA) events. Technical Specification Figure 3.6-1 presently defines the maximum containment pressure for Modes 1-4 as a curve from 15.4 psia at 80° F to 14.9 psia at 120° F. The proposed change will replace the curve with a single pressure value to account for a lower analyzed peak containment pressure and revise the measurement units from "psia" to "inches water gauge" to facilitate performance of the surveillance requirements.

As noted in the Bases, the maximum containment pressure allowed under Technical Specification 3.6.1.4 ensures that the containment peak pressure resulting from either a LOCA or MSLB event will not exceed the containment design pressure of 44 psig. To satisfy this condition, Louisiana Power and Light Company (LP&L) conducted a

series of analyses for LOCAs (a spectrum of break sizes) and MSLBs (a spectrum of break sizes and initial power levels) to determine the event which would produce the peak pressure in containment. These analyses, summarized in FSAR Tables 6.2-1 and 6.2-2, demonstrated that the peak containment pressure of 43.76 psig occurred for a 7.4765 ftB^2 MSLB from 75% power with the concurrent failure of a containment cooling train. The containment design pressure of 44 psig, therefore, allowed a margin of 0.2 psig over the calculated peak pressure. Because the allowable pressure range was small and, in anticipation of operational difficulties in maintaining containment pressure in such a narrow band, LP&L proposed (and the NRC accepted) Technical Specification 3.6.1.4 to define the maximum allowable containment pressure as a function of containment temperature, thereby allowing an operating pressure range slightly larger than 0.2 psig for containment temperatures below 120° F.

Although some operational flexibility was afforded through expressing maximum allowable containment pressure as a function of containment temperature, the narrow pressure range has placed undue operator attention on maintaining containment pressure within Technical Specification limits. To resolve this concern LP&L has reanalyzed the limiting MSLB and LOCA events.

The peak containment pressure analyses (those presently in Section 6.2 of the FSAR and the MSLB reanalysis) are performed using a modified version of the CONTEMPT-LT Mod 26 computer code. A description of the computer code and modification is contained in FSAR Appendix 6.2B. In the Waterford 3 SER (Section 6.2.1.1) the NRC reviewed the modified computer code and found it acceptable for containment analysis.

Peak containment pressure is a sensitive function of the amount of passive containment heat sink. To support various Cycle 1 and 2 analyses, LP&L had updated the pre-licensing estimates of passive containment heat sink and exposed surface area to reflect final construction activities and other station modifications. This updated information was used in the reanalysis of the limiting 75% power MSLB and the limiting LOCA. All other analysis assumptions and input data described in FSAR Section 6.2.1.1.3 were unchanged from the original analysis. Due primarily to condensation on the increased surface area, the peak containment pressure for the limiting MSLB case was reduced form 43.76 psig to 42.3 psig. Similarly, the limiting LOCA case was reduced from 43.3 psig to 41.1 psig.

With this reduction in limiting peak pressures, additional margin for the initial containment pressure governed by Technical Specification 3.6.1.4 is available. To define the initial containment pressure, LP&L has reanalyzed the limiting MSLB case from an initial pressure of 1.0 psig, resulting in a containment pressure of 43.71 psig - a margin of 0.29 psig to the containment design pressure.

The proposed change places a limit of 27 inches water gauge (INWG), or approximately 1.0 psig, on the maximum containment pressure during normal operating conditions. The proposed change accommodates 1.20 INWG to account for potential instrument error and approximately 6.8 INWG for conservatism.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes that the proposed change does not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), 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 the margin of safety. The basis for this proposed finding is given below.

(1) The proposed change introduces no new effect into the previously evaluated accidents (MSLB/LOCA) other than updating the MSLB and LOCA to reflect plant changes in passive heat sinks. The MSLB and LOCA consequences (i.e., peak pressures) are reduced while still preventing overall peak containment design pressure. Therefore, there is no increase in the probablity or consequences of previously analyzed events.

(2) The purpose of Technical Specificaiton 3.6.1.4 is to prevent the maximum containment pressure during any MSLB/LOCA from exceeding the containment design pressure. The proposed change is the direct result of incorporating as-built passive heat sink data into the MSLB and LOCA analyses and thereby reducing the peak pressures. No new plant systems, modes of operation or setpoint changes have been introduced which could have an effect on the course of an accident. Therefore, the proposed change will not create the possibility of a new or different accident from any previously evaluated.

(3) Technical Specification 3.6.1.4 prevents exceeding the containment design pressure. The proposed change ensures that containment design pressure is not exceeded by placing a limit on maximum containment pressure during Modes 1-4, based on the most limiting containment pressure event, thereby preserving safety margin. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's no significant hazards consideration analysis. Based on the review and above discussions, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: November 2, 1987

Description of amendment request: By application for license amendment dated November 2, 1987, Northeast Nuclear Energy Company, et al. (the licensee), requested changes to the Technical Specifications (TS) for Millstone Unit No. 2. The proposed change to the TS would: (1) allow a maximum of 12 hours of continuous, planned inoperability for liquid and gaseous effluent monitoring instrumentation; (2) permit inoperability of liquid and gaseous effluent monitoring instruments for the purpose of obtaining samples, and (3) establish a period of 12 hours within which auxiliary sampling of radioactive gaseous effluents must be initiated if the established minimum number of effluent monitoring channels become inoperable.

Basis for proposed no significant hazards consideration determination: Technical Specifications 3.3.3.9, "Radioactive Liquid Effluent Monitoring Instrumentation", and 3.3.3.10, "Radioactive Gaseous Effluent Monitoring Instrumentation" provide Limiting Conditions for Operation and remedial action requirements for the subject instrumentation. At the present time, TS 3.3.3.9 and 10 allow gaseous

and liquid effluent monitoring instruments to be made inoperable for an unspecified period of time within the 30 day action period for the purpose of performing preplanned activities. The TS defines these preplanned activities as "...maintenance and performance of required tests checks and calibration."

The licensee has proposed a change to TS 3.3.3.9 and 10 to specify 12 hours as the allowable instrument outage time, for performance of preplanned activities, and to extend the definition of the preplanned activities to include "sampling."

The licensee has proposed an additional change to TS 3.3.3.10 which presently requires that sampling of radioactive gaseous effluent pathways be undertaken if the minimum specified number of the associated monitoring channels become inoperable. The licensee has proposed that such monitor begin within 12 hours of time that the monitoring channels are determined to be inoperable.

The proposed changes to TS 3.3.3.9 and 3.3.3.10 represent clarification of existing requirements. In the case of the 12 hour period for planned inoperability of the effluent monitoring channels, and the 12 hour period for initiating sampling when the gaseous effluent monitoring channels are inoperable, these periods had not been previously defined in the TS. In the case of adding "sampling" as a permitted, preplanned, instrument outage activity, "sampling" is expected to account for a small fraction (less than 10%) of total effluent monitoring instrument outage time and is thus, not significant in terms of overall equipment availability.

On March 6, 1986, the NRC published guidance in the **Federal Register** (51 FR 7751) concerning examples of amendments that are not likely to involve a significant hazards consideration. One example of amendments not likely to involve significant hazards considerations is example (i) which involves "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 changes to TS 3.3.3.9 and 10 clarify existing requirements. Accordingly, the proposed changes to the TS is within the scope of example (i) and thus, the staff proposes to determine that it involves no significant hazards considerations.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Project Director: John F. Stolz

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: October 19, 1987

Description of amendment request: The proposed amendment would change the ranges in Technical Specification Table 3.2.F for the reactor water level range and fuel zone range recorders. The wide range recorder range as observed on the control room panel would then be minus 165 to plus 60 inches and the fuel zone range indicator's range, which is located immediately adjacent to the wide range indicator, would then be minus 325 to plus 60 inches. The new recorder ranges, as shown in Technical Specification Table 3.2.F, encompass the original ranges. The licensee has changed these recorders as part of the modifications previously made in response to NRC Generic Letter 84-23, Reactor Vessel Water Level Instrumentation in BWR's and NUREG-0737, Item II.F.2. The modifications assist in overcoming the effects of high drywell temperature on reactor water level measurement by removing the Yarway temperature compensation features, rerouting instrument lines and by adding electronic reactor pressure compensation to the level measurement. The NRC staff has previously reviewed and approved, in a letter dated February 11, 1985, the licensee's plans to improve reactor water level measurement. The licensee indicates, that with the current implementation of these changes, the same actuation functions are provided at the same water levels as previously established. The only change proposed by this amendment is a change in the numerical range data used in TS Table 3.2.F to identify the specific recorders to reflect an upper end point for both recorder ranges of plus 60 inches. Accordingly, the staff finds that the change merely revises information used to identify the recorders and is administrative in nature.

The Licensee also discusses eight other proposed changes in TS Table 3.2.F which involve replacing dashes by the word "to", spelling out "inches" and spelling out the word "feet." These changes will alleviate confusion and are administrative in nature.

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 (51 FR 7751) dated March 6, 1986. The changes proposed herein are representative of example (i), which 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 staff has reviewed and agrees with the licensee's evaluation as discussed above. Therefore, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126

Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW. Washington, DC 20006

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: November 9, 1987

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) for the Hope Creek Generating Station by:

(1) adding the following definitions for spiral reload and spiral unload:

A spiral reload is a core loading methodology employed to refuel the core after a complete core unload. During a spiral reload the fuel is to be loaded into individual control cells (four bundles surrounding a control blade) in a spiral fashion centered on an SRM moving outward. Before initiating a spiral reload, up to four bundles may be loaded in the four bundle locations immediately surrounding each of the four SRMs to obtain the required channel count rate.

A spiral unload is a core unloading methodology employed to defuel when the complete core is to be unloaded. The core unload is performed by first removing the fuel from the outermost control cells (four bundles surrounding a control blade). Unloading continues in a spiral fashion by removing fuel from the outermost periphery to the interior of the core, symmetric about the SRMs, except for the four bundles around each of the four SRMs. When sixteen or less fuel bundles are in the core, four around each of

the four SRMs, there is no need to maintain the required channel count rate.

(2) changing the Source Range Monitor (SRM) operability requirements to allow the SRM neutron count rate to drop below three counts per second during spiral reload and spiral unload when there are sixteen or less fuel bundles in the core comprising four or less fuel bundles in the four bundle locations immediately surrounding each of the four SRMs.

(3) deleting the surveillance requirement to verify that the SRM count rate is at least 0.7 cps or 3 cps "prior to and at least once per 24 hours whenever per item 2 above this count rate is not required."

(4) deleting the limiting conditions for operation and surveillance requirements in TS 3/4.10.7 concerning SRM requirements during the initial core loading.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated proposed changes 1 through 3 against the above criteria. With respect to criterion 1, it stated:

(i) . . . With the proposed changes to the Technical Specifications, after a complete core unload, HCGS would begin the refueling operation without inserting a portable neutron source and verifying an SRM channel count rate of 3 cps. Instead, two exposed bundles would be loaded into the core around each SRM in the positions which they would occupy for the subsequent cycle. If an SRM count rate of 3 cps is observed, then a spiral loading would proceed from the SRM instrument outward (see the discussion of Spiral Unload and Spiral Reload in Subparagraph (2) below). However, if sufficient counts are not observed, additional high exposure bundles may be inserted to complete the two-by-two array around each SRM in order to achieve 3 cps. These additional fuel bundles would not normally have been loaded into these locations and would solely be inserted in order to assist in satisfying the SRM count rate surveillance requirement. At this point if a minimum of 3 cps was not observed, refueling operations would be halted until the SRM instrumentation is checked. If the required count rate is observed, then the Spiral Reload would proceed from the SRM instrument outward eventually encountering the fuel bundles loaded around the other three SRMs.

The core configuration at this time would be different from the scheduled configuration for the next cycle in two manners. First, the core would only be partially loaded (i.e. up to 16 bundles) and second, the second pair of bundles loaded around each SRM to obtain the minimum count rate may be different from the bundles scheduled to occupy those locations. As long as the cold reactivities (zero voids) of the high exposure fuel bundles temporarily loaded around the SRMs are individually less than the cold reactivities of the respective bundles scheduled for the subject locations, the cold shutdown margin calculation performed for the scheduled core loading bounds the partially reloaded core (see Attachment 2). Hence, this criteria is required when temporarily loading the latter two bundles around an SRM in order to satisfy the SRM channel count rate operability requirements. This requirement is currently being satisfied and will continue to be met through the use of station administrative procedures. . . . . GE has performed fuel reactivity calculations to determine k-effective when four GE bundles, restricted to the cold reactivity criteria identified above and an uncontrolled lattice k-infinity of less than 1.31, are arranged in a two-by-two array surrounding an SRM with a minimum of 12-inches between them and any surrounding bundles. The analysis, based on the GE lattice physics models previously reviewed and approved by the NRC in GESTAR, indicate that for the conditions specified, k-effective will be less than 0.95 which bounds the highest enriched lattice designs allowed under GESTAR. As a result, the need for SRM count rates when sixteen or fewer bundles are in the RPV is unnecessary since an inadvertent criticality is not possible. . . . FSAR Section 15.4.7 discusses the accident analysis associated with a misplaced bundle. . . . PSE&G has re-evaluated the accident scenario in light of the proposed changes and has concluded that the results presented in FSAR Table 15.4-7 are still applicable, bounding the proposed changes.

Therefore, the proposed changes do not increase the probability or consequences of an accident previously analyzed.

With respect to criterion 2, it stated:

The proposed changes do not change the physical design or operation of the Source Range Monitors nor require any hardware modifications or core redesign. Rather, the proposed changes only require procedural revisions which indicate when the SRMs are to be declared operational and how the refueling sequence will be handled. . . . . . This type of loading sequence simply describes the pattern to load or unload fuel and in no way changes the requirements for the incore nuclear instrumentation, i.e. SRMs, Intermediate Range Monitors (IRMs) and Local Power Range Monitors (LPRMs). The fact the SRMs need not be operable with sixteen or fewer fuel bundles in the core, simply reflects the GE criticality analysis which has no bearing on the loading sequence other than that discussed above. Therefore, the Technical Specifications are being revised to reflect the loading methodology simply to provide a better definition of the loading sequence thereby maintaining consistency with the proposed change.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

With respect to criterion 3, it stated:

. . . The proposed changes represent a condition associated with the SRMs which has been previously reviewed and approved by the NRC during the preparation of the Technical Specification Special Test Exceptions. Although the current exception identified in Technical Specification Section 3/4.10.7 is applicable to the initial core only, for that situation, the margin of safety for the SRMs is not reduced when the Limiting Conditions for Operation (LCO) are satisfied. One of these conditions is that no more than 16 bundles can be in the core at any one time. This specification and the GE analysis discussed above provide the basis for utilizing this same LCO for any subsequent core cycles provided the limitations stated in Subparagraph (1) above are satisfied. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's evaluation of the proposed changes 1 through 3 as discussed above and agrees with the licensee's determination.

The Commission has also provided guidance concerning the application of its standards set forth in 10 CFR 50.92 by providing certain examples (51 FR 7744). One of the examples, (i), of an amendment likely to involve no significant hazards consideration relates to "a purely administrative change to technical specifications."

Proposed change 4 as discussed above involves deletion of a Technical Specification that was applicable to the initial core loading only. The initial core loading was completed in early 1986 and the Technical Specification is no longer applicable. Removal of this Technical Specification therefore relates to this example.

On the basis of the above, the Commission proposes to determine that the proposed amendment involves no significant hazards considerations.

Local Public Document Room location: Pennsville Public library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: September 16, 1987, supplemented by submittal dated November 2, 1987.

Description of amendment request: The proposed license amendment would make changes in Section 6, Administrative Controls, of the Technical Specifications (TS) for Rancho Seco facility. These changes result from the recent restructuring of the management organization and expansion of the management staff.

A summary of the proposed changes follows:

- Table 6.2-1 - changes to establish minimum shift crew composition.
- Figure 6.2-1 - changes to reflect new positions and titles in the new management structures.
- Figure 6.2-2 - changes in the new plant organization under the new plant staffing plan.
- Changes throughout Section 6 to reflect new management titles and organizational units.
- Changes in Section 6.5.1 to describe the new Plant Review Committee (PRC) makeup, responsibilities and reporting authority.
- New Section 6.5.3, Technical Review and Controls, describes a new review and approval process for procedures, tests, experiments, and plant modifications.
- Section on *Environmental Reports* is removed from Appendix B to Section 6.9.6 of Appendix A of the License.
- Section 6.17 is changed to clarify "major changes" to radioactive waste treatment systems and to establish letter management control over such changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92 (c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed changes to Section 6 of the Technical Specifications against each of the criteria of 10 CFR 50.92, and concluded that plant operation with the above administrative changes would not:

1. Increase the probability of occurrence or consequences of a previously evaluated accident because the level of qualifications and experience of the positions or committees responsible for plant safety are increased.
2. Create the probability of an accident of a different type than previously evaluated because the safe operation of the plant is enhanced by the higher level of management qualifications and experience.
3. Significantly reduce any margin of safety because all levels of oversight of conduct of operation at Rancho Seco are increased.

On the basis of the above, the licensee concludes that the proposed changes do not constitute a significant hazard, or in any way endanger the health and safety of the public.

The Commission has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P. O. Box 15830, Sacramento, California 95813

NRC Project Director: George W. Knighton

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: October 1, 1987

Description of amendment request: Amendment request No. 164 proposes to make various modifications and additions to Rancho Seco Generating Station Technical Specifications (RSTS). The proposed amendment incorporates the most significant findings from the "Technical Review Report Evaluation of Rancho Seco Nuclear Generating Station Technical Specifications". Of the approximately 190 comments generated by this review, the District and the NRC agreed on Rancho Seco's short term implementation of the items addressed by this proposed amendment.

Proposed Amendment No. 164 would make changes to multiple sections of the technical specifications which impact various plant safety related systems. These impacted systems include (1) reactor coolant system, including reactor coolant pumps and pressurizer electromatic motor operated valve (EMOV); (2) control rod drive system, (3) decay heat removal system, and (4) reactor coolant system leak detection system. The proposed modifications to the technical specifications do not change the facility as described in Licensing Basis Documents and there would be no changes to the FSAR resulting from Proposed Amendment No. 164.

In various places throughout the Rancho Seco Technical Specifications, editorial changes are proposed to correct errors or clarify the text. These changes do not involve changes in intent of the specifications. Another proposed the change would delete existing specifications 3.1.2.6 and 3.1.2.7 and move their text to new sections 6.9.1.3 and 6.9.1.4, respectively. These specifications would be relocated to the appropriate section of the technical specifications because they address reporting requirements and are not considered Limiting Conditions for Operations.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee proposes to make changes to multiple sections of the RSTS which affect various plant safety-related systems. These affected systems include: (1) reactor coolant system, including reactor coolant pumps and pressurizer electromatic motor operated valve (EMOV), (2) control rod drive system, (3) decay heat removal system, and (4) reactor coolant leak detection system. In all cases, however; the licensee proposed amendments are enhancements to the RSTS and provide additonal restrictions, limitations or control, and more closely conform to or are based on the Standard Technical Specifications, NUREG 0103, (Rev. 4) that are applicable to Rancho Seco.

The licensee, in the letter dated October 1, 1987, has performed a detailed analysis of all the proposed changes to the above criteria. The staff has reviewed the licensee's analysis and agrees with the licensee's conclusion's that the proposed changes involve no significant hazards consideration and that the proposed changes are comparable to changes the NRC has previously determined appropriate and

which are reflected in NUREG 0103 (Rev. 4).

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P. O. Box 15830, Sacramento, California 95813

NRC Project Director: George W. Knighton

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment requests: May 29, 1987 (TS 232)

Description of amendment requests: Tennessee Valley Authority proposes to modify the Browns Ferry Nuclear Plant, Units 1, 2, and 3 Technical Specifications to clarify the trip level setting for the Standby Gas Treatment System (SGTS) relative humidity heater denoted in Table 3.2.A. The current requirement of "less than or equal to 2000 cfm" would be changed to "greater than or equal to 2000 cfm and less than or equal to 4000 cfm."

The change would allow the relative humidity heater switch to perform its intended function of turning off the heater before a decreasing SGTS flow reaches 2000 cfm. This would prevent damage to the SGTS filter banks by turning off the heater before reaching a flow that would not adequately transfer the heat. An upper bound of 4000 cfm is imposed on the setpoint to ensure that the flow switches do not prevent the heaters from performing their intended function during normal blower operation. Technical Specification 3.7.B.2.c requires that each train operate with ± 10 percent of design flow (9000 cfm). Therefore, when the system is initiated, the airflow for an operable train would be greater than 4000 cfm and the heaters would perform their function.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a 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 addressed the above three standards in the amendment application and has determined that the proposed change: (1) would not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change to the trip level setting for the SGTS relative humidity heater more appropriately clarifies the intended function of the switch and precludes a condition that would allow the setting of a setpoint significantly below 2000 cfm and causing potential damage to the SGTS system. The direction of the setpoint movement is conservative in respect to the switch function which is turning off the heaters before reaching a flow that would not adequately transfer heat. Thus, the consequences of an accident previously evaluated may in fact be decreased by this change. In addition, the change does not result in any modification to the plant or system operation and is consistent with the plant design basis; (2) would not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated in (1) above, the setpoint change is in a conservative direction. The change will not eliminate any protection functions of the SGTS and does not create any new accident mode; and (3) would not involve a significant reduction in a margin of safety. As stated in (1) above, the setpoint change is in a conservative direction and no functions or equipment changes are involved.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Gary G. Zech

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: April 16, 1987 (TS 80)

Description of amendment requests: Tennessee Valley Authority proposes to modify the Sequoyah Nuclear Plant Units 1 and 2 Technical Specifications (TS) to delete Surveillance Requirement (SR) 4.6.1.8.d.4 for the emergency gas treatment system (EGTS) heaters. Also, revisions to SR 4.7.8.d.4 and 4.9.12.d.3 and the associated bases are proposed to reflect the minimum heater capacity required for the auxiliary building gas treatment system (ABGTS). SR 4.7.8.d.4 is applicable to the ABGTS for Modes 1 through 4 and SR 4.9.12.d.3, whenever irradiated fuel is in the spent fuel pool. A typographical error in SR 4.7.8.d.4 (unit 1 only) would also be corrected.

Basis for proposed no significant hazards consideration determination: Both the EGTS and ABGTS were constructed with heaters in the ductwork upstream of the air cleanup units. These heaters were installed to maintain the relative humidity of the airstream passing through the cleanup units at less than or equal to 70 percent.

TVA has performed a detailed calculation, EN DES Calculation TI-ECS-98, "Maximum Annulus Relative Humidity Resulting from a Loss of Coolant Accident (LOCA) or High Energy Line Break (HELB) Inside Containment." The maximum relative humidity as calculated by this analysis for the EGTS in the annulus after a LOCA or HELB inside containment would be approximately 60 percent (assuming the annulus was cooled to its normal operating average temperature of 105° Fahrenheit). This value is lower than the upper-bound relative humidity that the duct heaters were installed to maintain. As such, the duct heaters in EGTS are not considered by TVA as being required for safety.

Also, the annulus relative humidity calculation was performed assuming an annulus inleakage (from the outside environment) at a rate of 100 cfm. The offsite dose calculation for Sequoyah now assumes an annulus inleakage of 500 cfm (Sequoyah Final Safety Analysis Report [FSAR] subsection 15.5.3). The analysis points out that this would lower the annulus relative humidity for a given temperature, as the inleakage acts to "dilute" the steam leakage from containment. Therefore, using the 500 cfm inleakage rate, it is concluded that the relative humidity in the annulus can be as low as approximately 45 percent (assuming an average annulus temperature of 105° Fahrenheit) after a LOCA or HELB in containment.

Another TVA calculation, EN DES Calculation TI-ECS-4, "Determination of Requirements for the Relative Humidity Heater in the Auxiliary Building Gas Treatment System," was prepared to determine the heater requirements for the ABGTS. The analysis was performed to define realistic conditions (temperature and moisture content) for the air entering the ABGTS suction. These realistic conditions were defined

to replace the original calculation assumptions which were overly conservative. The resulting calculations determined that a heater capacity of 15.8 kW is required to reduce the relative humidity of the ABGTS airstream to the desired 70 percent level based on the assumed outside air conditions.

Based on the TVA evaluations performed, the SR for measuring the EGTS heater output is proposed to be deleted, and the SR for measuring the ABGTS heater output are proposed to be changed from ". . .32 kW ± 3.2 kW. . ." to "Verifying that the heaters will dissipate the energy necessary to maintain the relative humidity of the airstream to less than or equal to 70% prior to entering the filters...." This has been shown by TVA calculation that 70 percent relative humidity can be equated to greater than or equal to 18 kW (15.8 kW required plus 2.2 kW safety margin) when the recorded voltage and current (from the surveillance test) are equated to the limiting voltage value of 422 V ac. This is the limiting voltage at the ABGTS heater terminals as determined by TVA calculation 0E2-EEBCAL001, "AC Auxiliary Power System Voltage and Loading Analysis." The recorded data will be equated to the analysis minimum requirement of 18 kW by using the following formula:

$Power_{eq} = (422)^2(1.73)\ I(recorded)/V(recorded)$

The TS for both EGTS and ABGTS have SRs that call for the systems to be operated with the heaters on for at least 10 hours, at least once every 31 days on a staggered test basis. This action is intended to reduce the buildup of moisture on the air cleanup filter banks to below acceptable limits. This ensures filter efficiency is above acceptable limits. This testing would continue to be performed at the above-stated intervals.

To ensure that the heaters are performing properly, they would continue to be tested once every 18 months to verify that they meet the manufacturer's ratings. This testing would be performed to identify heater degradation.

The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92 about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92 the licensee has performed and provided the following analysis.

(1) Is the probability of an occurrence or the consequences of an accident previously evaluated in the safety analysis report significantly increased?

No. The purpose of the heaters is to maintain the relative humidity of the airstream passing through the EGTS and ABGTS cleanup units to less than or equal to 70 percent. TVA analysis TI-ECS-98, "Maximum Annulus Relative Humidity Resulting from a Loss of Coolant Accident (LOCA) or High Energy Line Break (HELB) Inside Containment," indicated that the relative humidity in the annulus (EGTS suction) would remain well below 70 percent after a LOCA or HELB. As such, the EGTS heaters are not required for the proper operation of the system under postaccident conditions. TVA analysis TI-ECS-4, "Determination of Requirements for the Relative Humidity Heater in the Auxiliary Building Gas Treatment System," determined that the manufacturer's rated capacity of the ABGTS heaters was significantly greater than the capacity required to maintain the relative humidity to less than or equal to 70 percent. In both cases, the relative humidity of the airstream before the cleanup units will be sufficiently low to ensure the efficiencies of the air cleanup units meet or exceed their assumed analysis values. As such, these changes do not significantly increase the probability of occurrence or the consequences of an accident previously evaluated in the safety analysis report.

(2) Is the possibility for an accident of a new or different type than evaluated previously in the safety analysis report created?

No. The heaters were installed to ensure that the relative humidity of the EGTS and ABGTS airstreams was less than or equal to 70 percent before entering the cleanup units and to provide a method for periodically removing accumulated moisture from the filter banks. The proposed changes to the SRs do not adversely affect either of these functions. Therefore, these changes do not create the possibility for an accident of a new or different type than evaluated previously in the safety analysis report.

(3) Is the margin of safety significantly reduced?

No. The margin of safety provided by these heaters is to ensure the sufficiently low moisture content of the airstream through the filters to maintain filter efficiency. As these changes will not result in an excessive moisture content and lowered filter efficiency, there is no adverse impact on the offsite dose calculations. Thus, there is no significant reduction in the margin of safety.

Additionally, the staff notes that the typographical correction is strictly administrative and does not present a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Gary G. Zech

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: September 14, 1987 (TS 87-39)

Description of amendment requests: The proposed Technical Specification (TS) changes would correct inconsistencies between the Sequoyah (SQN) Unit 1 TS and the SQN Unit 2 TS, correct inconsistencies between requirements, and provide clarification for the intent of various specifications. Correction of these discrepancies would eliminate confusion over applicable requirements and eliminate the potential for error.

Basis for proposed no significant hazards consideration determination: The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA [Tennessee Valley Authority] has evaluated the proposed TS change and determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. These changes are to correct minor inconsistencies between requirements and discrepancies between plant design and requirements. Correcting these problems will eliminate confusion over applicable requirements and eliminate the potential for error. Eliminating the potential for error will reduce the probability of an occurrence.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. These changes are to correct minor inconsistencies between requirements and discrepancies between plant design and requirements. No hardware changes were made to the plant. Correcting the inconsistencies between certain action statements and other requirements in the TS will eliminate confusion over applicable requirements and eliminate the potential for error. In this case, the error would be to

operate in a plant configuration not previously analyzed. Correcting these inconsistencies should eliminate the potential for this type of error.

3. Involve a significant reduction in a margin of safety. These changes are to correct minor inconsistencies between requirements and discrepancies between plant design and requirements. Correcting these problems will eliminate confusion over applicable requirements and eliminate the potential for error. The margin of safety will be increased with the elimination of the potential for error.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Gary G. Zech

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: September 16, 1987 (TS 87-37)

Description of amendment requests: The Tennessee Valley Authority proposes to modify the Sequoyah Nuclear Plant (SQN) Units 1 and 2 Technical Specifications to add additional requirements for containment cooling for non-loss of coolant accident (LOCA) events. Revised calculations for a main steam line break (MSLB) inside containment (the most severe non-LOCA event for containment temperature) indicate that temperatures would exceed environmental qualification (EQ) limits for certain equipment in the lower compartment and pressurizer enclosure. The proposed change would impose limiting conditions for operation and associated surveillance requirements for the lower containment cooling fans to ensure that temperatures following an MSLB remain below the EQ limits.

Basis for proposed no significant hazards consideration determination: The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

TVA has evaluated the proposed technical specification change and determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. The FSAR assumes the worst case condition for long-term cooling following a steam line break is a loss of offsite power with failure of one emergency power train. This condition requires the greatest amount of operator action and the longest time to achieve cold shutdown. The analyses demonstrate that the plant can be maintained safely at hot standby conditions for extended periods of time.

With only onsite power available, the plant can be maintained in a safe hot standby condition using the intact steam generators by supplying feedwater with the auxiliary feedwater system and venting steam through the secondary side, power-operated relief valves. The relief valves will be controlled to gradually reduce pressure and temperature as the core residual heat decays. Two of four steam generators are required to maintain the plant in this safe shutdown condition.

The FSAR considers the containment temperature response resulting from a LOCA to be bounding in all cases. No further consideration was given to the effects of long-term recovery from an MSLB or other less severe non-LOCA events, since the mass and energy release had ended within a short period of time. Therefore, the containment EQ curve was developed without considering the primary system as a major long-term heat source in establishing the most severe inside containment EQ time-dependent temperature profile. Use of the lower containment coolers for non-LOCA accident mitigation and the proposed technical specification requirements will ensure containment temperatures remain within EQ limits for all safety-related equipment required to remain functional following non-LOCA events.

(2) create the possibility of a new or different kind of accident than previously evaluated. The proposed change will not affect normal operation of the plant. A rigorous evaluation of the major heat sources present during the entire accident time frame has been performed to ensure equipment EQ limits are not exceeded. Modifications were made to upgrade the lower containment coolers to ensure reliable operability during accident conditions. All safety system interfaces have been evaluated to ensure that the required use of the coolers does not degrade other safety systems expected to be operable during the accident. Operator action during the accident is not a burden because a very flexible time period is allowed to complete the required actions. The proposed testing requirements do not require unusual plant configuration and thus do not create a different type of accident than previously evaluated.

(3) involve a significant reduction in a margin of safety. The proposed change adds technical specification requirements for the lower containment coolers since these coolers now have an assumed role in accident mitigation of non-LOCA events. This role is to keep containment temperature within operating limits of equipment required to maintain the safety of the plant. Continued reliable operation of safety-related equipment provides assurance that the margin of safety has not been reduced.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Gary G. Zech

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: September 11, 1987.

Description of amendment request: The proposed amendment would increase the maximum isolation time for the containment mini-purge isolation valves, given in Technical Specification Table 3.6-1, from 3 seconds to 5 seconds.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has provided the following analysis of no significant hazards considerations using the Commission's standards:

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change is a relaxation of the closure time specified in Table 3.6-1 of Callaway Technical Specification 3/4.6.3 for the containment mini-purge system isolation valves (GT-HZ-

04, 05, 11 and -12) from 3 seconds to 5 seconds following receipt of a signal to close. The valves close to isolate containment upon receipt of a containment purge isolation signal (CPIS), as discussed in FSAR Sections 6.2.4 and 7.3, which can be generated by a number of different mechanisms, including low steamline pressure (lead-lag compensated), low pressurizer pressure, high containment pressure (Hi-1), high containment purge exhaust radioactivity, as well as manual actuation.

The subject valves are fully qualified to NUREG-0588 guidelines for post-accident operation inside the containment. The system operates during normal plant operation; therefore, the subject valves could be open at any time during normal operation.

There is no change to any hardware as a result of this Technical Specification change. There is no effect on the probability of any accident previously evaluated since the containment mini-purge system has no interface with high energy and/or potentially radioactive systems and is not involved in any postulated accidents other than for its isolation function.

Regarding the effects on the consequences of any accident previously evaluated due to the subject Technical Specification change, an evaluation has verified that the blowdown from containment to the auxiliary building following a LOCA, prior to full closure of the subject valves in the minipurge supply and exhaust lines, does not generate a harsh environment in the auxiliary building. The mini-purge supply and exhaust lines consist of a short run of non-Q, non-seismic duct inside containment coupled to ASME Class 2 pipe which leads to the containment penetration. Outside containment ASME Class 2 pipe leads away from the containment penetration and is then coupled to non-Q, non-seismic duct. The subject containment isolation valves are located on the ASME Class 2 pipe. For conservatism, it was assumed that the duct is not present and that the containment blows down through the purge lines to the auxiliary building and dumps into the rooms where the ASME Class 2 pipe changes to duct. This occurs in rooms 1506 and 1507 which are the only rooms through which the purge lines pass before exiting the auxiliary building. Due to the short duration of the blowdown coupled with the existence of adequate vent paths from rooms 1506 and 1507, the pressure, temperature and humidity effects are minimal. It was verified that the pressure, temperature and humidity values generated in rooms 1506 and 1507 were below the values in FSAR Section 3.11(B).5.7 for a mild environment (i.e., 110 degrees F, 16.1 psia, and 90% R.H.). Similarly, the minimal pressurization effects would have no adverse effect on any auxiliary building structures (e.g., walls, floors, and ceilings).

Regarding the effects on exclusion area boundary and low population zone doses due to the additional blowdown discussed above, a calculation has been performed verifying that the dose contribution due to the blowdown prior to mini-purge valve closure is not significant (less than 2%) compared to the doses calculated for the current LOCA analysis as discussed in FSAR Section 15.6.5. The new total doses are well within 10 CFR 100 limits. For this calculation, the activity is assumed to be released directly to the environment with no filtering. Likewise, if the blowdown were released into the auxiliary building, the dose contribution is minimal when compared with the 180-day total integrated doses previously used to evaluate equipment in rooms 1506 and 1507.

Relaxed closure time has no effect on the containment minimum pressure analysis for ECCS operation. FSAR Section 6.2.1.5 addresses the containment minimum pressure analysis and discusses those parameters that impact this analysis. This section of the FSAR concludes that the containment mini-purge system does not have a substantial effect on this analysis.

This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This change in stroke time is still within the guidelines set forth in Branch Technical Position CSB 6-4 which states under Item A, paragraph 7, that the maximum time for valve closure should not exceed five (5) seconds to assure that purge valves are closed before the onset of fuel failures following a LOCA.

The capability of the subject valves to close against the rising containment pressure following a large LOCA has been verified by the valve vendor, Fisher, as detailed in SLNRC 84-0004 dated January 16, 1984. This letter contains the results of analyses verifying that the mini-purge valves will close in their specified time against the maximum LOCA containment pressure (47.3 psig) including the effects of asymmetric flow into the valves due to the piping configuration. In reality, the valves will be closed prior to the time that the containment reaches its maximum pressure after a LOCA of 62 psia (i.e., closure in 8 seconds, including 3 seconds for signal generation and lag time, vs. greater than 100 seconds to reach peak containment pressure).

This change does not involve a significant reduction in a margin of safety. As indicated above, this change will have no significant effect on the post-accident pressure, temperature and humidity environments in the auxiliary building. Likewise, the dose contribution for exclusion area boundary and LPZ doses from the containment purge lines is negligible in comparison to the doses calculated for the current LOCA analysis. Additionally, the minimum containment pressure analysis remains unaffected by the proposed change.

Based on the previous discussions, the licensee concluded that the proposed amendment request 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 accident from any accident previously evaluated; does not involve a reduction in the required margin of safety. The staff has reviewed the licensee's no-significant-hazards-consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Kenneth E. Perkins.

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: September 22, 1987

Description of amendment request: The proposed amendments would modify North Anna Technical Specification Sections 4.8.1.1.3 and 4.8.2.3.2, which address the surveillance requirements for the emergency diesel generator (EDG) batteries and the station batteries, respectively.

The proposed Technical Specifications would:

(a) incorporate the parameters for the weekly and quarterly battery surveillance requirements into Table 4.8-3, "Battery Surveillance Requirements." The new table uses expected values and allowable values. During the weekly surveillance of the pilot cell, if the cell parameters are outside of the expected values but within the allowable limits, the battery is considered operable provided that within the next 24 hours all connected cells are inspected and their parameters are within the allowable limits. The battery parameters must then be restored to their expected limits within the next 6 days.

(b) establish an expected value of specific gravity for the quarterly test for each connected cell to be greater than or equal to 1.205 for the average of all cells, with no cell less than 1.195.

(c) establish an allowable limit for specific gravity at greater than or equal to 1.195 for the average of all connected cells, with no cell more than 0.020 below the average.

(d) allow substitution of battery charging or float current as indicative of an operable battery (station batteries only) when pilot cell specific gravity has decreased below the expected value or the average specific gravity of all connected cells has decreased below the allowable limit. The charging current is not used as an indicator of operability for the EDG batteries due to its

temperature sensitivity and the wide band of temperatures that are encountered in the EDG rooms.

(e) establish a conservative expected limit for cell float voltage of greater than or equal to 2.13 volts on both the weekly and quarterly surveillances. If the temperature corrected voltage is below 2.13 volts, an equalizing charge is required to enhance cell life expectancy. However, the allowable acceptance limit for float voltage to determine battery operability remains unchanged from the present limit of greater than or equal to 2.08 volts.

(f) conservatively increase the total battery voltage limit from greater than or equal to 125 to greater than or equal to 129 volts. This increase in total battery voltage reflects the licensee's intention to maintain an average float voltage per cell of at least 2.15 volts.

(g) maintain the requirement that the electrolyte level should be maintained between the minimum and the maximum indication marks. However, for determining battery operability, the new allowable limit for electrolyte level is above the plates and not overflowing.

(h) require the performance of the quarterly surveillance within 7 days of a severe discharge or overcharge. For each quarterly test, an inspection for corrosion of each battery terminal and connector is to be performed. In addition, the average electrolyte temperature for the station batteries will be verified to be above 60 degrees F.

The surveillance requirement for the 18 month station battery service test is being revised to allow the use of simulated loads instead of the actual emergency loads. This change is intended to clarify the licensee's current method of performing this test. The proposed change will allow the once per 60 month discharge performance test to be performed in lieu of the battery service test in the same year for the station batteries. Additionally, the proposed Technical Specification will require performance of the discharge test every refueling outage for an EDG or station battery that has shown signs of degradation or has reached 85 percent of its expected service life for this application.

The specific wording of Technical Specification Sections 4.8.1.1.3.b.2, and 4.8.2.3.2.b.2 and b.3 of both Units 1 and 2 in the proposed amendments as submitted was different from that of the corresponding, NRC-approved, Westinghouse Standard Technical Specifications (STS) Sections 4.8.2.1.b.2 and b.3. At the request of the NRC staff during a telephone conversation with the licensee, the licensee agreed to adopt the Westinghouse STS wording.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes in the plant Technical Specifications in accordance with the standards of 10 CFR 50.92(c) and has determined that operation of North Anna Units 1 and 2 in accordance with these changes would not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. The establishment of conservative expected values for the battery parameters adds assurance that corrective actions will be taken prior to a battery degrading to an unacceptable level. The requirement to perform the battery discharge test every refueling outage once the battery has shown signs of degradation is an additional assurance that battery performance will be monitored and action taken prior to the battery reaching an unacceptable level.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated. These proposed changes do not involve any alterations to the physical plant or to procedures which would introduce any new or unique operational modes or accident precursors.

(3) involve a significant reduction in a margin of safety. The capacity of the batteries is not significantly affected by the proposed changes and, assuming operation at or above the proposed limits for determining battery operability, the batteries can perform their intended safety functions. The current safety analyses remain bounding, therefore, the margin of safety is not being significantly reduced.

The NRC staff agrees that the proposed changes to the Technical Specifications meet the criteria specified in 10 CFR 50.92(c) and, hence, proposes to determine that they involve no significant hazards considerations.

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.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of amendment request: February 9, 1987

Description of amendment request: This amendment, if approved, will modify Section 4.1.3.5 of the WNP-2 Technical Specifications pertaining to surveillance requirements for the control rod scram accumulators. The current specification requires that the alarm setpoint for the scram accumulator pressure detectors be verified to be in the range of 940 to 970 pounds per square inch gauge (psig). The revision would remove the upper limit of this allowable range, requiring simply that the setpoint be equal to or greater than 940 psig.

The licensee has made this request based on advice from General Electric that several operating nuclear stations have reported that hydraulic control unit (HCU) accumulator pressure switches have actuated below the limits stated in their plant technical specifications during regularly scheduled surveillance testing. These pressure switches trip on low HCU accumulator nitrogen pressure and alarm in the control room. The purpose of the proposed change is to allow a higher setpoint to provide adequate allowance to account for the downward instrument drift trends observed since plant startup.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or, (3) involve a significant reduction in a margin of safety.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the low

pressure setpoint will not be set below the present technical specification value and in fact may be set at a more conservative position.

The proposed change does not create the possibility of a new or different kind of accident than previously evaluated because the requested action is limited to the revision of the allowable alarm setpoint range and because the alarm setpoint may be set in a more conservative direction.

The proposed change does not involve a significant reduction in a margin of safety because a more conservative alarm setpoint actually increases the margin of safety.

Based on our review of the proposed modification, the Commission proposes to determine that the proposed change to the WNP-2 Technical Specifications involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire, Bishop, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW., Washington, DC 20036

NRC Project Director: George W. Knighton

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 biweekly notice. They are repeated here because the biweekly 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.

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: August 13, 1987, as revised October 23 and November 25, 1987.

Brief description of amendment request: The proposed amendment would provide interim changes to the Technical Specifications (TS) for the standby liquid control system (SLCS) and the ATWS recirculation pump trip (ATWS-RPT) system to reflect modifications to these systems. The modifications to these systems will be made during the second refueling outage to conform to 10 CFR 50.62, regarding anticipated transients without scram (ATWS). A third system required by 10 CFR 50.62, the alternate rod insertion (ARI) system, which will be installed during the second refueling outage, will not require changes to the TS at this time. The staff will provide guidance on a generic basis regarding TS requirements for the ATWS-RPT and ARI systems at a later date.

Date of publication of individual notice in **Federal Register:** December 4, 1987 at 52 FR 46139

Expiration date of individual notice: January 4, 1988

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arizona Public Service Company et al., Docket No. STN 50-530, Palo Verde Nuclear Generating Station, Unit 3, Maricopa County, Arizona

Date of application for amendment: July 23, 1987, as supplemented November 6 and November 9, 1987

Brief description of amendment: The amendment authorizes sale and leaseback transactions by El Paso Electric Company relating to its ownership interest in Palo Verde, Unit 3.

Date of issuance: December 2, 1987

Effective date: December 2, 1987

Amendment No.: 1

Facility Operating License No. NPF-74: Amendment changes the license.

Date of initial notice in **Federal Register:** September 23, 1987 (52 FR 37585) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 2, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: June 2, 1987.

Brief Description of amendment: Change the Technical Specifications for rod instrumentation and operability requirements for APRM Upscale and Inoperative trip functions.

Date of issuance: November 30, 1987

Effective date: 30 days from date of issuance

Amendment No.: 110

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28372). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 30, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: July 8, 1987, as supplemented on August 5, 1987

Brief Description of amendment: The amendment revises Technical Specification 4.5.A.3.d to explicitly specify low pressure coolant injection (LPCI) pump performance necessary to comply with the current loss-of-coolant accident (LOCA) analysis for the Pilgrim Station.

Date of issuance: November 30, 1987

Effective date: 30 days from date of issuance

Amendment No.: 111

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 26, 1987 (52 FR 32194) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 30, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: July 31, 1985, as supplemented November 8 and December 26, 1985, March 7, 1986, and July 1, 1987

Brief description of amendments: The amendments would add an action statement to Technical Specification 3/4.2.3, and would modify Figure 3.2-3 to delete the DNB limit line and add a graduated scale to allow a tradeoff of reactor coolant system flow against reactor thermal power level.

Date of issuance: November 24, 1987

Effective date: November 24, 1987

Amendment Nos.: 34 and 25

Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 27, 1986 (51 FR 30563) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 24, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: July 27, 1987, as clarified by letter dated October 8, 1987

Brief description of amendments: The amendments modified the Technical Specifications to reflect a modification to the Unit 1 turbine trip circuitry.

Date of issuance: November 24, 1987

Effective date: November 24, 1987

Amendment Nos.: 35 and 26

Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34003) The October 8, 1987 submittal clarified certain aspects of the request. The substance of the changes noticed in the **Federal Register** and the proposed no signficant hazards consideration were not affected. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 24, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, et al., Docket No. 50-414, Catawba Nuclear Station, Unit 2, York County, South Carolina

Date of application for amendment: June 19, 1987

Brief description of amendment: The amendment updated and changed a license condition to allow an extension of time for resolution of the accumulator tank instrumentation issue.

Date of issuance: November 25, 1987

Effective date: November 25, 1987

Amendment No.: 27

Facility Operating License No. NPF-52. Amendment revised the Operating License.

Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28375) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 25, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: June 9, 1987 and supplemented by letter dated August 7, 1987

Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 to impose requirements on new radiation monitors in the control room.

Date of issuance: November 24, 1987

Effective date: November 24, 1987

Amendment No. 119

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 12, 1987 (52 FR 29915) The August 7, 1987 submittal clarifies the original submittal and did not affect the staff's published NSHC determination. Since the clarification is within the scope of the initial notice, no renotice is required. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 24, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: December 19, 1986, as supplemented June 22, 1987 and November 16, 1987.

Brief description of amendments: These amendments add license conditions which require implementation of Florida Power and Light Company's plan for the integrated scheduling of plant modifications for the Turkey Point Plant, Units 3 and 4 (the Plan). The Plan will result in implementation schedules for new and existing plant modifications and changes which reflect the importance of the items in relation to overall plant safety. In addition, the Plan will assure that the necessary engineering, safety assessments, design and implementation of modifications or changes are completed in a systematic and timely fashion.

Date of issuance: November 23, 1987

Effective date: November 23, 1987

Amendment Nos.: 126 and 120

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the License.

Date of initial notice in **Federal Register:** February 26, 1987 (52 FR 5854) The letters dated June 22, 1987 and November 16, 1987 provided updated I/S schedules and therefore did not change the initial determination as published in the **Federal Register**. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 23, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: January 6, 1986, as clarified May 16, 1986

Brief description of amendments: The amendments modified the Technical Specifications to allow operating personnel to work 12 hour shifts.

Date of issuance: November 24, 1987

Effective date: November 24, 1987

Amendment Nos.: 148 and 85

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 26, 1986 (51 FR 10460) The licensee's letter of May 16, 1986, clarified the initial request and did not present request which had not been considered at the time of the **Federal Register** notice. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 24, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-424, VoGtle Electric Generating Plant, Unit 1, Burke County, Georgia

Date of application for amendment: August 26, 1987

Brief description of amendment: The amendment modified the Technical Specifications to revise the action requirements for inoperable Fuel Handling Building Post-Accident Ventilation System actuation instrumentation.

Date of Issuance: November 20, 1987

Effective Date: November 20, 1987

Amendment No.: 3

Facility Operating License No. NPF-68. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 7, 1987 (52 FR 37546) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 20, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit. No. 1, Dauphin County, Pennsylvania

Date of application for amendment: July 24, 1987

Brief description of amendment: The amendment revises the TSs to incorporate updated reactor coolant system heatup and cooldown limits for operation to 10 effective full power years.

Date of issuance: November 18, 1987

Effective date: November 18, 1987

Amendment No. 134

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34007) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 18, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania, 17126.

GPU Nuclear Corporation, et al, Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: March 5, 1987

Brief description of amendment: This amendment revised the Technical Specifications to: (1) increase the setpoint for reactor trips on high pressure from 2300 to 2355 psig; (2) raise the arming threshold for anticipatory reactor trip on turbine trip from the current 20% reactor power level to 45% reactor power level; (3) improve the language of the bases of the Technical Specification Safety Limit Section.

Date of issuance: December 1, 1987

Effective date: December 1, 1987

Amendment No.: 135

Facility Operating License No. DPR-50: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13339) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 1, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 30, 1987

Brief description of amendment: The amendment revises the Duane Arnold Energy Center (DAEC) Facility Operating License No. DPR-49, extending the DAEC Integrated Plan two years beyond the current expiration date of May 3, 1987.

Date of issuance: November 25, 1987

Effective date: November 25, 1987

Amendment No.: 148

Facility Operating License No. DPR-49. Amendment revised paragraph 2.C.(6)2 of the Facility Operating License.

Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34012) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 25, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 24, 1987

Brief description of amendment: The amendment revised the Operating License by adding to the number of approved locations for fuel assemblies in the fuel handling building, imposing minimum boration requirements for fuel inspection and/or reconstitution outside an approved storage rack, and deleting

reference to a completed one-time only inspection to verify the presence of Boraflex in all specified design locations in the spent fuel racks.

Date of issuance: November 20, 1987.
Effective date: November 20, 1987.
Amendment No.: 25
Facility Operating License No. NPF-38. Amendment revised the Operating License.
Date of initial notice in **Federal Register:** September 23, 1987 (52 FR 35794) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 20, 1987.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: July 1, 1987, as revised August 4, 1987
Brief description of amendment: The amendment deletes the requirement for post-accident flow monitoring instrumentation in the standby liquid control system and defers the installation date for post-accident neutron flux monitoring instrumentation from the second refueling outage to the third refueling outage.
Date of issuance: December 2, 1987
Effective date: December 2, 1987
Amendment No. 37
Facility Operating License No. NPF-29. This amendment revised the License.
Date of initial notice in **Federal Register:** August 26, 1987 (52 FR 32205) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 2, 1987
No significant hazards consideration comments received: No
Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Mississippi Power & Light Company, System Energy Resources, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Dates of application for amendment: July 6, 1987, as superseded October 23, 1987, and supplemented November 19, 1987
Brief description of amendment: The amendment provides one-time exceptions to Technical Specification 3.0.4 for use during the second refueling outage. The exceptions will allow entry into specified operational conditions without meeting the Limiting Condition for Operation, provided the requirements of associated action statements are met.
Date of issuance: December 4, 1987
Effective date: December 4, 1987
Amendment No.: 38
Facility Operating License No. NPF-29. This amendment revised the Technical Specifications.
Dates of initial notice in **Federal Register:** August 12, 1987 (52 FR 29921) and November 4, 1987 (52 FR 42363) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 4, 1987.
No significant hazards consideration comments received: No
Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station Unit No. 3, Town of Waterford, Connecticut

Date of application for amendment: June 10, 1987
Brief description of amendment: This amendment revised the Millstone Unit No. 3 Technical Specification Section 4.3.4.2a to increase the main turbine control valve testing interval from weekly to monthly.
Date of issuance: November 30, 1987
Effective date: November 30, 1987
Amendment No.: 11
Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 23, 1987 (52 FR 35801) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 30, 1987
No significant hazards consideration comments received: No.
Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station Unit No. 2, Town of Waterford, Connecticut

Date of application for amendment: August 28, 1987
Brief description of amendment: The change modified the Technical Specifications (TS) as follows: (1) the maximum linear heat rate shown in TS Figure 3.2.1 would be reduced from 15.6 to 14.0 Kw/ft, and a factor of 1.115 would be applied to the planar peaking for reactor operation during Cycle 8 beyond a core average burnup of 9500 MWD/MTU, and (2) the equations on TS Figure 3.2-3b would be deleted.
Date of issuance: November 18, 1987
Effective date: November 18, 1987
Amendment No.: 122
Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** August 23, 1987 (52 FR 35801) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 18, 1987
No significant hazards consideration comments received: No.
Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Waterford, Connecticut.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: February 14, 1986, supplemented August 26, 1987.
Brief description of amendment: The amendment changes the expiration date of Facility Operating License (DPR-22) for the Monticello Nuclear Generating Plant, Unit No. 1, from June 19, 2007 to September 8, 2010. The change in expiration date will provide for 40 years of operation from the issuance of the Operating License.
Date of issuance: November 19, 1987.
Effective date: November 19, 1987.
Amendment No.: 53.
Facility Operating License No. DPR-22. Amendment revised the license.
Date of initial notice in **Federal Register:** May 7, 1986 (51 FR 16931). The licensee's letter dated August 26, 1987 merely provided additional information supporting the extension of the operating license. The additional information deals with data on occupational exposure, projection of changes in the low population zone, and changes in land use affecting dose calculations. The supporting information in no way changes or affects the proposed determination of no significant hazards considerations published in the **Federal Register** on May 7, 1987. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 19, 1987 and an Environmental Assessment dated October 15, 1987.
No significant hazards consideration comments received: No.
Local Public Document Room location: Minneapolis Public Library,

Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: July 17, 1987, as supplemented August 28, September 3 and September 16, 1987.

Brief description of amendment: The amendment revised the Technical Specifications to reflect the changes supported by analysis for the reload justifying Cycle 13 operation.

Date of issuance: November 25, 1987.

Effective date: November 25, 1987.

Amendment No.: 54.

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 23, 1987 (52 FR 35784 at 35802). The licensee's letters dated August 28 and September 16, 1987 merely provided additional information necessary for the staff to complete the review of the reload analysis prepared by the licensee. The August 28 submittal transmitted proprietary information on GE8x8EB fuel designs. In the case of the September 16 submittal, the licensee provided a revised description and safety evaluation supporting changes that were submitted on July 27 and September 3, 1987. This supporting information does not substantially change the action notice or affect the proposed determination of no significant hazards consideration published in the **Federal Register** on September 23, 1987. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 25, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: May 1, 1986, as supplemented July 15 and October 7, 1987.

Brief description of amendment: The amendment revised the Technical Specifications (TS) to conform to the NRC Standard Technical Specifications for Appendix J testing, including the staff-approved modifications and exemptions. The changes also clarified and eliminated a number of interpretation problems. Specifically, the amendment revised the wording of TS Section 4.7.A.2, "Primary Containment Integrity," and associated bases to conform to the wording of NRC Standard TS (NUREG-0123). The amendment also (1) changed the airlock testing requirements for Type B testing; (2) increased the TS value of Pa, Peak Containment Accident Pressure, from 41 psig to 42 psig; (3) deleted the requirement for inerting system makeup monitoring as specified in Section 4.7.A.2.6; (4) revised the Bases for Sections 3.7 and 4.7 to reflect the above changes; and (5) added action statements consistent with NUREG-0123 to Section 3.7.A.2 on containment integrity limiting condition for operation.

Date of issuance: November 25, 1987.

Effective date: November 25, 1987.

Amendment No.: 55.

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 13, 1986 (52 FR 29005) Information furnished by the licensee's letters dated July 15 and October 7, 1987 was necessary to complete the staff's review of the licensee's initial submittal. The additional information did not change the proposed no- significant-hazard determination in the initial notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 25, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Pennsylvania Power and Light Company, Docket No. 50-387 Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: March 27, 1986

Brief description of amendment: Correction of an error in section 3.6.6.3. regarding operability of drywell cooling fans.

Date of issuance: November 19, 1987

Effective date: November 19, 1987

Amendment No.: 75

Facility Operating License No. NPF-14. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 7, 1986 (51 FR 16932) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 19, 1987.

No significant hazards consideration comments received: No

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: June 22, 1987

Brief description of amendment: The amendment revises Technical Specification Table 3.3-1, "Reactor Trip System Instrumentation" and Table 4.3-1, "Reactor Trip System Instrumentation Surveillance Requirements," as recommended in Generic Letter 85-09.

Date of issuance: December 1, 1987

Effective date: December 1, 1987

Amendment No.: 137

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 7, 1987 (52 FR 37550) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 1, 1987

No significant hazards consideration comments received: No.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 731 S. W. Harrison St., Portland Oregon 97207

Power Authority of The State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: February 6, 1987

Brief description of amendment: The amendment deletes Technical Specifications for the Containment Atmosphere Sampling System. The Containment Atmosphere Sampling System was replaced by the Containment Hydrogen Monitoring System.

Date of issuance: November 24, 1987

Effective date: November 24, 1987

Amendment No.: 80

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 25, 1987 (52 FR 9531) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 24, 1987

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: June 25, 1987 (P-87124)
Brief description of amendment: Revises the Technical Specifications to ensure sufficient helium coolant flow to prevent overheating of the fuel while in the low power or shutdown mode.
Date of issuance: November 23, 1987
Effective date: 30 days after date of issuance.
Amendment No.: 57
Facility Operating License No. DPR-34. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28386). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 23, 1987.
No significant hazards consideration comments received: No.
Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: August 12, 1987
Brief description of amendment: Revised the Technical Specification to reduce the emergency diesel generator air starting receiver minimum required pressure.
Date of issuance: November 24, 1987
Effective date: November 24, 1987
Amendment No.: 12
Facility Operating License No. NPF-57. This amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** October 7, 1987 (52 FR 37551) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 24, 1987.
No significant hazards consideration comments received: No
Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: August 18, 1987
Brief description of amendment: The amendment revised paragraph 2.C.(13) of the operating license to extend the required schedule for having four additional Safety Parameter Display System parameters operational.
Date of issuance: November 24, 1987
Effective date: November 24, 1987
Amendment No.: 13
Facility Operating License No. NPF-57. This amendment revised the License.
Date of initial notice in **Federal Register:** October 7, 1987 (52 FR 37551) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 24, 1987.
No significant hazards consideration comments received: No
Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: June 29, 1987 as supplemented October 1, 1987.
Brief description of amendment: The amendment revised the operating criteria for the control room and technical support center heating, ventilation and air conditioning system.
Date of issuance: December 3, 1987
Effective date: December 3, 1987
Amendment No.: 91
Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34018) The supplemental information provided in the October 1, 1987 submittal consisted of copies of the four surveillance procedures which will implement the technical specification changes contained in the amendment. This information clarifies the initial application and does not constitute a change to the application as previously noticed. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 3, 1987
No significant hazards consideration comments received: No
Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814

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 applications for amendments: August 5 and September 18, 1987
Brief description of amendments: The amendments revise Technical Specification 314.2.7 "Axial Shape Index" to change the AS1 limit to support extended fuel cycle operation.
Date of issuance: November 17, 1987
Effective date: November 17, 1987
Amendment Nos.: 62 and 51
Facility Operating License Nos. NPF-10 and NPF-15: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** October 7, 1987 (52 FR 37554) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 17, 1987
No significant hazards consideration comments received: No.
Local Public Document Room location: General Library, University of California at Irvine, Irvine, California 92713.

Washington Public Power Supply System Docket No. 50-397, WNP-2 Richland, Washington

Date of application for amendment: September 1, 1987
Brief description of amendment: This amendment revises Table 3.3.2.2, "Isolation Actuation Instrumentation Setpoints." For the trip setpoint for trip function 1.d, Primary Containment Isolation, Main Steam Line Tunnel Temperature - High, the Allowable Range is changed from "less than or equal to 150 degrees Fahrenheit" to "less than or equal to 164 degrees Fahrenheit."
Date of issuance: December 4, 1987
Effective date: December 4, 1987
Amendment No.: 48
Facility Operating License No. DPR-21: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** October 21, 1987 (52 FR 39309) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 4, 1987
No significant hazards consideration comments received: No
Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: August 26, 1987
Brief description of amendments: The amendments revised the laboratory sample analysis parameters for temperature and iodide concentration specified in the periodic iodine removal efficiency testing of charcoal absorbent required by Technical Specification

15.4.11. The amendments also effected administrative changes to Technical Specifications 16.1 and 16.5.

Date of issuance: December 3, 1987

Effective date: December 3, 1987

Amendment Nos.: 109 and 112

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 21, 1987 (52 FR 39296 at 39310). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 3, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application 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, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been 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, DC, 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, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By January 15, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of

the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (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 (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, San Luis Opisbo County, California

Date of application for amendments: November 8, 1987

Brief description of amendments: The amendments authorize, on a one-time basis, the surveillance requirement for exercising turbine valves on Unit 1 to be deferred until seven days following Unit 2 return to power operation, but not later than January 26, 1988.

Date of issuance: November 18, 1987

Effective date: November 9, 1987

Amendment Nos.: 23 and 22

Facility Operating License No. DPR-80 and DPR-82: Amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated November 18, 1987.

Attorney for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P. O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P. O. Box 7442, San Francisco, California 94120.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California.

NRC Project Director: George W. Knighton

Dated at Bethesda, Maryland this 10th day of December 1987.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[Doc. 87-28781 Filed 12-15-87; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 50-498]

Houston Power & Light Co. et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the schedular requirements of 10 CFR 50.71(e)(3)(i) to the Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company and City of Austin, Texas (the licensees) for the South Texas Project, Unit 1, located at the licensee's site in Matagorda County, Texas.

Environmental Assessment

Identification of Proposed Action: The proposed action would grant an exemption from the requirement of 10 CFR 50.71(e) to submit an updated Final Safety Analysis Report (UFSAR) for Unit 1 of the South Texas Project within 24 months of the issuance of the operating license. The operating license was issued for South Texas Project, Unit 1 on August 21, 1987. By letter dated October 5, 1987, the licensees requested an exemption to 10 CFR 50.71(e) which would defer submittal of the UFSAR for South Texas Unit 1 until one year following receipt of a low-power operating license for South Texas Unit 2 on the basis that the present FSAR applies to both units. It has been amended and will be continued to be amended until South Texas Project, Unit 2 is licensed.

The Need for the Proposed Action: 10 CFR 50.34 requires that, until South Texas Unit 2 receives an operating license, the information contained in the FSAR docketed with the operating license application be maintained current. Hence, if an extension to the submittal date for the UFSAR is not granted, the licensees would be required to maintain current both the present FSAR as well as the UFSAR until South Texas Unit 2 is licensed. Maintaining two versions of the same document for the two South Texas units would cause a hardship, could lead to ambiguities or confusion, and would serve no useful purpose if the existing FSAR is maintained up-to-date until Unit 2 is licensed.

Therefore, an extension is needed to eliminate the hardship of maintaining two versions of the same document. Until Unit 2 receives an operating license, the licensees have committed to maintain the present FSAR current for both units by periodically amending the document.

Environmental Impact of the Proposed Action: The proposed exemption affects only the required date for submitting the UFSAR and does not affect the risk of facility accidents. Thus, post-accident radiological releases will not differ from those determined previously, and the proposed exemption does not otherwise affect facility radiological effluents, or any significant occupational exposures. With regard to potential non-radiological impacts, the proposed exemption does not affect plant non-radiological effluents and has no other environmental impact. Therefore, the Commission concludes there are no

measurable radiological or non-radiological environmental impacts associated with the proposed exemption.

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives either will have no environmental impact or will have a greater environmental impact. The principal alternative to the exemption would be to require an earlier date for submittal of the UFSAR. Such an action would not enhance the protection of the environment and would result in unnecessary hardship of maintaining two versions of the same document.

Alternative Use of Resources: This action does not involve the use of resources not considered previously in the Final Environmental Statement for South Texas Project, Units 1 and 2.

Agencies and Persons Consulted: The NRC staff reviewed the licensees' request and did not consult other agencies or persons.

Finding of No Significant Impact: The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensees' letter dated October 5, 1987. The letter is available for public inspection at the Local Public Document Rooms in the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and in the Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701.

Dated at Bethesda, Maryland, this 10th day of December, 1987.

For the Nuclear Regulatory Commission.

Jose A. Calvo,

Director, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87-28923 Filed 12-15-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co. (Pilgrim Nuclear Power Station); Exemption

I

Boston Edison Company (the licensee) is the holder of Facility Operating License No. DPR-35 which authorizes operation of Pilgrim Nuclear Power Station (the facility) at steady-state reactor power levels not in excess of 1998 megawatts thermal. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect. The facility consists of a boiling water reactor located at the licensee's site in Plymouth, Massachusetts. The facility is currently shutdown for refueling and modifications.

II

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.3 of Appendix E requires that each licensee at each site shall exercise with offsite authorities such that the State and local govenment emergency plans for each operating reactor site are exercised biennially, with full or partial participation by States and local governments, within the plume exposure pathway Emergency Planning Zone (EPZ).

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a) are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances. Section 50.12(a)(2)(v) of 10 CFR describes the special circumstances in that the exemption would provide only temporary relief from the applicable regulations and the licensee has made good faith efforts to comply with the regulation.

III

By letter dated September 17, 1987, the licensee requested a one-time exemption from the schedular requirements of section IV.F.3 of Appendix E. The last biennial emergency preparedness exercise was a full participation exercise conducted at the Pilgrim Nuclear Power Station on September 5, 1985. The licensee requests that an exemption be granted to allow the next biennial exercise to be deferred from 1987 to the second quarter of 1988.

The licensee states that the Commonwealth of Massachusetts, the local governments within the EPZ and the two emergency reception center communities are in the process, with the assistance of the licensee, of implementing numerous improvements in their offsite emergency preparedness programs. These improvements include revision of the emergency plans of the local governments and the Commonwealth, the development of associated procedures, the development and implementation of training programs for officials and emergency personnel, and the upgrading of Emergency Operation Centers. The licensee expects the work to continue through early 1988. The licensee has informed the NRC that in view of these extensive ongoing efforts, the Commonwealth and the local governments have indicated that they are not able to fully participate in an exercises during calendar year 1987.

The activities to upgrade offsite emergency planning and preparedness are in response to a Federal Emergency Management Agency (FEMA) evaluation of the adequacy of offsite preparedness at Pilgrim. On September 5, 1986, FEMA informed the Commonwealth of Massachusetts that it was undertaking a self-initiated review of its September 29, 1982 Interim Finding on offsite emergency preparedness for the Pilgrim Nuclear Power Station because of concerns raised during meetings in the spring of 1986 and information received subseqent to those meetings from local officials, the Commonwealth, and other interested parties. Based on a review of the overall state of offsite emergency preparedness for Pilgrim, FEMA concluded, in an Interim Finding issued on August 4, 1987, that offsite radiology emergency planning and preparedness for Massachusetts was inadequate to protect the health and safety of the public in the event of an accident at the Pilgrim Nuclear Power Station. The August 4, 1987 Interim Finding superseded the previous Interim Finding of September 29, 1982.

FEMA identified six areas of major concern during the course of its review:

—Lack of evacuation plans for public and private schools and daycare centers.
—Lack of a reception center for people evacuating to the north.
—Lack of identifiable public shelters for the beach population.
—Inadequate planning for the evacuation of the special needs population.
—Inadequate planning for the evacuation of the transport dependent population.
—Overall lack of progress in planning and apparent diminution in emergency preparedness.

Boston Edison is assisting the Commonwealth and the local authorities in the improvement of their emergency response programs. These efforts have

included an updated evacuation time estimate study and traffic management plan, a study to identify public shelters for protecting the beach population, and the identification of and provision for the special needs and transportation dependent populations within the EPZ. In addition, the licensee is providing professional planners to assist the local governments and the Commonwealth in upgrading their plans and in the development of a new training program for offsite emergency response personnel. Some training has been conducted to date and training will continue after the development of the new training program has been completed.

Onsite emergency preparedness has been evaluated by the NRC during inspections and exercises including the most recent onsite exercise conducted on December 10, 1986. The 1986 exercise included partial participation by the Commonwealth. The NRC inspection report for the 1986 exercise documented that Boston Edison's emergency response actions were adequate to provide protective measures for the healt and safety of the public. The licensee has held quarterly onsite drills in March, June and August 1987. The NRC inspection findings and the licensee's training drills provide assurance that the licensee has maintained a satisfactory capability to respond to an emergency at Pilgrim. In addition, the licensee conducted its annual onsite exercise December 9, 1987. This exercise tested the current level of onsite emergency preparedness at Pilgrim and included limited participation by the Commonwealth.

Since the last full participation biennial exercise at Pilgrim (in September 1985), the Commonwealth has participated on a limited basis with the licensee in the December 1986 exercise and the quarterly onsite drills in 1987. The March and June 1987 drills also included limited participation by several of the towns within the EPZ. The towns within the EPZ have also cooperated in the full scale siren test conducted by FEMA in September 1986. The Commonwealth has also partiicpated in full participation exercises at the Yankee Nuclear Power Station in June 1986 and at the Vermont Yankee Nuclear Generating Station on December 2, 1987.

The requested exemption is a temporary one and is necessary because ongoing emergency preparedness efforts will not be completed before early 1988. The licensee has made a good faith effort to comply with the regulation by assisting in the ongoing improvements to the Commonwealth and local offiste emergency response programs. The extensive efforts required to upgrade the offsite plans, implement the changes and conduct training preclude the conduct of a meaningful and effective full participation exercise in 1987. This situation constitutes the special circumstances described in 10 CFR 50.12(a)(2)(v). Further, the NRC staff believes that the public health and safety will be better served by the conduct of a full participation exercise following the completion of efforts to improve the Commonwealth and local government emergency response programs.

The NRC has required, and will continue to require, that the Pilgrim plant remain shut down until the emergency preparedness issues are dealt with to the satisfaction of the NRC. The determination whether to restart the Pilgrim plant will involve an evaluation by the NRC of the status of the resolution of the emergency planning issues identified by FEMA. The safety of the resumption of plant operation will be addressed by the NRC staff before restart is approved.

For these reasons, the Commission has thus determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter dated September 17, 1987, as discussed above, is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Accordingly, the Commission hereby approves the following exemption:

> The Pilgrim Nuclear Power Station is exempt from the requirements of 10 CFR 50, Appendix E, Section IV.F.3 for the conduct of an offsite full participation emergency preparedness exercise in calendar year 1987, provided that this exercise be conducted prior to June 30, 1988.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the environment (52 FR 64493), December 9, 1987. A copy of the licensee's request for exemption dated September 17, 1987 is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360. Copies may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Director, Division of Reactor Projects I/II.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland this 9th day of December 1987.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

FR Doc. 87-28920 Filed 12-15-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos.: 50-295 and 50-304]

Commonwealth Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR-39 and DPR-48 issued to Commonwealth Edison Company (the licensee), for operation of Zion Station, Units 1 and 2 located in Waukegan County, Illinois.

The amendment would clarify and upgrade the Technical Specifications concerning Zion Station's program for measuring the leakage through pressure isolation valves.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, or amended (the Act) and the Commission's regualtions.

By January 15, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operting license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly 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 interst 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 corss-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for 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 Daniel R. Muller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel—Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael Miller, Esq., Isham, Lincoln, and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602, attorney for the license.

Nontimely filing of petitions for leave to interene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of 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 dated November 13, 1987, which is available for public inspection at the Commisison's Public Document Room, 1717 H Street, NW., Washington, DC; Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Dated at Bethesda, Maryland, this 10th day of December, 1987.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 87–28924 Filed 12–15–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co. (Haddam Neck Plant); Exemption

I

The Connecticut Yankee Atomic Power Company (CYPACO, the licensee) is the holder of Facility Operating License NO. DPR–61 which authorizes operation of the Haddam Neck Plant (the facility) at power levels no greater than 1825 megawatts thermal. The facility is a single-unit pressurized water reactor (PWR) located at the licensee's site in Middlesex County, Connecticut. The License provides, among other things, that the Haddam Neck Plant is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

On November 19, 1980, the Commission published a revised section 10 CFR 50.48 and a new Apendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. Two of these subsections, III.G and III.J are the subjects of the licensee's exemption requests.

Section III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustible or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

Section III.G.3 of Appendix R requires that for areas where alternative or dedicated shutdown is provided, fire detection and a fixed fire suppression system shall also be installed in the area, room, or zone under consideration.

Section III.J of Appendix R requires that emergency lighting units with at least an 8-hour battery power supply shall be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes.

III

By letter dated March 19, 1981, the licensee requested exemptions from section III.G of Appendix R. This request, and subsequent submittals, resulted in the NRC granting one exemption from the requirements of section III.G on November 11, 1981. On March 1, 1982, the licensee submitted an initial reevaluation of the fire areas and zones identified in previous submittals. Additional information was submitted on June 18, 1986 and January 6, 1987, the licensee submitted additional exemption requests from the requirements of

sections III.G and III.J of Appendix R. The following is a list of CYAPCO exemption requests:

11. Primary Auxiliary Building (Fire Area A–1). An exemption was requested from the specific requirements of section III.G.2a to the extent that this area is not separated by 3-hour fire rated barriers from Fire Area W–1 which contains redundant shutdown system cables.

2. Primary Auxiliary Building Charging Metering Pump Cubicle (Fire Zone A–1D). An exemption was requested from the specific requirements of section III.G.2.a. to the extent that this fire zone is not separated by 3-hour rated barriers from fire zone containing redundant shutdown systems, cables, and associated circuits.

3. Service Building Locker Room (Fire Zone S–3B). An exemption was requested from specific requirements of section III.G.2.a to the extent that this area is not separated by 3-hour rated fire barriers from adjacent diesel generator rooms (Fire Areas D–1 and D–2) which contain redundant safe shutdown systems, cables, and associated circuits.

4. Control Room (Fire Area S–1). An exemption was requested from the specific requirements of section III.G.2.a to the extent that this area is not separated by 3-hour fire-rated barriers from the turbine building (Fire Area T–1) and the mechanical equipment room/instrument shop (Fire Area S–4).

5. Switchgear Room (Fire Areas S–2), Turbine Building (Fire Area T–1), and Cable Spreading Area (Fire Zone S–3A). Exemptions were requested from the specific requirements of section III.G.2.a to the extent that these areas/zones are not separated by 3-hour fire-rated barriers (including structural steel forming a part of or supporting such fire barriers) from areas containing redundant shutdown systems, cables, and associated circuits.

6. Turbine Building (Fire Area T–1), Switchgear Room (Fire Area S–2), Service Building Cable Spreading Area (Fire Zone S–3A), and Service Building Locker Room (Fire Zone S–3B). Exemptions were requested from the specific requirements of section III.G.2.a to the extent that these areas/zones are not separated by 3-hour fire-rated barriers from areas containing redundant shutdown systems, cables, and associated circuits.

7. Switchgear Room (Fire Area S–2). An exemption was requested from the specific requirements of section III.G.2.a to the extend that

8. Service Building Elevation 21 Feet 6 Inches (Fire Area S–3), Primary Auxiliary Building (Fire Area A–1), Mechanical Equipment Room/Instrument Shop (Fire Area S–4), and Maintenance Shops (Fire Area S–5). Exemptions were requested from the specific requirements of section III.G.2 to the extent that these areas are not separated by 3-hour fire-rated barriers from areas which contain redundant shutdown systems, cables, and associated circuits.

9. Service Building Men's Locker Room & Shower Area (S–9). The licensee requested an exemption from section III.G.2 to the extent that it requires physical separation and the installation of a smoke detection system to protect redundant trains of safe shutdown related cable and equipment.

10. Emergency Lighting. The licensee requested an exemption from section III.J to the extent that it requires emergency lighting units with at least an 8-hour battery power supply in all areas needed for operation of safe shutdown equipment and in access and egress routes, in particular, the areas where the licensee cannot meet these requirements are:

(a) A portion of general yard areas for access and egress,

(b) IN the immediate vicinity of the primary water storage tank (PWST),

(c) For manually operating CD–V–632 located near the demineralized water storage tank (DWST), and

(d) For manually operating LD–V–221 located near the vent stack.

The staff has reviewed in detail each of the 10 exemption requests identified above and concluded that the condition or circumstances which exist in exemption requests 1, 3, 4, 6, 7, and 8 are encompassed by the guidance issued in Generic Letter 86–10. According to the interpretations of Appendix R contained in the generic letter, no exemptions from the requirements of Appendix R are required for these locations. The staff considers the information presented in support of the exemption requests to constitute the required fire hazards analysis for each location.

The staff has also reviewed the remaining four exemption requests and has concluded that an acceptable basis for granting these exemptions exists. These exemptions are discussed below.

1.0 Primary Auxiliary Building Charging Metering Pump Cubicle (Fire Zone A–ID)

An exemption was requested from the specific requirements of section III.G.2.a to the extent that this fire zone is not separated by 3-hour rated barriers from fire zone containing redundant shutdown systems, cables, and associated circuits.

Discussion

One of two charging pumps or the charging metering pump is required to be operable to achieve safe shutdown in the event of a fire in the primary auxiliary building (PAB) area A–1. The two charging pumps and the charging metering pump are located on elevation 15 ft. 6 in. of the PAB, each within an individual cubicle. The three cubicles are open to a common area which the licensee has identified as fire zone A–IA. The door openings from the cubicles to the common area are formed by a partial wall in a "labyrinth" configuration. The charging metering pump cubicle is bounded on the three sides away from the common area by 3-hour fire-rated walls. The floor and ceiling are also fire rated.

Evaluation

The staff was concerned that a fire in any one of the pump cubicles or in the common area (zone A–1A) could damage both of the charging pumps and the charging metering pump. However, the combustible loading in the referenced areas, as represented by the licensee, is negligible. If all of the combustibles were consumed, the resulting fire would have a duration of less than 4 minutes, as determined by the ASTM E–119 standard time temperature curve. If a fire should occur, it would be detected by the existing smoke detection system in its formative stage, before significant room temperature rise or flame propagation occurred. An alarm would be transmitted automatically to the control room. The fire brigade would be dispatched to the scene and would put out the fire using manual fire fighting equipment. Pending arrival of the brigade, the donstruction and Configuration of the cubicles will provide reasonable assurance that at least one charging pump or the charging metering pump would remain free of fire damage. Therefore, the lack of a complete 3-hour fire-rated barrier at the entrance to the charging metering pump cubicle is not safety significant.

Based on the above evaluation, the staff concludes that the licensee's existing fire protection features provide an equivalent level of fire protection to that which would be achieved by literal compliance with Appendix R and, therefore, meets the underlying purpose of the rule. Therefore, the licensee's exemption request from the requirements of section III.G.2.a in the charging metering pump cubicle should be granted.

2.0 Switchgear Room (Fire Areas S–2), Turbine Building (Fire Area T–1), and Cable Spreading Area (Fire Zone S–3A)

Exemptions were requested from the specific requirements of Section III.G.2.a to the extent that these areas/zones are not separated by 3-hour fire-rated barriers (including structural steel forming a part of or supporting such fire barriers) from areas containing redundant shutdown systems, cables, and associated circuits.

Discussion

The licensee identified the following locations where unprotected steel exists:

- Inside the switchgear room where steel supports the floor of the control room;
- Inside the turbine building, where steel supports the control room floor; and
- Inside the cable spreading area where steel supports the switchgear room floor.

The combustible loading in these locations consists of significant quantities of cables and lube oil, but the hazard associated with these materials has been mitigated by automatic fire suppression systems.

Existing fire protection includes: (1) An automatic halon fire suppression system in the switchgear room; (2) an automatic sprinkler system for cable tray protection in the cable spreading area; (3) automatic fire detectors throughout the switchgear and cable spreading areas and in certain special hazards areas of the turbine building; (4) partial automatic sprinkler protection in the turbine building and (5) manual fire fighting equipment throughout these areas.

Conclusions

The locations where significant fire hazards exist in these areas and/or the locations where unprotected steel are present are now protected by automatic fire suppression systems. Under any credible fire scenario in these locations, a fire would be detected in its incipient stages by the existing fire detection systems or by operating personnel. In support of the in situ fire suppression systems, the fire brigade would be dispatched and would put out the fire before room temperatures rose sufficiently to affect the steel. Rapid fire propagation and room temperature rise is not expected to occur before the arrival of the brigade because the automatic fire suppression system would actuate to control the fire, limit temperature rise, and protect the steel. Therefore, coating of the steel with a fire resistant material is not necessary to assure the integrity of the subject barriers.

Based on the above evaluation, the staff concludes that the licensee's existing fire protection as well as additional proposed modifications provides an equivalent or superior level of fire protection and safety to that which would be achieved by literal compliance with Section III.G.2 of Appendix R and, therefore, meets the underlying purpose of the rule. Therefore, the licensee's request for exemption for unprotected steel in the subject areas should be granted.

3.0 Service Building Men's Locker Room & Shower Area (S–9)

The licensee requested an exemption from section 111.G.2 to the extent that it requires physical separation and the installation of a smoke detection system to protect redundant trains of safe shutdown related cable and equipment.

Discussion

The fire area is enclosed by noncombustible walls, floor and ceiling. Existing fire protection for the area consists of an automatic sprinkler system, manual hose stations, and portable fire extinguishers. Safe shutdown components located within the area consist of service water pump power cables. Cabling from both divisions are located within a single cable chase with no divisional separation. The cable chase is enclosed on three sides by two layers of gypsumboard and on the fourth side by concrete block.

The fire-hazard in the area, as represented by combustible materials, is negligible. All combustible materials compile a fuel load of approximately 14,000 BTU/sq. ft. which, if totally consumed, would correspond to a fire severity equivalent to about 10 minutes on the ASTM E–119 standard time temperature curve.

Conclusion

The existing fire protection for the area consists of both passive and active safety features. The gypsumboard and concrete block enclosure around the cable chase represents at least a one-hour fire-rated barrier. This affords an acceptable level of safety in consideration of the low in situ fuel loading stated in the discussion above. Reinforcing this protection is a complete, automatic sprinkler system that protects the entire men's locker and shower area. A water flow alarm from the sprinkler system is annunciated in the control room. In addition, portable fire extinguishers and hose stations are available for manual fire fighting. It is our opinion that this protection provides reasonable assurance that the shutdown related cables will be free of damage from a fire in the area.

Based on our evaluation, we conclude that any additional modifications to meet the literal requirements of section III.G.2 would not enhance fire safety above that provided by the existing fire protection systems. Therefore, the staff concludes that the licensee's existing fire potection meets the underlying purpose of the relevant section of Appendix R and the licensee's request for exemption should be granted.

4.0 Emergency Lighting

The licensee requested an exemption from Section 111.J to the extent that it requires emergency lighting units with at least an 8-hour battery power supply in all areas needed for operation of safe shutdown equipment and in access and egress routes. In particular, the areas where the licensee cannot meet these requirements are:

(a) A portion of general yard areas for access and egress,

(b) In the immediate vicinity of the primary water storage bank (PWST),

(c) For manually operating CD-V-632 located near the demineralized water storage tank (DWST), and

(d) For manually operating LD-V-221 located near the vent stack.

Discussion

Upon completion of the post-fire shutdown methodology, the licensee identified all locations where manual actions are required and determined the optimum travel paths for operating personnel to and from these areas.

With the exception of the locations identified above, the licensee has installed 8-hour battery powered lighting units per the requirements of Section III.J.

The licensee proposes to utilize the security perimeter lighting for a portion of the outside egress routes and one outside task and portable hand-held lighting units for the remaining task and routes of travel.

Conclusion

Based upon our review of the information, the staff has concluded: (1) That there are no obstructions or tripping hazards in the routes of travel; (2) that operators would not be required to perform shutdown tasks using both

hands; and (3) that the licensee has a program to assure both the availability and operability of the flashlights, when needed.

The staff has also concluded that, given that the security lighting is powered from a separate diesel generator, the security lighting is not vulnerable to fire loss. The licensee has confirmed for the staff that an adequate level of illumination in the yard areas exists.

Based on the above, the staff considers the licensee's alternative lighting configuration to be equivalent to that achieved by literal conformance with Appendix R to 10 CFR Part 50 and, therefore, meets the underlying purpose of Section III.J of Appendix R. Therefore, the licensee's request for exemption from the requirements of Section III.J. in the subject locations should be granted.

10 CFR 50.12 Determinations

Pursuant to 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption unless special circumstances are present. Item (ii) of the subject regulation includes special circumstances where application of the subject regulation would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of section III.G is to provide adequate protection of redundant components of safety-related equipment by limiting damage in the event of a fire at one safety-related component location so that the performance of the other redundant safety-related component is not affected. The licensee has installed automatic detection and suppression systems to prevent fire propagation and limit fire damage in lieu of separation of the components as prescribed by Appendix R. As described in the evaluation section of each exemption request, the staff has concluded that the existing fire protection systems provide equivalent or superior fire protection to that which would be provided by meeting the literal separation requirements of section III.G of Appendix R.

The underlying purpose of section III.J is to provide adequate illumination to assure the capability of performing all necessary safe shutdown functions as well as provide illumination for required movements into and out of the plant. In lieu of the 8-hour battery units specified by Appendix R, the licensee has proposed using security lighting and hand-held portable flashlights. The staff has reviewed the proposed alternative and has concluded, as described in the conclusion section of exemption number four that the security lighting system would be a reliable alternative and would provide an adequate level of illumination to perform all required safe shutdown functions.

In summary, the staff has concluded that the alternative fire protection provided in support of the exemptions meets or exceeds the fire protection which would otherwise occur if literal compliance with the separation requirements of Appendix R were required. In addition, the staff has concluded that the alternative use of security lighting and portable flashlights would meet the underlying purpose of section III.J by providing acceptable levels of illumination to assure that required safe shutdown functions and required personnel movements can be performed. Therefore, the staff concludes that "special circumstances" exist for the licensee's requested exemptions in that imposition of the literal requirements of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(2)(ii), special circumstances exist in that existing levels of emergency lighting and fire protection systems satisfy the underlying sections of Appendix R to 10 CFR Part 50. Further, the staff has concluded that the requested exemptions are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. Therefore, the Commission hereby grants the exemption requests from the requirements of section III.G and III.J of Appendix R to 10 CFR Part 50 described in section III above.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment (51 FR 17696, May 14, 1986; 51 FR 24456, July 3, 1986; and 52 FR 5509, February 23, 1987).

A copy of the Commission's concurrent Safety Evaluation related to this action and the above referenced submittals by the licensee are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 27th day of November 1987.

[FR Doc. 87-28925 Filed 12-15-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-3, issued to the Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), for operation of the Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio.

The proposed amendment would revise the provisions in the Davis-Besse Nuclear Power Station, Unit No. 1, Technical Specifications (TSs) relating to certain facility fire protection features, Limiting Conditions for Operation (LCO), Action Statements, and Surveillance Requirements (SR) in accordance with Toledo Edison Company's application dated December 7, 1987. Specifically, the proposed amendment would revise TS sections 3/4.7.10, 6.4 and 6.9. In addition, Bases section 3/4.7.10 would be revised. The proposed modifications represent an updating of the TSs to reflect current plant design, testing, and compensatory measures considered adequate and practical with regard to fire protection barriers. The changes proposed would identify scope and applicability of the LOCs, compensatory actions in event of inoperable fire barriers, clarify and/or simplify requirements, reformat certain sections for clarity, improve specificity, correct requirements to reflect the design, add surveillance requirements, and revise reporting and training requirements.

Prior to 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.

By January 15, 1988, the licensees 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 of 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.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for 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 Martin J. Virgilio: (petitioner's name and telephone number); (date Petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of 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 dated December 7, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Bethesda, Maryland, this 11th day of December, 1987.

For the Nuclear Regulatory Commission.

Albert W. De Agazio,

Project Manager, Project Directorate III—1, Division of Reactor Projects–III, IV, V, & Special Projects.

[FR Doc. 87–28922 Filed 12–15–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–275 and 50–323]

Pacific Gas and Electric Co.; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. DPR–80 and DPR–82 issued to Pacific Gas and Electric Company (the licensee), for operation of Diablo Canyon Nuclear Power Plant, Units 1 and 2, located in San Luis Obispo County, California. The request for amendment was submitted by letter dated October 30, 1987 (Reference LAR 87–09).

The proposed amendments would allow diesel generator 1–3, which is used for both units, to be out of service for up to 14 days during the upcoming refueling outage of Unit 1 while Unit 2 is in operation. The 14-day period would be used for preventative maintenance and testing of this diesel generator. Diesel generators 2–1 and 2–2 on Unit 2 both have to be operable during this period.

Absent the proposed amendment, diesel generator 1–3 can be out of service for only three days while Unit 2 is in operation. According to the licensee, three days is not a sufficient period of time to perform the maintenance that is scheduled to be performed during the spring refueling outage of Unit 1. The proposed amendment would be a temporary extension during the upcoming refueling. After the maintenance is completed, the allowable outage time would revert to three days.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 14, 1988, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses, 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 must 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 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 must 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(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.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of 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 amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 9th day of December, 1987.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 87–28782 Filed 12–15–87; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–24523]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

December 10, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by January 4, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant application(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Synergy Group Incorporated (31–831)

Synergy Group Incorporated ("Synergy"), 175 Price Parkway, Farmingdale, New York 11735, has filed an application for exemption from the provisons of the Act pursuant to section 3(a)(3) thereof.

Synergy is a holding company whose 20 operating subsidiary companies distribute propane and other fuels by truck into containers installed at approximately 140,000 customer's locations in 17 states. The subsidiaries also sell appliances and equipment which use propane and engage in the sale, repair, and leasing of forklift trucks. For the fiscal year ended March 31, 1987, Synergy had revenues of $85,163,000.

On November 19, 1987, one of Synergy's wholly owned subsidiaries, SG Propane of New Hampshire, Inc. ("SGP"), acquired the assets of Claremont Gas Light Company, Inc. ("Claremont"). The acquisition was approved by the New Hampshire Public Utility Commission. The Claremont assets are being operated by SGP and consist of a propane-air, gas pipeline system which distributes propane to approximately 830 customers, all located in and about Claremont, New Hampshire. It is stated that the customer base has remained static for the past

three years (actally declined slightly) and that neither the customer base nor the revenues derived therefrom is expected to change appreciably in the foreseeable future. For the calendar year ended December 31, 1986, Claremont had revenues of $505,677. The revenues derived from SGP's operations of the system (after the acquisition) will amount to only 0.59 percent of the revenues of Synergy's consolidated subsidiaries.

Northeast Utilities et al. (70–7460)

Northeast Utilities ("Northeast"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, and Housatonic Corporation ("Housatonic"), Selden Street, Berlin, Connecticut 06037, a newly formed corporation which Northeast proposes to acquire as a wholly owned subsidiary, have filed an application-declaration with the Commission pursuant to sections 6(a), 7, 9(a), 10, 11, 12(f) and 13(b) of the Act and Rules 45, 50, 80, 81, 86 and 90 thereunder.

On May 6, 1986, the Northeast system entered into an agreement with Trans-Canada Pipelines Limited ("Trans-Canada"), The Brooklyn Union Gas Company, Connecticut Natural Gas Corporation, Southern Connecticut Gas Company, J. Makowski Associates, Inc., and New Jersey Natural Resources Company providing for the execution of a general partnership agreement ("Agreement") in the Iroquois Gas Transmission System ("Iroquois Partnership"), a general partnership to be organized under the laws of the State of New York for the purpose of conducting a natural gas pipeline transmission business.The Iroquois Partnership will be formed for the purpose of constucting, owning, financing and operating a new, natural gas pipeline system extending from the U.S.-Canada border through New York and Connecticut, under the Long Island Sound and to Long Island. The Iroquois Partnership will engage in the transportation of natural gas through the new pipeline system for gas distribution companies located in Connecticut, including Northeast's wholly owned operating subsidiary, The Connecticut Light and Power Company ("CL&P"), New York and New Jersey. The pipeline will be constructed and operated on behalf of the Iroquois Partnership by TCPL Iroquois Ltd., an indirect, wholly owned subsidiary of Trans-Canada. The current projected in-service date of the pipeline is November 1, 1989.

Housatonic proposes that Housatonic execute the Agreement and generally meet the obligations and receive the benefits of a partner under the Iroquois Partnership. The total cost of the Iroquois Partnership poject is estimated to be $407 million. Housatonic expects to require up to $20 million to acquire a 17% undivided partnership interest in the Iroquois Partnership and to make capital contributions to and otherwise meet its obligations under the Agreement. Housatonic's proposed investment in the Iroquois Partnership would not exceed an aggregate amount of $20 million, without further authorization of the Commission.

Northeast proposes to acquire, and Housatonic proposes to issue and sell, 10,000 shares of Housatonic's 50,000 authorized but unissued shares of common stock, $100 par value per share, at a price of $1 million. Northeast further proposes to make capital contributions and/or open account advances to Housatonic at any one time outstanding through December 31, 1992, of up to $19 million aggregate principal amount. Housatonic also proposes to borrow up to $20 million from commercial banks and/or other lending institutions. Borrowings by Housatonic from lending institutions and amounts received by Housatonic from Northeast from the sale of Housatonic's common stock, capital contributions and open account advances would not aggregate more than $20 million.

Housatonic also proposes to enter into a service agreement with Northeast Utilities Service Company, a wholly owned service company subsidiary of Northeast, for the rendering at cost of administrative, financial, legal, accounting and other services.

Northeast has announced publicly that it is developing plans to divest CL&P's gas business by means of a spin-off to Northeast shareholders. The Northeast system's purpose of investing in the Iroquois Partnership is directly related to CL&P's desire to obtain additional gas supplies to meet expected load growth within its gas markets. Thus, it is expected that Housatonic's 17% interest in the Iroquois Partnership will be transferred on or before December 31, 1992 to the spun-off company acquiring CL&P's gas business as part of the divestiture.

Mississippi Power & Light Company (70–7461)

Mississippi Power & Light Company ("MP&L"), P.O. Box 1640, Jackson, Mississippi 39215–1640, a subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

MP&L proposes to establish a General and Refunding Mortgage ("Mortgage") in order to issue and sell, pursuant to negotiated public offerings or by private placements with institutional investors, one or more series of general and refunding bonds ("G&R Bonds") in an aggregate principal amount not to exceed $150 million. The G&R Bonds will be issued in one or more series under, and will be secured by, the Mortgage that will constitute a second mortgage lien (subordinate to the lien of MP&L's Mortgage and Deed of Trust, dated as a September 1, 1944, as supplemented) upon substantially all the properties and assets of MP&L. The terms and conditions of the Mortgage will be substantially similar to those required by the Commission in its *Statement of Policy Regarding First Mortgage Bonds subject to the Public Utility Holding Company Act of 1935* (HCAR No. 13105, February 16, 1956), except that G&R Bonds may be issued in amounts equal to (1) 70% of gross property additions, or 50% of Grand Gulf 1 rate deferral assets shown of MP&L's books; (2) the retirement of a like principal amount of first mortgage bond or G&R Bonds previously issued; or (3) a like amount of case deposited with the trustee.

MP&L proposes to use the proceeds from the issuance and sale or sales of the proposed new series of G&R Bonds for the financing and/or refinancing of the costs associated with MP&L's rate moderation plan as ordered by the Mississippi Public Service Commission in connection with MP&L's allocated portion of capacity, energy, and costs of Grand Gulf 1, the financing of MP&L's construction program, and for other corporate purposes.

The proposed new series of G&R Bonds would be sold at such price(s), would bear interest at such rate(s) per annum (estimated to be in the range of 13 to 15 percent) and would mature no later than approximately 20 years after the date of issue.

MP&L states that, due to MP&L's recent legal and regulatory problems and the fact that the proposed securities are to be issued under a new mortgage with terms and provisions different from those of its First Mortgage, it believes that the interests of MP&L, its inventors and consumers require that MP&L have the flexibility to sell the proposed new series of G&R Bonds by means of a negotiated public offerings or private placements with institutional investors in order to secure the advantages of an advance marketing effort and/or the best available terms.

MP&L therefore requests, pursuant to Rule 50(a)(5) under the Act, an exception from the competitive bidding

requirements of Rule 50 so that MP&L can negotiate the terms of issuance and sale of the proposed new series of G&R Bonds. MP&L may proceed to negotiate the terms of the G&R Bonds.

Atlee M. Kohl (70–7463)

Atlee M. Kohl ("Kohl"), 3007 Skyway Circle North, Irving, Texas 75039, an individual, has filed an application pursuant to sections 9(a)(2) and 10 of the Act.

Kohl proposes to acquire, indirectly, common stock, $0.15 par value, of Great Falls Gas Company ("Great Falls"), a Montana corporation and a gas utility company, in an aggregate amount which will exceed 5% but will be less than 10% of the outstanding shares. The common stock will be acquired by certain affiliates of Kohl within a 24-month period following Commission approval of the acquisition. The proposed acquisition is to be made through (i) an open market purchase or purchases at prevailing market prices, (ii) a private purchase or purchases at negotiated prices, or (iii) any combination of the foregoing transactions. Great Falls common stock is presently being traded in the over-the-counter market at approximately $6.1875 per share (average between bid and asked prices).

Kohl's affiliates now own 9.6% of the outstanding shares of common stock of Chesapeake Utilities Corporation, a Delaware public-utility company, 9.7% of the outstanding common stock of Florida Public Utilities Company, a Florida public-utility company, and 4.6% of the outstanding common stock of Great Falls.

Connecticut Yankee Atomic Power Company (70–7464)

Connecticut Yankee Atomic Power Company ("Connecticut Yankee"), Selden Street, Berlin, Connecticut 06037–0218, a subsidiary of Northeast Utilities and of New England Electric System, both registered holding companies, has filed a declaration pursuant to sections 6(a) and 7 of the Act and Rule 62(b)(1) thereunder.

By order dated December 8, 1981 (HCAR No. 22306), Connecticut Yankee was authorized, among other things, to issue and sell up to $47,750,000 principal amount of its Series A 17% Sinking Fund Debentures, due 1996 ("Debentures"). A specified percentage of the Debentures was guaranteed severally by nine of the ten New England electric utilities ("Sponsors") which own the outstanding shares of Connecticut Yankee's common stock. As of October 1, 1987, $33,042,000 of these Debentures were outstanding.

Connecticut Yankee now proposes to amend the Indenture under which the Debentures were issued to exclude from the definition of "event of default" contained therein certain events or conditions, including bankruptcy, as they may apply to a Sponsor which has guaranteed 6% or less of the Debentures. The amendment is proposed in response to statements by Public Service Company of New Hampshire, a Sponsor which guaranteed 5.2355% of the Debentures, that it may become the subject of proceedings under the Federal Bankruptcy Code. The amendment would require the consent of holders of 66⅔% of the outstanding Debentures, and Connecticut Yankee is soliciting such consents.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–28859 Filed 12–15–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16166; (812–6728)]

Application; M.D.C. Mortgage Funding Corp. II

Date: December 10, 1987.

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

ACTION: Notice of Application for an Amended Order Under the Investment Company Act of 1940 ("1940 Act").

Applicant: M.D.C. Mortgage Funding Corporation II.

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from all provisions of the 1940 Act

Summary of Application: Applicant seeks an amendment to a prior order (Investment Company Act Release No. 15571, February 9, 1987, "Prior Order") which exempts Applicant from all provisions of the 1940 Act to permit certain trusts formed by Applicant to issue and sell mortgage related securities and beneficial ownership interests in such trusts. Applicant seeks to amend the Prior Order to allow the trusts to use Private Mortgage Certificates and Funding Agreements as collateral for the mortgage related securities.

Filing Dates: The application was filed on May 18, 1987 and amended on November 12, and 25, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on January 4, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Applicant; 3600 South Yosemite Street, Suite 900, Denver, Colorado 80237.

FOR FURTHER INFORMATION CONTACT: Thomas Mira, Staff Attorney (202) 372–3033, or Brion R. Thompson, Special Counsel (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231–3882 (in Maryland (301) 258–4300).

Applicant's Representations: The Prior Order permits certain issuer trusts, formed by Applicant ("Trusts"), to issue bonds ("Bonds") collateralized primarily by mortgage backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), Mortgage Participation Certificates isseud by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates") and Guaranteed Mortgage Pass-Through Securities issued by the Federal National Mortgage Association ("FNMA Certificates"). Applicant now proposes that the Trusts use mortgage pass-through certificates issued by non-governmental or non-government sponsored entities ("Private Mortgage Certificates") as a means of securing additional collateral for the Bonds. The Private Mortgage Certificates will have been offered for sale to the public and will be rated in one of the two highest rating categories by an independent, nationally recognized, statistical rating agency.

2. In addition, Applicant proposes that the Trusts collateralize the Bonds with Funding Agreements to be entered into with various limited purpose entities and which will be secured by Mortgage Collateral (defined for this purpose as GNMA, FNMA and Private Certificates). Each Funding Agreement will be entered into by a Trust with a limited purpose entity affiliated with a concern engaged in the home-building or mortgage lending business or otherwise engaged in a mortgage-related business of

providing services to builders or lenders ("Participants"). The Participants may be in corporate, trust, general or limited partnership form and may include affiliates or the Applicant. Each of the Funding Agreements securing a series ("Series") of Bonds will provide that (i) the Trust make a loan to each Participant out of the proceeds of the sale of such Series, such loan to be evidenced by one or more promissory notes ("Notes"); (ii) each such Participant pledge Mortgage Collateral to the Trust as security for its loan; and (iii) each such Participant be obligated to repay its loan by causing payments on the Mortgage Collateral securing its Notes to be made directly to the Indenture Trustee for the Bondholders in amounts sufficient to pay such Participant's share of principal and interest on the Bonds, together with certain administrative expenses of the respective Trust. The Trust will in turn assign its entire right, title and interest in such Funding Agreements (other than the Trust's rights to receive fees, to indemnification and to reimbursement as provided for in the related Indenture), and in the related Notes and Mortgage Collateral to the Indenture Trustee as security for such Series of Bonds.

Applicant's Conditions: Applicant expressly consents to the following conditions with respect to the requested amended order:

A. Conditions Relating to the Mortgage Collateral for the Bonds

(1) Each Series of Bonds will be registered under the Securities Act of 1933 ("1933 Act"), unless offered in a transaction exempt from registration pursuant to section 4(2) of the 1933 Act.

(2) The bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. The Mortgage Collateral directly securing the Bonds will be limited to GNMA Certificates, FNMA Certificates, FHLMC Certificates, Private Mortgage Certificates and Funding Agreements.

(3) If new Mortgage Collateral is substituted for existing collateral securing a Series of Bonds, the substitute Mortgage Collateral will (i) be of equal or better quality than the collateral replaced; (ii) have similar payment terms and cash flows as the collateral for which it was substituted; (iii) be insured or guaranteed to the same extent as the collateral replaced; (iv) not affect the rating of the Bonds issued by any rating organization and (v) meet the conditions of paragraphs (2) above and (4) and (6) below. New Private Mortgage Certificates may be substituted for Private Mortgage Certificates initially pledged only in the event of default, late payments or a defect the collateral being replaced. New Funding Agreements may be substituted for initial Funding Agreements only if the substitution of the Mortgage Collateral securing such Funding Agreements would be permitted under this condition. In addition, new collateral may not be substituted for more than 40% of the aggregate face amount of the Mortgage Collateral initially pledged as collateral. In no event would any new Mortgage Collateral be substituted for any substitute Mortgage Collateral.

(4) All Mortgage Collateral, Funding Agreements, Notes, funds, accounts or other collateral securing a Series of Bonds will be held by the Indenture Trustee, or on behalf of the Indenture Trustee by an independent custodian. Neither the Indenture Trustee nor the custodian may be an affiliate (as the term "affiliate" is defined in the 1933 Act, Rule 405, 17 CFR 230.405) of the Applicant. The Indenture Trustee will be provided with a first priority perfected security or lien interest in and to all collateral securing a Series of Bonds.

(5) Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant. The Bonds will not be considered redeemable securities within the meaning of section 2(a)(32) of the 1940 Act.

(6) The master servicer of the mortgage loans underlying Private Mortgage Certificates securing a Series of Bonds may not be an affiliate of the Indenture Trustee. If there is no master servicer for the mortgage loans underlying Private Mortgage Certificates securing a Series of Bonds, no servicer of those mortgage loans may be an affiliate of the Indenture Trustee. In addition, any master servicer and any servicer of a mortgage loan underlying Private Mortgage Certificates will be approved by FNMA or FHLMC as an "eligible seller/servicer" of conventional, residential mortgage loans. The agreement governing the servicing of mortgage loans underlying private Mortgage Certificates shall obligate the servicer to provide substantially the same services with respect to such mortgage loans as it is then currently required to provide in connection with the servicing of mortgage loans insured by FHA, guaranteed by VA or eligible for purchase by FNMA or FHLMC.

(7) No less often than annually, an independent pubic accountant will audit the books and records of the Trusts and, in addition, will report on whether the anticipated payments of principal and interest on the collateral securing each Series of Bonds continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion of the auditor's report(s), copies will be provided to the Indenture Trustee.

B. Conditions Relating to Floating Rate Bonds

(1) Each class of adjustable or floating interest rate Bonds ("Floating Rate Bonds") will have set maximum interest rates (interest rate caps) which may vary from period to period as specified in the related prospectus.

(2) The Mortgage Collateral initially pledged to secure a Series of Bonds, including a Series of Bonds containing a class or classes of adjustable or Floating Rate Bonds, will be sufficient to pay the maximum amount of interest and principal due to such Bonds for the life of such Bonds.[1]

C. Conditions Relating to REMIC Election

(1) The election by a Trust to treat the arrangement by which any Series of Bonds is issued as a "real estate mortgate investment conduit" ("REMIC") pursuant to the Internal Revenue Code of 1986, as amended, will

[1] In the case of a Series of Bonds containing a class or classes of adjustable or Floating Rate Bonds, a number of mechanisms exist to ensure this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to the adjustable or Floating Rate Bonds. Procedures that have been identified to date for achieving this result include the use of (i) interest rate caps for the adjustable or Floating Rate Bonds; (ii) "inverse" Floating Rate Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" Floating Rate Bonds); (iii) floating rate collateral (such as FNMA adjustable rate certificates) to secure the Bonds; (iv) interest rate swap agreements (under which the issuer of the Bonds would make periodic payments to a counterparty at a fixed rate of interest based on a stated principal amount, such as the principal amount of the Bonds in the floating rate class, in exchange for receiving corresponding periodic payments from the counterparty at a floating rate of interest based on the same principal amount); and (v) hedge agreements (including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rate sufficient to cover the higher interest payments that would become due during such periods on the floating rate class of Bonds. It is expected that other mechanisms may be identified in the future. Applicant will give the Staff of the SEC notice by letter of any such additional mechanisms before they are utilized, in order to give the Staff an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representation and will be adequate to meet the standards required for a rating of the Bonds in one of the two highest bond rating categories, and no Bonds will be issued for which this is not the case.

have no effect on the level of the expenses that would be incurred by any such Trust. If such an election is made, the Trust that elects to be treated as a REMIC will provide that all administrative fees and expenses in connection with the administration of the Trust will be paid or provided for in a manner satisfactory to the agency or agencies rating the Bonds. Each Trust that elects to be treated as a REMIC will provide for the payment of adminstrative fees and expenses in connection with the issuance of the Bonds and the administration of the Trust by one or more of the methods required under the Prior Order.

(2) Each Trust will ensure that the anticipated level of fees and expenses will be more adequately provided for regardless of which or all of the methods (which methods may be used in combination) are selected by such Trust to provide for the payments of such fees and expenses.

D. Conditions Relating to the Sale of Beneficial Interests

(1) Applicant will sell beneficial interests ("Beneficial Interests") only in such Trusts which issue a Series of Bonds collateralized by GNMA, FNMA and FHLMC Certificates or Funding Agreements secured by such certificates. Beneficial Interests will be offered and sold only to no more than 100 (1) institutional investors or (ii) non-institutional investors which are "accredited investors" as defined in Rule 501(a) of the 1933 Act. Institutional investors will have such knowledge and experience in financial and business matters as to be able to evaluate the risks of purchasing Beneficial Interests and understand the volatility of interest rate fluctuations as they affect the value of mortgates, mortgage related securities and residual interests therein. Non-institutional accredited investors will be limited to not more than 15, be required to purchase at least $200,000 of such Beneficial Interests and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage related securities, as to be able to evaluate the risk of purchasing a Beneficial Interest and will have direct, personal and significant experience in making investments in mortgage related securities and residual interests therein. Owners of Beneficial Interests will be limited to mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, real estate investment trusts or other institutional or non-institutional investors as described above which customarily engage in the purchase of mortgages and mortgage related securities.

(2) Each sale of a Beneficial Interest will qualify as a transaction not involving any public offering within the meaning of Section 4(2) of the 1933 Act.

(3) Each sale of a Beneficial Interest will prohibit the transfer of such Beneficial Interest if there would be more than 100 beneficial owners of Beneficial Interest of any Trust at any time.

(4) Each sasle of a Beneficial Interest will require each purchaser thereof to represent that it is purchasing for investment and not for distribution and that it will hold such Beneficial Interest in its own name and not as nominee for undisclosed investors.

(5) Each sale of a Beneficial Interest will provide that (i) no owner of such Beneficial Interest may be affiliated with the Indenture Trustee and (ii) no holder of a Beneficial Interest may be affiliated with either the custodian of the Mortgage Collateral or the agency rating the Bonds of the relevant Series.

(6) No holder of a controlling interest in the Applicant (as the term "control" is defined in Rule 405 under the 1933 Act) will be affiliated with either (a) any custodian which may hold the Mortgage Collateral on behalf of the Indenture Trustee or (b) any statistical rating agency rating the Bonds.

(7) If any shares of the common stock of the Applicant were to be sold and such sale results in the transfer of control (as the term "control" is defined in Rule 405 under the 1933 Act) of the Applicant, the relief afforded in Rule 405 under the 1933 Act) or the Applicant, the relief afforded by an SEC order granted on the application would not apply to subsequent Bond offerings by the Trusts.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-28860 Filed 12-15-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATE: Comments should be submitted by January 15, 1988. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7340.

Title: Size Standard Declaration.

Form No. SBA 480.

Frequency: On occasion.

Description of Respondents: Information is requested at the time that assistance is provided to the small business concern. This information is used to show that all SBIC financings are to be small business concerns as defined by the Act and Regulations.

Annual Responses: 4,200.

Annual Burden Hours: 1,050.

December 11, 1987.

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 87-28892 Filed 12-15-87; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2292; Amendment #1]

Declaration of Disaster Loan Area; California

The above-numbered Declaration (52 FR 38830) is hereby amended to extend the filing deadline for filing applications for physical damage from December 7, 1987 to December 21, 1987. All other information remains the same; i.e., the termination date for filing applications for economic injury is the close of business on July 7, 1988.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: December 9, 1987.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 87-28817 Filed 12-15-87; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #6579]

Declaration of Disaster Loan Area; New York

The Counties of Albany, Columbia, Dutchess, Greene, Putnam, Rensselaer and Schenectady and the adjacent Counties of Delaware, Montgomery, Orange, Saratoga, Schoharie, Ulster, Washington, and Westchester, in the State of New York, constitute an Economic Injury Disaster Loan Area as a result of a severe rain and snow storm on October 4, 1987. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on September 9, 1988, at the address listed below:

Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, New Jersey 07410

or other locally announced locations. The interest rate for eligible small business concerns without credit available elsewhere is 4 percent and 9 percent for eligible small agricultural cooperatives without credit available elsewhere.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 9, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-28818 Filed 12-15-87; 8:45 am]

BILLING CODE 8025-01-M

[Delegation of Authority No 23-C, Revision 1]

Inspector General; Delegation of Authority and Line of Succession

Delegation of authority No. 23-C is hereby revised to effect a delegation of authority and to provide a line of succession from the Inspector General to certain officials in the Office of Inspector General as follows:

I. Pursuant to authority vested in me by the Inspector General Act of 1978, 92 Stat. 1101, in the event of the death, disability, absence, resignation, or removal of the Inspector General, Small Business Administration, the officials designated below, in the order indicated, and in the absence of the specific designation of another official in writing by the Inspector General or the Acting Inspector General, are hereby authorized to and shall serve as Acting Inspector General and shall perform the duties and are delegated the full authority and power ascribed to the Inspector General by law and regulation as well as those authorities delegated to the Inspector General by the Administrator, Small Business Administration:

1. Deputy Inspector General and Counsel to the Inspector General
2. Assistant Inspector General for Auditing
3. Assistant Inspector General for Investigations
4. Assistant Inspector General for Management and Policy

II. Anyone designated by the Inspector General as acting in one of the positions listed above remains in the line of succession; otherwise, the authority moves to the next position.

III. This delegation is not in derogation of any authority residing in the above officials relating to the operations of their respective programs nor does it affect the validity of any delegations currently in force and effect and not specifically cited as revoked or revised herein.

IV. The authorities delegated herein may not be redelegated.

Dated: November 23, 1987.

Charles R. Gillum,

Inspector General.

[FR Doc. 87-28819 Filed 12-15-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0326]

I.K. Capital Loan Company, Ltd.; License Revocation

Notice is hereby given that I.K. Capital Loan Company, Ltd. (IK), 9460 Wilshire Blvd., Beverly Hills, California 90212, has had its license revoked and no longer operates as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). IK was licensed by the Small Business Administration on October 20, 1983.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the revocation was effective December 2, 1987 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)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

Dated: December 10, 1987.

[FR Doc. 87-28893 Filed 12-15-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Application for Amended Type Certificate to Include the Boeing Model 747-400 Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed type certification basis.

SUMMARY: This notice provides information and invites comments concerning the proposed type certification basis for the new Boeing Model 747-400. The publication of this nonrulemaking document is done in the interest of keeping the public informed. Public comment concerning the appropriateness of the proposed certification basis will be considered in determining the airworthiness standards applicable to the Model 747-400.

DATE: Comments must be received on or before February 15, 1988.

ADDRESS: Comments must be mailed in duplicate to the Federal Aviation Administration, Seattle Aircraft Certification Office, ANM-100S, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: William B. Ashworth, Manager, Seattle Aircraft Certification Office, ANM-100S, 9010 East Marginal Way South, Seattle, Washington 98108. telephone (206) 431-1903.

SUPPLEMENTARY INFORMATION:

Comments Invited

This notice of the proposed type certification basis of the Model 747-400 is part of the FAA's continuing efforts to keep the public informed of the type certification programs conducted by the FAA. It is in addition to the rulemaking process which provides the public an opportunity to participate directly in the establishment of regulatory standards. Interested parties are invited to provide comments, written data, views, or arguments relevant to the proposed type certification basis of the Boeing Model 747-400 as contained in this notice. Communications should be submitted in

duplicate to the address specified above. All communications received kon or before the closing date specified will be considered by the Administrator before the amended type certification basis is established.

Availability of Additional Copies of Notice

Any person may obtain a copy of this notice by submitting a request to the address noted in the "**ADDRESS**" paragraph above or telephone (206) 431–1903.

Background

The Boeing Commercial Airplane Company applied on May 17, 1985, for a change to Type Certificate No. A2OWE to include the new Model 747–400. The Model 747–400 is a long range derivative of the currently certificated Model 747–300 that will be able to operate at heavier gross weights. It will incorporate four high-bypass ratio turbofan engines (Pratt & Whitney PW4000 Series, General Electric CF6–80C2 or Rolls Royce RB211–524G) with digital electronically-controlled engine and thrust management systems. The Model 747–400 will incorporate simplified and automated cockpit controls, and electronic cockpit displays to facilitate operation by two flight crewmembers. An optional fuel tank is being offered in the horizontal tail section. A Preliminary Type Board (PTB) Meeting with the Boeing Company was held on November 5, 1985. Following the PTB Meeting several meetings of FAA and Boeing specialists were held for further discussion and deliberation. The design has been finalized by Boeing, but complete substantiating data are yet to be submitted to the FAA.

The FAA considered whether the Model 747–400 should be approved as a new or an amended type design. The provisions of Part 21 address general and specific design changes that require an application for a new Type Certificate. Several meetings were held with the applicant in early 1987 to review the extent of the Model 747 design changes for the purpose of determining if the applicant should be required to make a new application for a type certificate. Based on those reviews, the FAA determined that the proposed changes are not extensive that a substantially complete investigation of compliance with the applicable regulations is required and the Model 747–400 ned not be considered a new type design. Therefore, the provisions of Part 21, Subpart D, which address the regulatory provisions for changes to type designs, were used to establish the certification basis for the Model 747–400.

Under the provisions of § 21.101(a) of the Federal Aviation Regulations (FAR), an applicant for a change to a type certificate must comply with either the regulations incorporated by reference in the type certificate (sometimes referred to as the "original certification basis") or with the applicable regulations in effect on the date of the application for the change. Section 21.101(b) further provides that, if the proposed change consists of a new design of a component, equipment installation, or system installation and that the regulations incorporated by reference in the type certificate do not provide adequate standards with respect to the proposed change, the applicant must comply with certain additional requirements in order to provide a level of safety equal to that established by the regulations incorporated by reference in the type certificate. These additional requirements are applicable regulations in effect on the date of application for the change and any special conditions established to provide a level of safety equal to that established by the regulations incorporated by reference in the type certificate. Special conditions contain ther safety standards found necessary to establish that level of safety for novel and unique design features, and are issued after public comment, in accordance with the rulemaking procedures of Part 11 of the FAR. Lastly, the applicant may elect to voluntarily comply with the provisions of any later amendment than that specified above, provided the applicant also complies with other later amendments that are directly related. Exemptions from the applicable airworthiness standards prescribed by § 21.101 also become part of the type certificate basis. Petitions for exemptions are granted or denied after public comment in accordance with the procedures of Part 11.

Notwithstanding compliance with the type certification basis established under the provisions of § 21.101, an applicant is entitled to a type certificate only if the Administrator finds that no feature or characteristic of the airplane makes it unsafe as outlined in § 21.21(b)(2).

Type Certification Process

The statutory prerequisite for the issuance of new or amended type certificate is a finding by the Administrator that the aircraft is of proper design, material, specification, construction and performance for safe operation and meets the prescribed standards, rules and regulations (Section 603(a) of the Federal Aviation Act of 1958 (Act), 49 U.S.C. 1423(e), as amended). Pursuant to section 603(a) and Part 21, a type certificate is issued after:

1. All applicable airworthiness, noise and engine emission regulations have been met, including the completion of the required functional and reliability tests to ensure that the airplane is considered safe in its operational environment; and

2. The Administrator has found no feature or characteristic that makes the airplane unsafe for the category in which certification is desired.

Proposed Type Certification Basis

The proposed type certification basis presented herein represents the type certification basis required by Part 21 that was established at the time of original application for 747 type design approval (April 22, 1966), and additional regulations based on exemptions, special conditions, and later regulatory amendments, pursuant to Part 21, which were either established by the FAA or elected by the applicant. The date of original application for the Model 747 established the original airworthiness certification basis to be Part 25 as amended by Amendments 25–1 through 25–8. At that time, Boeing elected to also comply with the provision of Amendments 25–15, 25–17, 25–18 and 25–20.

For those new design features of the Model 747–400 where the requirements of the original certification basis are judged to be inadequate, the applicable airworthiness provisions in effect on the date of the application for the amended type certification must be used (Part 25 as amended by Amendments 25–1 through 25–59). Therefore, for the Model 747–400, the FAA has determined that the provisions of certain later amendments should be made applicable. Furthermore, the applicant has elected to comply with many recent airworthiness standards which, with certain exceptions noted below, bring the certification basis to that specified by Part 25 as amended by Amendments 25–1 through 25–59.

In determining the certification basis, the FAA has considered the operating experience of the current Model 747 fleet and has not specified later amendments for design features which are the same as current models and for which satisfactory service experience has been demonstrated.

Certain design requirements provided for in later amendments to Part 25 are made applicable by the regulatory provisions of Part 121 to air carrier operations covered by that Part. Even though some of those design

requirements are not, and need not be, part of the type certification basis, they will apply to Part 121 operators. Those airplanes not in compliance with these requirements, indicated by *, will be modified after delivery to the operator, prior to being put into service. This has been done to accommodate those operators who prefer to take delivery of the airplane(s) and comply with those requirements made applicable by Part 121 before putting the airplane(s) into operation.

Based on the date of application and pursuant to § 21.101, the type certification basis of the Boeing Model 747–400 is: Part 25 of the FAR, "Airworthiness Standards: Transport Category Airplanes" effective February 1, 1965, as amended by Amendments 25–1 through 29–59 except as noted below:

FAR Section No.	Title	Thru Amendment 25–
Performance		
25.107	Takeoff speeds	41
25.109	Accelerate-stop distance	41
Controllability and Maneuverability		
25.149	Minimum control speed	41
Miscellaneous Flight Requirements		
25.251	Vibration and buffeting	22
Structure—General		
25.305	Strength and deformation	22
Flight Maneuver and Gust Conditions		
25.331	General	45
25.351	Yawing conditions	45
Supplementary Conditions		
25.365	Pressurized cabin loads	53
Fatigue Evaluation		
25.571	Damage-tolerance and fatigue evaluation of structure	9
Design and Construction—General		
25.607	Fasteners	22
25.631	Bird strike damage	(NA)**
Control Surfaces		
25.657	Hinges	22
Control Systems		
25.675	Stops	37
25.683	Operation tests	22
Personnel and Cargo Accommodations		
25.772	Pilot compartment doors	46
25.783	Doors	53
25.785	Seats, berths, safety belts, harnesses	50
25.787	Stowage compartments	31
25.789	Retention of items of mass in passenger and crew compartments.	45
Emergency Provisions		
25.809	Emergency exit arrangement	45
25.812*	Emergency lighting	31
Ventilation and Heating		
25.832*	Cabin ozone concentration	(NA)**
Fire Protection		
25.858	Cargo compartment fire detection systems	(NA)**
Lights		
25.1401	Anticollision light system	26
Miscellaneous Equipment		
25.1438	Pressurization and pneumatic systems	40
Operating Limitations		
25.1529	Instructions for continued airworthiness	(NA)**

*Compliance with a later amendment to this section is required for Part 121 operators.
**Not applicable—Since the original certification basis, which did not include this section, has been determined to be adequate, the requirements of this section do not apply to this type design.

Part 36 of the FAR as amended by Amendments 36–1 through 36–13, and any later amendments in existence at the time of certification. The Boeing Company has elected to comply with the Stage 3 noise level requirements.

Special Federal Aviation Regulation (SFAR) 27, as amended by Amendments 27–1 through 27–6 and any later amendments in existence at the time of certification.

The following special conditions, exemptions and equivalent safety findings are part of the 747–300 certification basis and will also be part of the 747–400 certification basis (Ref.: Type Certificate Data Sheet No. A20WE):

The special conditions include those enclosed with FAA letter to The Boeing Company dated February 20, 1970 and the following:

1. Special Condition 4A, revised to apply to airplanes with the landing gear load evener system deleted, was recorded as an enclosure to an FAA letter to The Boeing Company dated May 12, 1971.

2. Special Condition No. 25–61–NW–1 for occupancy not to exceed 32 passengers on the upper deck of airplanes with spiral staircase was

transmitted to The Boeing Company by FAA letter dated February 26, 1975.

3. Special Condition No. 25–71–NW–3 for occupancy not to exceed 45 passengers on the upper deck of airplanes with straight segmented stairway was transmitted to The Boeing Company by FAA letter dated September 8, 1976.

4. Modification of Special Condition No. 25–71–NW–3 for occupancy not to exceed 110 passengers on the upper deck of airplanes with straight segmented stairway was transmitted to The Boeing Company by FAA letter dated August 3, 1981.

5. Special Condition No. 25–77–NW–4 (modification of the autopilot system to approve the airplane for use of the system under Category 111b landing conditions) was transmitted to The Boeing Company by FAA letter dated July 8, 1977.

Exemptions form FAR Part 25:

1. No. 1013A dated December 24, 1969—Exemption from § 25.471(b) to allow lateral displacement of the C.G. from the airplane centerline.

2. No. 1870A dated March 10, 1977—Allows three noncrewmembers on upper deck. No. 1870B dated October 26, 1981—Allows five noncrewmembers on upper deck of freighter airplane.

The following optional requirements are part of the 747–300 certification basis and will apply to the 747–400:

Ditching Provisions—§ 25.801.

Ice Protection Provisions—§ 25.1419.

Equivalent Safety Findings for the 747–300 exist with respect to:

Independently illuminated exit signs—§ 25.812(k)(2).

Equivalent Safety Findings for the Model 747–200–300 in accordance with the FAA letter dated June 16, 1969, exist with respect to:

Pilot compartment view—§ 25.773.

Additional Exemptions

As of the date of this notice, Boeing has not petitioned the FAA for any exemptions relative to the type certification of the Model 747–400 series airplanes.

Additional Special Conditions

At this time, the FAA has identified several additional novel design features that may require the promulgation of special conditions in order to provide appropriate safety standards. The Boeing Model 747–400 will have several digital electronic systems controlling essential and critical functions and a crew rest area located in the aft cabin above the main deck. Under the provisions of §§ 21.101(b)(2) and 21.16, the FAA is currently proposing to draft special conditions concerning the following items:

1. Functional reliability of digital electronic engine control and thrust management systems.

2. Lightning protection of digital electronic systems.

3. Protection from the effects of unwanted radio frequency (RF) energy.

4. Accommodations for an overhead crew rest area in the aft cabin.

These special conditions, and any others deemed necessary, will be proposed in a subsequent Notice(s) of proposed special condition pursuant to § 11.28 of Part 11 and all public comments received on that notice will be considered before the special conditions are issued.

Additional Design Review

Even though the Model 747–400 design meets the provisions of the applicable airworthiness, noise, and engine emission regulations and special conditions, the provisions of § 21.21(b)(2) require that no feature or characteristic makes the airplane unsafe. At this time the following subjects have been identified for further review and evaluation.

1. Passenger and cargo compartment decompression and evaluation of sudden pressurization of unpressurized compartments.

2. The number and spacing of passenger emergency exit doors.

3. Horizontal tail fuel leakage.

4. Pneumatic System bleed ducts.

Post Certification Activity

Finally, design evaluation does not end with the issuance of the type certificate. Regulations require aircraft owners and operators to submit various reports and data on the aircraft's service experience. The FAA continues to monitor the safety performance of the design after the type design is approved and the product is introduced into service. This is accomplished through the various reports and data the FAA receives daily as well as through post certification design reviews. The airworthiness standards such as Part 25, as well as the operational standards such as Parts 91, 121, and 125 are amended from time-to-time to consider new technologies and to upgrade the existing level of safety. If, during an evaluation, an unsafe condition is found as a result of service experience and that condition is likely to exist or develop in other products of the same type, the FAA issues an airworthiness directive (AD) under Part 39 to require a change to the type design or to define special inspection or operational limitations. In effect, these are also retroactive applications of required type design change.

Issued in Seattle, Washington, on December 9, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87–28831 Filed 12–15–87; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Tulsa, OK

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a propossed highway project in Tulsa, Oklahoma.

FOR FURTHER INFORMATION CONTACT: Frank N. Cunningham, Assistant Division Administrator, Federal Highway Administration, 200 N.W. Fifth Street, Room 454, Oklahoma City, Oklahoma 73102, Telephone: (405) 231–4725.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oklahoma Department of Transportation (ODOT) and the City of Tulsa, will prepare an environmental impact statement (EIS) on a proposal to improve 71st Street South in Tulsa, Oklahoma. The proposed improvement would involve the reconstruction of the existing 71st Street South from Lewis Avenue eastward approximately four miles to Memorial Drive. Improvements to this segment of 71st Street South are considered necessary to provide for the existing and projected traffic demand as well as to enhance safety.

Alternatives under consideration include: (1) Taking no action; (2) adding two lanes to the existing facility to create a four-lane arterial; and (3) adding four lanes to the existing facility to create a six-lane arterial.

Letters describing the proposed project and soliciting comments have previously been sent to appropriate Federal, State, and local agencies during the Environmental Assessment stage of environmental processing. When completed, the draft EIS will be available for public and agency review and comment. A public hearing will be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues

identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistant Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovenmental consultation on Federal programs and activities apply to this program.)

Issued on: December 7, 1987.

Frank N. Cunningham,

Assistant Division Administrator, Oklahoma City, Oklahoma.

[FR Doc. 87-28810 Filed 12-15-87; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 11, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1027
Form Number: 1120-PC
Type of Review: Resubmission
Title: U.S. Property and Casualty Insurance Company Income Tax Return
Description: Property and casualty insurance companies are required to file an annual return of income and pay the tax due. The data is used to insure that companies have correctly reported income and paid the correct tax.
Respondents: Businesses or other for-profit
Estimated Burden: 148,349 hours
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5517, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Officer of Management and Budget, Room 3208, New Executive Office Building, washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 87-28887 Filed 12-15-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: December 11, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557-0127
Form Number: FFIEC 001, FFIEC 006
Type of Review: Revision
Title: Annual Report of Trust Assets/ Special Report-Trust Department Activities/ Interagency Survey of Corporate Foreign Fiduciary Activities
Description: Collected data are needed to determine types, extent, and financial viability of fiduciary activities. Data are used to analyze, supervise, and examine bank fiduciary activities. Analytical reports are prepared from the data. National banks authorized to exercise fiduciary powers are the affected public.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 18,202 hours
Clearance Officer: Eric Thompson (202) 447-1632, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219
OMB Reviewer: Robert Fishman (202) 395-7340, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-28888 Filed 12-15-87; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Grants Program for Private, Non-Profit Organizations in Support of International Educational and Cultural Activities

The Office of Private Sector Programs of the United States Information Agency (USIA) announces a program of limited grant support for non-profit U.S. institutions and organizations in the private sector which fosters long-term communication and understanding between the United States and other countries through educational and cultural exchange.

Projects for grant support should be designed to increase mutual understanding between the people of the U.S. and other countries and to strengthen the ties which unite our societies. Projects must include an international people-to-people component and demonstrate a substantial contribution to long-term communication and understanding between the United States and other countries on subjects consistent with USIA themes and priorities. Programs must have an educational or cultural focus of significant long-term interest.

The Office of Private Sector Programs works with U.S. not-for-profit organizations on cooperative international group projects which introduce American and foreign participants to one another's traditions, arts, social and political structures, and international interests. Each private sector activity must meet the highest professional standards, be non-partisan, and address substantive areas of mutual interest.

USIA grant assistance will constitute only a portion of total project funding. Proposals should list other anticipated sources of support—both financial and in-kind. The project should be completed during the duration of the grant, which does not normally exceed one year. Most funding assistance is limited to participant travel and per diem requirements with modest contributions to cover administrative costs. Grants are not ordinarily given to support research projects, youth or youth-related activities or to fund publications or student exchanges. Priority consideration is normally given to projects that directly involve United States Information Service posts overseas in the selection of the participants and the development of the program.

The Office of Private Sector Programs is now considering projects whose

activities will begin after May 1, 1988. Grant proposals are reviewed on a regular basis and should be submitted in final written form a minimum of four months prior to the commencement of the proposed program. Inquiries are welcome prior to submission of formal applications.

For further information, organizations interested in participating in this process should contact Dr. Raymond H. Harvey, Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, United States Information Agency, 301 4th Street, NW., Washington, DC 20547, or call (202) 485–7348.

Dated: December 9, 1987.

Dr. Robert Francis Smith,

Director, Office of Private Sector Programs.

[FR Doc. 87–28827 Filed 12–15–87; 8:45 am]

BILLING CODE 8230–01–M

A Grants Program for Private Not-For Profit Organizations in Support of International Educational and Cultural Activities

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The program is designed to increase mutual understanding between the people of the U.S. and other countries and to strengthen the ties which unite our societies. The information collection involved in this solicitation is covered by OMB Clearance Number 3116–0175, entitled "A Grants Program for Private, Non-Profit Organizations in Support of International Educational and Cultural Activities," announced in the **Federal Register** June 3, 1987.

Private sector organizations interested in working cooperatively with USIA on the following concept are encouraged to so indicate:

Bangladesh Parliamentary Exchange

The Office of Private Sector Programs will assist in supporting a legislative workshop that will bring ten young members of Bangladesh's recently elected Parliament to the U.S. to gain a better understanding of the U.S. Congress and its role in the political process. The Bangladeshi participants will be selected by USIA representatives abroad. The project, tentatively scheduled for February or March 1988, will be conceived and executed by a U.S. not-for-profit institution with expertise in the field of American political and legislative processes. The program design will inlcude substantive meetings with elected representatives, committee leaders and staff members. The participants will also examine a range of issues relevant to law-making and national development.

USIA is most interested in working with organizations that show promise for innovative and cost-effective programming; and with organizations that have potential for obtaining private-sector funding in addition to USIA support. Organizations must have the substantive expertise and logistical capability needed to successfully develop and conduct the above project and should also demonstrate a potential for designing programs which will have a lasting impact on their participants.

Interested organizations should submit a request for complete application materials—postmarked no later than fifteen days from the date of this notice—to the address listed below. The Office of Private Sector Programs will then forward a set of materials which contains proposal guidelines.

Office of Private Sector Programs, Bureau of Educational and Cultural Affairs (ATTN: Initiative Programs), United States Information Agency, 301 4th Street, SW., Washington, DC 20547

Dated: November 20, 1987.

Robert Francis Smith,

Director, Office of Private Sector Programs.

[FR Doc. 87–28826 Filed 12–15–87; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 241
Wednesday, December 16, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

December 10, 1987.

TIME AND DATE: 10:00 a.m. Thursday, December 17, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Western Fuels, Utah, Inc.*, Docket No. WEST 86-108-R, etc. (issues include whether the judge erred in finding the operator liable for violation of 30 CFR § 75.200.)
2. Consideration of possible revisions to Commission procedural Rules 40-43. 29 CFR § 2700.40 through 2700.43.

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR § 2706.105(a)(3) and § 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Sandra G. Farrow (202) 653-5629, Acting Agenda Clerk.

Sandra G. Farrow

Acting Agenda Clerk.

[FR Doc. 87-28969 Filed 12-14-87; 12:27 pm]

BILLING CODE 6735-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

December 11, 1987.

TIME AND DATE: 10:00 a.m., Thursday, December 17, 1987.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission will also consider and act upon the following:

3. *Otis Elevator Company*, Docket No. PENN 86-262. (Issues include consideration of Otis Elevator's Petition for Discretionary Review.)

It was determined by a unanimous vote of Commissioner's that this item be included in the meeting of December 17, 1987, and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, phone (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 87-28970 Filed 12-14-87; 12:27 pm]

BILLING CODE 6735-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of December 14, 21, 28, 1987 and January 4, 1988.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of December 14

Thursday, December 17

9:30 a.m.
Periodic Briefing on Status of Operating Reactors and Fuel Facilities (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 21—Tentative

Tuesday, December 22

10:00 a.m.
Briefing by Executive Branch (Closed—EX. 1)

Wednesday, December 23

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of December 28—Tentative

No Commission Meetings

Week of January 4—Tentative

Wednesday, January 6

10:00 a.m.
Briefing on Status of NRC Internal Drug Program (Public Meeting)

Thursday, January 7

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

2:00 p.m.
Briefing on Status of Maintenance Program and Policy Statement (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING) (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Andrew Bates (202) 634-1410.

Andrew L. Bates,

Office of the Secretary.

December 10, 1987.

[FR Doc. 87-28914 Filed 12-11-87; 4:49 pm]

BILLING CODE 7590-01-M

federal register

Wednesday
December 16, 1987

Part II

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Industrial-Commercial-Institutional Steam Generating Units; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3276-4]

Standards of Performance for New Stationary Sources; Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance under Subpart Db of 40 CFR Part 60 limiting emissions of sulfur dioxide (SO_2) from coal- and oil-fired industrial-commercial-institutional steam generating units and particulate matter (PM) from oil-fired industrial-commercial-institutional steam generating units were proposed in the **Federal Register** on June 19, 1986 (51 FR 22384). Today's action promulgates these standards under Subpart Db and also revises emission testing procedures under Method 19 of 40 CFR Part 60, Appendix A.

Standards of performance limiting emissions of nitrogen oxides (NO_x) and PM from fossil- and nonfossil-fuel-fired industrial-commercial-institutional steam generating units were promulgated on November 25, 1986 (51 FR 42768). The complete text of Subpart Db integrating the requirements for SO_2, NO_x, and PM is included in today's notice. This combined text is provided as a convenience to the reader and is *not* a repromulgation of the previously promulgated standards for NO_x and PM. An outline of the specific additions to Subpart Db resulting from today's action is provided in the administrative section of the preamble.

These standards implement section 111 of the Clean Air Act and are based on the Administrator's determination that industrial-commercial-institutional steam generating units cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all new, modified, and reconstructed industrial-commercial-institutional steam generating units to reduce emissions of SO_2 and PM to the levels achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impacts, and energy requirements.

EFFECTIVE DATE: December 16, 1987.

Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings to enforce these requirements.

Incorporation by reference: The incorporation by reference of certain publications in these standards is approved by the Director of the Office of the **Federal Register** as of December 16, 1987.

ADDRESSES: Docket. Docket number A-83-27, containing information used in development of the standards, is available for public inspection between 8:00 a.m. and 3:00 p.m. Monday through Friday at the Central Docket Section (LE-131), South Conference Center, Room 4, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter or Mr. Walter Stevenson, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5251 or (919) 541-5264.

SUPPLEMENTARY INFORMATION: The following outline is provided to aid in reading the preamble to the final regulation.

Background Information Documents. Because of printing and distribution costs, only a limited number of the background information document (BID) for the promulgated standards were printed. Distribution of these documents to industries is being coordinated by industry trade associations. Companies wishing to review the BID should contact their representative trade association. If the trade association does not have access to the BID, a copy will be provided for the use of their membership.

I. Summary of Standards

Standards of performance for new sources established under section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emissions reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated (Section 111(a)(1)).

For convenience, this will be referred to as "best demonstrated technology."

A. Applicability

The new source performance standards (NSPS) being adopted today apply to all new, modified, or reconstructed steam generating units with a heat input capacity greater than 29 MW (100 million Btu/hour) for which construction is commenced after June 19, 1986, except for electric utility steam generating units covered by 40 CFR Part 60, Subpart Da, or steam generating units covered under 40 CFR Part 60, Subpart J (Standards of performance for petroleum refineries). The definition of "steam generating unit" includes all devices that combust fuel and produce steam, hot water, or heat other fluids which are used as heat transfer media.

The owner or operator of any steam generating unit that is capable of combusting greater than 29 MW (100 million Btu/hour) of fuel must submit certain information as required by the General Provisions (40 CFR 60.11), including notification of the date of initial unit startup, and must maintain certain fuel use records.

Sulfur dioxide control requirements are established for steam generating units which combust coal, oil, coal/oil

mixtures, or coal or oil with any other fuels.

Particulate matter emission limits are established for steam generating units combusting oil or mixtures of oil with any other fuels. The PM standard being adopted today for oil-fired steam generating units supplements PM emission standards adopted on November 25, 1986, for steam generating units combusting coal, wood, municipal solid waste, or fuel mixtures containing any of these fuels (51 FR 42768).

B. Sulfur Dioxide Standards

(1) Steam generating units combusting coal, either alone or in combination with other fuels, are required to achieve a 90 percent reduction in potential SO_2 emissions and meet an emission limit of 520 ng/J (1.2 lb/million Btu) heat input, except as noted below.

(2) Steam generating units combusting oil, either alone or in combination with other fuels, are required to achieve a 90 percent reduction in potential SO_2 emissions and meet an emission limit of 340 ng/J (0.8 lb/million Btu) heat input, except as noted below.

(3) Steam generating units combusting coal, oil, or a mixture of coal and oil, with or without other fuels, that have a Federally enforceable permit limiting the combustion of coal and oil to 30 percent or less of the maximum annual steam generating unit heat input capacity, are exempt from the percentage reduction requirement, but must meet certain emission limits. Coal-fired steam generating units are subject to an emission limit of 520 ng/J (1.2 lb/million Btu) heat input. Oil-fired steam generating units are subject to an emission limit of 130 ng/J (0.3 lb/million Btu) heat input.

(4) Steam generating units combusting coal and using an emerging SO_2 control technology must achieve a 50 percent reduction in potential SO_2 emissions and meet an emission limit of 260 ng/J (0.6 lb/million Btu) heat input.

(5) Steam generating units combusting oil and using an emerging SO_2 control technology must achieve a 50 percent reduction in potential SO_2 emissions and meet an emission limit of 170 ng/J (0.4 lb/million Btu) heat input.

(6) Steam generating units located in noncontinental areas (Hawaii, the Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, and the Northern Mariana Islands) are exempt from the percentage reduction requirements but must meet certain emission limits. Coal-fired steam generating units are subject to an emission limit of 520 ng/J (1.2 lb/million Btu) heat input. Oil-fired steam generating units are subject to an emission limit of 130 ng/J (0.3 lb/million Btu) heat input.

(7) Fluidized bed combustion (FBC) steam generating units combusting coal refuse must achieve an 80 percent reduction in potential SO_2 emissions and meet an emission limit of 520 ng/J (1.2 lb/million Btu) heat input.

(8) Duct burners operating as part of a supplementary-fired combined cycle system in which less than 30 percent of the total heat input to the steam generating unit is from the combustion of coal or oil in the duct burner are exempt from the percentage reduction requirements but must meet certain emission limits. Coal-fired steam generating units are subject to an emission limit of 520 ng/J (1.2 lb/million Btu) heat input. Oil-fired steam generating units are subject to an emission limit of 130 ng/J (0.3 lb/million Btu) heat input.

(9) Steam generating units combusting very low sulfur content oil are exempt from the percentage reduction requirements, but are subject to an emission limit of 130 ng/J (0.3 lb/million Btu) heat input.

(10) Continuous SO_2 emission monitoring is required for all coal- and oil-fired steam generating units. The SO_2 emission data collected through continuous monitoring are used to determine compliance with the standards on a continuous basis through the use of a 30-day rolling average emission rate and percent reduction level calculated each day. All continuous emission monitoring systems (CEMS) are subject to the quality assurance requirements in Appendix F, Procedure 1 (52 FR 21003; June 4, 1987). Method 6B stack sampling is allowed both as an alternative SO_2 monitoring method and to supplement CEMS data to meet the minimum data requirements (75 percent of steam generating unit operating hours during a steam generating unit operating day). For units firing low sulfur coal or oil without an SO_2 control technology, fuel sampling and analysis procedures are allowed as an alternative to CEMS or Method 6B. Quarterly reporting of all 30-day rolling average emission rates and percent reduction, as applicable, is also required.

(11) Except as provided below, all coal- or oil-fired steam generating units must conduct an initial 30-day compliance test.

(12) Steam generating units combusting only oil and that have a Federally enforceable permit limiting the combustion of oil to 10 percent or less of the maximum annual steam generating unit heat input capacity are not required to perform an initial 30-day compliance test but must perform an initial 24-hour compliance test.

C. Particulate Matter Standards

For steam generating units firing oil, either alone or in combination with other fuels, the particulate matter emission limit is 43 ng/J (0.1 lb/million Btu) heat input.

The opacity limit for steam generating units firing oil, alone or in combination with other fuels, is 20 percent opacity (6-minute average) with one 6-minute excursion per hour up to 27 percent opacity. The opacity standard applies at all times except during periods of startup, shutdown, or malfunction as provided by the General Provisions (40 CFR 60.11(c)).

Performance tests to determine compliance with the particulate matter emission limits are conducted using Method 5, 5B (51 FR 42839; November 26, 1986), or 17. Method 5B is used to test wet scrubbing systems; otherwise Methods 5 and 17 are used. Method 3 is used for gas analysis and Method 1 for the selection of sampling points.

Method 9 is used to determine compliance with the opacity standard. The steam generating unit owner or operator may elect to use the opacity monitor to determine compliance with the opacity standard under the General Provisions, as amended (52 FR 9778; March 26, 1987). Continuous opacity monitoring is required for all steam generating units except as provided for by the General Provisions (§ 60.11(b)). Excess emissions (opacity) reports are required to be submitted on a semiannual basis.

II. Summary of Changes to Proposed Standards

A. Sulfur Dioxide Standards

The final standards retain the 90 percent reduction requirements for SO_2 emissions that were included in the proposed standards. However, based on comments received after proposal, certain situations were identified where the impacts of achieving a 90 percent reduction were judged to be unreasonable. Emission limits remain applicable in all cases.

Under the proposed standards, SO_2 percent reduction requirements were not applicable to mixed-fuel-fired steam generating units (units firing mixtures of coal/wood or coal/municipal waste) that had an annual coal capacity factor of 30 percent or less. Under the final standards, this exemption from percent reduction requirements has been expanded to cover all low capacity factor steam generating units

combusting coal or oil, including both mixed-fuel-fired applications and fossil-fuel-fired applications (units that combust only coal or oil). As with the proposed standards, to qualify for this exemption, the unit must have an annual coal and oil capacity factor of 30 percent or less and a Federally enforceable operating permit that limits annual coal and oil combustion to 30 or less of annual rated capacity.

An exemption from the percent reduction requirement has also been included in the final standards for steam generating units located in noncontinental areas (Hawaii, the Virgin Islands, Guam, American Samoa, Puerto Rico, and the Northern Mariana Islands).

Fluidized bed combustion units firing coal refuse are required to achieve an 80 percent reduction in SO_2 emissions. This less stringent provision was not included in the proposed standards, but was added to the final standards.

The final standards also include a provision exempting steam generating units combusting very low sulfur oil from percent reduction requirements.

B. Sulfur Dioxide Compliance Provisions

The proposed standards required all steam generating units to conduct a 30-day performance test during initial startup. The final standards include the 30-day performance test requirement for most steam generating units, but permit a 24-hour performance test for oil-fired steam generating units that have a Federally enforceable permit limiting combustion of oil to 10 percent or less of the maximum annual heat input capacity.

In the proposed regulation, SO_2 emission monitoring and calculation of 30-day rolling average emission rates and percent reduction levels would have been performed in accordance with Method 19 and Method 19A. The final standard specifies only one method, Method 19. Method 19 has been modified to incorporate certain relevant portions of Method 19A, and is being republished as part of today's action. The revised Method 19 includes SO_2, NO_x, and PM calculation procedures and addresses both steam generating units using SO_2 control devices as well as units combusting low sulfur compliance fuels. Method 19 has also been revised to include fuel sampling and analysis procedures for determining SO_2 emissions from steam generating units firing compliance fuels.

Quality assurance procedures for CEMS are set forth in 40 CFR Part 60, Appendix F, Procedure 1. Appendix F was promulgated on June 4, 1987 (52 FR 21003) and applies to CEMS installed under today's standards to monitor SO_2 emissions.

C. Particulate Matter Compliance Provisions

The particulate matter compliance provisions remain the same as those promulgated on November 25, 1986 (51 FR 42768), as amended by the addition of Method 5B as a compliance method for "wet" stacks along with Methods 5 and 17 for "dry" stacks. Method 5B was promulgated on November 26, 1986 (51 FR 42839).

D. Reporting Requirements

The reporting requirements remain essentially the same as those proposed, with one exception. Because the Appendix F quality assurance requirements for CEMS have been promulgated, quarterly reports required under Appendix F are now required to be submitted as part of the quarterly reports submitted under this regulation where CEMS are used.

III. Summary of Impacts From the Promulgated Standards

The projected national impacts associated with the final standards are summarized in Table 1.

TABLE 1.—NATIONAL IMPACTS

	IFCAM	Sales data
Air Emission Reductions:		
Sulfur Dioxide, thousand tons/yr	130–360	140
Particulate Matter, thousand tons/yr.	9–24	3
Liquid and Solid Wastes Generated:		
Liquid Wastes, million cubic ft/yr	Negligible	53
Solid Wastes, thousand tons/yr	Negligible	270
Energy Impacts:		
Increase in Natural Gas Use, trillion Btu/yr.	110–310	0
Cost Impacts:		
Total Annualized Cost, million $/yr.	5–50	120
Average Cost Effectiveness, $/ton.	40–130	890
Incremental Cost Effectiveness, $/ton.	0	1,400

Projected national impacts associated with the standards can vary considerably depending on the approach used to estimate these impacts. The original approach used by the Agency starts with estimates of the growth in national energy consumption projected by the Department of Energy. These projections are used to estimate energy consumption in new industrial-commercial-institutional steam generating units. These energy consumption estimates, along with projections of future fuel prices, serve as inputs to a computer model known as the "Industrial Fuel Choice Analysis Model" (i.e., IFCAM).

Based on these input assumptions, IFCAM projects a population of new steam generating units distributed by geographic area, unit size, and operating level based on historical patterns. For each projected new steam generating unit, the total cost associated with each type of fuel that could be fired, including the costs to comply with standards limiting SO_2 emissions, is calculated and the lowest cost alternative is selected for compliance. The results are then aggregated to yield estimates of national impacts associated with standards limiting SO_2 emissions.

Using this approach, "fuel switching" from coal or oil to natural gas can occur in response to standards limiting SO_2 emissions. For example, in the absence of SO_2 standards, it may be less expensive to combust coal or oil than natural gas. With SO_2 standards, however, it may be less expensive to combust natural gas than coal or oil. When fuel switching occurs, it results in lower costs and greater SO_2 emission reductions.

The type of fuel projected by IFCAM to be fired in each new steam generating unit as well as the likelihood of fuel switching occurring in response to standards, depends primarily on relative fuel prices. Given the uncertainty in projected fuel prices, a number of different fuel price scenarios were examined. The range of national impacts associated with those projections of fuel prices which are currently considered "most likely" is shown under the "IFCAM" column in Table 1.

A number of commenters stated that the approach used by the Agency to estimate national impacts (i.e., IFCAM) probably underestimated the costs and overestimated the emission reductions associated with the standards. Commenters suggested that both the amount of fuel switching projected to occur as well as the number of new steam generating units projected to be built were excessive. To respond to these concerns, an approach based on historical data was also used to estimate national impacts (shown under the "SALES DATA" column in Table 1).

This alternate approach uses annual steam generating unit sales statistics gathered by the American Boiler Manufacturing Association (ABMA) for the past five years to project a population of new industrial-commercial-institutional steam generating units expected to be built in the next five years. The costs and emission reductions associated with the recommended standards are estimated for each new coal- or oil-fired steam generating unit. No fuel switching is

assumed to occur in response to standards limiting SO_2 emissions, and the relative market shares by fuel type are assumed to remain constant. The results are then aggregated to yield an alternative estimate of national impacts.

As shown in Table 1 the final standards result in significant reductions in SO_2 emissions from new industrial-commercial-institutional steam generating units. Table 1 shows the standards could, however, result in some increase in liquid and solid waste. The amount of liquid and solid waste generated depends on the amount of fuel switching that occurs. When steam generating units fuel switch from firing coal or oil to firing natural gas, the SO_2 standards would not result in any waste generation and the standards could, in fact, result in a net decrease in liquid or solid wastes. When fuel switching does not occur, the liquid or solid waste increase depends on the type of FGD system installed to control SO_2 emissions. Some systems generate only liquid wastes, others generate only solid wastes.

Impacts on energy consumption associated with the recommended standards also depend on the extent to which fuel switching occurs. At most, the standards would result in less than 5 percent (310 trillion Btu/yr) increase in the amount of natural gas consumed by industrial sources. Much of this increased natural gas consumption, however, would be balanced by a corresponding decrease in oil consumption. Overall, therefore, the final standards are viewed as having minimal energy impacts and are considered consistent with national energy policies directed toward reducing imports of oil and increasing use of domestic energy supplies.

In addition to the national impacts summarized in Table 1, industry specific economic impacts were also assessed for six industries which were considered likely to experience the most severe impacts. For these industries, product prices were projected to increase by less than 0.01 to 1.5 percent in 1990, assuming "full cost pass-through" of all increased costs associated with standards requiring a percent reduction in SO_2 emissions. Assuming "full cost absorption," return on assets was projected to decrease by 0.03 to 2.8 percentage points.

IV. Public Participation

Prior to proposal of the standards, interested parties were advised of a meeting of the National Air Pollution Control Techniques Advisory Committee (NAPCTAC) to discuss the standards under development. This meeting was held on May 1 and 2, 1985. The meeting was open to the public and each attendee was given an opportunity to comment on the standards. Several presentations to NAPCTAC were also made throughout the development of the proposed standards to solicit the views of committee members and interested members of the public. Additional meetings were held with affected industries at several times during development of the standards.

The standards were proposed on June 19, 1986 (51 FR 22384). The preamble to the proposed standards discussed the availability of the background information documents, which consisted of nine documents listed in the preamble. These background information documents described in detail the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal, and copies of the background information documents were distributed.

To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, a public hearing was held on September 4, 1986, at Research Triangle Park, North Carolina. The hearing was open to the public and each attendee was given an opportunity to comment on the proposed standards. Nineteen interested parties testified at the public hearing concerning issues relative to the proposed standards. A transcript of the public hearing was prepared and placed in Docket A–83–27.

The public comment period was from June 19, 1986, to October 2, 1986. A total of 99 comment letters were received and placed in Docket A–83–27. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the standards.

V. Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from industry, trade associations, Federal agencies, State agencies, an environmental group, and the general public. A number of major issues were raised in the following areas: Applicability, Basis of Standard, Standard for SO_2, National Impacts, Cost, Performance/Reliability of Control Technology, Environmental Impacts, Emission Credits, and Emerging Technologies. Significant comments are discussed below. A summary of all comments and responses which are not discussed below can be found in the promulgation Background Information Document (BID), which is referred to in the **ADDRESSES** section of this preamble. The summary of comments and responses discussed below, as well as in the BID, serves as the basis for the revisions that have been made to the standards between proposal and promulgation.

A. Applicability

A number of commenters felt that steam generating units operating at low capacity utilization rates for oil or coal should be exempted from the SO_2 standards. They indicated that not all low capacity factor steam generating units would elect to use natural gas and said the cost to comply with the standards would be unreasonable for low capacity factor units combusting coal or oil, considering the small amount of SO_2 control obtained. Specifically, the commenters mentioned auxiliary steam generating units located at electric utility power plants which are used to start up main steam generating units, industrial steam generating units that are operated infrequently to provide "backup" steam or to meet seasonal demands (i.e., peaking units), mixed-fuel-fired steam generating units burning small amounts of coal or oil, and nonfossil-fuel-fired steam generating units that use oil or coal as a backup fuel during periods of unavailability of the nonfossil fuel.

Review and reconsideration of the initial analysis, recent steam generating unit sales data, and recent operations data from new steam generating units leads to the conclusion that some plants will install coal- or oil-fired steam generating units even where natural gas is the fuel of economic choice and despite promulgation of standards requiring a percent reduction in emissions from coal- and oil-fired steam generating units. To avoid imposing emission control requirements that could result in unreasonable impacts, the 30 percent annual capacity factor exemption in the proposed standards for mixed-fuel-fired units was extended in the final standards to include coal- and oil-fired units.

The owner or operator of such facilities must obtain a Federally enforceable permit limiting the annual capacity factor of the unit for coal and oil to 30 percent or less (see "Impact of New Fuel Prices on the Costs and Cost Effectiveness of SO_2 Emission Control of Industrial Coal- and Oil-Fired Model Steam Generating Units," 1987; "Alternative Estimates of National Impacts Based on Steam Generating Unit Sales Data," 1987). Although "low capacity factor" steam generating units are exempt from percent reduction

requirements, they are required to meet certain emission limits. Emissions of SO_2 from steam generating units operating at coal and oil annual capacity factors of 30 percent or less would be limited to 520 ng/J (1.2 lb/million Btu) heat input if coal is fired and 130 ng/J (0.3 lb/million Btu) if oil is fired (see "Assumptions and Procedures Used to Generate Model Boiler Impacts," 1987; "Availability of Very Low Sulfur Fuel Oil," 1987). Based on these emission limits, the exemption from percent reduction requirements for steam generating units operating at less than a 30 percent coal and oil utilization factor will reduce the cost of the final standards by up to 15 percent compared to no exemption, but results in less than a 2 percent increase in SO_2 emissions compared to no exemption.

Continuous emission monitoring (or fuel sampling and analysis), continuous compliance provisions, and quarterly reporting are required for all steam generating units, including "low capacity factor" units. If a decision is subsequently made to operate a "low capacity factor" steam generating unit at higher loads, the operating permit would have to be revised and compliance with the percent reduction requirement would be necessary.

Other commenters requested that an exemption from the percent reduction requirement be granted for steam generating units burning anthracite coal or anthracite mining waste (culm), as was done in Subpart Da for electric utility steam generating units. Some commenters also stated that other coal mining and washing wastes should be included in this exemption.

The exemption from the percent reduction requirement granted for anthracite in Subpart Da was provided to encourage reclamation of abandoned anthracite mines during new anthracite mining, resulting in environmental benefits such as improvement of mine drainage acid-water conditions, elimination of old mining scars on the topography, and eradication of dangerous fires in deep mines and culm banks. The exemption from the percent reduction requirement provided for anthracite under Subpart Da was to create a special local utility market for this fuel, and the environmental benefits associated with utility-scale reclamation were judged to outweigh environmental impacts from burning anthracite without a post-combustion SO_2 control system.

The smaller coal demand in the industrial-commercial-institutional steam generating unit market will not result in utility-scale mine reclamation even if an exemption from the percent reduction requirement were granted for anthracite (see "Electric Utility Steam Generating Units Background Information for Promulgated Emission Standards," 1979). Therefore, no special provisions for anthracite have been included in the final standards.

A different situation exists, however, with the firing of anthracite mining waste and other coal mining and washing wastes (collectively referred to as coal refuse). These wastes raise concerns similar to those addressed in the Subpart Da exemption for anthracite. These waste piles are not only unsightly, but they are responsible for acid-water drainage problems and can also lead to fires from spontaneous combustion. Therefore, it is important to encourage the use of these wastes as fuels in steam generating units (specifically fluidized bed combustion [FBC] steam generating units) to eliminate a potential environmental hazard. Consequently, a less stringent requirement of 80 percent reduction combined with an emission limit of 520 ng/J (1.2 lb/million Btu) has been provided for FBC steam generating units which fire coal refuse. This action balances the need to minimize air pollution from combustion of these wastes against the environmental benefits resulting from eliminating coal refuse piles.

One commenter said the final standards should include an exemption from the percent reduction requirement for steam generating units located in noncontinental areas, as was done in Subpart Da. The commenter said that, due to a lack of flexibility in fuel choice and the necessity of importing the reagent materials necessary for flue gas desulfurization (FGD) system operation, the costs associated with achieving a percent reduction in emissions could be exorbitant.

Facilities in noncontinental areas (Hawaii, the Virgin Islands, Guam, American Samoa, Puerto Rico, and the Northern Mariana Islands) constitute a subcategory subject to unique environmental and economic constraints in complying with this NSPS. Because of a lack of natural gas supplies, "fuel switching" to natural gas is not feasible. In addition, the cost of importing FGD reagent and other materials to noncontinental areas would make the costs associated with achieving a percent reduction in emissions much higher than on the continental mainland.

In light of these considerations, an exemption from the percent reduction requirement has been provided for steam generating units located in noncontinental areas, regardless of the capacity factor of the unit. Such facilities are, however, required to meet the SO_2 emission limitations discussed above for units operating at low capacity factors for coal or oil. These emission limits, as well as the fact that these facilities will be reviewed to ensure compliance with limitations established under the prevention of significant deterioration (PSD) program, will minimize the impact of these facilities on ambient air quality.

B. Basis of Standard

A number of commenters questioned the legal basis for establishing a percent reduction requirement as the basis of the standard. They said the percent reduction provision in section 111 of the Clean Air Act was intended to apply to utility steam generating units only, and is not appropriate for industrial-commercial-institutional steam generating units.

The percentage reduction requirement was enacted by the 1977 Amendments to the Act. Section 111(a)(1) defines the term "standard of performance" as follows:

> (A) with respect to any air pollutant emitted from a category of fossil fuel fired stationary sources * * * a standard—
>
> (i) establishing allowable emission limitations for such category of sources, and
>
> (ii) requiring the achievement of a percentage reduction in the emissions from such category of sources from the emissions which would have resulted from the use of fuels which are not subject to treatment prior to combustion.

Although the discussion of the percentage reduction requirement in the legislative history sometimes refers to particular types of fossil-fuel-fired sources, the term "boilers" is used generally and is not limited to utility steam generating units. The legislative history specifically mentions "industrial sources" and "mines, processing plants, and factories," and indicates that the Agency has the authority to include a percentage reduction requirement in an NSPS for fossil-fuel-fired sources: S. Rep. No. 564, 95th Cong., 1st Sess. 130 (1977); H.R. Rep. No. 294, 95th Cong., 1st Sess. 188 (1977) at 188–192; *Accord, Sierra Club* v. *Ruckelshaus*,. Civil Action No. 84–0325 (D.D.C. Sept. 4, 1985), at 5.

Some commenters asserted that the Agency concluded after promulgation of the utility steam generating unit NSPS that there was no obligation to revise the existing large industrial steam generating unit NSPS (Subpart D) to include a percent reduction requirement. The commenters referred to a brief filed by the Agency in *Sierra Club* v. *Ruckelshaus* in 1984.

The issue in *Sierra Club* was the scope of the nondiscretionary duties under section 111(b)(6). The Agency did not express any view in that case about the application of percentage reduction requirements under section 111(a)(1) to industrial-commercial-institutional steam generating units, but simply argued that section 111(b)(6) did not impose a nondiscretionary duty to promulgate revised NSPS for these steam generating units. Similarly, the utility steam generating unit NSPS rulemaking cited in that brief did not analyze the applicability of the percentage reduction requirement to non-utility steam generating units; 44 FR 33580 (June 11, 1979); 43 FR 42154 (Sept. 19, 1978).

Other commenters said that section 111 gives the Agency the flexibility to forego a percentage reduction where there is no demonstrated need for it, or where the costs are too high compared to the benefits, or where a percent reduction would create more problems than it solves. Several commenters said that an emission limit only, rather than a percent reduction requirement, should be established and sources should be allowed to achieve that limit by whatever means is appropriate for each source.

Section 111 does provide the flexibility to forego the percentage reduction requirement if the impacts associated with it would be unreasonable and exemption from percent reduction has been provided in the final standards where impacts would have been unreasonable. A thorough analysis of the economic, environmental, and energy impacts based on the exemptions included in the final standards was conducted, and no unreasonable impacts were identified. Therefore, the final standards promulgated under section 111 are considered reasonable.

The percent reduction requirement does not force a source to install any particular technological system of SO_2 emission reduction. It is simply a performance standard that is based on the performance capabilities of the "best demonstrated technology." Sources are free to use any technological system that is able to achieve emission reductions equal to or greater than that achievable by the "best demonstrated technology."

C. Standard for Sulfur Dioxide

Some commenters expressed concern that a 90 percent reduction requirement was too stringent to allow flexibility in selection of SO_2 control technology. They felt that a lower percent reduction requirement would allow the use of less expensive technologies, achieve comparable SO_2 control, and foster increased coal use in the future.

The issue of regulatory compliance flexibility of a 90 percent reduction requirement compared to lower percent reduction requirements was carefully evaluated. While it is true that lower percent reduction requirements would allow the use of a greater number of SO_2 control technologies, this alternative must be evaluated in relation to the requirements of section 111 of the Clean Air Act. Section 111 requires the NSPS to be established at the level achievable by the best demonstrated technology for which no unreasonable cost, environmental, or energy impacts have been identified. This "best demonstrated technology" is flue gas desulfurization and fluidized bed combustion, both of which have demonstrated 90 percent reductions in SO_2 emissions. In addition, the impacts associated with achieving a 90 percent reduction as required by the final standard are considered reasonable. Thus, the final standards require a 90 percent reduction in SO_2 emissions from coal and oil, except where unreasonable impacts would occur. In these cases, percent reduction is not required, but an emission limit based on use of low sulfur compliance fuel is applicable.

To provide some flexibility and to encourage the development of alternative SO_2 control technologies, a percent reduction requirement of 50 percent has been established for emerging technologies. This provision was discussed in the preamble to the proposed standards and is retained in the final standards and is discussed in more detail below.

Several commenters said the requirements in the Subpart Da electric utility NSPS should be the most stringent scenario considered for industrial-commercial-institutional steam generating units. They said there is no reason industrial-commercial-institutional units should be regulated more stringently than utility units.

Direct comparison of the standard for industrial-commercial-institutional steam generating units with the utility standard promulgated in 1979 is inappropriate for several reasons.

First, the design and operating characteristics of utility steam generating units and emission control systems are different from industrial-commercial-institutional units. Utility steam generating units are generally much larger. A typical electric utility unit would have a heat input capacity of about 1,450 MW (5,000 million Btu/hour). This compares to 44 MW (150 million Btu/hour) heat input capacity for a typical industrial-commercial-institutional unit, a 30-fold difference in size. Because of their large size, utility steam generating units and FGD systems are field erected and are usually custom designed for a specific site. Long-term fuel purchase contracts for up to 20 years are common. As a result, utility steam generating units and FGD systems can be designed to optimize site- and fuel-specific factors. Also, to handle the large quantities of flue gas generated, utility FGD systems typically consist of multiple parallel FGD modules (typically 4 or 5 modules), with each capable of handling part of the total flue gas. To ensure operating reliability of the total FGD system, an additional FGD module is frequently installed as a spare or backup module to be available during periods of FGD malfunction or for rotation during preventive maintenance and servicing of other FGD modules.

In contrast, industrial-commercial-institutional steam generating units and FGD systems are likely to be shop-assembled based on standard designs and have the ability to handle a wider range of fuels than typical utility steam generating units. Also, long-term fuel supply contracts specifying delivery of a fuel of well-defined quality are less common than in utility applications. Because of their smaller size, switching to natural gas or low sulfur oil during FGD system malfunctions is a viable alternative to installing a spare FGD module.

Second, at the time Subpart Da was promulgated, lime/limestone wet scrubbing was the predominant FGD technology used by utilities. Newer technologies, such as lime spray drying FGD, were still in the early stages of commercial application and concerns existed about the ability of these newer technologies to achieve high SO_2 reductions on a reliable basis. Today, a number of demonstrated FGD technologies are available for use by industrial-commercial-institutional steam generating units including sodium scrubbing, lime spray drying, and dual alkali FGD systems, as well as fluidized bed combustion. Based on experience gained with these technologies during the past decade, as well as various technical advantages of these technologies over wet lime/limestone FGD, industrial FGD systems are expected to be more efficient and reliable than utility FGD systems were at the time Subpart Da was adopted.

Because of the many differences between industrial-commercial-institutional and utility steam generating units, it is inappropriate to conclude that the standards being adopted today must mimic Subpart Da.

Some commenters said the proposed SO_2 emission limit of 86 ng/J (0.2 lb/million Btu) for an oil-fired steam generating unit without an FGD system was unrealistic. They said that oil with this sulfur content is not commercially available, and suggested sulfur contents ranging from 130 ng/J (0.3 lb/million Btu) to 260 ng/J (0.6 lb/million Btu) as low sulfur oil compliance alternatives.

The basis for the SO_2 emission limit of 86 ng/J (0.2 lb/million Btu) in the proposal was to provide an alternative means of demonstrating compliance with the percent reduction requirement. The sulfur content of this oil was so low that it appeared reasonable to assume that refining of the original crude oil had resulted in a 90 percent reduction in potential SO_2 emissions. This provision, therefore, was not based on an assessment of the availability of such oils, but merely an assessment of how low the sulfur content of an oil would need to be in order to reasonably ensure that a 90 percent reduction in its sulfur content had been achieved.

As a result of these comments, the basis for this provision was reviewed. A more detailed assessment than that done at the time of proposal was undertaken to determine the means by which most very low sulfur oils are produced. This assessment concluded that most very low sulfur oils, even those as low as 86 ng/J (0.2 lb SO_2/million Btu), are produced by distillation of very low sulfur content crude oils, and that little or no desulfurization may take place. The analysis also indicated that most desulfurized oils were not sold as very low sulfur content fuel oils, but were upgraded to gasoline or other higher cost products. As a result, there is no particular sulfur content that can reasonably be assumed to be the result of 90 percent reduction by fuel pretreatment (i.e., hydrodesulfurization). Consequently, the final standards contain no provisions similar to those proposed that provide an alternative means of demonstrating compliance with the 90 percent reduction requirement.

However, the final standards do exempt oil-fired steam generating units from the percent reduction requirements where the impacts associated with the percent reduction requirements are considered unreasonable. These steam generating units, however, are subject to an SO_2 emission limit, which in the case of oil-fired units is 130 ng/J (0.3 lb SO_2/million Btu).

Unlike the 86 ng/J (0.2 lb/million Btu) emission limit provided at proposal, the 130 ng/J (0.3 lb/million Btu) emission limit for steam generating units exempt from the percent reduction requirement is based on an assessment of the emissions, costs, and availability of such oils. As cited by the commenters, this assessment found that the lowest sulfur content specification placed on commercially available oils is generally 130 ng/J (0.3 lb/million Btu). Oils with such low sulfur contents, however, are widely available. In some areas, these oils may be residual oils and in other areas they may be distillate oils. In either case, such oils are available and the costs associated with their use are considered reasonable compared to higher sulfur content oils. Consequently, where low capacity factor oil-fired steam generating units are exempt from the percent reduction requirements in the final standards, they are subject to an SO_2 emission limit of 130 ng/J (0.3 lb/million Btu).

In reviewing the reasonableness of applying percent reduction requirements to higher capacity oil-fired steam generating units, reasonable impacts were noted for most oil-fired units. Unreasonable impacts were noted, however, for applying percent reduction requirements to very low sulfur oils. Thus, the final standards exempt from percent reduction requirements steam generating units firing very low sulfur oils with SO_2 emission rates less than 130 ng/J (0.3 lb/million Btu) because of unreasonable impacts.

The final standards exempt from percent reduction requirements duct burners used as part of combined-cycle systems. This exemption is included because of cost-effectiveness considerations and is analogous to the exemption from percent reduction for mixed-fuel-fired steam generating units that have an annual coal and oil capacity factor of less than 30 percent. The effect of exhaust gases supplied to the duct burner from upstream processes (e.g., gas turbine, internal combustion engines, kilns, etc.) is similar to the firing of wood or municipal waste with coal or oil in a mixed-fuel-fired steam generating unit. The cost-effectiveness considerations associated with the exemption of duct burners from percent reduction requirements are the same as those for both mixed-fuel-fired and fossil-fuel-fired steam generating units with low annual coal and oil capacity factors.

D. National Impacts

Several commenters felt that the proposed standards conflict with a national energy policy of encouraging the use of domestic coal and encourage further U.S. dependence on unreliable foreign energy supplies. One commenter expressed concern about any regulation that discouraged coal use, unless some assurance could be provided that the exodus from coal will not be to oil. Another said that recent national energy policy recommendations should be considered in developing these standards.

Revised fossil fuel price scenarios indicate that, with recent oil and gas prices, the costs of generating steam from oil and natural gas are competitive with those of generating steam from coal. In fact, based on economic factors alone, it is expected that natural gas and, to some extent, oil will claim the largest share of the industrial-commercial-institutional steam generating unit market even in the absence of the standards. Thus, the current level of oil and natural gas prices will have much more impact on coal use in industrial-commercial-institutional steam generating units than will the final standards.

In addition, the total amount of fossil fuel demand by industrial-commercial-institutional steam generating units is a very small percentage of total U.S. demand, and any changes in the fuel mix in this sector will not cause significant changes in U.S. energy markets or threaten U.S. energy security. For example, the national impacts analysis assumes that sales of new industrial-commercial-institutional steam generating units over the next 5 years will result in total annual fossil fuel consumption of 525 PJ (500 trillion Btu). This represents less than 2 percent of the total current U.S. oil market (about 32,500 PJ or 31,000 trillion Btu per year).

A number of commenters said the fuel price scenarios used to evaluate the impacts of the proposed standards were out-of-date. One commenter said that a greater range of energy prices and a spectrum of possible energy scenarios should be considered in evaluating the possible energy impacts of the standards. In addition, this commenter suggested that an energy scenario in which oil and gas prices increase substantially, leading to massive fuel switching from oil and gas to coal, be considered.

As a result of changes in fossil fuel prices since early 1986, the projected energy prices used to assess the impacts associated with the proposed standards were reviewed. This review led to development of revised projections of future energy prices. These revised projections reflect several different, but possible, energy scenarios and, as a result, lead to a wide range in projected prices. Two scenarios concerning future world oil prices, for example, were considered. Both reflect current "low"

world oil prices, but one scenario assumes a gradual increase in world oil prices while the other assumes a rapid return to "high" oil prices.

Similar to the results of the analysis under the projection of future energy prices considered most likely at proposal (i.e., the high oil penetration scenario), these revised projections of future energy prices led the Industrial Fuel Choice Analysis Model (IFCAM) to project that new steam generating units will generally fire natural gas or oil. Very little, if any, coal is projected to be fired in new units. An energy scenario leading to massive fuel switching from oil and natural gas to coal, therefore, is considered improbable.

Using these revised projections of future energy prices, the potential national impacts associated with the final standards were examined ("Revised Impacts of Alternative Sulfur Dioxide New Source Performance Standards for Industrial Fossil Fuel-Fired Boilers," February 1987). Natural gas consumption in new steam generating units is projected by IFCAM to increase by about 120–330 PJ/yr (110–310 trillion Btu/yr) in 1990. This represents about 1.5 to 4.5 percent of natural gas consumption by all industrial sources. This projected increase in natural gas consumption, however, is projected to be accompanied by a similar decrease in national oil consumption. Coal consumption is not projected to be affected since little coal consumption by new steam generating units is projected by IFCAM even in the absence of an NSPS.

The final standards are also projected to reduce national SO_2 emissions by 120,000 to 320,000 Mg/yr (130,000 to 360,000 tons/yr) in 1990. The corresponding national annualized costs are projected to range from $5 to 50 million.

A number of commenters questioned whether fuel switching to natural gas would be as widespread as IFCAM projects. In response to these comments, the national impacts associated with the final standards were estimated based on historic steam generating unit sales data and the assumption that fuel switching from oil or coal to natural gas would not occur ("Estimation of National Impacts Based on Steam Generating Unit Sales Data," 1987). Using this approach, total national annual costs associated with the final standard are projected to be $120 million. Nationwide emissions of SO_2 are projected to decrease by 130,000 Mg/yr (140,000 tons/yr), resulting in an average cost effectiveness of $980/Mg ($890/ton). The national incremental cost effectiveness of the final standards relative to standards based on combustion of low sulfur fuel is projected to be about $1,600/Mg ($1,400/ton) of SO_2.

Depending on the extent to which sources elect to fuel switch to natural gas, the incremental cost effectiveness of the emission reduction requirement will range from zero (in the case of the complete substitution projected by IFCAM) to $1,600/Mg ($1,400/ton) (in the case of no change in fuel market shares). EPA believes that some fuel switching to natural gas will occur—a propensity this rule may foster—and that the real incremental cost effectiveness of the final standards is likely to be lower than the no fuel switching case described above. EPA views all of these estimated impacts—zero from IFCAM, $1,600/Mg ($1,400/ton) based on historical data, and some intermediate value based on some level of fuel switching—as reasonable.

A number of commenters questioned the potential impact of standards on the installation of new steam generating units and the replacement of old steam generating units. Some felt that the IFCAM analysis overestimated the total steam generating unit population because replacement steam generating units were treated as "new capacity." According to the commenters, as much as 80 percent of new units are installed as replacements for existing units. The commenters indicated that stringent standards could discourage these replacement projects, resulting in a further depression of the already sluggish industrial-commercial-institutional steam generating unit market and a net increase in SO_2 emissions compared to standards based on combustion of low sulfur fuel.

The number of new steam generating unit installations used by IFCAM to estimate national impacts is based on projections of growth in energy consumption developed by the Department of Energy. The projected number of new unit installations using this approach is about double the estimates made by other organizations, such as the American Boiler Manufacturers Association (ABMA). As shown by sales statistics, annual steam generating unit sales have decreased since 1970 due to lower growth in steam-consuming industries and energy conservation efforts, but appear to have stabilized since 1980. Thus, it is possible that emission reductions as well as costs attributed to the proposed standards may be overestimated to some extent. However, this does not significantly alter the overall balance between the costs and benefits of the standard. Even if fewer new steam generating units are built than projected, the SO_2 reductions achieved by the standard are still considered significant, both from individual units and from the source category as a whole. Also, while steam generating unit sales are lower than in 1970, new units are being built and will continue to be built in the future. As more and more units are constructed, further SO_2 reductions will be achieved by the standards being adopted today. The cost, environmental, and energy impacts of the final standards therefore are considered reasonable, even assuming lower population growth projections.

In response to comments concerning the proportion of new steam generating units that are replacements for existing steam generating units, a survey was conducted of steam generating units ordered between January 1981 and September 1984 ("Survey of New Industrial Boiler Projects—1981–1984," EPA–450/3–87–006, April 1987). Responses were received for 168 new projects, encompassing a total of 229 new steam generating units. Of these, 151 steam generating units were in the regulated size category and formed the basis for the analysis discussed below. Comparison with steam generating unit sales data collected by ABMA indicated that these units represent almost all of the industrial steam generating units in this size category sold between 1981 and 1984. The survey indicated that about 50 percent of new steam generating units, rather than 80 percent as suggested by the commenters, were for replacement of existing steam generating units. Assuming that recent declines in the price of oil and natural gas result in a curtailment of new steam generating units installed for the purpose of switching from oil or gas to coal, the percentage of new steam generating units sold as replacements for existing units will be even lower than indicated by the survey.

Many commenters noted that without an option to use low sulfur fuel, operating costs for new steam generating units will increase sufficiently to discourage their installation, thus inhibiting the replacement of existing units firing high sulfur fuels and delaying the reductions in SO_2 emissions associated with this replacement process.

New steam generating unit purchases can be divided into two categories: discretionary, meaning the purchase could be deferred if economics, environmental requirements, or other factors changed; and nondiscretionary, meaning a new unit must be installed. The above survey indicated that

discretionary installations accounted for about half of the new steam generating unit projects surveyed. However, the survey found that many of these discretionary installations were relatively insensitive to cost changes. Nearly three-fourths of all projects would have proceeded as designed if costs increased by up to 20 percent. In almost all cases, the percent reduction requirement would increase costs by less than this amount. Therefore, while some projects could be affected by the NSPS, most of the new steam generating unit installations would remain viable, and are not expected to be discouraged or delayed by the final NSPS.

In response to comments suggesting an NSPS might actually result in delaying emission reductions due to a slowdown in new steam generating unit installations, data from the boiler replacement survey mentioned above were used to examine the change in overall SO_2 emissions from plants installing new industrial steam generating units. Analysis of SO_2 emissions before and after installation of the new steam generating units found that, although the new coal- and oil-fired steam generating units generally emitted less SO_2 per million Btu of fuel fired than the existing (replaced) steam generating units, the total annual emissions (i.e., tons/year) emitted by plants installing new steam generating units increased by roughly 70 percent. This increase results from (1) installation of new steam generating capacity that is not replacing existing units, (2) replacement of existing units with new units that are significantly larger, (3) fuel switches from natural gas and oil to coal for energy independence, and (4) continued operation of the existing steam generating units which were "replaced" by new units.

A large portion of the emissions increase was due to steam generating units installed either to switch base fuel (usually from gas or oil to coal) or to cogenerate electricity. Because these types of projects are sensitive to cost considerations and to provide conservative estimates, calculations were also made excluding these types of projects. Even without these significant sources of SO_2 emissions, total emissions at plants installing new steam generating units increased by roughly 20 percent after installation of new projects. These results indicate that installation of new steam generating units did not result in any "natural" decrease in overall SO_2 emissions. Based on further analysis of the survey data, however, applying a 90 percent reduction standard to the new steam generating units (assuming the standard did not affect the fuel choice and design of the projects) would have resulted in an estimated net reduction in SO_2 emissions from these plants of 25 to 30 percent.

Other commenters said that, by including replacement units in the analyses of new steam generating units, the proposal overestimated the actual emission reductions attributable to the standards.

Emissions from all new steam generating units (including those that replaced existing steam generating units) were correctly included as "new" capacity emissions in the impacts analyses. The SO_2 emission reduction attributed to the NSPS is the reduction in emissions from new steam generating units under the final standards compared to baseline emissions that would occur from the same units in the absence of the NSPS. Because SO_2 emissions from new industrial-commercial-institutional steam generating units can be reduced at reasonable cost, regardless of whether they are replacement or new capacity, they are covered by the final standards.

E. Cost of the Standard

Several commenters felt that the EPA cost analyses associated with the proposed standards were deficient or inaccurate. Commenters specifically mentioned that actual data, rather than estimates, should have been used for capital cost calculations, and that EPA should not use utility FGD cost data to estimate industrial-commercial-institutional unit FGD cost. Other commenters stated that the cost estimates did not adequately consider costs associated with sludge disposal, the need for backup SO_2 control during control system malfunction, coal transportation, or manufacturers' profit margins.

The cost estimates used to assess the impacts of various alternatives were generated from cost algorithms developed from data on industrial steam generating units supplied by vendors and no utility data were used. The validity of the cost algorithms was examined by comparison with costs associated with actual installations. The agreement between these algorithms and actual installations was found to be very good and was well within the general criteria of $\pm$ 30 percent for an individual unit which is normally associated with "budget cost" estimates. Validity of the costs used in the cost analyses was also confirmed by statements from several commenters, including some industry trade associations. This does not mean that the cost estimates generated by the cost algorithms will agree in every case with actual installed costs. Unique design requirements related to site-specific factors may well cause actual costs to be higher or lower than those generated by the cost algorithms used in the cost analyses. The costs generated by the cost algorithms, however, are considered representative of the costs associated with installation and operation of steam generating units and emission control systems and are appropriate for estimating total costs.

The cost analyses examined the costs associated with various emission control requirements for steam generating units as small as 29 MW (100 million Btu/hour) heat input capacity and as large as 117 MW (400 million Btu/hour) heat input capacity. Costs were also assessed for units of 44, 58, and 73 MW (150, 200 and 250 million Btu/hour). The effects of "economies of scale," therefore, were considered in these cost analyses.

Sludge disposal costs were included in the cost analyses. The costs reflect the typical costs associated with off-site land disposal of sludges from emission control systems. These costs were based on information provided by steam generating unit vendors and operators, and are considered representative of sludge disposal costs in general. They may, however, be lower or higher than actual costs experienced at specific locations where unique or site-specific requirements may apply.

The cost analyses assumed, based on operating data from a number of FGD systems on industrial steam generating units, that FGD systems are capable of 95 percent reliability with proper design, operation, and maintenance. The cost analyses, therefore, considered control system reliability and examined various approaches to reducing emissions during periods of control system malfunctions or servicing. These approaches included both the use of spare absorber modules and the firing of backup fuels such as natural gas. The assessment concluded that the costs associated with the use of spare absorber modules or the firing of very low sulfur fuels were of the same order of magnitude. Thus, either approach could be used in the cost analyses to represent the additional costs of reducing emissions during periods of emission control system malfunction. For convenience and ease of calculation, the cost analyses assumed the firing of natural gas. The capital and annualized costs of spare equipment to fire natural gas, such as valves, controls, etc., were also added to the control costs. Consequently, the cost

analyses considered the increased costs necessary to address reliability problems.

The coal prices used in the cost analyses were also developed specifically for industrial-commercial-institutional steam generating units. The coal transportation costs assumed single coal car rates to reflect the lack of volume discounts obtainable by utilities which use much greater quantities of fuel.

Thus, the costs associated with the final standards were developed specifically for industrial-commercial-institutional steam generating units, and these costs were carefully considered in developing the final standards.

One commenter said the high emissions baselines used in the cost analysis resulted in underestimating the cost effectiveness of the standard. The baseline used in the national impacts analysis reflects existing State Implementation Plan (SIP) emission limits within each Air Quality Control Region (AQCR). The baseline used in the "model boiler" cost analysis was chosen to represent a typical SIP emission limit. Other baselines could have been selected. However, if more stringent baselines were used, the annualized costs for SO_2 control at the revised baseline would also have to be increased to account for the additional compliance costs associated with more stringent baseline regulations. Use of different baselines, however, would not alter the analysis of incremental differences in emissions and costs among increasingly stringent alternatives. Varying assumptions regarding the baseline have no effect on these incremental comparisons. As a result, changes or refinements in baseline emission levels would have little effect on judging the reasonableness of the final standard.

Many commenters felt that the cost estimates associated with FGD systems were too low. Some said the costs of FGD systems are much greater for industrial-commercial-institutional steam generating units than for utility steam generating units due to lack of economies of scale, and this should be considered in calculating the impacts of the standards. Still other commenters said that because sodium once-through FGD was selected as the basis for the cost analysis, the costs were underestimated.

The economics of FGD systems are different for utility and industrial steam generating units. Because of larger unit size and the higher capacity factors of many utility units, operating costs generally play a more dominant role in the economics of FGD systems for utility units than they do for industrial units. Thus, the typical FGD system for a utility steam generating unit is frequently one which minimizes operating costs, often at the expense of higher capital costs. In contrast, the most attractive FGD system for an industrial steam generating unit is frequently one which minimizes capital costs, often at the expense of higher operating costs. For example, sodium FGD systems are characterized by relatively low capital costs, but higher operating costs due to the use of soda ash as a reagent. Lime spray drying systems, on the other hand, have relatively high capital costs, but relatively low operating costs due to the use of lime as a reagent. As one might expect, therefore, when the economics of these two FGD systems are compared, lime spray drying is less expensive for utility steam generating units, but sodium scrubbing is less expensive for many industrial steam generating units.

Sodium scrubbing is currently the most widely used FGD technology for reducing SO_2 emissions from industrial-commercial-institutional steam generating units. This is because sodium scrubbing is generally less expensive than other FGD technologies for many industrial-commercial-institutional units. Consequently, the sodium scrubbing cost algorithm was used prior to proposal to generate costs which were viewed as representative of the type of FGD system that would be most widely used to control SO_2 emissions from new industrial-commercial-institutional steam generating units.

In response to comments concerning the use of the sodium scrubbing cost algorithm in this manner, however, the costs of various types of FGD systems were reviewed and compared again. The cost of sodium scrubbing was generally found to be somewhat lower than the cost of other FGD systems, such as dual alkali and lime spray drying, as well as fluidized bed combustion. From the standpoint of overall project economics, the total annualized cost of the steam generating unit and SO_2 control system varied by less than 10 percent for all technologies examined. However, when only the cost associated with SO_2 control was considered, this variation was much larger, ranging from 30 to 100 percent. Therefore, because of variations in project-specific factors that could influence the choice of SO_2 control system, the use of any single technology as a "surrogate" for all types of SO_2 control systems in cost analyses was judged to be inappropriate. Consequently, "generic" FGD cost estimates were developed to represent the midpoint in the range of cost estimates for several types of industrial SO_2 control systems (specifically, sodium scrubbing, lime spray drying, dual alkali, and fluidized bed combustion). These generic FGD cost estimates were then used to represent the cost of FGD systems for industrial-commercial-institutional steam generating units. This approach resulted in somewhat higher FGD system cost estimates than at proposal, but did not lead to any significant differences in conclusions.

Two commenters said that both the national annualized costs and the individual steam generating unit costs associated with the standards would be much higher. In particular, the commenters said, the costs of achieving a percent reduction in emissions for steam generating units not switching to natural gas could be unreasonable.

As discussed earlier, the national cost impacts associated with the final standards were reassessed based on revised fuel price projections. In addition, the cost impacts on typical or individual steam generating units were also reassessed using these revised fuel price projections, assuming no fuel switching to natural gas occurred. As discussed earlier, several cases were identified in which the cost impacts associated with application of a percent reduction requirement were considered unreasonable. Consequently, the final standard provides exemptions from the percent reduction requirements in these cases. With these exemptions, the cost impacts associated with the final standards are considered reasonable.

Several commenters expressed concern that the capital costs of auxiliary fuel systems needed for startups, shutdowns, and malfunctions were not considered. According to the commenters, these costs are significant.

In many cases, steam generating units will be designed and constructed with alternative fuel firing capability even in the absence of the standards to allow greater flexibility in fuel selection and to provide for steam generating unit startup capability. To that extent, the only additional costs for firing alternative fuels such as natural gas during periods of FGD startup, shutdown, or malfunction would be the difference in the price between natural gas and the primary fuel. However, because not all units are designed with dual fuel capability, additional capital costs associated with switching to firing an alternative fuel during periods of malfunction were included in the cost analyses. For all model steam generating unit sizes analyzed (100, 150, 250 and

400 million Btu/hour), the capital cost of providing alternative fuel-firing capability to a coal-fired steam generating unit was about two to three percent of the total steam generating unit cost. The annualized cost of providing alternative fuel firing capability was three to four percent of the total annualized cost of the steam generating unit system. Therefore, the additional capital costs of providing very low sulfur fuel backup capability represent only a small percentage of the total steam generating unit costs while providing significant benefits in terms of additional SO_2 control.

F. Performance/Reliability of Demonstrated Technologies

Many commenters said there is inadequate proof that there are demonstrated SO_2 control technologies which can meet the 90 percent removal requirement on a continuous basis for industrial-commercial-institutional steam generating units. They contended that the performance of "demonstrated" technologies has been assessed for utility steam generating units, which have totally different design and operation requirements than industrial units. Other commenters questioned the adequacy of the data base for SO_2 control technologies on oil-fired steam generating units.

The performance data for FGD systems discussed in the "Summary of Regulatory Analysis," "Fossil Fuel-Fired Industrial Boilers-Background Information," and "SO_2 Technology Update Report" are based on experience with industrial steam generating units. Moreover, as also discussed, for several types of FGD systems this experience is supported by experience with utility FGD systems.

Sodium FGD systems are currently the most widely used FGD system on industrial steam generating units. Therefore, the industrial data base for this technology is more extensive than those for other FGD technologies. Both short- and long-term emissions data for 45 sodium FGD systems located at 18 different industrial sites show consistent SO_2 removal efficiencies of greater than 90 percent, and averaged greater than 96 percent. System reliabilities averaged near 98 percent. Most of the industrial experience with sodium FGD systems is on oil-fired steam generating units used in enhanced oil recovery which operate at fairly constant load. However, data were also gathered from sodium FGD systems operating on oil-fired steam generating units in other industrial applications which have more typical load swings.

Dual alkali FGD systems are also used on industrial-commercial-institutional steam generating units. Tests of dual alkali FGD systems operating on coal-fired steam generating units have shown short-term SO_2 removal efficiencies of greater than 90 percent, with long-term efficiencies of around 92 percent. Although dual alkali FGD systems have generally not been applied on oil-fired steam generating units, their performance should be similar to sodium FGD systems.

Although little long-term data are available to demonstrate 90 percent SO_2 removal levels with lime spray drying, short-term tests resulting in greater than 90 percent SO_2 removal indicate this process is capable of achieving these performance levels. Current removal rates as low as 70 percent reflect the fact that many commercial systems have not been required to achieve high removal levels, rather than any inherent limitation on the technology.

Lime and limestone FGD systems, because of higher capital and maintenance costs, have had limited application in the industrial sector. However, in a long-term test at an industrial steam generating unit that operated a lime/limestone FGD system, the SO_2 removal efficiency ranged from 91 to 94 percent. Removal efficiencies were insensitive to changes in steam generating unit load. In addition, lime and limestone wet FGD systems are proven processes in the utility industry. Lime and limestone FGD systems account for approximately 68 percent of existing utility FGD systems. Although few, if any, lime or limestone FGD systems are expected to be installed on industrial-commercial-institutional steam generating units due to economics, there are no technical limitations which would make this technology less effective on industrial steam generating units than on utility steam generating units.

Performance test data also demonstrate that FBC technology is capable of achieving 90 percent SO_2 removal at high reliabilities. A recent 30-day test on a bubbling bed FBC unit burning high sulfur coal (4000 ng SO_2/J, 9.3 lb/million Btu) showed SO_2 removal efficiencies averaging 93.5 percent. A second 30-day test conducted at a different site and combusting a low sulfur coal (470 ng SO_2/J, 1.1 lb/million Btu) showed an average SO_2 removal of 90 percent with greater than 99 percent reliability. During a 67-day period at this second site, the FBC unit had a reliability of 97 percent. In addition, vendors have stated that FBC units can be designed to achieve well over 90 percent SO_2 removal at high reliability levels.

Consequently, the ability of FGD and FBC systems to achieve a 90 percent SO_2 reduction on industrial steam generating units is well demonstrated. In addition, experience gained by utilities operating similar FGD systems serves to confirm the ability of these technologies to achieve 90 percent SO_2 reduction at high reliability levels.

Commenters also questioned the adequacy of the data base for SO_2 control technologies on steam generating units operated under conditions of load swings. According to the commenters, the variable operating modes and high capacity load swings typical of industrial operations can cause severe upsets in FGD efficiency and reliability.

The FGD system performance data base is primarily composed of data collected from industrial steam generating unit installations. These steam generating units were located at plants representative of the industrial-commercial-institutional steam generating unit population, including steam generating units operated under many different conditions. Steam generating units with average capacity utilization factors ranging from 5 to 100 percent were included in the data base. In addition, steam generating unit loads were varied during tests of individual units to simulate load swings that might be experienced in some industrial applications. Based on these data, SO_2 removal efficiency was found to be insensitive to changes in steam generating unit load over the ranges observed.

The primary concern for FGD systems operating on steam generating units which experience load swings is a sudden increase in the SO_2 loading. This can result from an increase in either the flue gas flow rate or the flue gas SO_2 concentration. As discussed in the "SO_2 Technology Update Report," changes in flue gas flow rate are matched by corresponding changes in the scrubbing solution flow rate according to a set liquid-to-gas (L/G) ratio. In a well designed and operated system, a safety margin is maintained in the L/G ratio to account for delays in control loop response; thus, an increase in flue gas flow rate would be adequately handled. Also, FGD systems which experience highly variable SO_2 loadings typically operate at high alkaline reagent concentrations. This provides a buffering capacity against large swings in solution pH caused by dramatic changes in SO_2 concentration. As a result, sufficient excess alkaline reagent

is present to ensure adequate SO_2 removal performance during load swings.

A number of commenters questioned the reliability of FGD systems, expressing concern that these systems cannot meet the high operational availability demanded by many industrial operations. Others said that utility FGD reliability experience cannot be extrapolated to industrial applications because most utilities install spare scrubbers to maintain high reliabilities and do not experience the radical load fluctuations typical of industrial operations.

The reliability of various types of FGD systems for industrial applications was discussed in the "Background Information Document," the "Summary of Regulatory Analysis," and the "SO_2 Technology Update Report." As with the data on performance of SO_2 control systems, reliability data were gathered from a variety of industrial applications, with data from utility steam generating units used to supplement the industrial data.

Reliability data were reported for over 250 sodium FGD systems operating on industrial-commercial-institutional steam generating units firing coal and oil. Average long-term reliability levels for these units of 98–100 percent were reported for periods of time ranging from several months to several years. SO_2 removals during these periods averaged in excess of 90 percent.

Reliability and availability data were reported for seven dual alkali systems. One dual alkali system operating on an industrial coal-fired steam generating unit reported an availability of over 97 percent for a 12-month period. Other dual alkali systems operating on both industrial and utility steam generating units reported reliability and availability levels of 94 to 99 percent over similar lengths of time.

For lime spray drying systems, reliability levels ranging from 70 to 97 percent were reported for various sites surveyed. An examination of the reasons for the wide range in reported reliability levels indicated that the low reliability levels could have been improved or prevented with better operating and maintenance procedures. Although lime spray dryers today are typically operated at moderate performance levels, there is no reason to believe lime spray dryers cannot maintain high reliabilities achieving 90 percent SO_2 removal. In fact, one vendor of lime spray dryers is prepared to guarantee 95 percent reliability provided the operator follows a preventive maintenance program. This claimed reliability level is consistent with the two years of commercial operating data obtained from a 132 MW (450 million Btu/hour) coal-fired steam generating unit equipped with a lime spray dryer FGD that achieved in excess of 98 percent reliability.

As stated above, lime/limestone FGD systems have had limited application in the industrial sector. Therefore, most of the data on lime/limestone FGD system reliability are from utility steam generating units. However, during a long-term (85-day) performance test of a lime/limestone FGD system on an industrial steam generating unit, FGD system reliability was greater than 90 percent. Data from a utility lime/limestone FGD system firing coal indicate reliabilities close to 100 percent over a period of several years.

The above discussion indicates, therefore, that with proper operation and maintenance, high reliabilities can be achieved and maintained on industrial-commercial-institutional FGD and FBC systems operating at high SO_2 removal levels. To allow continued steam generating unit operation during periods of FGD system malfunction, backup FGD modules, common in the electric utility sector, can be installed or the unit can fire very low sulfur fuels, such as natural gas or very low sulfur oil.

One commenter said that an average 90 percent reduction using an FGD system is feasible only when a steam generating unit is using a high sulfur fuel, and that it is less feasible when a low sulfur fuel is used because of the lower concentration of SO_2 in the flue gas.

The ability of an FGD system to achieve high SO_2 removal efficiencies during combustion of low sulfur fuels is determined by the concentration of SO_2 in the flue gas exiting the FGD system. Test data from sodium and lime spray drying FGD systems and from FBC systems indicate SO_2 emissions of less than 15 ppm (equal to roughly 13 ng/J or 0.03 lb/million Btu) are achievable; in some tests, SO_2 levels of less than 5 ppm (4.3 ng/J [0.01 lb/million Btu]) were measured. This indicates that 90 percent removal is achievable with flue gases having uncontrolled emission rates as low as 130 ng/J (0.3 lb SO_2/million Btu). These performance levels measured in operating FGD systems are supported by kinetic data from laboratory studies and by FGD vendor claims. Consequently, the ability to achieve a 90 percent reduction when firing low sulfur fuels is considered well demonstrated.

G. Secondary Environmental Impacts

Several commenters said the impacts of standards "based" on the use of sodium FGD systems were not evaluated in relation to other regulations, especially State and local water quality regulations. They said the effluent produced by sodium FGD systems could cause wastewater disposal problems in some areas.

The limits imposed by existing regulation on the disposal of wastewater streams from sodium FGD systems were examined by reviewing current disposal practices for these types of wastes. Wastewater streams from sodium FGD systems are not considered hazardous wastes, even under the most stringent State or local regulations. In the West, disposal of these types of wastes is generally by deep well injection, above ground evaporation, or percolation ponds. In the East, disposal of these types of wastes is generally by direct discharge to a receiving water body or indirect discharge through a publicly owned treatment work (POTW). These streams are often treated prior to discharge to comply with the terms of applicable permits, State or local effluent limitations, water quality standards, or POTW pretreatment standards or limitations. Thus, while treatment may be necessary in some cases, these types of wastewater streams are currently being disposed of by several methods in compliance with Federal, State, and local regulations.

The cost algorithm for sodium FGD systems included costs for oxidation in order to reflect some form of treatment prior to disposal. In some cases, however, even with treatment of the wastewater streams, some forms of disposal, such as direct or indirect discharge, may not be permitted. This could happen in areas of high industrial usage where maximum pollutant loadings for the receiving water body or POTW has been reached. In addition, it is also possible in some cases that disposal by deep well injection, evaporation ponds, or landfill containers may not be permitted. This could happen in areas where concerns about possible contamination of underground aquifers effectively prohibit disposal of any liquid wastes by such means.

For this reason, as well as other reasons, the standards are not "based" on the use of sodium FGD systems alone, nor for that matter do the standards require the use of any particular FGD system or SO_2 control technology. Rather, the standards reflect the level of control that is achievable through the use of any one of several technologies, including sodium FGD, dual alkali FGD, lime/limestone FGD, lime spray drying FGD, and FBC. In addition, where an individual

confronted with the standard may view the "burden" of using these control technologies as excessive, "fuel switching" can be employed. In this manner, the necessity of using these SO_2 control technologies can be avoided.

As discussed throughout the "Background Information Document," the "SO_2 Control Technology Update Report," and the "Summary of Regulatory Analysis," the environmental (i.e., air, water, and solid waste), energy, cost, and economic impacts associated with use of all of the above mentioned SO_2 control technologies, as well as those associated with fuel switching, were reviewed and are considered reasonable. Consequently, in areas where disposal of wastewater streams from sodium FGD systems, or for that matter wastewater streams from any "wet" FGD system, is found to be very costly or essentially prohibited by local regulation, steam generating units would be expected to select an alternative approach to complying with the standards. Such alternatives could range from the use of "dry" SO_2 control systems (i.e., lime spray drying or FBC) to firing natural gas.

Other commenters expressed concern about ths availability of adequate landfill capacity to dispose of FGD system waste. One added that State and local solid waste disposal regulations are forcing the closure of many existing landfills, making the siting of proximal landfills difficult and driving up disposal costs. Another said that, according to the proposal, the use of FGD systems could generate up to 15 times as much waste as the use of low sulfur coal, and there is no evidence in the record of landfill capacity sufficient to handle this large increase in waste.

Steam generating units do not generally operate as independent entities, but are most often part of an industrial plant which produces other wastes requiring disposal. In addition, coal-fired steam generating units generate fly ash which also requires disposal. Thus, use of an FGD system to control SO_2 emissions generally does not create a new problem (i.e., a need to dispose of wastes where no such need existed before).

As discussed in the "Summary of Regulatory Analysis," the quantity of solid waste generated by FGD technologies depends on the sulfur content of the fuel. In general, however, FGD technologies double to triple the quantity of solid waste generated compared to existing standards, rather than a fifteen-fold increase as suggested by the commenters. For example, a typical 44 MW (150 million Btu/hour) steam generating unit firing low sulfur coal without FGD generates about 3,200 Mg/year (3,500 tons/year) of solid waste (mainly steam generating unit blowdown and ash from PM control). The use of a dual alkali or lime spray drying FGD system to achieve 90 percent reduction in SO_2 emissions from the same steam generating unit firing the same low sulfur coal would generate an additional 1,200–2,100 Mg/year (1,300–2,300 tons/year) of solid waste in the form of FGD sludge. If a high sulfur coal were fired in this unit, the quantity of solid waste generated would increase by 6,600–6,800 Mg/year (7,300–7,500 tons/year).

In most cases, disposal of wastes generated by FGD systems presents no more of a problem than disposal of plant wastes or steam generating unit fly ash. As a result, FGD system wastes may generally be disposed of by the same means as these wastes. In fact, since the wastes from some industrial plants are considered toxic or hazardous and FGD system wastes are not, disposal of wastes from FGD systems may present less of a problem than disposal of other plant wastes.

Consequently, in those specific locations where landfill capacity may be limited, disposal of other plant wastes is likely to present as many problems—and in some cases more problems—as disposal of wastes from FGD systems. For individual plants, such constraints may necessitate substantial changes to the manufacturing process in order to minimize the wastes generated or to alter their characteristics. For the steam generating unit and SO_2 control system, this may necessitate selection of one type of control system over another (i.e., a "dry" system over a "wet" system, for example) or selection of an alternative fuel that generates little or no waste products.

H. Emission Credits

A number of commenters felt that emission credits should be granted for steam generating units firing waste materials, saying that the environmentally beneficial and cost effective use of waste fuels should be encouraged. Other commenters said the standard should credit the heat input from natural gas fired in combination with coal or oil when calculating SO_2 emission rates rather than requiring coal or oil to meet their respective emission limits without dilution credits.

Emission credits would allow a plant operator firing a sulfur-free fuel such as wood or natural gas in conjunction with coal or oil to emit SO_2 at the same overall rate as a steam generating unit firing only coal or oil. Stated another way, a steam generating unit firing a 50/50 mixture of coal and wood, or coal and natural gas, could have twice the SO_2 emissions with an emission credit as it could without an emission credit. As a result, emission credits deprive the public of the air quality benefits, in terms of reduced SO_2 emissions, associated with the combustion of nonsulfur-bearing fuels.

The effects of encouraging waste fuel use through emission credits were thoroughly examined and discussed in "Summary of Regulatory Analysis," "An Analysis of the Costs and Cost Effectiveness of SO_2 Control for Mixed Fuel-Fired Steam Generating Units," and "Impacts of New Fuel Prices on SO_2 Emission Credits for Cogeneration Systems and Mixed Fuel-Fired Steam Generating Units." These analyses show that granting emission credits for mixed-fuel-fired steam generating units results in very small reductions in costs while allowing significant increases in SO_2 emissions. As a result, the incremental cost effectiveness of the additional reduction in SO_2 emissions achieved by not providing emission credits is low, generally in the range of $220–330/Mg ($200–300/ton). These costs are considered reasonable. Consequently, the standards do not include emission credits for mixed-fuel-fired steam generating units firing waste fuels or natural gas in combination with coal or oil.

Firing waste fuels is economically attractive in many cases and results in reduced fuel costs for the plant operator. The absence of provisions for emission credits should not discourage the use of these wastes as steam generating unit fuels. In many cases, the disposal of such wastes in this manner would represent the most cost effective method of disposal regardless of the NSPS. In addition, the final standards include an exemption from the percent reduction requirement for steam generating units obtaining 30 percent or less of their rated annual heat input capacity from coal or oil. This provides substantial incentive to use wastes in order to reduce the amount of oil or coal burned in the steam generating unit.

Other commenters stated that emission credits should be allowed for cogeneration systems in recognition of the increased efficiency achieved by these systems over separate systems for steam and power generation.

Emission credits for cogeneration systems were also thoroughly examined and discussed in the "Summary of Regulatory Analysis," "An Analysis of the Costs and Cost Effectiveness of Allowing SO_2 Emission Credits for Cogeneration Systems," and "Impact of

New Fuel Prices on SO_2 Emission Credits for Cogeneration Systems and Mixed Fuel-Fired Steam Generating Units " As with mixed-fuel-fired steam generating units, these analyses concluded that granting an emission credit for cogeneration steam generating units results in very small reductions in costs while allowing significant increases in SO_2 emissions. Therefore, the incremental cost effectiveness of the additional reductions in emissions achieved by not providing emission credits for cogeneration steam generating units is low, generally in the range of $220–660/Mg ($200–600/ton). These costs are considered reasonable.

Strong economic incentives exist for use of cogeneration. The absence of emission credits for cogeneration systems will not significantly offset these incentives. Consequently, the final standards do not include provisions for emission credits for cogeneration systems.

Some commenters stated that imposing a percentage reduction requirement on cogeneration steam generating units could severely affect the economics of cogeneration projects. According to the commenters, impacts on cogeneration systems would be more severe than on other industrial sectors because the increased costs cannot be "passed through" to the consumer.

The final standards will increase the cost of coal- and oil-fired cogeneration steam generating units. This could preclude some smaller, less profitable cogeneration projects. However, most coal- and oil-fired cogeneration steam generating units covered by the standards will not be severely affected. A cost analysis of the impact of standards on a typical coal-fired cogeneration steam generating unit showed that a percent reduction requirement increased total annualized costs by about 11 percent. The "Survey of New Industrial Boiler Projects" indicates that more than 80 percent of the cogeneration projects completed in 1981 through 1984 would have gone forward as designed even if costs increased by 10 percent, and more than 60 percent of the cogeneration projects would have gone forward as designed if costs increased by 20 percent.

In addition, many cogeneration projects will not be subject to final SO_2 standards at all. Given current fuel price projections, many new cogeneration projects are expected to be based on firing natural gas (in both gas turbine cogeneration systems and steam turbine cogeneration systems) or firing municipal solid waste. Cogeneration projects firing these fuels are not affected by the final standards.

Finally, new coal-fired cogeneration steam generating units compete with new coal-fired electric utility steam generating units that are subject to percent reduction requirements under Subpart Da. Thus, application of percent reduction to coal-fired cogeneration steam generating units under Subpart Db could be viewed as a "neutral" position which treats both utility steam generating units and industrial-commercial-institutional cogeneration steam generating units in a similar manner. Consequently, the final standards treat coal-fired cogeneration steam generating units just like any other coal-fired steam generating unit.

I. Emerging Technologies

Several commenters said that, because emerging technologies have not been "adequately demonstrated" as required by the Clean Air Act, a standard for emerging technologies cannot be established under section 111. Others expressed concern that establishing standards for emerging technologies could inhibit development and commercial demonstration of these technologies. Still other commenters stated that new or emerging technologies should be required to achieve the same performance levels that existing technologies are capable of achieving and that the standards should not include any special provisions for new or emerging technologies.

NSPS should be set so as to avoid unreasonable costs or other impacts; *Essex Chemical Corp. v. Ruckelshaus*, 486 F. 2d 42 (D. C. Cir. 1973). Standards requiring a high level of performance, such as 90 percent reduction, without a provision for emerging technologies, might discourage continued development of some new technologies. Owners and operators of new steam generating units could simply view the risks of using a new and untried emission control technology to achieve a 90 percent reduction in emissions as too great. Thus, to encourage the continued development of emission control technologies that show promise of achieving levels of performance comparable to those of existing technologies, but at lower cost or with other offsetting environmental or energy benefits, special provisions are needed which encourage the development and use of new technologies, while ensuring that SO_2 emissions will be minimized.

The final standard requiring a 50 percent reduction in SO_2 emissions while limiting emissions to 170 and 260 ng/J (0.4 and 0.6 lb/million Btu) heat input for oil and coal, respectively, appears to achieve this objective. The minimum percent reduction requirement of 50 percent should effectively eliminate the risk of failure for any technology which has the potential to achieve higher performance levels and, when combined with emission limits of 170 and 260 ng/J (0.4 and 0.6 lb/million Btu), minimize SO_2 emissions by limiting allowable emission rates to less than half the level that would result from the use of low sulfur fuel. The emission limits also encourage improvements in these technologies by requiring greater SO_2 reductions when firing higher sulfur fuels. For example, a technology may be initially tested at 50 percent SO_2 reduction on a steam generating unit firing low sulfur coal (less than 520 ng/J, 1.2 lb/million Btu), and then, based on the information gathered from these tests, improved to achieve increased percent reductions on higher sulfur coals in order to comply with the emission limit. For example, the 260 ng/J (0.6 lb/million Btu) emission limit for coal-fired units applying emerging technology will require units firing an 860 ng/J (2.0 lb/million Btu) coal to achieve 70 percent SO_2 reduction and units firing a 1700 ng/J (4.0 lb/million Btu) coal to achieve an 85 percent SO_2 reduction. Thus, the emerging technology provisions with both a 50 percent reduction requirement and emission limits of 170 and 260 ng/J (0.4 and 0.6 lb/million Btu) for oil and coal will encourage technology demonstrations while minimizing SO_2 emissions.

Several commenters said disallowance of credit for precombustion cleaning of fuel toward the percent reduction requirement for emerging technologies is inappropriate and counter to the philosophy of preferring the cleanup of fuels prior to combustion, rather than post-combustion cleanup.

While the allowance of fuel pretreatment credits toward the 90 percent reduction requirement is considered appropriate and is allowed in the final standards, allowing fuel pretreatment credits for emerging technologies is ill-suited to the purpose of the emerging technology provisions. The primary objective of the emerging technology provisions is to stimulate and encourage the development and use of emerging SO_2 control technologies which show promise of achieving significant emission reductions in the future. Fuel pretreatment credits are unwarranted for the intended purpose of demonstration of emerging technologies. The final standard, therefore, does not allow fuel pretreatment to be applied as credit against the percent reduction requirement for emerging technologies. However, the final standard has been

amended to allow consideration of fuel pretreatment as an emerging technology if *all* of the required 50 percent reduction and the 170 and 260 ng/J (0.4 and 0.6 lb/million Btu) emission limit is achieved by the fuel pretreatment technology. This will serve to encourage the development of fuel pretreatment technologies that show promise of achieving significant SO_2 reductions.

One commenter suggested that the Agency should consider how it plans to limit the emerging technology provision to: (1) New technologies or processes which are unique relative to demonstrated technologies rather than simply modified versions of currently demonstrated technologies, and (2) those which are likely to be able to meet 90 percent removal after a reasonable demonstration and development time.

As in the proposed standards, the final standards include definitions of conventional technologies. In some cases, these definitions have been revised in response to the commenter's concerns. Technologies considered as nothing more than modified versions of existing demonstrated technologies will not be viewed as emerging technologies and will not be approved for installation or operation. Current examples of emerging technologies include injection of dry sorbents into the furnace of a steam generating unit (a.k.a., LIMB) and the use of electrons to enhance SO_2 or NO_x reactivity (E-beam). The definition of conventional "dry flue gas desulfurization technology" in the regulation has been revised to make it clear that it only includes processes that inject an alkaline slurry into the flue gas. It does not include processes that inject dry sorbent. The Agency recognizes that demonstration of an emerging technology may require installation and testing at several different steam generating units before it is considered demonstrated and intends to allow several installations of an emerging technology.

The emerging technology provisions will be reviewed regularly during the course of the review process associated with all NSPS. As a result of these reviews, emerging control technologies that have been demonstrated will be reclassified as conventional technologies and would be subjected to the same requirements as other conventional control technologies.

As with all NSPS, steam generating units subject to the final standards must notify the Agency within 30 days of the date of commencement of construction of the affected facility. If the owner or operator of the steam generating unit plans to use an emerging technology, and thereby operate under a 50 percent reduction requirement, a full and complete description of this technology must be submitted to the Agency along with a discussion of how or why this technology does not meet any of the definitions of conventional technologies. Technologies not considered emerging by the Agency will be treated as conventional technologies, and the steam generating unit owner or operator will be so notified. To ensure consistent application of the special provisions for emerging technologies, these provisions will not be delegated to the States and will remain with the Agency.

In summary, a 50 percent reduction requirement and a 260 ng/J (0.6 lb/million Btu) emission limit are applicable to emerging technologies applied to coal-fired steam generating units. A 50 percent reduction requirement and a 170 ng/J (0.4 lb/million Btu) emission limit are applicable to emerging technologies applied to oil-fired steam generating units. As specified in the final standards, emerging technologies are those that are not conventional techniques; and approval must be obtained from the Agency for application of an emerging technology. Review of emerging technology applications will be made only by the Agency and this authority will not be delegated. The Agency will not approve for emerging technology application (1) control technologies that are in fact only a minor variation of a conventional technology, or (2) technologies that do not promise at least a 50 percent SO_2 removal potential and an emission rate less than 260 ng/J or 170 ng/J (0.4 or 0.6 lb/million Btu) for coal and oil, respectively.

VI. Administrative

A. Outline of Additions to Subpart Db

Subpart Db, as published in today's **Federal Register**, includes both the provisions for NO_x and PM promulgated on November 25, 1986 (51 FR 42768) and the provisions for SO_2 and PM from oil-fired steam generating units promulgated today. The following list is provided as an aid to the reader in identifying the sections of Subpart Db that are being added or substantively revised by today's action.

Section 60.40b: Revised paragraphs (b) and (c), added paragraph (g).
Section 60.41b: Revised and added new definitions.
Section 60.42b: Added entire section.
Section 60.43b: Added paragraph (b).
Section 60.44b: No substantive changes.
Section 60.45b: Added entire section.
Section 60.46b: No substantive changes.
Section 60.47b: Added entire section.
Section 60.48b: No substantive changes.
Section 60.49b: Revised paragraph (b), added paragraphs (a)(3), (a)(4), (j), (k), (l), (m), and (n).

B. Revision of Method 19

Today's action also promulgates revisions to Method 19 of 40 CFR Part 60, Appendix A. These revisions include updating, reorganizing, and combining the existing Method 19 and the proposed Method 19A into the new Method 19. At the time of proposal of standards of performance for SO_2 on June 19, 1986 (51 FR 22384), Method 19 was applicable to determining SO_2 emissions and percent reduction for FGD-equipped steam generating units, and the proposed Method 19A was applicable to determining SO_2 emissions from steam generating units firing low sulfur content fuels without FGD controls. Method 19A included three alternatives for measuring SO_2 emissions: Continuous emissions monitoring systems (CEMS), Method 6B (stack testing), and fuel sampling and analysis procedures. Method 19 was originally adopted in 1979 as a method for determining compliance with the SO_2 emission limits and percent reduction requirements for electric utility steam generating units subject to 40 CFR Part 60, Subpart Da. Method 19A was proposed in 1983, but has not been promulgated.

The final SO_2 standards reference only the revised Method 19. Method 19 is now applicable to: (1) SO_2, NO_x, and PM emission calculations, (2) SO_2 percent reduction calculations for post-combustion control, (3) SO_2 percent reduction calculations for fuel pretreatment, and (4) fuel sampling and analysis procedures for compliance fuel-fired steam generating units. Additionally, Method 19 has been updated to incorporate new American Society of Testing and Materials (ASTM) procedures for analyzing the sulfur content in petroleum products (ASTM Method D1552–83) and in coal and coke (ASTM Method D4239–85). Additional information on Method 19 is available in Docket A–81–15.

C. Relationship of Subpart Db to Operational Guidance and Plans to Develop Standards for Municipal Waste Combustors

Today's action completes the rulemaking for Subpart Db. As such, Subpart Db now limits emissions of particulate matter, nitrogen oxides, and sulfur dioxide from the combustion of coal, oil, natural gas, wood, municipal solid waste, and mixtures of these fuels with other fuels in new, modified, or reconstructed industrial-commercial-institutional steam generating units.

Subpart Db includes standards limiting emissions of particulate matter from the combustion of municipal solid waste. In addition, Subpart Db includes standards limiting emissions of nitrogen oxides, if the steam generating unit combusts coal, oil, or natural gas with municipal solid waste. Similarly, Subpart Db includes standards limiting emissions of sulfur dioxide, if the steam generating unit combusts coal or oil with municipal solid waste.

In response to concerns regarding emissions from the combustion of municipal solid waste which are beyond those considered during the development of Subpart Db, the Agency issued operational guidance to States and Regional offices on June 26, 1987 regarding control technology applicable to municipal waste combustors. This guidance is for use in all ongoing prevention of significant deterioration (PSD) and nonattainment new source review (NSR) proceedings, as well as to all new permit applications.

Although Subpart Db limits emissions from combustion of municipal solid waste, Subpart Db should not be viewed as superseding the June 26, 1987, operational guidance on control technology for municipal solid waste combustors. This guidance will continue to be used by the Agency as the reference point in its oversight of all PSD and nonattainment NSR proceedings, as well as all new permit applications for municipal waste combustors.

The Agency also has announced its intention to develop new source performance standards limiting emissions from new, modified, or reconstructed municipal waste combustors under section 111 of the Clean Air Act (52 FR 25399). Depending on the nature of the final standards, they may supersede or complement those under Subpart Db. The Agency also intends to develop standards limiting emissions of one or more designated pollutants (pollutants not regulated under sections 108 to 110 or 112) in addition to developing standards limiting emissions of criteria pollutants under section 111. This will invoke section 111(d) and require the Agency to issue guidance for control of emissions from existing municipal waste combustors which, in turn, will require States to develop specific emission standards for existing municipal waste combustors.

D. Docket

The docket is an organized and complete file of all the information considered in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and affected industries to identify and locate documents readily so they can participate effectively in the rulemaking process. The statements of basis and purpose of the proposed and promulgated standards, the responses to significant comments, and the other contents of the docket (except for interagency review materials) will serve as the record in case of judicial review (section 307(d)(7)(A)).

E. Clean Air Act Procedural Requirements

The effective date of this regulation is December 16, 1987. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective on promulgation and apply to affected facilities for which construction, modification, or reconstruction was commenced after the date of proposal (51 FR 22384, June 19, 1986).

As prescribed by section 111, the promulgation of these standards is based on the Administrator's determination that industrial-commercial-institutional steam generating units contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. In accordance with section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed not later than 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any NSPS promulgated under section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to ensure that cost was carefully considered in determining the best demonstrated technology. Portions of the economic impact assessment are included in the background information documents for the proposed standards, and additional information is included in Docket A–83–27.

F. Office of Management and Budget Reviews

The information collection requirements associated with this regulation (those included in 40 CFR Part 60, Subpart A and Subpart Db) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB Control Number 2060–0072.

Under Executive Order 12291, the Administrator is required to judge whether a regulation is a "major rule" and therefore subject to the requirements for preparation of a Regulatory Impact Analysis (RIA). At the time of proposal, it was expected that this regulation could result in industry-wide annualized costs in the fifth year after the standards go into effect of more than the $100 million cutoff established as the first criterion for a "major rule" in the Order. In accordance with the Order, an RIA was prepared for this regulation. The RIA reviews the benefits, costs, and economic impacts associated with the regulatory alternatives that were considered. This rule was submitted to OMB for review under Executive Order 12291.

G. Regulatory Flexibility Act Compliance

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because these standards impose no adverse economic impacts on small businesses, a Regulatory Flexibility Analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Industrial-commercial-institutional steam generating units.

Date: December 1, 1987.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, Title 40, Chapter I of the Code

of Federal Regulations, is amended as set forth below.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7411, 7414 and 7601(a).

2. Section 60.17 is amended by revising paragraphs (a)(1), (a)(3), (a)(7), (a)(8), (a)(9), (a)(10), (a)(24), (a)(25), (a)(26), (a)(27), (a)(28), and (a)(47); and by adding paragraphs (a)(48), (a)(49), (a)(50), (a)(51), (a)(52), and (a)(53) to read as follows:

§ 60.17 Incorporation by reference.

* * * * *

(a) * * *

(1) ASTM D388–77, Standard Specification for Classification of Coals by Rank, incorporation by reference (IBR) approved January 27, 1983, for §§ 60.41(f); 60.45(f)(4) (i), (ii), (vi); 60.41a; 60.41b; 60.251 (b), (c).

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(3) ASTM D3176–74, Standard Method for Ultimate Analysis of Coal and Coke, IBR approved January 27, 1983, for § 60.45(f)(5)(i); Appendix A to Part 60, Method 19.

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(7) ASTM D2015–77, Standard Test Method for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter, IBR approved January 27, 1983 for § 60.45(f)(5)(ii); § 60.46(g); Appendix A to Part 60, Method 19.

(8) ASTM D1826–77, Standard Test Method for Calorific Value of Gases in Natural Gas Range by Continuous Recording Calorimeter, IBR approved January 27, 1983, for §§ 60.45(f)(5)(ii); 60.46(g); 60.296(f); Appendix A to Part 60, Method 19.

(9) ASTM D240–76, Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter, IBR approved January 27, 1983, for § 60.46(g); 60.296(f); Appendix A to Part 60, Method 19.

(10) ASTM D396–78, Standard Specification for Fuel Oils, IBR approved January 27, 1983, for §§ 60.40b; 60.41b; 60.111(b); 60.111a(b).

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(24) ASTM D2234–76, Standard Methods for Collection of a Gross Sample of Coal, IBR approved January 27, 1983, for Appendix A to Part 60, Method 19.

(25) ASTM D3173–73, Standard Test Method for Moisture in the Analysis Sample of Coal and Coke, IBR approved January 27, 1983, for Appendix A to Part 60, Method 19.

(26) ASTM D3177–75, Standard Test Methods for Total Sulfur in the Analysis Sample of Coal and Coke, IBR approved January 27, 1983, for Appendix A to Part 60, Method 19.

(27) ASTM D2013–72, Standard Method of Preparing Coal Samples for Analysis, IBR approved January 27, 1983, for Appendix A to Part 60, Method 19.

(28) ASTM D270–65 (Reapproved 1975), Standard Method of Sampling Petroleum and Petroleum Products, IBR approved January 27, 1983, for Appendix A to Part 60, Method 19.

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(47) ASTM D3431–80, Standard Test Method for Trace Nitrogen in Liquid Petroleum Hydrocarbons (Microcoulometric Method), IBR approved November 25, 1986, for Appendix A to Part 60, Method 19.

(48) ASTM D129–64 (reapproved 1978), Standard Test Method for Sulfur in Petroleum Products (General Bomb Method), IBR approved for Appendix A to Part 60, Method 19.

(49) ASTM D1552–83, Standard Test Method for Sulfur in Petroleum Products (High Temperature Method), IBR approved for Appendix A to Part 60, Method 19.

(50) ASTM D1835–86, Standard Specification for Liquefied Petroleum (LP) Gases, to be approved for § 60.41b.

(51) ASTM D3286–85, Standard Test Method for Gross Calorific Value of Coal and Coke by the Isothermal-Jacket Bomb Calorimeter, IBR approved for Appendix A to Part 60, Method 19.

(52) ASTM D4057–81, Standard Practice for Manual Sampling of Petroleum and Petroleum Products, IBR approved for Appendix A to Part 60, Method 19.

(53) ASTM D4239–85, Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke Using High Temperature Tube Furnace Combustion Methods, IBR approved for Appendix A to Part 60, Method 19.

3. Subpart Db is revised to read as follows:

Subpart Db—Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

Sec.

Subpart Db—Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

§ 60.40b Applicability and delegation of authority.

(a) The affected facility to which this subpart applies is each steam generating unit that commences construction, modification, or reconstruction after June 19, 1984, and that has a heat input capacity from fuels combusted in the steam generating unit of greater than 29 MW (100 million Btu/hour).

(b) Any affected facility meeting the applicability requirements under paragraph (a) of this section and commencing construction, modification, or reconstruction after June 19, 1984, but on or before June 19, 1986, is subject to the following standards:

(1) Coal-fired affected facilities having a heat input capacity between 29 and 73 MW (100 and 250 million Btu/hour), inclusive, are subject to the particulate matter and nitrogen oxides standards under this subpart.

(2) Coal-fired affected facilities having a heat input capacity greater than 73 MW (250 million Btu/hour) and meeting the applicability requirements under Subpart D (Standards of performance for fossil-fuel-fired steam generators; § 60.40) are subject to the particulate matter and nitrogen oxides standards under this subpart and to the sulfur dioxide standards under Subpart D (§ 60.43).

(3) Oil-fired affected facilities having a heat input capacity between 29 and 73 MW (100 and 250 million Btu/hour), inclusive, are subject to the nitrogen oxides standards under this subpart.

(4) Oil-fired affected facilities having a heat input capacity greater than 73 MW (250 million Btu/hour) and meeting the applicability requirements under Subpart D (Standards of performance for fossil-fuel-fired steam generators; § 60.40) are also subject to the nitrogen oxides standards under this subpart and the particulate matter and sulfur dioxide standards under Subpart D (§ 60.42 and § 60.43).

(c) Affected facilities which also meet the applicability requirements under Subpart J (Standards of performance for

petroleum refineries; § 60.104) are subject to the particulate matter and nitrogen oxides standards under this subpart and the sulfur dioxide standards under Subpart J (§ 60.104).

(d) Affected facilities which also meet the applicability requirements under Subpart E (Standards of performance for incinerators; § 60.50) are subject to the nitrogen oxides and particulate matter standards under this subpart.

(e) Steam generating units meeting the applicability requirements under Subpart Da (Standards of performance for electric utility steam generating units; § 60.40a) are not subject to this subpart.

(f) Any change to an existing steam generating unit for the sole purpose of combusting gases containing TRS as defined under § 60.281 is not considered a modification under § 60.14 and the steam generating unit is not subject to this subpart.

(g) In delegating implementation and enforcement authority to a State under section 111(c) of the Act, the following authorities shall be retained by the Administrator and not transferred to a State.

(1) Section 60.44b(f).

(2) Section 60.44b(g).

(3) Section 60.49b(a)(4).

§ 60.41b Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in Subpart A of this part.

"Annual capacity factor" means the ratio between the actual heat input to a steam generating unit from the fuels listed in § 60.42b(a), § 60.43b(a), or § 60.44b(a), as applicable, during a calendar year and the potential heat input to the steam generating unit had it been operated for 8,760 hours during a calendar year at the maximum steady state design heat input capacity. In the case of steam generating units that are rented or leased, the actual heat input shall be determined based on the combined heat input from all operations of the affected facility in a calendar year.

"Byproduct/waste" means any liquid or gaseous substance produced at chemical manufacturing plants or petroleum refineries (except natural gas, distillate oil, or residual oil) and combusted in a steam generating unit for heat recovery or for disposal. Gaseous substances with carbon dioxide levels greater than 50 percent or carbon monoxide levels greater than 10 percent are not byproduct/waste for the purposes of this subpart.

"Chemical manufacturing plants" means industrial plants which are classified by the Department of Commerce under Standard Industrial Classification (SIC) Code 28.

"Coal" means all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society of Testing and Materials in ASTM D388–77, Standard Specification for Classification of Coals by Rank (IBR—see § 60.17), coal refuse, and petroleum coke. Coal-derived synthetic fuels, including but not limited to solvent refined coal, gasified coal, coal-oil mixtures, and coal-water mixtures, are also included in this definition for the purposes of this subpart.

"Coal refuse" means any byproduct of coal mining or coal cleaning operations with an ash content greater than 50 percent, by weight, and a heating value less than 13,900 kJ/kg (6,000 Btu/lb) on a dry basis.

"Combined cycle system" means a system in which a separate source, such as a gas turbine, internal combustion engine, kiln, etc., provides exhaust gas to a heat recovery steam generating unit.

"Conventional technology" means wet flue gas desulfurization (FGD) technology, dry FGD technology, atmospheric fluidized bed combustion technology, and oil hydrodesulfurization technology.

"Distillate oil" means fuel oils that contain 0.05 weight percent nitrogen or less and comply with the specifications for fuel oil numbers 1 and 2, as defined by the American Society of Testing and Materials in ASTM D396–78, Standard Specifications for Fuel Oils (incorporated by reference—see § 60.17).

"Dry flue gas desulfurization technology" means a sulfur dioxide control system that is located downstream of the steam generating unit and removes sulfur oxides from the combustion gases of the steam generating unit by contacting the combustion gases with an alkaline slurry or solution and forming a dry powder material. This definition includes devices where the dry powder material is subsequently converted to another form. Alkaline slurries or solutions used in dry flue gas desulfurization technology include but are not limited to lime and sodium.

"Duct burner" means a device that combusts fuel and that is placed in the exhaust duct from another source, such as a stationary gas turbine, internal combustion engine, kiln, etc., to allow the firing of additional fuel to heat the exhaust gases before the exhaust gases enter a heat recovery steam generating unit.

"Emerging technology" means any sulfur dioxide control system that is not defined as a conventional technology under this section, and for which the owner or operator of the facility has applied to the Administrator and received approval to operate as an emerging technology under § 60.49b(a)(4).

"Federally enforceable" means all limitations and conditions that are enforceable by the Administrator, including the requirements of 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established under 40 CFR 52.21 or under 40 CFR 51.18 and 40 CFR 51.24.

"Fluidized bed combustion technology" means combustion of fuel in a bed or series of beds (including but not limited to bubbling bed units and circulating bed units) of limestone aggregate (or other sorbent materials) in which these materials are forced upward by the flow of combustion air and the gaseous products of combustion.

"Fuel pretreatment" means a process that removes a portion of the sulfur in a fuel before combustion of the fuel in a steam generating unit.

"Full capacity" means operation of the steam generating unit at 90 percent or more of the maximum steady-state design heat input capacity.

"Heat input" means heat derived from combustion of fuel in a steam generating unit and does not include the heat input from preheated combustion air, recirculated flue gases, or exhaust gases from other sources, such as gas turbines, internal combustion engines, kilns, etc.

"Heat release rate" means the steam generating unit design heat input capacity (in MW or Btu/hour) divided by the furnace volume (in cubic meters or cubic feet); the furnace volume is that volume bounded by the front furnace wall where the burner is located, the furnace side waterwall, and extending to the level just below or in front of the first row of convection pass tubes.

"Heat transfer medium" means any material that is used to transfer heat from one point to another point.

"High heat release rate" means a heat release rate greater than 730,000 J/sec-m^3 (70,000 Btu/hour-ft^3).

"Lignite" means a type of coal classified as lignite A or lignite B by the American Society of Testing and Materials in ASTM D388–77, Standard Specification for Classification of Coals by Rank (IBR—see § 60.17).

"Low heat release rate" means a heat release rate of 730,000 J/sec-m^3 (70,000 Btu/hour-ft^3) or less.

"Mass-feed stoker steam generating unit" means a steam generating unit where solid fuel is introduced directly

into a retort or is fed directly onto a grate where it is combusted.

"Maximum heat input capacity" means the ability of a steam generating unit to combust a stated maximum amount of fuel on a steady state basis, as determined by the physical design and characteristics of the steam generating unit.

"Municipal-type solid waste" means refuse, more than 50 percent of which is waste consisting of a mixture of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials, and noncombustible materials such as glass and rock.

"Natural gas" means (1) a naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal constituent is methane; or (2) liquid petroleum gas, as defined by the American Society for Testing and Materials in ASTM D1835–82, "Standard Specification for Liquid Petroleum Gases" (IBR—see § 60.17).

"Noncontinental area" means the State of Hawaii, the Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, or the Northern Mariana Islands.

"Oil" means crude oil or petroleum or a liquid fuel derived from crude oil or petroleum, including distillate and residual oil.

"Petroleum refinery" means industrial plants as classified by the Department of Commerce under Standard Industrial Classification (SIC) Code 29.

"Potential sulfur dioxide emission rate" means the theoretical sulfur dioxide emissions (ng/J, lb/million Btu heat input) that would result from combusting fuel in an uncleaned state and without using emission control systems.

"Process heater" means a device that is primarily used to heat a material to initiate or promote a chemical reaction in which the material participates as a reactant or catalyst.

"Pulverized coal-fired steam generating unit" means a steam generating unit in which pulverized coal is introduced into an air stream that carries the coal to the combustion chamber of the steam generating unit where it is fired in suspension. This includes both conventional pulverized coal-fired and micropulverized coal-fired steam generating units.

"Residual oil" means crude oil, fuel oil numbers 1 and 2 that have a nitrogen content greater than 0.05 weight percent, and all fuel oil numbers 4, 5 and 6, as defined by the American Society of Testing and Materials in ASTM D396–78, Standard Specifications for Fuel Oils (IBR—see § 60.17).

"Spreader stoker steam generating unit" means a steam generating unit in which solid fuel is introduced to the combustion zone by a mechanism that throws the fuel onto a grate from above. Combustion takes place both in suspension and on the grate.

"Steam generating unit" means a device that combusts any fuel or byproduct/waste to produce steam or to heat water or any other heat transfer medium. This term includes any municipal-type solid waste incinerator with a heat recovery steam generating unit or any steam generating unit that combusts fuel and is part of a cogeneration system or a combined cycle system. This term does not include process heaters as they are defined in this subpart.

"Steam generating unit operating day" means a 24-hour period between 12:00 midnight and the following midnight during which any fuel is combusted at any time in the steam generating unit. It is not necessary for fuel to be combusted continuously for the entire 24-hour period.

"Very low sulfur oil" means a distillate oil or residual oil that when combusted without post combustion SO_2 control has an SO_2 emission rate equal to or less than 130 ng/J (0.30 lb SO_2/million Btu).

"Wet flue gas desulfurization technology" means a sulfur dioxide control system that is located downstream of the steam generating unit and removes sulfur oxides from the combustion gases of the steam generating unit by contacting the combustion gas with an alkaline slurry or solution and forming a liquid material. This definition applies to devices where the aqueous liquid material product of this contact is subsequently converted to other forms. Alkaline reagents used in wet flue gas desulfurization technology include, but are not limited to, lime, limestone, and sodium.

"Wet scrubber system" means any emission control device that mixes an aqueous stream or slurry with the exhaust gases from a steam generating unit to control emissions of particulate matter or sulfur dioxide.

"Wood" means wood, wood residue, bark, or any derivative fuel or residue thereof, in any form, including, but not limited to, sawdust, sanderdust, wood chips, scraps, slabs, millings, shavings, and processed pellets made from wood or other forest residues.

§ 60.42b Standard for sulfur dioxide.

(a) Except as provided in paragraphs (b), (c), or (d) of this section, on and after the date on which the performance test is completed or required to be completed under § 60.8 of this part, whichever date comes first, no owner or operator of an affected facility that combusts coal or oil shall cause to be discharged into the atmosphere any gases that contain sulfur dioxide in excess of 10 percent (0.10) of the potential sulfur dioxide emission rate (90 percent reduction) and that contain sulfur dioxide in excess of the emission limit determined according to the following formula:

$$E_s = (K_a H_a + K_b H_b)/(H_a + H_b)$$

where:

E_s is the sulfur dioxide emission limit, in ng/J or lb/million Btu heat input,

K_a is 520 ng/J (or 1.2 lb/million Btu),

K_b is 340 ng/J (or 0.80 lb/million Btu),

H_a is the heat input from the combustion of coal, in J (million Btu),

H_b is the heat input from the combustion of oil, in J (million Btu).

Only the heat input supplied to the affected facility from the combustion of coal and oil is counted under this section. No credit is provided for the heat input to the affected facility from the combustion of natural gas, wood, municipal-type solid waste, or other fuels or heat input to the affected facility from exhaust gases from another source, such as gas turbines, internal combustion engines, kilns, etc.

(b) On and after the date on which the performance test is completed or required to be completed under § 60.8 of this part, whichever comes first, no owner or operator of an affected facility that combusts coal refuse alone in a fluidized bed combustion steam generating unit shall cause to be discharged into the atmosphere any gases that contain sulfur dioxide in excess of 20 percent of the potential sulfur dioxide emission rate (80 percent reduction) and that contain sulfur dioxide in excess of 520 ng/J (1.2 lb/million Btu) heat input. If coal or oil is fired with coal refuse, the affected facility is subject to paragraph (a) or (d) of this section, as applicable.

(c) On and after the date on which the performance test is completed or is required to be completed under § 60.8 of this part, whichever comes first, no owner or operator of an affected facility that combusts coal or oil, either alone or in combination with any other fuel, and that uses an emerging technology for the control of sulfur dioxide emissions, shall cause to be discharged into the atmosphere any gases that contain sulfur dioxide in excess of 50 percent of

the potential sulfur dioxide emission rate (50 percent reduction) and that contain sulfur dioxide in excess of the emission limit determined according to the following formula:

$$E_s = (K_c H_c + K_d H_d)/H_c + H_d)$$

where:

E_s is the sulfur dioxide emission limit, expressed in ng/J (lb/million Btu) heat input,

K_c is 260 ng/J (0.60 lb/million Btu),

K_d is 170 ng/J (0.40 lb/million Btu),

H_c is the heat input from the combustion of coal, J (million Btu),

H_d is the heat input from the combustion of oil, J (million Btu).

Only the heat input supplied to the affected facility from the combustion of coal and oil is counted under this section. No credit is provided for the heat input to the affected facility from the combustion of natural gas, wood, municipal-type solid waste, or other fuels, or from the heat input to the affected facility from exhaust gases from another source, such as gas turbines, internal combustion engines, kilns, etc.

(d) On and after the date on which the performance test is completed or required to be completed under § 60.8 of this part, whichever comes first, no owner or operator of an affected facility listed in paragraphs (d) (1), (2), (3), or (4) of this section shall cause to be discharged into the atmosphere any gases that contain sulfur dioxide in excess of 520 ng/J (1.2 lb/million Btu) heat input if the affected facility combusts coal, or 130 ng/J (0.30 lb/million Btu) heat input if the affected facility combusts oil. Percent reduction requirements are not applicable to affected facilities under this paragraph:

(1) Affected facilities that have an annual capacity factor for coal and oil of 30 percent (0.30) or less and are subject to a Federally enforceable permit limiting the operation of the affected facility to an annual capacity factor for coal and oil to 30 percent (0.30) or less;

(2) Affected facilities located in a noncontinental area;

(3) Affected facilities combusting coal or oil, alone or in combination with any other fuel, in a duct burner as part of a combined cycle system where 30 percent (0.30) or less of the heat input to the steam generating unit is from combustion of coal and oil in the duct burner and 70 percent (0.70) or more of the heat input to the steam generating unit is from the exhaust gases entering the duct burner; or

(4) Affected facilities combusting very low sulfur oil.

(e) Except as provided in paragraph (f) of this section, compliance with the emission limit(s) and percent reduction requirements under this section are determined on a 30-day rolling average basis.

(f) Compliance with the emission limits under this section are determined on a 24-hour average basis for affected facilities which (1) have a Federally enforceable permit limiting the annual capacity factor for oil to 10 percent or less, (2) combust only oil which emits less than 130 ng/J (0.3 lb SO_2/million Btu), and (3) do not combust any other fuel.

(g) Except as provided in paragraph (i) of this section, the sulfur dioxide emission limits and percent reduction requirements under this section apply at all times, including periods of startup, shutdown, and malfunction.

(h) Reductions in the potential sulfur dioxide emission rate through fuel pretreatment are not credited toward the percent reduction requirement under paragraph (c) of this section unless:

(1) Fuel pretreatment results in a 50 percent or greater reduction in potential sulfur dioxide emissions and

(2) Emissions from the pretreated fuel (without combustion or post combustion sulfur dioxide control) are equal to or less than the emission limits specified in paragraph (c) of this section.

(i) An affected facility subject to paragraph (a), (b), or (c) of this section may combust very low sulfur oil or natural gas when the sulfur dioxide control system is not being operated because of malfunction or maintenance of the sulfur dioxide control system.

§ 60.43b Standard for particulate matter.

(a) On and after the date on which the initial performance test is completed or is required to be completed under § 60.8 of this part, whichever comes first, no owner or operator of an affected facility which combusts coal or combusts mixtures of coal with other fuels, shall cause to be discharged into the atmosphere from that affected facility any gases that contain particulate matter in excess of the following emission limits:

(1) 22 ng/J (0.05 lb/million Btu) heat input,

(i) If the affected facility combusts only coal, or

(ii) If the affected facility combusts coal and other fuels and has an annual capacity factor for the other fuels of 10 percent (0.10) or less.

(2) 43 ng/J (0.10 lb/million Btu) heat input if the affected facility combusts coal and other fuels and has an annual capacity factor for the other fuels greater than 10 percent (0.10) and is subject to a Federally enforceable requirement limiting operation of the affected facility to an annual capacity factor greater than 10 percent (0.10) for fuels other than coal.

(3) 86 ng/J (0.20 lb/million Btu) heat input if the affected facility combusts coal or coal and other fuels and

(i) Has an annual capacity factor for coal or coal and other fuels of 30 percent (0.30) or less,

(ii) Has a maximum heat input capacity of 73 MW (250 million Btu/hour) or less,

(iii) Has a Federally enforceable requirement limiting operation of the affected facility to an annual capacity factor of 30 percent (0.30) or less for coal or coal and other solid fuels, and

(iv) Construction of the affected facility commenced after June 19, 1984, and before November 25, 1986.

(b) On and after the date on which the performance test is completed or required to be completed under § 60.8 of this part, whichever date comes first, no owner or operator of an affected facility that combusts oil or that combusts mixtures of oil with other fuels shall cause to be discharged into the atmosphere from that affected facility any gases that contain particulate matter in excess of 43 ng/J (0.10 lb/million Btu) heat input.

(c) On and after the date on which the initial performance test is completed or is required to be completed under § 60.8 of this part, whichever date comes first, no owner or operator of an affected facility that combusts wood, or wood with other fuels, except coal, shall cause to be discharged from that affected facility any gases that contain particulate matter in excess of the following emission limits:

(1) 43 ng/J (0.10 lb/million Btu) heat input if the affected facility has an annual capacity factor greater than 30 percent (0.30) for wood.

(2) 86 ng/J (0.20 lb/million Btu) heat input if

(i) The affected facility has an annual capacity factor of 30 percent (0.30) or less for wood,

(ii) Is subject to a Federally enforceable requirement limiting operation of the affected facility to an annual capacity factor of 30 percent (0.30) or less for wood, and

(iii) Has a maximum heat input capacity of 73 MW (250 million Btu/hour) or less.

(d) On and after the date on which the initial performance test is completed or is required to be completed under § 60.8 of this part, whichever date comes first, no owner or operator of an affected facility that combusts municipal-type solid waste or mixtures of municipal-type solid waste with other fuels, shall cause to be discharged into the

atmosphere from that affected facility any gases that contain particulate matter in excess of the following emission limits:

(1) 43 ng/J (0.10 lb/million Btu) heat input,

(i) If the affected facility combusts only municipal-type solid waste, or

(ii) If the affected facility combusts municipal-type solid waste and other fuels and has an annual capacity factor for the other fuels of 10 percent (0.10) or less.

(2) 86 ng/J (0.20 lb/million Btu) heat input if the affected facility combusts municipal-type solid waste or municipal-type solid waste and other fuels; and

(i) Has an annual capacity factor for municipal-type solid waste and other fuels of 30 percent (0.30) or less,

(ii) Has a maximum heat input capacity of 73 MW (250 million Btu/hour) or less,

(iii) Has a Federally enforceable requirement limiting operation of the affected facility to an annual capacity factor of 30 percent (0.30) for municipal-type solid waste, or municipal-type solid waste and other fuels, and

(iv) Construction of the affected facility commenced after June 19, 1984, but before November 25, 1986.

(e) For the purposes of this section, the annual capacity factor is determined by dividing the actual heat input to the steam generating unit during the calendar year from the combustion of coal, wood, or municipal-type solid waste, and other fuels, as applicable, by the potential heat input to the steam generating unit if the steam generating unit had been operated for 8,760 hours at the maximum design heat input capacity.

(f) On and after the date on which the initial performance test is completed or is required to be completed under § 60.8 of this part, whichever date comes first, no owner or operator of an affected facility subject to the particulate matter emission limits under paragraph (a), (b) or (c) of this section shall cause to be discharged into the atmosphere any gases that exhibit greater than 20 percent opacity (6-minute average), except for one 6-minute period per hour of not more than 27 percent opacity.

(g) The particulate matter and opacity standards apply at all times, except during periods of startup, shutdown or malfunction.

§ 60.44b Standard for nitrogen oxides.

(a) On and after the date on which the initial performance test is completed or is required to be completed under § 60.8 of this part, whichever date comes first, no owner or operator of an affected facility that is subject to the provisions of this section and that combusts only coal, oil, or natural gas shall cause to be discharged into the atmosphere from that affected facility any gases that contain nitrogen oxides (expressed as NO_2) in excess of the following emission limits:

Fuel/Steam generating unit type	Nitrogen oxide emission limits ng/J (lb/million Btu) (expressed as NO_2) heat input
(1) Natural gas and distillate oil, except (4):	
(i) Low heat release rate	43 (0.10)
(ii) High heat release rate	86 (0.20)
(2) Residual oil:	
(i) Low heat release rate	130 (0.30)
(ii) High heat release rate	170 (0.40)
(3) Coal:	
(i) Mass-feed stoker	210 (0.50)
(ii) Spreader stoker and fluidized bed combustion	260 (0.60)
(iii) Pulverized coal	300 (0.70)
(iv) Lignite, except (v)	260 (0.60)
(v) Lignite mined in North Dakota, South Dakota, or Montana and combusted in a slag tap furnace	340 (0.80)
(vi) Coal-derived synthetic fuels	210 (0.50)
(4) Duct burner used in a combined cycle system:	
(i) Natural gas and distillate oil	86 (0.20)
(ii) Residual oil	170 (0.40)

(b) On and after the date on which the initial performance test is completed or is required to be completed under § 60.8 of this part, whichever date comes first, no owner or operator of an affected facility that simultaneously combusts mixtures of coal, oil, or natural gas shall cause to be discharged into the atmosphere from that affected facility any gases that contain nitrogen oxides in excess of a limit determined by use of the following formula:

$$E_n = [(EL_{go} H_{go}) + (EL_{ro} H_{ro}) + (EL_c H_c)] / (H_{go} + H_{ro} + H_c)$$

where:

E_n is the nitrogen oxides emission limit (expressed as NO_2), ng/J (lb/million Btu)

EL_{go} is the appropriate emission limit from paragraph (a)(1) for combustion of natural gas or distillate oil, ng/J (lb/million Btu)

H_{go} is the heat input from combustion of natural gas or distillate oil,

EL_{ro} is the appropriate emission limit from paragraph (a)(2) for combustion of residual oil,

H_{ro} is the heat input from combustion of residual oil,

EL_c is the appropriate emission limit from paragraph (a)(3) for combustion of coal, and

H_c is the heat input from combustion of coal.

(c) On and after the date on which the initial performance test is completed or is required to be completed under § 60.8 of this part, whichever comes first, no owner or operator of an affected facility that simultaneously combusts coal or oil, or a mixture of these fuels with natural gas, and wood, municipal-type solid waste, or any other fuel shall cause to be discharged into the atmosphere any gases that contain nitrogen oxides in excess of the emission limit for the coal or oil, or mixture of these fuels with natural gas combusted in the affected facility, as determined pursuant to paragraph (a) or (b) of this section, unless the affected facility has an annual capacity factor for coal or oil, or mixture of these fuels with natural gas of 10 percent (0.10) or less and is subject to a Federally enforceable requirement that limits operation of the facility to an annual capacity factor of 10 percent (0.10) or less for coal, oil, or a mixture of these fuels with natural gas.

(d) On and after the date on which the initial performance test is completed or is required to be completed under § 60.8 of this part, whichever date comes first, no owner or operator of an affected facility that simultaneously combusts natural gas with wood, municipal-type solid waste, or other solid fuel, except coal, shall cause to be discharged into the atmosphere from that affected facility any gases that contain nitrogen oxides in excess of 130 ng/J (0.30 lb/million Btu) heat input unless the affected facility has an annual capacity factor for natural gas of 10 percent (0.10) or less and is subject to a Federally enforceable requirement that limits operation of the affected facility to an annual capacity factor of 10 percent (0.10) or less for natural gas.

(e) On and after the date on which the initial performance test is completed or is required to be completed under § 60.8 of this part, whichever date comes first, no owner or operator of an affected facility that simultaneously combusts coal, oil, or natural gas with byproduct/waste shall cause to be discharged into the atmosphere from that affected facility any gases that contain nitrogen oxides in excess of an emission limit determined by the following formula unless the affected facility has an annual capacity factor for coal, oil, and natural gas of 10 percent (0.10) or less and is subject to a Federally enforceable requirement which limits operation of the affected facility to an annual capacity factor of 10 percent (0.10) or less:

$$E_n = [(EL_{go} H_{go}) + (EL_{ro} H_{ro}) + (EL_c H_c)] / (H_{go} + H_{ro} + H_c)$$

where:

E_n is the nitrogen oxides emission limit (expressed as NO_2), ng/J (lb/million Btu)

EL_{go} is the appropriate emission limit from paragraph (a)(1) for combustion of natural gas or distillate oil, ng/J (lb/million Btu).

H_{go} is the heat input from combustion of natural gas, distillate oil and gaseous byproduct/waste, ng/J (lb/million Btu).

EL_{ro} is the appropriate emission limit from paragraph (a)(2) for combustion of residual oil, ng/J (lb/million Btu)

H_{ro} is the heat input from combustion of residual oil and/or liquid byproduct/waste.

EL_c is the appropriate emission limit from paragraph (a)(3) for combustion of coal, and

H_c is the heat input from combustion of coal.

(f) Any owner or operator of an affected facility that combusts byproduct/waste with either natural gas or oil may petition the Administrator within 180 days of the initial startup of the affected facility to establish a nitrogen oxides emission limit which shall apply specifically to that affected facility when the byproduct/waste is combusted. The petition shall include sufficient and appropriate data, as determined by the Administrator, such as nitrogen oxides emissions from the affected facility, waste composition (including nitrogen content), and combustion conditions to allow the Administrator to confirm that the affected facility is unable to comply with the emission limits in paragraph (e) of this section and to determine the appropriate emission limit for the affected facility.

(1) Any owner or operator of an affected facility petitioning for a facility-specific nitrogen oxides emission limit under this section shall:

(i) Demonstrate compliance with the emission limits for natural gas and distillate oil in paragraph (a)(1) of this section or for residual oil in paragraph (a)(2) of this section, as appropriate, by conducting a 30-day performance test as provided in § 60.46b(e). During the performance test only natural gas, distillate oil, or residual oil shall be combusted in the affected facility; and

(ii) Demonstrate that the affected facility is unable to comply with the emission limits for natural gas and distillate oil in paragraph (a)(1) of this section or for residual oil in paragraph (a)(2) of this section, as appropriate, when gaseous or liquid byproduct/waste is combusted in the affected facility under the same conditions and using the same technological system of emission reduction applied when demonstrating compliance under paragraph (f)(1)(i) of this section.

(2) The nitrogen oxides emission limits for natural gas or distillate oil in paragraph (a)(1) of this section or for residual oil in paragraph (a)(2) of this section, as appropriate, shall be applicable to the affected facility until and unless the petition is approved by the Administrator. If the petition is approved by the Administrator, a facility-specific nitrogen oxides emission limit will be established at the nitrogen oxides emission level achievable when the affected facility is combusting oil or natural gas and byproduct/waste in a manner that the Administrator determines to be consistent with minimizing nitrogen oxides emissions.

(g) Any owner or operator of an affected facility that combusts hazardous waste (as defined by 40 CFR Part 261 or 40 CFR Part 761) with natural gas or oil may petition the Administrator within 180 days of the initial startup of the affected facility for a waiver from compliance with the nitrogen oxides emission limit which applies specifically to that affected facility. The petition must include sufficient and appropriate data, as determined by the Administrator, on nitrogen oxides emissions from the affected facility, waste destruction efficiencies, waste composition (including nitrogen content), the quantity of specific wastes to be combusted and combustion conditions to allow the Administrator to determine if the affected facility is able to comply with the nitrogen oxides emission limits required by this section. The owner or operator of the affected facility shall demonstrate that when hazardous waste is combusted in the affected facility, thermal destruction efficiency requirements for hazardous waste specified in an applicable Federally enforceable requirement preclude compliance with the nitrogen oxides emission limits of this section. The nitrogen oxides emission limits for natural gas or distillate oil in paragraph (a)(1) of this section or for residual oil in paragraph (a)(2) of this section, as appropriate, are applicable to the affected facility until and unless the petition is approved by the Administrator. (See 40 CFR 761.70 for regulations applicable to the incineration of materials containing polychlorinated biphenyls (PCB's).)

(h) The nitrogen oxide standards under this section apply at all times including periods of startup, shutdown or malfunction.

§ 60.45b Compliance and performance test methods and procedures for sulfur dioxide.

(a) The sulfur dioxide emission standards under § 60.42b apply at all times.

(b) In conducting the performance tests required under § 60.8, the owner or operator shall use the methods and procedures in Appendix A of this part or the method and procedures as specified in this section, except as provided in § 60.8(b). Section 60.8(f) does not apply to this subpart. The 30-day notice required in § 60.8(d) applies only to the initial performance test unless otherwise specified by the Administrator.

(c) The owner or operator of an affected facility shall conduct performance tests to determine compliance with the percent of potential sulfur dioxide emission rate (% P_s) and the sulfur dioxide emission rate (E_s) pursuant to § 60.42b following the procedures listed below, except as provided under paragraph (d) of this section.

(1) The initial performance test shall be conducted over the first 30 consecutive operating days of the steam generating unit. Compliance with the sulfur dioxide standards shall be determined using a 30-day average. The first operating day included in the initial performance test shall be scheduled within 30 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of the facility.

(2) If only coal or only oil is combusted, the following procedures are used:

(i) The procedures in Method 19 are used to determine the hourly sulfur dioxide emission rate (E_{ho}) and the 30-day average emission rate (E_{ao}). The hourly averages used to compute the 30-day averages are obtained from the continuous emission monitoring system of § 60.47b (a) or (b).

(ii) The percent of potential sulfur dioxide emission rate (% P_s) emitted to the atmosphere is computed using the following formula:

$$\% P_s = 100\,(1 - \% R_g/100)(1 - \% R_f/100)$$

where:

% R_g is the sulfur dioxide removal efficiency of the control device as determined by Method 19, in percent.

% R_f is the sulfur dioxide removal efficiency of fuel pretreatment as determined by Method 19, in percent.

(3) If coal or oil is combusted with other fuels, the same procedures required in paragraph (c)(2) of this section are used, except as provided in the following:

(i) An adjusted hourly sulfur dioxide emission rate ($E_{ho}°$) is used in Equation 19–19 of Method 19 to compute an adjusted 30-day average emission rate ($E_{ao}°$). The E_{ho} is computed using the following formula:

$$E_{ho}° = [E_{ho} - E_w(1 - X_k)]/X_k$$

where:

$E_{ho}°$ is the adjusted hourly sulfur dioxide emission rate, ng/J (lb/million Btu).

E_{ho} is the hourly sulfur dioxide emission rate, ng/J (lb/million Btu).

E_w is the sulfur dioxide concentration in fuels other than coal and oil combusted in the affected facility, as determined by the fuel sampling and analysis procedures in Method 19, ng/J (lb/million Btu). The value E_w for each fuel lot is used for each hourly average during the time that the lot is being combusted.

X_k is the fraction of total heat input from fuel combustion derived from coal, oil, or coal and oil, as determined by applicable procedures in Method 19.

(ii) To compute the percent of potential sulfur dioxide emission rate (% P_s), an adjusted % R_g (% R_g°) is computed from the adjusted E_{so}° from paragraph (b)(3)(i) of this section and an adjusted average sulfur dioxide inlet rate (E_{ai}°) using the following formula:

$$\% R_g° = 100 (1.0 - E_{so}°/E_{ai}°)$$

To compute E_{ai}°, an adjusted hourly sulfur dioxide inlet rate (E_{hi}°) is used. The E_{hi}° is computed using the following formula:

$$E_{hi}° = [E_{hi} - E_w(1 - X_k)]/X_k$$

where:

E_{hi}° is the adjusted hourly sulfur dioxide inlet rate, ng/J (lb/million Btu).

E_{hi} is the hourly sulfur dioxide inlet rate, ng/J (lb/million Btu).

(4) The owner or operator of an affected facility subject to paragraph (b)(3) of this section does not have to measure parameters E_w or X_k if the owner or operator elects to assume that $X_k = 1.0$. Owners or operators of affected facilities who assume $X_k = 1.0$ shall

(i) Determine % P_s following the procedures in paragraph (c)(2) of this section, and

(ii) Sulfur dioxide emissions (E_s) are considered to be in compliance with sulfur dioxide emission limits under § 60.42b.

(5) The owner or operator of an affected facility that qualifies under the provisions of § 60.42b(d) does not have to measure parameters E_w or X_k under paragraph (b)(3) of this section if the owner or operator of the affected facility elects to measure sulfur dioxide emission rates of the coal or oil following the fuel sampling and analysis procedures under Method 19.

(d) The owner or operator of an affected facility that combusts only oil emitting less than 130 ng/J (0.3 lb/million Btu) SO_2, has an annual capacity factor for oil of 10 percent (0.10) or less, and is subject to a Federally enforceable requirement limiting operation of the affected facility to an annual capacity for oil of 10 percent (0.10) or less shall:

(1) Conduct the initial performance test over 24 consecutive steam generating unit operating hours at full load;

(2) Determine compliance with the standards after the initial performance test based on the arithmetic average of the hourly emissions data during each steam generating unit operating day if a continuous emission measurement system (CEMS) is used, or based on a daily average if Method 6B or fuel sampling and analysis procedures under Method 19 are used.

(e) The owner or operator of an affected facility subject to § 60.42b(d)(1) shall demonstrate the maximum design capacity of the steam generating unit by operating the facility at maximum capacity for 24 hours. This demonstration will be made during the initial performance test and a subsequent demonstration may be requested at any other time. If the 24-hour average firing rate for the affected facility is less than the maximum design capacity provided by the manufacturer of the affected facility, the 24-hour average firing rate shall be used to determine the capacity utilization rate for the affected facility, otherwise the maximum design capacity provided by the manufacturer is used.

(f) For the initial performance test required under § 60.8, compliance with the sulfur dioxide emission limits and percent reduction requirements under § 60.42b is based on the average emission rates and the average percent reduction for sulfur dioxide for the first 30 consecutive steam generating unit operating days, except as provided under paragraph (d) of this section. The initial performance test is the only test for which at least 30 days prior notice is required unless otherwise specified by the Administrator. The initial performance test is to be scheduled so that the first steam generating unit operating day of the 30 successive steam generating unit operating days is completed within 30 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of the facility. The boiler load during the 30-day period does not have to be the maximum design load, but must be representative of future operating conditions and include at least one 24-hour period at full load.

(g) After the initial performance test required under § 60.8, compliance with the sulfur dioxide emission limits and percent reduction requirements under § 60.42b is based on the average emission rates and the average percent reduction for sulfur dioxide for 30 successive steam generating unit operating days, except as provided under paragraph (d). A separate performance test is completed at the end of each steam generating unit operating day after the initial performance test, and a new 30-day average emission rate and percent reduction for sulfur dioxide are calculated to show compliance with the standard.

(h) Except as provided under paragraph (i) of this section, the owner or operator of an affected facility shall use all valid sulfur dioxide emissions data in calculating % P_s and E_{ho} under paragraph (c), of this section whether or not the minimum emissions data requirements under § 60.46b are achieved. All valid emissions data, including valid sulfur dioxides emission data collected during periods of startup, shutdown and malfunction, shall be used in calculating % P_s and E_{ho} pursuant to paragraph (c) of this section.

(i) During periods of malfunction or maintenance of the sulfur dioxide control systems when oil is combusted as provided under § 60.42b(i), emission data are not used to calculate % P_s or E_s under § 60.42b (a), (b) or (c), however, the emissions data are used to determine compliance with the emission limit under § 60.42b(i).

§ 60.46b Compliance and performance test methods and procedures for particulate matter and nitrogen oxides.

(a) The particulate matter emission standards and opacity limits under § 60.43b apply at all times except during periods of startup, shutdown, or malfunction. The nitrogen oxides emission standards under § 60.44b apply at all times.

(b) Compliance with the particulate matter emission standards under § 60.43b shall be determined through performance testing as described in paragraph (d) of this section.

(c) Compliance with the nitrogen oxides emission standards under § 60.44b shall be determined through performance testing as described in paragraph (e) or (f) of this section.

(d) The following procedures and reference methods are used to determine compliance with the standards for particulate matter emissions under § 60.43b.

(1) Method 3 is used for gas analysis when applying Method 5 or Method 17.

(2) Method 5, Method 5B, or Method 17 shall be used to measure the concentration of particulate matter as follows:

(i) Method 5 shall be used at affected facilities without wet flue gas desulfurization (FGD) systems; and

(ii) Method 17 may be used at facilities with or without wet scrubber systems provided the stack gas temperature does not exceed a temperature of 160 °C (320 °F). The

procedures of sections 2.1 and 2.3 of Method 5B may be used in Method 17 only if it is used after a wet FGD system. Do not use Method 17 after wet FGD systems if the effluent is saturated or laden with water droplets.

(iii) Method 5B is to be used only after wet FGD systems.

(3) Method 1 is used to select the sampling site and the number of traverse sampling points. The sampling time for each run is at least 120 minutes and the minimum sampling volume is 1.7 dscm (60 dscf) except that smaller sampling times or volumes may be approved by the Administrator when necessitated by process variables or other factors.

(4) For Method 5, the temperature of the sample gas in the probe and filter holder is monitored and is maintained at 160 °C (320 °F).

(5) For determination of particulate matter emissions, the oxygen or carbon dioxide sample is obtained simultaneously with each run of Method 5, Method 5B or Method 17 by traversing the duct at the same sampling location.

(6) For each run using Method 5, Method 5B or Method 17, the emission rate expressed in nanograms per joule heat input is determined using:

(i) The oxygen or carbon dioxide measurements and particulate matter measurements obtained under this section,

(ii) The dry basis F factor, and

(iii) The dry basis emission rate calculation procedure contained in Method 19 (Appendix A).

(7) Method 9 is used for determining the opacity of stack emissions.

(e) To determine compliance with the emission limits for nitrogen oxides required under § 60.44b, the owner or operator of an affected facility shall conduct the performance test as required under § 60.8 using the continuous system for monitoring nitrogen oxides under § 60.48(b).

(1) For the initial compliance test, nitrogen oxides from the steam generating unit are monitored for 30 successive steam generating unit operating days and the 30-day average emission rate is used to determine compliance with the nitrogen oxides emission standards under § 60.44b. The 30-day average emission rate is calculated as the average of all hourly emissions data recorded by the monitoring system during the 30-day test period.

(2) Following the date on which the initial performance test is completed or is required to be completed under § 60.8 of this part, whichever date comes first, the owner or operator of an affected facility which combusts coal or which combusts residual oil having a nitrogen content greater than 0.30 weight percent shall determine compliance with the nitrogen oxides emission standards under § 60.44b on a continuous basis through the use of a 30-day rolling average emission rate. A new 30-day rolling average emission rate is calculated each steam generating unit operating day as the average of all of the hourly nitrogen oxides emission data for the preceding 30 steam generating unit operating days.

(3) Following the date on which the initial performance test is completed or is required to be completed under § 60.8 of this part, whichever date comes first, the owner or operator of an affected facility which has a heat input capacity greater than 73 MW (250 million Btu/hour) and which combusts natural gas, distillate oil, or residual oil having a nitrogen content of 0.30 weight percent or less shall determine compliance with the nitrogen oxides standards under § 60.44b on a continuous basis through the use of a 30-day rolling average emission rate. A new 30-day rolling average emission rate is calculated each steam generating unit operating day as the average of all of the hourly nitrogen oxides emission data for the preceding 30 steam generating unit operating days.

(4) Following the date on which the initial performance test is completed or required to be completed under § 60.8 of this part, whichever date comes first, the owner or operator of an affected facility which has a heat input capacity of 73 MW (250 million Btu/hour) or less and which combusts natural gas, distillate oil, or residual oil having a nitrogen content of 0.30 weight percent or less shall upon request determine compliance with the nitrogen oxides standards under § 60.44b through the use of a 30-day performance test. During periods when performance tests are not requested, nitrogen oxides emissions data collected pursuant to § 60.48b(g)(1) or § 60.48b(g)(2) are used to calculate a 30-day rolling average emission rate on a daily basis and used to prepare excess emission reports, but will not be used to determine compliance with the nitrogen oxides emission standards. A new 30-day rolling average emission rate is calculated each steam generating unit operating day as the average of all of the hourly nitrogen oxides emission data for the preceding 30 steam generating unit operating days.

(5) If the owner or operator of an affected facility which combusts residual oil does not sample and analyze the residual oil for nitrogen content, as specified in § 60.49b(e), the requirements of paragraph (iii) of this section apply and the provisions of paragraph (iv) of this section are inapplicable.

(f) To determine compliance with the emission limit for nitrogen oxides required by § 60.44b(a)(4) for duct burners used in combined cycle systems, the owner or operator of an affected facility shall conduct the performance test required under § 60.8 using the nitrogen oxides and oxygen measurement procedures in 40 CFR Part 60 Appendix A, Method 20. During the performance test, one sampling site shall be located as close as practicable to the exhaust of the turbine, as provided by section 6.1.1 of Method 20. A second sampling site shall be located at the outlet to the steam generating unit. Measurements of nitrogen oxides and oxygen shall be taken at both sampling sites during the performance test. The nitrogen oxides emission rate from the combined cycle system shall be calculated by subtracting the nitrogen oxides emission rate measured at the sampling site at the outlet from the turbine from the nitrogen oxides emission rate measured at the sampling site at the outlet from the steam generating unit.

§ 60.47b Emission monitoring for sulfur dioxide.

(a) Except as provided in paragraph (b) of this section, the owner or operator of an affected facility subject to the sulfur dioxide standards under § 60.42b shall install, calibrate, maintain, and operate continuous emission monitoring systems (CEMS) for measuring sulfur dioxide concentrations and either oxygen (O_2) or carbon dioxide (CO_2) concentrations and shall record the output of the systems. The sulfur dioxide and either oxygen or carbon dioxide concentrations shall both be monitored at the inlet and outlet of the sulfur dioxide control device.

(b) As an alternative to operating CEMS as required under paragraph (a) of this section, an owner or operator may elect to determine the average sulfur dioxide emissions and percent reduction by:

(1) Collecting coal or oil samples in an as-fired condition at the inlet to the steam generating unit and analyzing them for sulfur and heat content according to Method 19. Method 19 provides procedures for converting these measurements into the format to be used in calculating the average sulfur dioxide input rate, or

(2) Measuring sulfur dioxide according to Method 6B at the inlet or outlet to the sulfur dioxide control system. An initial stratification test is required to verify the adequacy of the Method 6B sampling

location. The stratification test shall consist of three paired runs of a suitable sulfur dioxide and carbon dioxide measurement train operated at the candidate location and a second similar train operated according to the procedures in Section 3.2 and the applicable procedures in Section 7 of Performance Specification 2. Method 6B, Method 6A, or a combination of Methods 6 and 3 or Methods 6C and 3A are suitable measurement techniques. If Method 6B is used for the second train, sampling time and timer operation may be adjusted for the stratification test as long as an adequate sample volume is collected; however, both sampling trains are to be operated similarly. For the location to be adequate for Method 6B 24-hour tests, the mean of the absolute difference between the three paired runs must be less than 10 percent.

(3) A daily sulfur dioxide emission rate, E_D, shall be determined using the procedure described in Method 6A, Section 7.6.2 (Equation 6A–8) and stated in ng/J (lb/million Btu) heat input.

(4) The mean 30-day emission rate is calculated using the daily measured values in ng/J (lb/million Btu) for 30 successive steam generating unit operating days using equation 19–20 of Method 19.

(c) The owner or operator of an affected facility shall obtain emission data for at least 75 percent of the operating hours in at least 22 out of 30 successive boiler operating days. If this minimum data requirement is not met with a single monitoring system, the owner or operator of the affected facility shall supplement the emission data with data collected with other monitoring systems as approved by the Administrator or the reference methods and procedures as described in paragraph (b) of this section.

(d) The 1-hour average sulfur dioxide emission rates measured by the CEMS required by paragraph (a) of this section and required under § 60.13(h) is expressed in ng/J or lb/million Btu heat input and is used to calculate the average emission rates under § 60.42b. Each 1-hour average sulfur dioxide emission rate must be based on more than 30 minutes of steam generating unit operation and include at least 2 data points with each representing a 15-minute period. Hourly sulfur dioxide emission rates are not calculated if the affected facility is operated less than 30 minutes in a 1-hour period and are not counted toward determination of a steam generating unit operating day.

(e) The procedures under § 60.13 shall be followed for installation, evaluation, and operation of the CEMS.

(1) All CEMS shall be operated in accordance with the applicable procedures under Performance Specifications 1, 2, and 3 (Appendix B).

(2) Quarterly accuracy determinations and daily calibration drift tests shall be performed in accordance with Procedure 1 (Appendix F).

(3) For affected facilities combusting coal or oil, alone or in combination with other fuels, the span value of the sulfur dioxide CEMS at the inlet to the sulfur dioxide control device is 125 percent of the maximum estimated hourly potential sulfur dioxide emissions of the fuel combusted, and the span value of the CEMS at the outlet to the sulfur dioxide control device is 50 percent of the maximum estimated hourly potential sulfur dioxide emissions of the fuel combusted.

§ 60.48b Emission monitoring for particulate matter and nitrogen oxides.

(a) The owner or operator of an affected facility subject to the opacity standard under § 60.43b shall install, calibrate, maintain, and operate a continuous monitoring system for measuring the opacity of emissions discharged to the atmosphere and record the output of the system.

(b) Except as provided in paragraphs (g) and (h) of this section, the owner or operator of an affected facility subject to the nitrogen oxides standard of § 60.44b(a) shall install, calibrate, maintain, and operate a continuous monitoring system for measuring nitrogen oxides emissions discharged to the atmosphere and record the output of the system.

(c) The continuous monitoring systems required under paragraph (b) of this section shall be operated and data recorded during all periods of operation of the affected facility except for continuous monitoring system breakdowns and repairs. Data is recorded during calibration checks, and zero and span adjustments.

(d) The 1-hour average nitrogen oxides emission rates measured by the continuous nitrogen oxides monitor required by paragraph (b) of this section and required under § 60.13(h) shall be expressed in ng/J or lb/million Btu heat input and shall be used to calculate the average emission rates under § 60.44b. The 1-hour averages shall be calculated using the data points required under § 60.13(b). At least 2 data points must be used to calculate each 1-hour average.

(e) The procedures under § 60.13 shall be followed for installation, evaluation, and operation of the continuous monitoring systems.

(1) For affected facilities combusting coal, wood or municipal-type solid waste, the span value for a continuous monitoring system for measuring opacity shall be between 60 and 80 percent.

(2) For affected facilities combusting coal, oil, or natural gas, the span value for nitrogen oxides is determined as follows:

Fuel	Span values for nitrogen oxides (PPM)
Natural gas	500
Oil	500
Coal	1,000
Mixtures	500(x + y) + 1,000z

where:

x is the fraction of total heat input derived from natural gas,

y is the fraction of total heat input derived from oil, and

z is the fraction of total heat input derived from coal.

(3) All span values computed under paragraph (e)(2) of this section for combusting mixtures of regulated fuels are rounded to the nearest 500 ppm.

(f) When nitrogen oxides emission data are not obtained because of continuous monitoring system breakdowns, repairs, calibration checks and zero and span adjustments, emission data will be obtained by using standby monitoring systems, Method 7, Method 7A, or other approved reference methods to provide emission data for a minimum of 75 percent of the operating hours in each steam generating unit operating day, in at least 22 out of 30 successive steam generating unit operating days.

(g) The owner or operator of an affected facility that has a heat input capacity of 73 MW (250 million Btu/hour) or less, and which has an annual capacity factor for residual oil having a nitrogen content of 0.30 weight percent or less, natural gas, distillate oil, or any mixture of these fuels, greater than 10 percent (0.10) shall:

(1) Comply with the provisions of paragraphs (b), (c), (d), (e)(2), (e)(3), and (f) of this section, or

(2) Monitor steam generating unit operating conditions and predict nitrogen oxides emission rates as specified in a plan submitted pursuant to § 60.49b(c).

(h) The owner or operator of an affected facility which is subject to the nitrogen oxides standards of § 60.44b(a)(4) is not required to install or operate a continuous monitoring system to measure nitrogen oxides emissions.

(Approved by the Office of Management and Budget under control number 2060–0072)

§ 60.49b Reporting and recordkeeping requirements.

(a) The owner or operator of each affected facility shall submit notification of the date of initial startup, as provided by § 60.7. This notification shall include:

(1) The design heat input capacity of the affected facility and identification of the fuels to be combusted in the affected facility,

(2) If applicable, a copy of any Federally enforceable requirement that limits the annual capacity factor for any fuel or mixture of fuels under § 60.42b(d)(1), § 60.43(b)(a)(2), § 60.43b(a)(3)(iii), § 60.43b(c)(2)(ii), § 60.43b(d)(2)(iii), § 60.44b(c), § 60.44b(d), § 60.44b(e), or § 60.45b(d),

(3) The annual capacity factor at which the owner or operator anticipates operating the facility based on all fuels fired and based on each individual fuel fired, and,

(4) Notification that an emerging technology will be used for controlling emissions of sulfur dioxide. The Administrator will examine the description of the emerging technology and will determine whether the technology qualifies as an emerging technology. In making this determination, the Administrator may require the owner or operator of the affected facility to submit additional information concerning the control device. The affected facility is subject to the provisions of § 60.42b(a) unless and until this determination is made by the Administrator.

(b) The owner or operator of each affected facility subject to the sulfur dioxide, particulate matter and nitrogen oxides emission limits under § 60.42b, § 60.43b, and § 60.44b, shall submit to the Administrator the performance test data from the initial performance test and the performance evaluation of the CEMS using the applicable performance specifications in Appendix B.

(c) The owner or operator of each affected facility subject to the nitrogen oxides standard of § 60.44b who seeks to demonstrate compliance with those standards through the monitoring of steam generating unit operating conditions under the provisions of § 60.48b(g)(2) shall submit to the Administrator for approval a plan that identifies the operating conditions to be monitored under § 60.48b(g)(2) and the records to be maintained under § 60.49b(j). This plan shall be submitted to the Administrator for approval within 360 days of the initial startup of the affected facility. The plan shall:

(1) Identify the specific operating conditions to be monitored and the relationship between these operating conditions and nitrogen oxides emission rates (i.e., ng/J or lbs/million Btu heat input). Steam generating unit operating conditions include, but are not limited to, the degree of staged combustion (i.e., the ratio of primary air to secondary and/or tertiary air) and the level of excess air (i.e., flue gas oxygen level);

(2) Include the data and information that the owner or operator used to identify the relationship between nitrogen oxides emission rates and these operating conditions;

(3) Identify how these operating conditions, including steam generating unit load, will be monitored under § 60.48b(g) on an hourly basis by the owner or operator during the period of operation of the affected facility; the quality assurance procedures or practices that will be employed to ensure that the data generated by monitoring these operating conditions will be representative and accurate; and the type and format of the records of these operating conditions, including steam generating unit load, that will be maintained by the owner or operator under § 60.49b(j).

If the plan is approved, the owner or operator shall maintain records of predicted nitrogen oxide emission rates and the monitored operating conditions, including steam generating unit load, identified in the plan.

(d) The owner or operator of an affected facility shall record and maintain records of the amounts of each fuel combusted during each day and calculate the annual capacity factor individually for coal, distillate oil, residual oil, natural gas, wood, and municipal-type solid waste for each calendar quarter. The annual capacity factor is determined on a 12-month rolling average basis with a new annual capacity factor calculated at the end of each calendar month.

(e) For affected facilities that: (1) Combust residual oil having a nitrogen content of 0.3 weight percent or less; (2) have heat input capacities of 73 MW (250 million Btu/hour) or less; and (3) monitor nitrogen oxides emissions or steam generating unit operating conditions under § 60.48b(g), the owner or operator shall maintain records of the nitrogen content of the oil combusted in the affected facility and calculate the average fuel nitrogen content on a per calendar quarter basis. The nitrogen content shall be determined using ASTM Method D3431–80, Test Method for Trace Nitrogen in Liquid Petroleum Hydrocarbons (IBR—see § 60.17), or fuel specification data obtained from fuel suppliers. If residual oil blends are being combusted, fuel nitrogen specifications may be prorated based on the ratio of residual oils of different nitrogen content in the fuel blend.

(f) For facilities subject to the opacity standard under § 60.43b, the owner or operator shall maintain records of opacity.

(9) For facilities subject to nitrogen oxides standards under § 60.44b, the owner or operator shall maintain records of the following information for each steam generating unit operating day:

(1) Calendar date.

(2) The average hourly nitrogen oxides emission rates (expressed as NO_2) (ng/J or lb/million Btu heat input) measured or predicted.

(3) The 30-day average nitrogen oxides emission rates (ng/J or lb/million Btu heat input) calculated at the end of each steam generating unit operating day from the measured or predicted hourly nitrogen oxide emission rates for the preceding 30 steam generating unit operating days.

(4) Identification of the steam generating unit operating days when the calculated 30-day average nitrogen oxides emission rates are in excess of the nitrogen oxides emissions standards under § 60.44b, with the reasons for such excess emissions as well as a description of corrective actions taken.

(5) Identification of the steam generating unit operating days for which pollutant data have not been obtained, including reasons for not obtaining sufficient data and a description of corrective actions taken.

(6) Identification of the times when emission data have been excluded from the calculation of average emission rates and the reasons for excluding data.

(7) Identification of "F" factor used for calculations, method of determination, and type of fuel combusted.

(8) Identification of the times when the pollutant concentration exceeded full span of the continuous monitoring system.

(9) Description of any modifications to the continuous monitoring system that could affect the ability of the continuous monitoring system to comply with Performance Specification 2 or 3.

(10) Results of daily CEMS drift tests and quarterly accuracy assessments as required under Appendix F, Procedure 1.

(h) The owner or operator of any affected facility in any category listed in paragraphs (h) (1) or (2) of this section is required to submit excess emission reports for any calendar quarter during which there are excess emissions from the affected facility. If there are no excess emissions during the calendar quarter, the owner or operator shall submit a report semiannually stating

that no excess emissions occurred during the semiannual reporting period.

(1) Any affected facility subject to the opacity standards under § 60.43b(e) or to the operating parameter monitoring requirements under § 60.13(i)(1).

(2) Any affected facility that is subject to the nitrogen oxides standard of § 60.44b, and that

(i) Combusts natural gas, distillate oil, or residual oil with a nitrogen content of 0.3 weight percent or less, or

(ii) Has a heat input capacity of 73 MW (250 million Btu/hour) or less and is required to monitor nitrogen oxides emissions on a continuous basis under § 60.48b(g)(1) or steam generating unit operating conditions under § 60.48b(g)(2).

(3) For the purpose of § 60.43b, excess emissions are defined as all 6-minute periods during which the average opacity exceeds the opacity standards under § 60.43b(f).

(4) For purposes of § 60.48b(g)(1), excess emissions are defined as any calculated 30-day rolling average nitrogen oxides emission rate, as determined under § 60.46b(e), which exceeds the applicable emission limits in § 60.44b.

(i) The owner or operator of any affected facility subject to the continuous monitoring requirements for nitrogen oxides under § 60.48(b) shall submit a quarterly report containing the information recorded under paragraph (g) of this section. All quarterly reports shall be postmarked by the 30th day following the end of each calendar quarter.

(j) The owner or operator of any affected facility subject to the sulfur dioxide standards under § 60.42b shall submit written reports to the Administrator for every calendar quarter. All quarterly reports shall be postmarked by the 30th day following the end of each calendar quarter.

(k) For each affected facility subject to the compliance and performance testing requirements of § 60.45b and the reporting requirement in paragraph (j) of this section, the following information shall be reported to the Administrator:

(1) Calendar dates covered in the reporting period.

(2) Each 30-day average sulfur dioxide emission rate (ng/J or lb/million Btu heat input) measured during the reporting period, ending with the last 30-day period in the quarter; reasons for noncompliance with the emission standards; and a description of corrective actions taken.

(3) Each 30-day average percent reduction in sulfur dioxide emissions calculated during the reporting period, ending with the last 30-day period in the quarter; reasons for noncompliance with the emission standards; and a description of corrective actions taken.

(4) Identification of the steam generating unit operating days that coal or oil was combusted and for which sulfur dioxide or diluent (oxygen or carbon dioxide) data have not been obtained by an approved method for at least 75 percent of the operating hours in the steam generating unit operating day; justification for not obtaining sufficient data; and description of corrective action taken.

(5) Identification of the times when emissions data have been excluded from the calculation of average emission rates; justification for excluding data; and description of corrective action taken if data have been excluded for periods other than those during which coal or oil were not combusted in the steam generating unit.

(6) Identification of "F" factor used for calculations, method of determination, and type of fuel combusted.

(7) Identification of times when hourly averages have been obtained based on manual sampling methods.

(8) Identification of the times when the pollutant concentration exceeded full span of the CEMS.

(9) Description of any modifications to the CEMS that could affect the ability of the CEMS to comply with Performance Specification 2 or 3.

(10) Results of daily CEMS drift tests and quarterly accuracy assessments as required under Appendix F, Procedure 1.

(11) The annual capacity factor of each fired as provided under paragraph (d) of this section.

(l) For each affected facility subject to the compliance and performance testing requirements of § 60.45b(d) and the reporting requirements of paragraph (j) of this section, the following information shall be reported to the Administrator:

(1) Calendar dates when the facility was in operation during the reporting period;

(2) The 24-hour average sulfur dioxide emission rate measured for each steam generating unit operating day during the reporting period that coal or oil was combusted, ending in the last 24-hour period in the quarter; reasons for noncompliance with the emission standards; and a description of corrective actions taken;

(3) Identification of the steam generating unit operating days that coal or oil was combusted for which sulfur dioxide or diluent (oxygen or carbon dioxide) data have not been obtained by an approved method for at least 75 percent of the operating hours; justification for not obtaining sufficient data; and description of corrective action taken.

(4) Identification of the times when emissions data have been excluded from the calculation of average emission rates; justification for excluding data; and description of corrective action taken if data have been excluded for periods other than those during which coal or oil were not combusted in the steam generating unit.

(5) Identification of "F" factor used for calculations, method of determination, and type of fuel combusted.

(6) Identification of times when hourly averages have been obtained based on manual sampling methods.

(7) Identification of the times when the pollutant concentration exceeded full span of the CEMS.

(8) Description of any modifications to the CEMS which could affect the ability of the CEMS to comply with Performance Specification 2 or 3.

(9) Results of daily CEMS drift tests and quarterly accuracy assessments as required under Appendix F, Procedure 1.

(m) For each affected facility subject to the sulfur dioxide standards under § 60.42b for which the minimum amount of data required under § 60.47b(f) were not obtained during a calendar quarter, the following information is reported to the Administrator in addition to that required under paragraph (k) of this section:

(1) The number of hourly averages available for outlet emission rates and inlet emission rates.

(2) The standard deviation of hourly averages for outlet emission rates and inlet emission rates, as determined in Method 19, Section 7.

(3) The lower confidence limit for the mean outlet emission rate and the upper confidence limit for the mean inlet emission rate, as calculated in Method 19, Section 7.

(4) The ratio of the lower confidence limit for the mean outlet emission rate and the allowable emission rate, as determined in Method 19, Section 7.

(n) If a percent removal efficiency by fuel pretreatment (i.e., % R_f) is used to determine the overall percent reduction (i.e., % R_o) under § 60.45b, the owner or operator of the affected facility shall submit a signed statement with the quarterly report:

(1) Indicating what removal efficiency by fuel pretreatment (i.e., % R_f) was credited for the calendar quarter;

(2) Listing the quantity, heat content, and date each pretreated fuel shipment was received during the previous calendar quarter; the name and location of the fuel pretreatment facility; and the total quantity and total heat content of

all fuels received at the affected facility during the previous calendar quarter;

(3) Documenting the transport of the fuel from the fuel pretreatment facility to the steam generating unit.

(4) Including a signed statement from the owner or operator of the fuel pretreatment facility certifying that the percent removal efficiency achieved by fuel pretreatment was determined in accordance with the provisions of Method 19 (Appendix A) and listing the heat content and sulfur content of each fuel before and after fuel pretreatment.

(o) All records required under this section shall be maintained by the owner or operator of the affected facility for a period of 2 years following the date of such record.

(Approved by the Office of Management and Budget under control number 2060-0135)

4. 40 CFR Part 60, Appendix A, is amended by revising Method 19 to read as follows:

Appendix A to Part 60—[Amended]

Method 19—Determination of Sulfur Dioxide Removal Efficiency and Particulate Matter, Sulfur Dioxide, and Nitrogen Oxides Emission Rates

1. Applicability and Principle

1.1 Applicability. This method is applicable for (a) determining particulate matter (PM), sulfur dioxide (SO_2), and nitrogen oxides (NO_x) emission rates; (b) determining sulfur removal efficiencies of fuel pretreatment and SO_2 control devices; (c) determining overall reduction of potential SO_2 emissions from steam generating units or other sources as specified in applicable regulations; and (d) determining SO_2 rates based on fuel sampling and analysis procedures.

1.2 Principle.

1.2.1 Pollutant emission rates are determined from concentrations of PM, SO_2, or NO_x, and oxygen (O_2) or carbon dioxide (CO_2) along with F factors (ratios of combustion gas volumes to heat inputs).

1.2.2 An overall SO_2 emission reduction efficiency is computed from the efficiency of fuel pretreatment systems (optional) and the efficiency of SO_2 control devices.

1.2.3 The sulfur removal efficiency of a fuel pretreatment system is determined by fuel sampling and analysis of the sulfur and heat contents of the fuel before and after the pretreatment system.

1.2.4 The SO_2 removal efficiency of a control device is determined by measuring the SO_2 rates before and after the control device.

1.2.5 The inlet rates to SO_2 control systems and when SO_2 control systems are not used, SO_2 emission rates to the atmosphere may be determined by fuel sampling and analysis (optional).

2. Emission Rates of Particulate Matter, Sulfur Dioxide, and Nitrogen Oxides

Select from the following sections the applicable procedure to compute the PM, SO_2, or NO_x emission rate (E) in ng/J (lb/million Btu). The pollutant concentration must be in ng/scm (lb/scf) and the F factor must be in scm/J (scf/million Btu). If the pollutant concentration (C) is not in the appropriate units, use the following table to make the proper conversion:

CONVERSION FACTORS FOR CONCENTRATION

From	To	Multiply by
g/scm	ng/scm	10^9
mg/scm	ng/scm	10^6
lb/scf	ng/scm	1.602×10^{13}
ppm SO_2	ng/scm	2.66×10^6
ppm NO_x	ng/scm	1.912×10^6
ppm SO_2	lb/scf	1.660×10^{-7}
ppm NO_x	lb/scf	1.194×10^{-7}

An F factor is the ratio of the gas volume of the products of combustion to the heat content of the fuel. The dry F factor (F_d) includes all components of combustion less water, the wet F factor (F_w) includes all components of combustion, and the carbon F factor (F_c) includes only carbon dioxide.

Note: Since F_w factors include water resulting only from the combustion of hydrogen in the fuel, the procedures using F_w factors are not applicable for computing E from steam generating units with wet scrubbers or with other processes that add water (e.g., steam injection)

2.1 Oxygen-Based F Factor, Dry Basis. When measurements are on a dry basis for both O_2 ($\%O_{2d}$) and pollutant (C_d) concentrations, use the following equation:

$$E = C_d F_d [20.9/(20.9 - \%O_{2d})] \quad \text{Eq. 19-1}$$

2.2 Oxygen-Based F Factor, Wet Basis. When measurements are on a wet basis for both O_2 ($\%O_{2w}$) and pollutant (C_w) concentrations, use either of the following:

2.2.1 If the moisture fraction of ambient air (B_{wa}) is measured:

$$E = [C_w F_w 20.9]/[20.9(1 - B_{wa}) - \%O_{2w}] \quad \text{Eq. 19-2}$$

Instead of actual measurement, B_{wa} may be estimated according to the procedure below. (**Note:** The estimates are selected to ensure that negative errors will not be larger than −1.5 percent. However, positive errors, or over-estimation of emissions, of as much as 5 percent may be introduced depending upon the geographic location of the facility and the associated range of ambient moisture):

2.2.1.1 $B_{wa} = 0.027$. This value may be used at any location at all times.

2.2.1.2 B_{wa} = Highest monthly average of B_{wa} that occurred within the previous calendar year at the nearest Weather Service Station. This value shall be determined annually and may be used as an estimate for the entire current calendar year.

2.2.1.3 B_{wa} = Highest daily average of B_{wa} that occurred within a calendar month at the nearest Weather Service Station, calculated from the data from the past 3 years. This value shall be computed for each month and may be used as an estimate for the current respective calendar month.

2.2.2 If the moisture fraction (B_{ws}) of the effluent gas is measured:

$$E = C_w F_d \{20.9/[20.9(1 - B_{ws}) - \%O_{2w}]\{ \quad \text{Eq. 19-3}$$

2.3 Oxygen-Based F Factor, Dry/Wet Basis.

2.3.1 When the pollutant concentration is measured on a wet basis (C_w) and O_2 concentration is measured on a dry basis ($\%O_{2d}$), use the following equation:

$$E = \{[C_w F_d)/(1 - B_{ws})]/[20.9/(20.9 - \%O_{2d})]$$
Eq. 19-4

2.3.2 When the pollutant concentration is measured on a dry basis (C_d) and the O_2 concentration is measured on a wet basis ($\%O_{2w}$), use the following equation:

$$E = [C_d F_d 20.9]/[20.9 - O_{2w}/(1 - B_{ws})]$$
Eq. 19-5

2.4 Carbon Dioxide-Based F Factor, Dry Basis. When measurements are on a dry basis for both CO_2 ($\%CO_{2d}$) and pollutant (C_d) concentrations, use the following equation:

$$E = C_d F_c (100/\%CO_{2d}) \quad \text{Eq. 19-6}$$

2.5 Carbon Dioxide-Based F Factor, Wet Basis. When measurements are on a wet basis for both CO_2 ($\%CO_{2w}$) and pollutant (C_w) concentrations, use the following equation:

$$E = C_w F_c (100/\%CO_{2w}) \quad \text{Eq. 19-7}$$

2.6 Carbon Dioxide-Based F Factor, Dry/Wet Basis.

2.6.1 When the pollutant concentration is measured on a wet basis (C_w) and CO_2 concentration is measured on a dry basis ($\%CO_{2d}$), use the following equation:

$$E = [C_w F_c/(1 - B_{ws})] (100/\%CO_{2d}) \quad \text{Eq. 19-8}$$

2.6.2 When the pollutant concentration is measured on a dry basis (C_d) and CO_2 concentration is measured on a wet basis ($\%CO_{2w}$), use the following equation:

$$E = C_d(1 - B_{ws})F_c(100/\%CO_{2w}) \quad \text{Eq. 19-9}$$

2.7 Direct-Fired Reheat Fuel Burning. The effect of direct-fired reheat fuel burning (for the purpose of raising the temperature of the exhaust effluent from wet scrubbers to above the moisture dew-point) on emission rates will be less than ±1.0 percent and, therefore, may be ignored.

2.8 Combined Cycle-Gas Turbine Systems. For gas turbine-steam generator combined cycle systems, determine the emissions from the steam generating unit or the percent reduction in potential SO_2 emissions as follows:

2.8.1 Compute the emission rate from the steam generating unit using the following equation:

$$E_{bo} = E_{co} + (H_g/H_b)(E_{co} - E_g) \quad \text{Eq. 19-10}$$

where:

E_{bo} = pollutant emission rate from the steam generating unit, ng/J (lb/million Btu).

E_{co} = pollutant emission rate in combined effluent, ng/J (lb/million Btu).

E_g = pollutant rate from gas turbine, ng/J (lb/million Btu).

H_b = heat input rate to the steam generating unit from fuels fired in the steam generating unit, J/hr (million Btu/hr).

H_g = heat input rate to gas turbine from all fuels fired in the gas turbine, J/hr (million Btu/hr).

2.8.1.1 Use the test methods and procedures section of Subpart GG to obtain E_{co} and E_g. Do not use F_w factors for determining E_g or E_{co}. If an SO_2 control device is used, measure E_{co} after the control device.

2.8.1.2 Suitable methods shall be used to determine the heat input rates to the steam generating units (H_b) and the gas turbine (H_g).

2.8.2 If a control device is used, compute the percent of potential SO_2 emissions (% P_s) using the following equations:

$$E_{bi} = E_{ci} - (H_g/H_b)(E_{ci} - E_g) \quad \text{Eq. 19-11}$$

$$\%\ P_s = 100\ [1 - E_{bo}/E_{bi}] \quad \text{Eq. 19-12}$$

where:

E_{bi} = pollutant rate from the steam generating unit, ng/J (lb/million Btu)

E_{ci} = pollutant rate in combined effluent, ng/J (lb/million Btu).

Use the test methods and procedures section of Subpart GG to obtain E_{ci} and E_g. Do not use F_w factors for determining E_g or E_{ci}.

3. F Factors

Use an average F factor according to Section 3.1 or determine an applicable F factor according to Section 3.2. If combined fuels are fired, prorate the applicable F factors using the procedure in Section 3.3.

3.1 Average F Factors. Average F factors (F_d, F_w, or F_c) from Table 19-1 may be used.

TABLE 19-1.—F FACTORS FOR VARIOUS FUELS [1]

Fuel type	F_d		F_w		F_c	
	dscm/J	dscf/10^6 Btu	wscm/J	wscf/10^6 Btu	scm/J	scf/10^6 Btu
Coal:						
Anthracite [2]	2.71×10^{-7}	10,100	2.83×10^{-7}	10,540	0.530×10^{-7}	1,970
Bituminous [2]	2.63×10^{-7}	9,780	2.86×10^{-7}	10,640	0.484×10^{-7}	1,800
Lignite	2.65×10^{-7}	9,860	3.21×10^{-7}	11,950	0.513×10^{-7}	1,910
Oil [3]	2.47×10^{-7}	9,190	2.77×10^{-7}	10,320	0.383×10^{-7}	1,420
Gas:						
Natural	2.43×10^{-7}	8,710	2.85×10^{-7}	10,610	0.287×10^{-7}	1,040
Propane	2.34×10^{-7}	8,710	2.74×10^{-7}	10,200	0.321×10^{-7}	1,190
Butane	2.34×10^{-7}	8,710	2.79×10^{-7}	10,390	0.337×10^{-7}	1,250
Wood	2.48×10^{-7}	9,240			0.492×10^{-7}	1,830
Wood Bark	2.58×10^{-7}	9,600			0.516×10^{-7}	1,920
Municipal	2.57×10^{-7}	9,570			0.488×10^{-7}	1,820
Solid Waste						

[1] Determined at standard conditions: 20 °C (68 °F) and 760 mm Hg (29.92 in. Hg).
[2] As classified according to ASTM D388-77.
[3] Crude, residual, or distillate.

3.2 Determined F Factors. If the fuel burned is not listed in Table 19-1 or if the owner or operator chooses to determine an F factor rather than use the values in Table 19-1, use the procedure below:

3.2.1 Equations. Use the equations below, as appropriate, to compute the F factors:

$$F_d = K[(K_{hd}\%H) + (K_c\%C) + (K_s\%S) + (K_n\%N) - (K_o\%O)]/GCV \quad \text{Eq. 19-13}$$

$$F_w = K[(K_{hw}\%H) + (K_c\%C) + (K_s\%S) + (K_n\%N) - (K_o\%O) + (K_w\%H_2O)]/GCV_w \quad \text{Eq. 19-14}$$

$$F_c = K(K_{cc}\%C)/GCV \quad \text{Eq. 19-15}$$

(Note.—Omit the $\%H_2O$ term in the equations for F_w if %H and %O include the unavailable hydrogen and oxygen in the form of H_2O.)

where:

F_d, F_w, F_c = volumes of combustion components per unit of heat content, scm/J (scf/million Btu).

%H, %C, %S, %N, %O, and $\%H_2O$ = concentrations of hydrogen, carbon, sulfur, nitrogen, oxygen, and water from an ultimate analysis of fuel, weight percent.

GCV = gross calorific value of the fuel consistent with the ultimate analysis, kJ/kg (Btu/lb).

K = conversion factor, 10^{-5} (kJ/J)/(%) [10^{-6} Btu/million Btu].

K_{hd} = 22.7 (scm/kg)[(3.64 (scf/lb)/(%)].
K_c = 9.57 (scm/kg)[(1.53 (scf/lb)/(%)].
K_s = 3.54 (scm/kg) [(0.57 (scf/lb)/(%)].
K_n = 0.86 (scm/kg [0.14 (scf/lb)/(%)].
K_o = 2.85 (scm/kg) [0.46 (scf/lb)/(%)].
K_{hw} = 34.74 (scm/kg) [(5.57 (scf/lb)/(%)].
K_w = 1.30 (scm/kg) [(0.21 (scf/lb)/(%)].
K_{cc} = 2.0 (scm/kg) [(0.321 (scf/lb)/(%)].

3.2.2 Use applicable sampling procedures in Section 5.2.1 or 5.2.2 to obtain samples for analyses.

3.2.3 Use ASTM D3176-74 (incorporated by reference—see § 60.17) for ultimate analysis of the fuel.

3.2.4 Use applicable methods in Section 5.2.1 or 5.2.2 to determine the heat content of solid or liquid fuels. For gaseous fuels, use ASTM D1826-77 (IBR—see § 60.17) to determine the heat content.

3.3 F Factors for Combination of Fuels. If combinations of fuels are burned, use the following equations, as applicable unless otherwise specified in applicable subpart:

$$F_d = \sum_{k=1}^{n} X_k F_{dk} \quad \text{Eq. 19-16}$$

$$F_w = \sum_{k=1}^{n} X_k F_{wk} \quad \text{Eq. 19-17}$$

$$F_c = \sum_{k=1}^{n} X_k F_{ck} \quad \text{Eq. 19-18}$$

where:

X_k = fraction of total heat input from each type of fuel k.

n=number of fuels being burned in combination.

4. Determination of Average Pollutant Rates

4.1 Average Pollutant Rates from Hourly Values. When hourly average pollutant rates (E_h), inlet or outlet, are obtained (e.g., CEMS values), compute the average pollutant rate (E_a) for the performance test period (e.g., 30 days) specified in the applicable regulation using the following equation:

$$E_a = (1/H) \sum_{j=1}^{n} E_{hj}$$

Eq. 19-19

where:

E_a=average pollutant rate for the specified performance test period, ng/J (lb/million Btu).

E_h=hourly average pollutant, ng/J (lb/million Btu).

H=total number of operating hours for which pollutant rates are determined in the performance test period.

4.2 Average Pollutant Rates from Other than Hourly Averages. When pollutant rates are determined from measured values representing longer than 1-hour periods (e.g., daily fuel sampling and analyses or Method 6B values), or when pollutant rates are determined from combinations of 1-hour and longer than 1-hour periods (e.g., CEMS and Method 6B values), compute the average pollutant rate (E_a) for the performance test period (e.g., 30 days) specified in the applicable regulation using the following equation:

$$E_a = [\sum_{j=1}^{D} (n_d E_d)_j] / \sum_{j=1}^{D} n_{dj}$$

Eq. 19-20

where:

E_d=average pollutant rate for each sampling period (e.g., 24-hr Method 6B sample or 24-hr fuel sample) or for each fuel lot (e.g., amount of fuel bunkered), ng/J (lb/million Btu).

n_d=number of operating hours of the affected facility within the performance test period for each E_d determined.

D=number of sampling periods during the performance test period.

5. Determination of Overall Reduction in Potential Sulfur Dioxide Emission

5.1 Overall Percent Reduction. Compute the overall percent SO_2 reduction ($\%R_o$) using the following equation:

$\%R_o = 100\,[1.0-(1.0-\%R_f/100)(1.0-\%R_g/100)]$ Eq. 19-21

where:

$\%R_f$=SO_2 removal efficiency from fuel pretreatment, percent.

$\%R_g$=SO_2 removal efficiency of the control device, percent.

5.2 Pretreatment Removal Efficiency (Optional). Compute the SO_2 removal efficiency from fuel pretreatment ($\%R_f$) for the averaging period (e.g., 90 days) as specified in the applicable regulation using the following equation:

$$\%R_f = 100\,\{1.0 - [\sum_{j=1}^{n} (\%S_{pj}/GCV_{pj})\,L_{pj}]/[\sum_{j=1}^{n} (\%S_{rj}/GCV_{rj})\,L_{rj}]\}$$ Eq. 19-22

where:

$\%S_p$, $\%S_r$=sulfur content of the product and raw fuel lots, respectively, dry basis weight percent.

GCV_p, GCV_r=gross calorific value for the product and raw fuel lots, respectively, dry basis, kg/kg (Btu/lb).

L_p, L_r=weight of the product and raw fuel lots, respectively, metric ton (ton).

n=number of fuel lots during the averaging period.

Note: In calculating $\%R_f$, include %S and GCV values for all fuel lots that are not pretreated and are used during the averaging period.

5.2.1 Solid Fossil (Including Waste) Fuel—Sampling and Analysis.

Note: For the purposes of this method, raw fuel (coal or oil) is the fuel delivered to the desulfurization (pretreatment) facility. For oil, the input oil to the oil desulfurization process (e.g., hydrotreatment) is considered to be the raw fuel.

5.2.1.1 Sample Increment Collection. Use ASTM D2234–76 (IBR—see § 60.17), Type I, Conditions A, B, or C, and systematic spacing. As used in this method, systematic spacing is intended to include evenly spaced increments in time or increments based on equal weights of coal passing the collection area.

As a minimum, determine the number and weight of increments required per gross sample representing each coal lot according to Table 2 or Paragraph 7.1.5.2 of ASTM D2234–76. Collect one gross sample for each lot of raw coal and one gross sample for each lot of product coal.

5.2.1.2 ASTM Lot Size. For the purpose of Section 5.2 (fuel pretreatment), the lot size of product coal is the weight of product coal from one type of raw coal. The lot size of raw coal is the weight of raw coal used to produce one lot of product coal. Typically, the lot size is the weight of coal processed in a 1-day (24-hour) period. If more than one type of coal is treated and produced in 1 day, then gross samples must be collected and analyzed for each type of coal. A coal lot size equaling the 90-day quarterly fuel quantity for a steam generating unit may be used if representative sampling can be conducted for each raw coal and product coal.

Note: Alternative definitions of lot sizes may be used, subject to prior approval of the Administrator.

5.2.1.3 Gross Sample Analysis. Use ASTM D2013–72 to prepare the sample, ASTM D3177–75 or ASTM D4239–85 to determine sulfur content (%S), ASTM D3173–73 to determine moisture content, and ASTM D2015–77 or ASTM D3286–85 to determine gross calorific value (GCV) (all methods cited IBR—see § 60.17) on a dry basis for each gross sample.

5.2.2 Liquid Fossil Fuel—Sampling and Analysis. See **Note** under Section 5.2.1.

5.2.2.1 Sample Collection. Follow the procedures for continuous sampling in ASTM D270–65 (Reapproved 1975) (IBR—see § 60.17) for each gross sample from each fuel lot.

5.2.2.2 Lot Size. For the purpose of Section 5.2 (fuel pretreatment), the lot size of a product oil is the weight of product oil from one pretreatment facility and intended as one shipment (ship load, barge load, etc.). The lot size of raw oil is the weight of each crude liquid fuel type used to produce a lot of product oil.

Note: Alternative definitions of lot sizes may be used, subject to prior approval of the Administrator.

5.2.2.3 Sample Analysis. Use ASTM D129–64 (Reapproved 1978), ASTM D1552–83, or ASTM D4057–81 to determine the sulfur content (%S) and ASTM D240–76 (all methods cited IBR—see § 60.17) to determine the GCV of each gross sample. These values may be assumed to be on a dry basis. The owner or operator of an affected facility may elect to determine the GCV by sampling the oil combusted on the first steam generating unit operating day of each calendar month and then using the lowest GCV value of the three GCV values per quarter for the GCV of all oil combusted in that calendar quarter.

5.2.3 Use appropriate procedures, subject to the approval of the Administrator, to determine the fraction of total mass input derived from each type of fuel.

5.3 Control Device Removal Efficiency. Compute the percent removal efficiency ($\%R_g$

of the control device using the following equation:

$$\%R_g = 100[1.0 - E_{ao}/E_{ai}] \quad \text{Eq. 19-23}$$

where:

E_{ao}, E_{ai} = average pollutant rate of the control device, outlet and inlet, respectively, for the performance test period, ng/J (lb/million Btu).

5.3.1 Use continuous emission monitoring systems or test methods, as appropriate, to determine the outlet SO_2 rates and, if appropriate, the inlet SO_2 rates. The rates may be determined as hourly (E_h) or other sampling period averages (E_d). Then, compute the average pollutant rates for the performance test period (E_{ao} and E_{ai}) using the procedures in Section 4.

5.3.2 As an alternative, as-fired fuel sampling and analysis may be used to determine inlet SO_2 rates as follows:

5.3.2.1 Compute the average inlet SO_2 rate (E_{di}) for each sampling period using the following equation:

$$E_{di} = K\ (\%S/GCV) \quad \text{Eq. 19-24}$$

where:

E_{di} = average inlet SO_2 rate for each sampling period d, ng/J (lb/million Btu)

% S = sulfur content of as-fired fuel lot, dry basis, weight percent.

GCV = gross calorific value of the fuel lot consistent with the sulfur analysis, kJ/kg (Btu/lb).

$K = 2\times10^7$[(kg)(ng)/(%)(J)]{2×10^4(lb)(Btu/(%))(million Btu)}

After calculating E_{di} use the procedures in Section 4.2 to determine the average inlet SO_2 rate for the performance test period (E_{ai}).

5.3.2.2 Collect the fuel samples from a location in the fuel handling system that provides a sample representative of the fuel bunkered or consumed during a steam generating unit operating day.

For the purpose of as-fired fuel sampling under Section 5.3.2 or Section 6, the lot size for coal is the weight of coal bunkered or consumed during each steam generating unit operating day. The lot size for oil is the weight of oil supplied to the "day" tank or consumed during each steam generating unit operating day.

For reporting and calculation purposes, the gross sample shall be identified with the calendar day on which sampling began. For steam generating unit operating days when a coal-fired steam generating unit is operated without coal being added to the bunkers, the coal analysis from the previous "as bunkered" coal sample shall be used until coal is bunkered again. For steam generating unit operating days when an oil-fired steam generating unit is operated without oil being added to the oil "day" tank, the oil analysis from the previous day shall be used until the "day" tank is filled again.

Alternative definitions of fuel lot size may be used, subject to prior approval of the Administrator.

5.3.2.3 Use ASTM procedures specified in Section 5.2.1 or 5.2.2 to determine the sulfur contents (%S) and gross calorific values (GCV).

6. Sulfur Retention Credit for Compliance Fuel

If fuel sampling and analysis procedures in Section 5.2.1 are being used to determine average SO_2 emission rates (E_{as}) to the atmosphere from a coal-fired steam generating unit when there is no SO_2 control device, the following equation may be used to adjust the emission rate for sulfur retention credits (no credits are allowed for oil-fired systems) (E_{di}) for each sampling period using the following equation:

$$E_{di} = 0.97\ K\ (\%S/GCV) \quad \text{Eq. 19-25}$$

where:

E_{di} = average inlet SO_2 rate for each sampling period d, ng/J (lb/million Btu)

%S = sulfur content of as-fired fuel lot, dry basis, weight percent.

GCV = gross calorific value of the fuel lot consistent with the sulfur analysis, kJ/kg (Btu/lb).

$K = 2\times10^7$[(kg)(ng)/(%)(J)] {2×10^4(lb)(Btu/(%))(million Btu)}

After calculating E_{di} use the procedures in Section 4–2 to determine the average SO_2 emission rate to the atmosphere for the performance test period (E_{ao}).

7. Determination of Compliance When Minimum Data Requirement Is Not Met

7.1 Adjusted Emission Rates and Control Device Removal Efficiency. When the minimum data requirement is not met, the Administrator may use the following adjusted emission rates or control device removal efficiencies to determine compliance with the applicable standards.

7.1.1 Emission Rate. Compliance with the emission rate standard may be determined by using the lower confidence limit of the emission rate (E_{ao}^*) as follows:

$$E_{ao}^* = E_{ao} - t_{0.95}\ S_o \quad \text{Eq. 19-26}$$

where:

S_o = standard deviation of the hourly average emission rates for each performance test period, ng/J (lb/million Btu).

$t_{0.95}$ = values shown in Table 19-2 for the indicated number of data points n.

7.1.2 Control Device Removal Efficiency. Compliance with the overall emission reduction ($\%R_o$) may be determined by using the lower confidence limit of the emission rate (E_{ao}^*) and the upper confidence limit of the inlet pollutant rate (E_{ai}^*) in calculating the control device removal efficiency ($\%R_g$) as follows:

$$\%R_g = 100\ [1.0 - E_{ao}^*/E_{ai}^*] \quad \text{Eq. 19-27}$$

$$E_{ai}^* = E_{ai} + t_{0.95}\ S_i \quad \text{Eq. 19-28}$$

where:

S_i = standard deviation of the hourly average inlet pollutant rates for each performance test period, ng/J (lb/million Btu).

TABLE 19-2.—VALUES FOR $T_{0.95}$

n[1]	$t_{0.95}$	n[1]	$t_{0.95}$	n[1]	$t_{0.95}$
2	6.31	8	1.89	22-26	1.71
3	2.42	9	1.86	27-31	1.70
4	2.35	10	1.83	32-51	1.68
5	2.13	11	1.81	59-91	1.67
6	2.02	12-16	1.77	92-151.	1.66
7	1.94	17-21	1.73	152 or more.	1.65

[1] The values of this table are corrected for n-1 degrees of freedom. Use n equal to the number (H) of hourly average data points.

7.2 Standard Deviation of Hourly Average Pollutant Rates. Compute the standard deviation (S_e) of the hourly average pollutant rates using the following equation:

$$\sqrt{(1/H) - (1/H_r)}\ \left\{\sqrt{\left[\sum_{j=1}^{H}(E_{hj} - E_a)^2\right]/(H-1)}\right\} \quad \text{Eq. 19-29}$$

where:

S = standard deviation of the hourly average pollutant rates for each performance test period, ng/J (lb/million Btu).

H_r = total numbers of hours in the performance test period (e.g., 720 hours for 30-day performance test period).

Equation 19-29 may be used to compute the standard deviation for both the outlet (S_o) and, if applicable, inlet (S_i) pollutant rates.

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Part III

Environmental Protection Agency

40 CFR Parts 86 and 600

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines and Fuel Economy of Motor Vehicles; Emissions Certification and Test Procedures, Fuel Economy Test Procedures; Technical Amendments; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 86 and 600

[AMS-FRL-3255-2]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines and Fuel Economy of Motor Vehicles; Emissions Certification and Test Procedures, Fuel Economy Test Procedures; Technical Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule makes a variety of technical amendments to the procedures used to test vehicles and engines for compliance with emission standards. Principle among these amendments is the delay of the 1988 oxides of nitrogen (NO_x) exhaust emission standards for heavy-duty gasoline and diesel engines and certain light-duty trucks to the 1990 model year. The light-duty trucks affected are those with gross vehicle weights exceeding 6,000 lbs. The nonconformance penalties (NCPs) available for heavy-duty diesel engine NO_x emissions are also delayed to the 1990 model year. The changes are being made in accordance with a remand from the United States Court of Appeals for the District of Columbia Circuit. Also among these amendments is the inclusion of a special preconditioning procedure for diesel-fueled vehicles that have experienced either a long period of non-use or only very short, intermittent operation over an extended period of time immediately prior to emissions testing. The new procedure should result in more accurate measurement of particulate emissions from these vehicles. The remaining technical amendments correct minor errors that have been found in the vehicle certification and test procedure regulations, provide increased flexibility without affecting the stringency of applicable requirements, or make minor modifications to the regulatory language to improve its clarity.

DATE: This final rule is effective December 16, 1987. However, manufacturers may elect to delay test procedure-related changes it cannot easily implement immediately for up to six months following publication.

ADDRESS: Material relevant to this rulemaking may be obtained from the U.S. Environmental Protection Agency, Office of Mobile Sources, Emission Control Technology Division, Standards Development and Support Branch, 2565 Plymouth Road, Ann Arbor, MI 48105.

FOR FURTHER INFORMATION CONTACT: John Mueller, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4275.

SUPPLEMENTARY INFORMATION: This final rulemaking contains technical amendments to 40 CFR Part 86 (Control of Air Pollution for New Motor Vehicles and New Motor Vehicles Engines: Certification and Test Procedures) and 40 CFR Part 600 (Fuel Economy of Motor Vehicles). These amendments: (1) Delay the 1988 NO_x exhaust emission standards for heavy-duty gasoline and diesel engines and light-duty trucks exceeding 6,000 lbs. in gross vehicle weight to the 1990 model year; (2) allow a special preconditioning procedure to stabilize the exhaust systems of diesel-fueled light-duty vehicles and trucks (LDDs) that have experienced either an extended period of inactivity or intermittent, limited usage immediately prior to emissions testing; and (3) make other minor changes to the regulations. These technical amendments are briefly described below.

Heavy-duty Engine NO_x Standards

NO_x exhaust standards for 1988 and later model year light-duty trucks, heavy-duty gasoline and heavy-duty diesel engines were promulgated by EPA on March 15, 1985 [50 FR 10606]. These standards limit the NO_x exhaust emissions of heavy-duty vehicles or engines (HDVs) to 6.0 grams per brake horsepower-hour (g/BHP-hr), as measured under transient operating conditions. For light-duty trucks, the NO_x standards are 1.2 grams per vehicle mile (g/mi) for trucks up to and including 3,750 lbs. loaded vehicle weight (LVW), and 1.7 g/mi for trucks exceeding 3.750 lbs. LVW.

In response to the Agency's action, the Engine Manufacturers Association (EMA) and others sued EPA, arguing among other things that the 1988 implementation date for the NO_x standards affecting HDVs did not allow for four years of lead time, as required by section 202(a)(3)(B) of the Clean Air Act. EPA had provided a shorter lead time, since the statute also required promulgation of revised NOx standards by 1985, and since the lead time provided was adequate to meet the standards set. The United States Court of Appeals for the District of Columbia Circuit found that EPA nevertheless was required to provide four years of lead time and thus that the NO_x standards for all heavy-duty engines could not go into effect until the 1990 model year.[1] Since section 202(a)(3)(B)'s four-year lead time requirement applies to all vehicles with gross vehicle weights (GVW) exceeding 6,000 lbs, the court also found that the NO_x standard for heavier light-duty trucks (those exceeding 6,000 lbs. GVW) must also be delayed until 1990.

In response to the Court's remand, this technical amendment package changes the 1988 effective date of the NO_x standards to the 1990 model year. This delay in the effective date applies to heavy-duty engines and heavy light-duty trucks having a gross vehicle weight exceeding 6,000 lbs. As a result, the NO_x standards which were to have been superseded in the 1988 model year will continue in effect through the 1989 model year. These standards are 10.7 g/BHP-hr for HDVs and 2.3 g/mi for light-duty trucks over 6,000 lbs GVW. Light-duty trucks over 3,750 lbs LVW but under 6,000 lbs GVW remain subject to the 1.7 g/mi standard.

Two other provisions directly tied to the NO_x standards are also delayed. These are the NO_x non-conformance penalties and the NO_x averaging provisions. Since the delayed standard for light-duty trucks might force manufacturers to split some engine families between the older 2.3 g/mi standard and the 1.2/1.7 g/mi standards, an option is also included by which manufacturers may elect to certify some or all of their over 6,000 lb. GVW light-duty truck families to the 1.2/1.7 g/mi NO_x standards (and related regulatory provisions).

Special Preconditioning Procedure

At the EPA Public Workshop on Particulate Test Procedures held in July 1985, both Daimler-Benz and Peugeot submitted evidence which they said showed that "abnormal treatment" of light-duty diesels (LDDs) immediately prior to certification testing can have a substantial adverse effect on particulate test results. The claimed abnormal treatment consisted of long periods of non-use or only minimal operation and/or transportation of the vehicle or truck without its engine running. The claimed effect on emissions was an often drastic, but very temporary, increase in measured particulate. As the manufacturers pointed out, such an unrepresentative emissions increase could cause the vehicle to fail the more stringent particulate standards that became effective in the 1987 model year.

Both manufacturers argued that their laboratory tests show that the increase

[1] *Natural Resources Defense Council* v. *Thomas*, 805 F.2d 410, 436 (D.C. Cir. 1986).

in particulate emissions is due to the inclusion of large, non-combustion related particles in the particulate sample. These large particles apparently are the result of exhaust system rusting and normal muffler deterioration. Long periods of minimal usage appear to lead to the accumulation of a large quantity of this material in the exhaust system. The accumulation may be further increased by the loosening of such material during the transporting of LDDs. This accumulated material is subsequently collected during compliance testing. In addition, the manufacturers claimed that these particles are the same as those emitted, but not measured, from gasoline-fueled vehicles which received similarly abnormal treatment prior to testing.

Manufacturers may have been permitted to precondition an LDD before conducting the emissions test to stabilize the exhaust system. As specified in § 86.132–82(a)(3), up to three cycles of the Urban Dynamometer Driving Schedule (UDDS) may be performed for this purpose. However, the manufacturers claimed their test data show that the current preconditioning procedure is insufficient to adequately purge the non-carbonaceous material from the exhaust systems of abnormally handled vehicles when testing at low particulate levels. As an alternative, Daimler-Benz recommended a special preconditioning cycle which would stabilize the exhaust systems over a relatively short period of operation. Daimler-Benz also subsequently submitted additional test data to support this recommendation.

During this period, Peugeot also provided the Agency with a suggested preconditioning procedure and supporting data. Peugeot's recommended preconditioning cycle is based upon a current driving schedule: the Highway Fuel Economy Driving Schedule. The special preconditioning suggested by Peugeot is composed of two highway fuel economy test schedules run in succession, with the dynamometer set to simulate twice the normal road load specified in § 86.129–80. This procedure is simpler, shorter, and, since it uses a current driving schedule, easier to implement than the cycle proposed by Daimler-Benz. Peugeot stated that its procedure is equivalent in its effect to the Daimler-Benz preconditioning cycle. Daimler-Benz has agreed that Peugeot's recommended procedure is satisfactory.

In reviewing the test data supplied by the manufacturers, the Agency finds that the significant concentration of non-carbonaceous matter collected from abnormally treated vehicles during the emissions test is not representative of normal vehicle operation, and was not observed in the baseline test data used to set the relevant standards. Consequently, allowing this unrepresentative particulate matter to be purged from the exhaust systems of abnormally treated vehicles should not affect the stringency of the standards. Therefore, EPA has decided to allow the special preconditioning procedure recommended by Peugeot for abnormally treated vehicles. Of course, the opportunity to use this new procedure will be available to any manufacturer whose LDD meets the criteria for abnormal treatment.

For the purposes of determining the availability of the special preconditioning procedure, an "abnormally treated" vehicle is defined as an LDD that is operated for less than five miles in the thirty-day period immediately prior to emissions testing. The standard preconditioning treatment of up to three urban diesel driving schedules will continue to be available for vehicles in storage for less than this time.

A vehicle which has not been in storage but has had non-carbonaceous matter loosened by transportation without engine operation is not included in the definition of an "abnormally treated" vehicle. While not judging the significance of this transportation-induced effect, EPA believes it can easily be avoided; the regulations do not require the manufacturers to deliver their vehicles to EPA's Motor Vehicle Emissions Laboratory for testing without the vehicles' engines running. Test vehicles may be driven to the testing facility, thus preventing any transportation-related loosening of non-carbonaceous material. (Advisory Circular 23A discusses the shipment of light-duty vehicles and trucks to the EPA for testing.) Therefore, EPA sees no need to include vehicles not driven to EPA's testing facility in the definition of an "abnormally treated" vehicle.

Particulate Test Procedure

A significant number of these technical amendments make minor changes to the heavy-duty diesel engine (HDDE) particulate test procedure. Because this test procedure will be used to certify HDDEs to the MY 1988 particulate standards, it is important that any uncertainties or questions be resolved. Therefore, EPA has been working closely with the Engine Manufacturers Association (EMA) to identify areas of the test procedure which should be changed or clarified to provide a more accurate measurement of particulate emissions.

Among these changes are a variety of amendments intended to clarify and increase the flexibility of the procedures for the storing and weighing of reference and sample particulate filters. Also included are amendments which will provide additional flexibility at the beginning of sampling to allow for transient start-up effects of the particulate sampling system. The remainder of the technical amendments concerning the HDDE particulate test procedure are intended to clarify ambiguous wording, allow the manufacturers more flexibility where possible and correct errors and past omissions.

Other Technical Amendments

The remaining amendments contained in this rulemaking make minor changes to allow more flexibility in complying with the applicable requirements, clarify the regulatory intent, or correct errors. Each of these minor amendments and the rationale for each change are summarized in the Appendix to this preamble.

Public Participation

By issuing these amendments directly as a final rule, EPA is foregoing the issuance of a Notice of Proposed Rulemaking (NPRM). Such a curtailed procedure is permitted by section 307(d) of the Clean Air Act when the Agency for good cause finds that issuance of a proposal is impracticable, unnecessary or contrary to the public interest. EPA finds that in this case. One purpose of this action is to conform the effective dates of the HDE NO_x standards to the D.C. Circuit's decision in *NRDC v. Thomas*. Since the court's 1986 opinion specified the required delay, the vehicle manufacturers have been forewarned of the change in effective dates, and there is no issue for public comment. The other revisions made by this rule are all minor and technical in nature as they make no significant changes to applicable regulatory requirements. For the same reasons, EPA finds that there is good cause to make these amendments effective on the date of publication.

Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because the amendments make only minor and technical changes. Also, this regulation will not result in increased

costs for consumers, industries, or others, nor should it have adverse effects on competition, employment, investment, or productivity.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Reporting and Recordkeeping Requirements

The information collection requirements contained in the rules that this action amends have been approved by OMB and assigned OMB Control Number 2060-0104. The amendments contained in this final rule have no effect on the existing reporting or recordkeeping burden.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Administrator of EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities and, if so, perform a regulatory flexibility analysis. The technical amendments contained in this rulemaking will not increase the burden or cost of compliance for any segment of the automotive industry. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

40 CFR Part 86

Administrative practice and procedure, Air pollution control, Gasoline, Labeling, Motor vehicles, Motor vehicle pollution, Reporting and recordkeeping requirements.

40 CFR Part 600

Administrative practice and procedure, Electric power, Energy conservation, Fuel economy, Gasoline, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

Date: November 17, 1987.

Lee M. Thomas,

Administrator.

APPENDIX.—TABLE OF SPECIFIC CHANGES

Section	Change	Reason
1. Pt. 86 Authority	None.	
2. Pt. 600 Authority	None.	
3. 86.084-14(c)(7)(i)(A)(*3*)	Add "in each engine family."	Clarification.
(c)(11)(ii)(B)(*13*)	Delete "items." Add "or manufacturer" following "supplier."	Correction. Same as above.
4. 86.084-26(a)(4)(i)	Combine paragraphs (i) and (ii) and add provisions for mileage at testing.	Increase flexibility.
(a)(4)(ii)	Old paragraph (a)(4)(iii).	Renumber to accommodate above change.
5. 86.085-2	Add definition of an "abnormally treated vehicle."	Used in the special preconditioning cycle of § 86.132-82.
	Add the words "(and in the case of evaporative emission regulations, for gasoline-fueled heavy-duty vehicles)" to paragraph (c) of the definition of "useful life."	Clarification Full-life useful life applies for all HDGE emission standards, including evaporative standards.
6. 86.085-21(b)(5), (b)(6), (b)(7), (b)(8).	Add provisions regarding recommended maintenance and emission-data test fleet composition.	Inadvertently deleted by 48 FR 33463.
7. 86.087-8(a)(1)(i)	Change exhaust emissions to "(0.26 grams per vehicle kilometer)."	Correction for rounding error. Current value implies greater accuracy than achieved.
(a)(1)(ii)	Change exhaust emissions to "(2.1 grams per vehicle kilometer)."	Same as above.
(a)(1)(iii)	Change to "(0.63 grams per vehicle kilometer)."	Same as above.
(a)(i)(iv)	Change to "(0.12 grams per vehicle kilometer)."	Same as above.
8. 86.087-9(a)(1)(iv)	Change to "(0.16 grams per vehicle kilometer)."	Same as above.
(d)(1)(iii)	Change to "(1.4 grams per vehicle kilometer)."	Same as above.
9. 86.087-21(b)(7), (b)(8)	Add provisions regarding recommended maintenance and emission-data test fleet composition..	Inadvertently deleted by 40 FR 33463.
10. 86-088-9(a)(1)(iii)(B)	Add "and 6,000 lbs. or less gross vehicle weight."	Accommodate 2-year delay of 1988 NOx standard.
(a)(1)(iii)(C)	Add provisions for class 2a LDTs.	Same as above.
(a)(1)(iii)(D)	Formerly paragraph (a)(1)(iii)(C).	Same as above.
(d)(1)(iii)(B)	Add "and 6,000 lbs. or less gross vehicle weight."	Accommodate 2-year delay of 1988 NOx standard.
(d)(1)(iii)(C)	Add provisions for class 2a LDTs.	Same as above.
11. 86.088-10(a)(1)(i)(C)	Replace "6.0" with "10.6."	Same as above.
(a)(1)(ii)(C)	Same as above.	Same as above.
12. 86.088-11(a)(1)(iii)	Replace "6.0" with "10.7."	Same as above.
13. 86.088-21(b)(7), (b)(8)	Add provisions regarding recommended maintenance and emission data test fleet composition.	Inadvertently deleted by 40 FR 33463.
14. 86.088-35(a)(2)	Add "and heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions."	Include special labeling requirements for heavy-duty vehicles certified in accordance with the light-duty truck provisions.
(a)(2)(iii)(E)	For light-duty trucks, provide separate weight related label statements..	Make possible statements of compliance with less stringent NOx standards.
(d)	Add "and heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions."	Include special labeling requirements for heavy-duty vehicles certified in accordance with the light-duty truck provisions.
	Reword references to curb weight, gross vehicle weight rating and frontal area limits.	Clarify that all of the limits are applicable to the completed vehicle.
	For light-duty trucks, provide separate weight related label statements.	Make possible statements of compliance with less stringent NOx standards.

APPENDIX.—TABLE OF SPECIFIC CHANGES—Continued

Section	Change	Reason
15. 86.090-9	Add section for 1990 LDT standards	Accommodate 2-year delay of 1988 NOx standard.
16. 86.090-10	Add section for 1990 HDG standards	Same as above.
17. 86.090-11	Add section for 1990 HDD standards	Same as above.
18. 86.091-21(b)(1)(ii)(A)	Delete "preliminary."	Correction.
(b)(1)(ii)(B)	Delete "preliminary."	Correction.
(b)(4)(iii)	Delete entire section.	Eliminate redundant wording.
(b)(5)(i)(A), (b)(5)(i)(B), (b)(5)(i)(C), (b)(5)(ii), (b)(5)(iii)(A), (b)(5)(iii)(B), (b)(5)(iv).	Combine sections (b)(4)(iii) and (b)(6)(iii) into one section	Same as above.
(b)(6)	Formerly section (b)(5)	Renumber to account for elimination of redundant wording.
(b)(7)	Formerly section (b)(6), old section (b)(6)(iii) deleted	Same as above.
19. 86.110-82(c)(3)	Change recommended minimum nominal filter loading from 2 mg to 0.5 mg.	Current recommended minimum is unnecessarily high given specifications for weighing balance and diesel particulate level.
	Specify "primary" in reference to filter	Clarify that the nominal filter load refers to the load on the primary filter.
20. 86.112-82(a)(3)	Change "contamints" to "contaminants."	Correction.
	Change parenthetical expression "(minimum 2 milligrams)" to "(minimum 0.5 milligrams)."	Make consistent with § 86.110-82(c)(3).
	Change allowable reference filter weight variation from 1.0 percent to 2.0 percent.	Current recommended value is unnecessarily stringent given change in minimum nominal filter loading in § 86.110-82.
21 86.118-78(c)	Replace " ' " with "-" in equation	Correction.
22. 86.123-78(a)(11)	Add parentheses to equation	Correction.
23. 86.132-82(a)(3)	Add optional preconditioning cycle for diesel-fueled light-duty vehicles and light-duty trucks.	Provide a more representative measurement of particulate emissions.
24. 86.139-82(d)	Add provision lengthening amount of time a particulate filter may be outside of weighing chamber prior to use.	Provide additional flexibility and make consistent with heavy-duty test procedures in § 86.1339(d).
25. 86.332-79(b)(11)	Add parentheses to equation	Correction.
	Defined concentrations in equation	Clarification.
26. 86.513-87(a)	Change unleaded fuel octane specification for motorcycles from "96" to "93.".	Make consistent with fuel used in testing LDVs, HDGVs, and HDGEs.
27. 86.523-78(a)(11)	Add parentheses to equation	Correction.
28. 86.884-7(a)(1)	Change Dynamometer control requirements to allow compliance using current transient dynamometry.	Provide additional facilities flexibility.
(a)(2)(v)	Add provision to allow ±10 ft-lbs of torque in the first 0.5 second of the acceleration modes.	Provide an allowance for negative torques.
(a)(3)(i)	Change to specify using the maximum horsepower developed during the preconditioning prior to the smoke cycle.	Correct to allow the use of available data during production engine audits.
(a)(3)(ii)	Delete "(within 50 RPM)."	Not needed with current transient dynamometry.
29. 86.884-12(a)	Specify where fuel temperature is to be measured	Clarification.
(c)(9)(iv)	Add "and reset" after "rechecked."	Provides improved accuracy of results for subsequent runs.
(c)(11)	Specify the check span response to be the linearity check	Clarify the definition.
30. 86.1105-87(b)(1)	Change 1988 implementation of NCPs for HDDE NOx emissions to 1990.	Accommodate 2-year delay of 1988 Ox standard.
31 86.1308-84(e)(2)(iii)	Add "case or."	Clarification.
32. 86.1310-88(b)(1)(iv)(A)	Add provision to allow ±20 °F(±11 °C) of primary and secondary dilution air in the first 10 seconds of sampling.	Allow for sampling system start-up transients.
(b)(3)(v)(D)	Change "0.457 cm" pipe dimension to "0.483 cm."	Correction.
(b)(6)(ii)(C)	Add provision to allow ±20 °F (±11 °C) of secondary dilution air in the first 10 seconds of sampling.	Same as above.
33. 86.1312-88 (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8).	Add provisions regarding stabilization of reference filters and criteria regarding invalidation of reference filter weighings.	Clarification and increased flexibility of reference filter weighing procedure.
34. 86.1313-87	Change specification of RVP range in Table N87-1 from "8.7-9.2" to "8.0-9.2."	Make consistent with fuel used in testing LDVs and MCs when evap. testing is not involved.
35. 86.1319-84(c)(7)(iv)	Revise description of the variables in the calibration equation.	Clarification.
(e)(2)	Add instructions for determining the weight of a reference propane cylinder.	Clarification.
36. 86.1320-88(a)(1)(i)	Replace "upstream of" with "in series with."	Clarification.
	Add "or an NBS traceable flow calibration device" after "flow element."	Add flexibility.
(a)(1)(ii)	Add provision for checking flow system for leaks	Clarification.
(a)(3)	Replace "and" with "or" after "5 minutes."	Correction.
(a)(5)	Add "at least two additional" after "using."	Clarification.

APPENDIX.—TABLE OF SPECIFIC CHANGES—Continued

Section	Change	Reason
	Replace "are 10 percent above and 10 percent below the nominal sampling rate" with "bracket the typical operating range.".	Add flexibility.
(a)(6)	Delete "by more than ±1 percent" and "three."	Same as above.
	Add "by ±1.0 percent of the maximum operating range or ±2.0 percent of the point (whichever is smaller)" after "flow rates.".	Same as above.
(a)(6)(i)	Delete "-in 1 percent of" and "three."	Same as above.
	Add "using the criteria of (6) above" after "flow rates."	Same as above.
(a)(6)(ii)	Delete "three" and "that represents the data to within 1 percent at all points.".	Same as above.
	Add provision for accuracy of points on calibration curve	Same as above.
(a)(7)	Add provision for accuracy of secondary dilution flow measurement devices..	Same as above.
37. 86.1321-84 (a)(3)(i), (a)(3)(ii)	Differentiate optimization procedures for gasoline and diesel fueled engines.	Clarification.
38. 86.1327-84(f)(2)(iii)	Change the recommended insulation thickness to a minimum requirement.	Assure proper sampling.
39. 86.1327-88(f)(2)(i)(E)	Same as above	Same as above.
40. 86.1330-84(b)(1)	Add ", except as permitted by § 86.1335-84."	Correction.
(f)	Add provision requiring the manufacturer to specify inlet restrictions.	Clarification.
41. 86.1332-84(c)	Revise the calculation of the maximum mapping speed for gasoline and diesel engines.	Clarify the calculation for ungoverned engines.
(e)(1)(i)	Revise to allow equivalent curve fitting techniques for mapping gasoline engines.	Provide flexibility in numerical analysis.
42. 86.13.3-84(a)	Change "(f)(1) and (2)" to "(f)(1), (2), and (3)."	Correct an omission.
(a)(3)	Add provisions for determining the torque values of "closed rack motoring" points.	Clarification.
(b)	In the last line of the paragraph change "284 ft-lbs" to "294 ft-lbs.".	Numerical error.
(d), (d)(1), (d)(2)	Change terminology from automatic chokes to automatic cold start enhancement devices. Also specify (f)(1), (f)(2), or (f)(3) of Appendix I in the cycle specification.	Clarify requirements for alternate cold start system (e.g. diesels) and cycle, specifications.
(d)(3)	Change terminology from automatic chokes to automatic cold start enhancement devices. Also specify (f)(1) or (f)(3) of Appendix I in the cycle specification.	Same as above.
	Change "engines" to "gasoline engines."	Clarify requirements for gasoline engines.
(d)(4)	Add provision specifying cycle validation criteria for diesel engines.	Clarify requirements for diesel engines.
43 86.1334-84(a)(2)	Change soak time requirements	Provide flexibility in engine soak time requirements.
44. 86.1335-84(e)(1)	Add "for a minimum of 10 minutes" and "the forced cooldown apparatus shall be shut off during this measurement.".	Clarify forced cooldown requirement.
45. 86.1336-84	Change title from "Engine starting and restarting," to "Engine starting, restarting, and shutdown.".	Add reference to new engine shutdown procedures.
(d), (e)	Add new paragraph (d) applying to engine shutdown procedures and redesignate old paragraph (d) as (e).	Improve correlation by standardizing engine shutdown procedures.
(e)(2)(ii)	Allow conditional hot-start, resoak, and restart combinations	Provide flexibility in regulations.
46. 86.1337-84(a)(10)	Delete "cease sampling."	Remove an incorrect requirement.
(a)(11)	Reword to emphasize isolation of the exhaust system from the CVS.	Clarification.
47. 86.1337-88(a)(10)	Add "1" after "25±."	Correction.
(a)(10)(ii)	Add provision for adjusting sample flow with flow compensation.	Clarification.
48. 86.1338-84	Add "exhaust emission sample" to describe analyzer	Same as above.
49. 86.1339-88(a)	Replace "an open" with "a closed (to eliminate dust contamination) but unsealed (to permit humidity exchange).".	Clarification.
(g)	Replace entire paragraph with new defintion of particulate filter weight (P_f).	Correction.
(g)(1)	Delete entire paragraph	Not needed with new definition of particulate filter weight (P_f).
(g)(2)	Delete entire paragraph	Same as above.
50. 86.1341-84	Reword to more accurately describe the test validation criteria.	Clarification.
	Edit Figure N84-11	Correction and clarification.
51 86.1342-84(c)(3)	Remove "/T."	Correction.
(d)(5)	Revise dilution factor equation	Correction.
52. 86.1343-88(b)(8)	Add provision for use of real time flow rate equipment	Provide additional facilities flexibility.

APPENDIX.—TABLE OF SPECIFIC CHANGES—Continued

Section	Change	Reason
53. Pt. 86—Appendix I(f)	Reword test schedule headings as MVMA and EPA cycles. Also change several rpm and torque values, the record section heading, and several incorrect record seconds.	Clarification and correction.
54.600.306–86	Change reference § 500.307–86(b)(5) to § 600.307–86(c)	Correction.

For the reasons set forth in the preamble, 40 CFR Parts 86 and 600 are amended as follows:

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

1. The authority citation for Part 86 continues to read as follows:

Authority: 42 U.S.C. 7521, 7522, 7525, 7541, 7542, and 7601.

2. Section 86.084–14 of Subpart A is amended by revising paragraphs (c)(7)(i)(A)(*3*) and (c)(11)(ii)(B)(*13*) to read as follows:

§ 86.084–14 Small-volume manufacturers certification procedures.

* * * * *

(c) * * *

(7) * * *

(i) * * *

(A) * * *

(*3*) *Heavy-duty diesel engines.* The manufacturer shall select in each engine family the worst case emission data engine based on the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at the rated speed.

* * * * *

(11) * * *

(ii) * * *

(B) * * *

(*13*) Suppliers' and/or manufacturers' name and model number of any emission-related items identified in paragraphs (c)(11)(ii)(B) (*1*) through (*12*) of this section, if purchased from a supplier or manufacturer who uses the items in its own certified vehicle(s) or engine(s).

* * * * *

3. Section 86.084–26 of Subpart A is amended by removing (a)(4)(iii) and revising paragraphs (a)(4) (i) and (ii) to read as follows:

§ 86.084–26 Mileage and service accumulation; emission measurements.

(a) * * *

(4) * * *

(i) *Durability-data vehicles.* (A) Unless otherwise provided for in § 86.085–23(a), each durability-data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of this procedure.

(B) Complete exhaust emission tests shall be made at test point mileage intervals that the manufacturer determines.

(C) At a minimum, two complete exhaust emission tests shall be made. The first test shall be made at a distance not greater than 6,250 miles. The last test shall be made at 50,000 miles.

(D) The mileage interval between test points must be of equal length except for the interval between zero miles and the first test and any interval before or after testing conducted in conjunction with vehicle maintenance as specified in § 86.085–25(a)(10).

(ii) The manufacturer may, at its option, alter the durability-data vehicle at the selected test point to represent emission-data vehicle(s) within the same engine/system combination and perform emission tests on the altered vehicle. Upon completion of emission testing, the manufacturer must return the test vehicle to the durability-data vehicle configuration prior to the continuation of mileage accumulation.

* * * * *

4. Section 86.085–2 of Subpart A is amended by adding a new definition for "Abnormally treated vehicle" and revising paragraph (c) of the definition for "Useful life" to read as follows:

§ 86.085–2 Definitions.

* * * * *

"Abnormally treated vehicle", any diesel light-duty vehicle or diesel light-duty truck that is operated for less than five miles in a 30 day period immediately prior to conducting a particulate emissions test.

* * * * *

"Useful life" means:

* * * * *

(c) For a gasoline-fueled heavy-duty engine family (and in the case of evaporative emission regulations, for gasoline-fueled heavy-duty vehicles), a period of use of 8 years or 110,000 miles, whichever first occurs.

* * * * *

5. Section 86.085–21 is amended by adding and reserving paragraphs (b)(5) and (b)(6), and adding paragraphs (b)(7) and (b)(8) to read as follows:

§ 86.085–21 Application for certification.

* * * * *

(b) * * *

(5) [Reserved]

(6) [Reserved]

(7) For each light-duty vehicle engine family, a statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(8) For each light-duty vehicle engine family, the proposed composition of the emission-data test fleet and the durability-data test fleet.

* * * * *

6. Section 86.087–8 of Subpart A is amended by revising paragraphs (a)(1) (i), (ii), (iii), and (iv) to read as follows.

§ 86.087–8 Emission standards for 1987 light-duty vehicles.

(a)(1) * * *

(i) *Hydrocarbons.* 0.41 grams per vehicle mile (0.26 grams per vehicle kilometer).

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile (2.1 grams per vehicle kilometer).

(iii) *Oxides of nitrogen.* 1.0 grams per vehicle mile (0.63 grams per vehicle kilometer).

(iv) *Particulate emissions.* (diesels only). 0 20 gram per vehicle mile (0.12 grams per vehicle kilometer). A manufacturer may elect to include all or some of its diesel light-duty vehicle engine families in the particulate averaging program, provided that vehicles produced for sale in California or in designated high-altitude areas may be averaged only within each of these areas. If the manufacturer elects to average diesel light-duty vehicles and diesel light-duty trucks together in the particulate averaging program, its composite particulate standard applies to the combined set of diesel light-duty

vehicles and diesel light-duty trucks included in the average and is calculated as defined in § 86.087–2.

* * * * *

7. Section 86.087–9 of Subpart A is amended by revising paragraphs (a)(1)(iv) and (d)(1)(iii) to read as follows:

§ 86.087–9 Emission standards for 1987 and later model year light duty trucks.

(a)(1) * * *

(iv) *Particulate emissions* (diesels only). 0.26 grams per vehicle mile (0.16 grams per vehicle kilometer). A manufacturer may elect to include all or some of its diesel light-duty truck engine families in the particulate averaging program, provided that trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. If the manufacturer elects to average both diesel light-duty vehicles and diesel light-duty trucks together in the particulate averaging program, its composite particulate standard applies to the combined set of diesel light-duty vehicles and diesel light-duty trucks included in the average and is calculated as defined in § 86.087–2.

* * * * *

(d)(1) * * *

(iii) *Oxides of nitrogen.* 2.3 grams per vehicle mile (1.4 grams per vehicle kilometer).

* * * * *

8. Section 86.087–21 of Subpart A is amended by adding paragraphs (b)(7) and (b)(8) to read as follows:

§ 86.087–21 Application for certification.

* * * * *

(b) * * *

(7) For each light-duty vehicle engine family, a statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(8) For each light-duty vehicle engine family, the proposed composition of the emission-data test fleet and the durability-data test fleet.

* * * * *

9. Section 86.088–9 of Subpart A is amended by revising paragraphs (a)(1)(iii) and (d)(1)(iii), to read as follows:

§ 86.088–9 Emission standards for 1988 and later model year light-duty trucks.

(a)(1) * * *

(iii) *Oxides of nitrogen.* (A) For light-duty trucks up to and including 3,750 lbs. loaded vehicle weight and 6,000 lbs. or less gross vehicle weight, 1.2 grams per vehicle mile (0.75 grams per vehicle kilometer).

(B) For light-duty trucks greater than 3,750 lbs. loaded vehicle weight and 6,000 lbs. or less gross vehicle weight, 1.7 grams per vehicle mile (1.1 grams per vehicle kilometer).

(C) For light-duty trucks 6,001 lbs. gross vehicle weight and greater, 2.3 grams per vehicle mile (1.4 grams per vehicle kilometer). As an option, a manufacturer may elect to certify all or some of its engine families for light-duty trucks of 6,001 lbs gross vehicle weight and greater according to paragraphs (a)(1)(iii)(A), or (a)(1)(iii)(B) of this section, as applicable for the loaded vehicle weight. Such vehicles could also be included in the averaging program of paragraph (a)(1)(iii)(D) of this section.

(D) A manufacturer may elect to include all or some of its light-duty truck engine families in paragraphs (a)(1)(iii)(A) and (a)(1)(iii)(B) of this section in the NO_x averaging program, provided that trucks produced for sale in California or in designated high altitude areas may be averaged only within each of those areas. Diesel and gasoline fueled engine families may not be averaged together. If the manufacturer elects to average together NO_x emissions of light-duty trucks subject to the standards of paragraphs (a)(1)(iii)(A), and (a)(1)(iii)(B) of this section, its composite NO_x standard applies to the combined fleets of light-duty trucks up to and including, and over 3,750 lbs. loaded vehicle weight and 6,000 lbs. or less gross vehicle weight included in the average and is calculated as defined in § 86.088–2.

* * * * *

(d)(1) * * *

(iii) *Oxides of nitrogen.* (A) For light-duty trucks up to and including 3,750 lbs. loaded vehicle weight and 6,000 lbs. or less gross vehicle weight, 1.2 grams per vehicle mile (0.75 grams per vehicle kilometer).

(B) For light-duty trucks greater than 3,750 lbs. loaded vehicle weight and 6,000 lbs. or less gross vehicle weight, 1.7 grams per vehicle mile (1.1 grams per vehicle kilometer).

(C) For light-duty trucks 6,001 lbs. gross vehicle weight and greater, 2.3 grams per vehicle mile (1.4 grams per vehicle kilometer). As an option, a manufacturer may elect to certify all or some of its engine families for light-duty trucks of 6,001 lbs. gross vehicle weight and greater according to paragraphs (d)(1)(iii)(A), or (d)(1)(iii)(B) of this section, as applicable for the loaded vehicle weight.

* * * * *

10. Section 86.088–10 of Subpart A is amended by revising the section heading and paragraphs (a)(1)(i)(C) and (a)(1)(ii)(C), to read as follows:

§ 86.088–10 Emission standards for 1988 and 1989 model year gasoline-fueled heavy-duty engines and vehicles.

(a)(1) * * *

(i) * * *

(C) *Oxides of nitrogen.* 10.6 grams per brake horsepower-hour, as measured under transient operating conditions.

(ii) * * *

(C) *Oxides of nitrogen.* 10.6 grams per brake horsepower-hour, as measured under transient operating conditions.

* * * * *

11. Section 86.088–11 is amended by revising paragraph (a)(1)(iii), to read as follows:

§ 86.088–11 Emission standards for 1988 and later model year diesel heavy-duty engines.

(a) * * *

(1) * * *

(iii) *Oxides of nitrogen.* 10.7 grams per brake horsepower-hour, as measured under transient operating conditions.

* * * * *

12. Section 86.088–21 of Subpart A is amended by adding paragraphs (b)(7) and (b)(8) to read as follows:

§ 86.088–21 Application for certification.

* * * * *

(b) * * *

(7) For each light-duty vehicle engine family, a statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance and the equipment required

(8) For each light-duty vehicle engine family, the proposed composition of the emission-data test fleet and the durability-data test fleet

* * * * *

13. Section 86.088–35 of Subpart A is amended by revising the introductory text of paragraph (a)(2), and paragraphs (a)(2)(iii)(E), and (d) to read as follows:

§ 86.088–35 Labeling.

(a) * * *

(2) *Light duty trucks and heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions.*

* * * * *

(iii) * * *

(E)(*1*) *Light-duty trucks* one of the prominent statements, as applicable:

(*i*) Labels for light-duty trucks certified to the oxides of nitrogen standard of 1.2 grams per vehicle mile shall include the following statement:

"This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light-Duty Trucks."

(*ii*) Labels for light-duty trucks certified to the oxides of nitrogen standard of 1.7 grams per vehicle mile shall include the following statement:

"This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light-Duty Trucks with a curb weight greater than 3,450 pounds."

(*iii*) Labels for light-duty trucks certified to the oxides of nitrogen standard of 2.3 grams per vehicle miles shall include the following statement:

"This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light Duty Trucks with a gross vehicle weight rating greater than 6,000 pounds."

(*2*) *Heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions.* "This heavy-duty vehicle conforms to the U.S. EPA regulations applicable to 19— Model Year Light-Duty Trucks under the special provision of 40 CFR 86.085–1(b).

* * * * *

(d) Incomplete light-duty trucks and incomplete heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions shall have one of the following prominent statements, as applicable, printed on the label required by paragraph (a)(2) of this section in lieu of the statement required by paragraph (a)(2)(iii)(E) of this section.

(1) *Light-duty trucks.* (i) Labels for light-duty trucks certified to the oxides of nitrogen standard of 1.2 grams per vehicle mile shall include the following statement:

"This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light-Duty Trucks when it does not exceed _____ pounds in curb weight, _____ pounds in gross vehicle weight rating, and _____ square feet in frontal area."

(ii) Labels for light-duty trucks certified to the oxides of nitrogen standards of 1.7 grams per vehicle mile shall include the following statement:

"This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light-Duty Trucks when it is between 3,450 pounds and _____ pounds in curb weight and it does not exceed _____ pounds in gross vehicle weight rating nor _____ square feet in frontal area."

(iii) Labels for light-duty trucks certified to the oxides of nitrogen standard of 2.3 grams per vehicle mile shall include the following statement:

"This vehicle conforms to U.S. EPA regulations applicable to 19— Model Year New Light-Duty Trucks when it is between 3,450 pounds and _____ pounds in curb weight, between 6,000 pounds and _____ pounds in gross vehicle weight rating and it does not exceed _____ square feet in frontal area."

(2) *Heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions.* "This heavy-duty vehicle conforms to the U.S. EPA regulations applicable to 19— Model Year Light-Duty Trucks under the special provision of 40 CFR 86.085–1(b) when it does not exceed _____ pounds in curb weight, _____ pounds in gross vehicle weight rating, and _____ square feet in frontal area."

* * * * *

14. A new § 86.090–9 is added, to read as follows:

§ 86.090–9 Emission standards for 1990 and later model year light-duty trucks.

(a)(1) The standards set forth in paragraphs (a) through (c) of this section shall apply to light-duty trucks sold for principal use at other than a designated high-altitude location. Exhaust emissions from 1990 and later model year light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 0.8 gram per vehicle mile (0.5 gram per vehicle kilometer).

(ii)(A) *Carbon monoxide.* 10 grams per vehicle mile (6.2 grams per vehicle kilometer).

(B) 0.50 percent of exhaust gas flow at curb idle (gasoline-fueled light-duty trucks only).

(iii) *Oxides of nitrogen.* (A) For light-duty trucks up to and including 3,750 lbs. loaded vehicle weight, 1.2 grams per vehicle mile (0.75 gram per vehicle kilometer).

(B) For light-duty trucks 3,751 lbs. and greater loaded vehicle weight, 1.7 grams per vehicle mile (1.1 grams per vehicle kilometer).

(C) A manufacturer may elect to include all or some of its light-duty truck engine families in the NO_x averaging program, provided that trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. Diesel and gasoline-fueled engine families may not be averaged together. If the manufacturer elects to average together NO_x emissions of light-duty trucks subject to the standards of paragraphs (a)(1)(iii)(A) and (a)(1)(iii)(B) of this section, its composite NO_x standard applies to the combined fleets of light-duty trucks up to and including, and over 3,750 lbs. loaded vehicle weight included in the average and is calculated as defined in § 86.088–2.

(iv) *Particulate emissions* (diesel light-duty trucks only) 0.26 grams per vehicle mile (0.16 grams per vehicle kilometer). A manufacturer may elect to include all or some of its diesel light-duty truck engine families in the particulate averaging program, provided that trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. If the manufacturer elects to average both diesel light-duty vehicles and diesel light-duty trucks together in the particulate averaging program, its composite particulate standard applies to the combined set of diesel light-duty vehicles and diesel light-duty trucks included in the average and is calculated as defined in § 86.085–2.

(2) The standards set forth in paragraphs (a)(1)(i), (a)(1)(ii)(A), (a)(1)(iii), and (a)(1)(iv) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures. The standard set forth in paragraph (a)(1)(ii)(B) of this section refers to the exhaust emitted at curb idle and measured and calculated in accordance with the procedures set forth in Subpart P of this part.

(b)(1) Fuel evaporative emissions from 1990 and later model year gasoline-fueled light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1990 and later model year light-duty truck.

(d)(1) Model year 1990 and later light-duty trucks sold for principal use at a designated high-altitude location shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions:

(i) *Hydrocarbons.* 1.0 grams per vehicle mile (0.62 grams per vehicle kilometer);

(ii) *Carbon Monoxide.* (A) 14 grams per vehicle mile (8.7 grams per vehicle kilometer).

(B) 0.50 percent of exhaust gas flow at curb idle (gasoline-fueled light-duty trucks only).

(iii) *Oxides of Nitrogen.* (A) For light-duty trucks up to and including 3,750 lbs.

loaded vehicle weight, 1.2 grams per vehicle mile (0.75 grams per vehicle kilometer).

(B) For light-duty trucks 3,751 lbs. and greater loaded vehicle weight, 1.7 grams per vehicle mile (1.1 grams per vehicle kilometer).

(iv) *Particulate emissions.* (diesel light-duty trucks only). 0.26 grams per vehicle mile (0.16 grams per vehicle kilometer).

(2) The standards set forth in paragraphs (d)(1)(i), (d)(1)(ii)(A), (d)(1)(iii), and (d)(1)(iv) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures. The standard set forth in paragraph (d)(1)(ii)(B) of this section refers to the exhaust emitted at curb idle and measured and calculated in accordance with the procedures set forth in Subpart P of this part.

(e)(1) Fuel evaporative emissions from 1990 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high altitude location shall not exceed 2.6 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(f) No crankcase emissions shall be discharged into the ambient atmosphere from any 1990 and later model year light-duty trucks sold for principal use at a designated high-altitude location.

(g)(1) Any light-duty truck that a manufacturer wishes to certify for sale at low altitude must be capable of meeting high-altitude emission standards (specified in paragraphs (d) through (f) of this section). The manufacturer may specify vehicle adjustments or modifications to allow the vehicle to meet high-altitude standards but these adjustments or modifications may not alter the vehicle's basic engine, inertia weight class, transmission configuration, and axle ratio.

(i) A manufacturer may certify unique configurations to meet the high-altitude standards but is not required to certify these vehicle configurations to meet the low-altitude standards.

(ii) Any adjustments or modifications that are recommended to be performed on vehicles to satisfy the requirements of paragraph (g)(1) of this section:

(A) Shall be capable of being effectively performed by commercial repair facilities, and

(B) Must be included in the manufacturer's application for certification.

(2) The manufacturer may exempt 1985 and later model year vehicles from compliance with the high-altitude emission standards set forth in paragraphs (d) and (e) of this section if the vehicles are not intended for sale at high altitude and if the following requirements are met. A vehicle configuration shall only be considered eligible for exemption if the requirements of either paragraph (g)(2)(i), (ii), (iii), or (iv) of this section are met.

(i) Its design parameters (displacement-to-weight ratio (D/W) and engine speed to-vehicle-speed ratio (N/V)) fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(A) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the gross vehicle weight (GVW) expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N–V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(B) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$, where the constant, C, is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(C) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$, where the constant, C is the same as that found in paragraph (g)(2)(i)(B) of this section.

(D) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(ii) Its design parameters fall within the alternate exempted range for that manufacturer that year. The alternate exempted range is determined by substituting rated horsepower (hp) for displacement (D) in the exemption procedure described in paragraph (g)(2)(i) of this section and by using the product line $N/V = C(hp/W)^{-0.9}$.

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure J 1349, or any subsequent version of that test procedure. Any of the horsepower determinants within that test procedure may be used, as long as it is used consistently throughout the manufacturer s product line in any model year.

(B) No exemptions will be allowed under paragraph (g)(2)(ii) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (g)(2)(i) of this section.

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

(A) The manufacturer shall list the vehicle configuration and acceleration time under low-altitude conditions of that vehicle configuration which has the highest acceleration time under low-altitude conditions of all the vehicle configurations it will offer for the model year in question. The manufacturer shall also submit a description of the methodology used to make this determination.

(B) The manufacturer shall then list the vehicle configurations and acceleration times under high-altitude conditions of all those vehicle configurations which have higher acceleration times under high-altitude conditions than the highest acceleration time at low altitude identified in paragraph (g)(2)(iii)(A) of this section.

(iv) In lieu of performing the test procedure of paragraph (g)(2)(iii) of this section, its acceleration time can be estimated based on the manufacturer's engineering evaluation, in accordance with good engineering practice, to meet the exemption criteria of paragraph (g)(2)(iii) of this section.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (g)(2) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

15. A new § 86.090–10 is added, to read as follows:

§ 86.090–10 Emission standards for 1990 and later model year gasoline-fueled heavy duty engines and vehicles.

(a)(1) Exhaust emissions from new 1990 and later model year gasoline-fueled heavy-duty engines shall not exceed:

(i) For engines intended for use in all vehicles except as provided in paragraph (a)(3) of this section.

(A) *Hydrocarbons.* 1.1 grams per brake horsepower-hour, as measured under transient operating conditions.

(B) *Carbon monoxide.* (*1*) 14.4 grams per brake horsepower-hour, as measured under transient operating conditions.

(*2*) *Gasoline-fueled heavy-duty engines utilizing aftertreatment technology.* 0.50 percent of exhaust gas flow at curb idle.

(C) *Oxides of nitrogen.* 6.0 grams per brake horsepower-hour, as measured under transient operating conditions.

(ii) For engines intended for use only in vehicles with a Gross Vehicle Weight Rating of greater than 14,000 pounds.

(A) *Hydrocarbons.* 1.9 grams per brake horsepower-hour, as measured under transient operating conditions.

(B) *Carbon Monoxide.* (*1*) 37.1 grams per brake horsepower-hour as measured under transient operating conditions.

(*2*) *Gasoline-fueled heavy-duty engines utilizing after-treatment technology.* 0.50 percent of exhaust gas flow at curb idle.

(C) *Oxides of nitrogen.* (*1*) 6.0 grams per brake horsepower-hour, as measured under transient operating conditions.

(*2*) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over the operating schedule set forth in paragraph (f)(1) of Appendix I to this part, and measured and calculated in accordance with the procedures set forth in Subparts N or P.

(*3*)(*i*) A manufacturer may certify one or more gasoline-fueled heavy-duty engine configurations intended for use in all vehicles to the emission standards set forth in paragraph (a)(1)(ii) of this section: *Provided,* That the total model year sales of such configuration(s) being certified to the emission standards in paragraph (a)(1)(ii) of this section represent no more than 5 percent of total model year sales of all gasoline-fueled heavy-duty engines intended for use in vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds by the manufacturer.

(*ii*) The configurations certified to the emission standards of paragraph (a)(1)(ii) of this section under the provisions of paragraph (a)(3)(i) of this section shall still be required to meet the evaporative emission standards set forth in paragraphs (b)(1)(i)(A) and (b)(2)(i) of this section.

(b)(1) Evaporative emissions from 1988 and later model year gasoline-fueled heavy-duty vehicles shall not exceed:

(i) *Hydrocarbons.* (A) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds, 3.0 grams per test.

(B) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 pounds, 4.0 grams per test.

(2)(i) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 pounds, the standards set forth in paragraph (b)(1) of this section refer to a composite sample of fuel evaporative emissions collected under the conditions set forth in Subpart M and measured in accordance with those procedures.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 26,000 pounds, the standard set forth in paragraph (b)(1)(i)(B) of this section refers to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.088–23(b)(4)(ii)).

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1990 or later model year gasoline-fueled heavy-duty engine.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subpart N or P of this part to ascertain that such test engines meet the requirements of paragraphs (a) and (c) of this section.

16. A new § 86.090–11 is added, to read as follows:.

§ 86.090–11 Emission standards for 1990 and later model year diesel heavy-duty engines.

(a)(1) Exhaust emissions from new 1990 and later model year diesel heavy-duty engines shall not exceed the following:

(i) *Hydrocarbons.* 1.3 grams per brake horsepower-hour, as measured under transient operating conditions.

(ii) *Carbon monoxide.* 15.5 grams per brake horsepower-hour, as measured under transient operating conditions.

(iii) *Oxides of nitrogen.* 6.0 grams per brake horsepower-hour, as measured under transient operating conditions.

(iv) *Particulate emissions.* 0.60 gram per brake horsepower-hour, as measured under transient operating conditions.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over the operating schedule set forth in paragraph (f)(2) of Appendix I to this part, and measured and calculated in accordance with the procedures set forth in Subpart N of this part, except as noted in § 86.088–23(c)(2)(i) and (ii).

(b)(1) The opacity of smoke emission from new 1990 and later model year diesel heavy-duty engines shall not exceed:

(i) 20 percent during the engine acceleration mode.

(ii) 15 percent during the engine lugging mode.

(iii) 50 percent during the peaks in either mode.

(2) The standards set forth in paragraph (b)(1) of this section refer to exhaust smoke emissions generated under the conditions set forth in Subpart I of this part and measured and and calculated in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the atmosphere from any new 1990 model year naturally aspirated diesel heavy-duty engine. This provision does not apply to engine using turbochargers, pumps, blowers, or superchargers for air induction.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in Subpart I or N of this part to ascertain that such test engines meet the requirements of (a), (b), and (c) of this section.

17. Section 86.091–21 of Subpart A is amended by revising paragraphs (b)(1)(ii)(A) introductory text, and (b)(1)(ii)(B), (b)(5)(i), (b)(5)(ii), and (b)(6) by adding paragraphs (b)(5)(iii), (b)(5)(iv), and (b)(7) and by removing paragraph (b)(4)(iii) to read as follows:

§ 86.091–21 Application for certification.

* * * * *

(b) * * *

(1) * * *

(ii)(A) The manufacturer shall provide to the Administrator in the application for certification:

* * * * *

(B) The manufacturer may provide, in the application for certification, information relating to why certain parameters are not expected to be adjusted in actual use and to why the physical limits or stops used to establish the physically adjustable range of each parameter, or any other means used to inhibit adjustment, are effective in preventing adjustment of parameters on

in-use vehicles to settings outside the manufacturer's intended physically adjustable ranges. This may include results of any tests to determine the difficulty of gaining access to an adjustment or exceeding a limit as intended or recommended by the manufacturer.

* * * * *

(4) * * *

(ii) * * *

(5)(i)(A) A description of the test procedures to be used to establish the durability data or the exhaust emission deterioration factors required to be determined and supplied in § 86.091–23(b)(1).

(B) A statement of the useful life of each light-duty truck engine family or heavy-duty engine family.

(C) For engine families provided an alternative useful-life period under paragraph (f) of this section, a statement of that alternative period and a brief synopsis of the justification.

(ii) For heavy-duty diesel engine families, a statement of the primary intended service class (light, medium, or heavy) and an explanation as to why that service class was selected. Each diesel engine family shall be certified under one primary intended service class only. After reviewing the guidance in § 86.085–2, the class shall be determined on the basis of which class best represents the majority of the sales of that engine family.

(iii)(A) For each light-duty truck engine family and each heavy-duty engine family, a statement of recommended maintenance and procedures necessary to assure that the vehicles (or engines) covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(B) A description of vehicle adjustments or modifications necessary, if any, to assure that light-duty vehicles and light-duty trucks covered by a certificate of conformity conform to the regulations while being operated at any altitude locations, and a statement of the altitude at which the adjustments or modifications apply.

(iv) At the option of the manufacturer, the proposed composition of the emission-data test fleet or (where applicable) the durability-data test fleet.

(6)(i) (A) If the manufacturer elects to participate in the particulate averaging program for diesel light-duty vehicles and/or diesel light-duty trucks, or the particulate averaging program for heavy-duty diesel engines, the application must list the family particulate emission limit and the projected U.S. production volume of the family for the model year.

(B) The manufacturer shall choose the level of the family particulate emission limits, accurate to one-hundreth of a gram per mile, or one-hundreth of a gram per brake horsepower-hour for heavy-duty engines.

(C) The manufacturer may at any time during production elect to change the level of any family diesel particulate emission limit(s) by submitting the new limit(s) to the Administrator and by demonstrating compliance with the limit(s) as described in § 86.085–2 and § 86.091–28(b)(5)(i).

(ii)(A) If the manufacturer elects to participate in the NO_x averaging program for light-duty trucks, or the NO_x averaging program for heavy-duty engines, the application must list the family NO_x emission limit and the projected U.S. production volume of the family for the model year.

(B) The manufacturer shall choose the level of the family NO_x emission limits, accurate to one-tenth of a gram per mile, or to one-tenth of a gram per brake horsepower-hour for heavy-duty engines.

(C) The manufacturer may at any time during production elect to change the level of any family NO_x emission limit(s) by submitting the new limits to the Administrator and by demonstrating compliance with the limit(s) as described in § 86.088–2 and 86.091–28(b)(5)(ii).

(7)(i) For gasoline-fueled heavy-duty engines, the application must state whether the engine family is being certified for use in all vehicles regardless of their Gross Vehicle Weight Rating (see § 86.091–10 (a)(1)(i) and (a)(3)(i)), or, only for use in vehicles with a Gross Vehicle Weight Rating greater than 14,000 pounds.

(ii) If the engine family is being certified for use in all vehicles and is being certified to the emission standards application to gasoline fueled heavy-duty engines for use only in vehicles with a Gross Vehicle Weight Rating over 14,000 pounds under the provisions of paragraph (a)(3) of § 86.091–10, then the application must also attest that the engine family, together with all other engine families being certified under the provisions of paragraph (a)(3) of § 86.091–10, represent no more than 5 percent of model year sales of the manufacturer of all gasoline-fueled heavy-duty engines for use in vehicles with Gross Vehicle Weight Ratings of up to 14,000 pounds.

18. Section 86.110–82 of Subpart B is amended by revising paragraph (c)(3) to read as follows:

§ 86.110–82 Exhaust gas sampling system: diesel vehicles.

* * * * *

(c) * * *

(3) The recommended minimum loading on the primary 47 mm filter is 0.5 milligrams. Equivalent loadings (i.e., mass/stain area) are recommended for larger filters.

* * * * *

19. Section 86.112–82 of Subpart B is amended by revising paragraph (a)(3) and by adding paragraph (a) (4), (5), and (6) to read as follows:

§ 86.112–82 Weighing chamber (or room) and microgram balance specifications.

(a) * * *

(3) The environment shall be free from any ambient contaminants (such as dust) that would settle on the particulate filters during their stabilization.

(4) It is required that two reference filters remain in the weighing room at all times, and that these filters be weighed once each 24-hour period.

(5) If the weight of each or both of these two reference filters changes by more than ±2.0 percent of the nominal filter loading (recommended minimum of 0.5 milligrams) during the 24-hour period, then all filter weighings taken during the 24-hour period are invalid.

(6) Filters in the process of being stabilized during this period should be discarded. The reference filters shall be changed at least once per month.

* * * * *

20. Section 86.118–78 of Subpart B is amended by revising paragraph (c), to read as follows:

§ 86.118–78 Dynamometer calibration.

* * * * *

(c) *Calculations.* The road load power actually absorbed by the dynamometer is calculated from the following equation:

$$HP_d = \frac{(1/2)(W/32.2)(V_1^2 - V_2^2)}{550t}$$

where:

HP_d = Power, hp (kW).

W = Equivalent inertia weight, lb (kg).

V_1 = Initial velocity, ft/s (m/s) [55 mi/hr = 88.5 km/hr = 80.67 ft/s = 24.58 m/s].

V_2 = Final velocity, ft/s (m/s) [45 mi/hr = 72.4 km/hr = 66 ft/s = 20.11 m/s].

t = Elapsed time for rolls to coast from 55 mi/hr to 45 mi/hr (88.5 km/hr to 72.4 km/hr).

(Expressions in parentheses are for SI units.) When the coastdown is from 55 to 45

mi/hr (88.5 to 72.4 km/hr), the above equation reduces to:

$HP_d = 0.06073\ (W/t)$
for SI units
$HP_d = 0.09984\ (W/t)$

21. Section 86.123–78 of Subpart B is amended by revising paragraph (a)(11) to read as follows:

§ 86.123–78 Oxides of nitrogen analyzer calibration.

(a) * * *

(11) Calculate the efficiency of the NO_x converted by substituting the concentrations obtained into the following equation:

Percent Efficiency = [1 + (a–b)/(c–d)] × 100

where:

a = concentration obtained in step (8).
b = concentration obtained in step (9).
c = concentration obtained in step (6).
d = concentration obtained in step (7).

If converter efficiency is not greater than 90 percent corrective action will be required.

* * * * *

22. Section 86.132–82 of Subpart B is amended by revising paragraph (a)(3) and adding (a)(4) to read as follows:

§ 86.132–82 Vehicle preconditioning.

(a) * * *

(3) For those unusual circumstances where additional preconditioning is desired by the manufacturer, such preconditioning may be allowed with the advance approval of the Administrator.

(4) The Administrator may also choose to conduct or require the manufacturer to conduct additional preconditioning to insure that the evaporative emission control system is stabilized in the case of gasoline engines, or to insure that the exhaust system is stabilized in the case of diesel engines.

(i) *Gasoline-fueled vehicles.* (A) The additional preconditioning shall consist of an initial one hour minimum soak and, one, two, or three driving cycles of the UDDS, as described in paragraph (a)(2) of this section, each followed by a soak of at least one hour with engine off, engine compartment cover closed and cooling fan off.

(B) The vehicle may be driven off the dynamometer following each UDDS for the soak period.

(ii) *Diesel—fueled vehicles.* The preconditioning shall consist of either of the following:

(A) The additional preconditioning described in paragraph (a)(4)(i) of this section; or

(B) For abnormally treated vehicles, as defined in § 86.085–2, two Highway Fuel Economy Driving Schedules, found in Part 600 Appendix I, run in immediate succession, with the road load power set at twice the value obtained from § 86.129.80.

* * * * *

23. Section 86.139–82 of Subpart B is amended by revising paragraph (d) to read as follows:

§ 86.139–82 Diesel particulate filter handling and weighing.

* * * * *

(d)(1) If the filter is not used within one hour of its removal from the weighing chamber, it shall be re-weighed.

(2) The one hour limit may be replaced by an eight-hour limit if one or both of the following conditions are met:

(i) A stabilized filter is placed and kept in a sealed filter holder assembly with the ends plugged, or

(ii) A stabilized filter is placed in a sealed filter holder assembly, which is then immediately placed in a sample line through which there is no flow.

* * * * *

24. Section 86.332–79 of Subpart D is amended by revising paragraph (b)(11) to read as follows:

§ 86.332–79 Oxides of nitrogen analyzer calibration.

* * * * *

(b) * * *

(11) Calculate the efficiency of the NOx converter by substituting the concentrations obtained into the following equation:

Percent Efficiency = [1 + (a–b)/(c–d)] × 100

where:

a = concentration obtained in step (8).
b = concentration obtained in step (9).
c = concentration obtained in step (6).
d = concentration obtained in step (7).

The efficiency of the converter shall be greater than 90 percent. Adjustment of the converter temperature may be necessary to maximize the efficiency. If the converter does not meet the conversion-efficiency specifications, repair or replace the unit prior to testing. Repeat the procedures of this section with the repaired or new converter.

25. Section 86.513–87 of Subpart F is amended by revising paragraph (a) to read as follows:

§ 86.513–87 Fuel and engine lubricant specifications.

(a) Gasoline having the following specifications will be used by the Administrator in exhaust emission testing. Gasoline having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer for emission testing except that the lead and octane specifications do not apply.

Item designation	ASTM	Leaded	Unleaded
Octane, research, min	D2699	100	93
Pb (organic), g/liter (g/U.S. gal.)	D3237	[1] 0.026 (0.100 max)	[1] 0.013 (0.050 max)
Distillation Range:	D86		
IBP, °C(°F)		23.9–35 (75–95)	23.9–35 (75–95)
10 pct. point, °C(°F)		48.9–57.2 (120–135)	48.9–57.2 (120–135)
50 pct. point, °C(°F)		93.3–110 (200–230)	93.3–110 (200–230)
90 pct. point, °C(°F)		148.9–162.8 (300–325)	148.9–162.8 (300–325)
EP, °C(°F)		212.8(415)	212.8(415)
Sulfur, wt. pct., max	D1266	0.10	0.10
Phosphorus, g/liter (g/U.S. gal), max		0.0026 (0.01)	0.0013 (0.005)
RVP, KPa (psi)	D323	55.2–63.4 (8.0–9.2)	55.2–63.4 (8.0–9.2)
Hydrocarbon composition:			
Olefins, pct., max	D1319	10	10

Item designation	ASTM	Leaded	Unleaded
Aromatics, pct., max		35	35
Saturates		([2])	([2])

[1] Maximum.
[2] Remainder.

* * * * *

26. Section 86.523–78 of Subpart F is amended by revising paragraph (a)(11) to read as follows:

§ 86.523–78 Oxides of nitrogen analyzer calibration.

(a) * * *

(11) Calculate the efficiency of the NO_x converter by substituting the concentrations obtained into the following equation:

Percent Efficiency = [1 + (a–b)/(c–d)] x 100

where:

a = concentration obtained in step (8).
b = concentration obtained in step (9).
c = concentration obtained in step (6).
d = concentration obtained in step (7).

If converter efficiency is not greater than 90 percent corrective action will be required.

27. Section 86.884–7 of Subpart I is amended by revising paragraphs (a)(1), (a)(2)(v), (a)(3)(i), and (a)(3)(ii) to read as follows:

§ 86.884–7 Dynamometer operation cycle for smoke emission tests.

(a) * * *

(1) *Idle Mode.* The engine is caused to idle for 5.0 to 5.5 minutes at the manufacturer's recommended curb idle speed. The dynamometer controls shall be set to provide the speed and load necessary to comply with the heavy-duty "curb idle" definition per § 86.084–2, in accordance with predominant engine application.

(2) * * *

(v) For electric dynamometer operation in speed mode, motoring assist may be used to offset excessive dynamometer inertia load when necessary. No negative flywheel torque shall occur during any of the three acceleration modes in paragraph (a)(2) of this section except for a maximum of 10ft-lbs. for the first 0.5 second of the mode.

(3) * * *

(i) Immediately upon the completion of the preceding acceleration mode, the dynamometer controls shall be adjusted to permit the engine to develop maximum horsepower at rated speed. This transition period shall be 50 to 60 seconds in duration. During the last 10 seconds of this period, the engine speed shall be maintained within 50 rpm of the rated speed, and the power (corrected, if necessary, to rating conditions) shall be no less than 95 percent of the maximum horsepower developed during the preconditioning prior to the smoke cycle.

(ii) With the throttle remaining in the fully open position, the dynamometer controls shall be adjusted gradually so that the engine speed is reduced to the intermediate speed. This lugging operation shall be performed smoothly over a period of 35±5 seconds. The rate of slowing of the engine shall be linear, within 100 rpm, as specified in § 86.884–13(c).

* * * * *

28. Section 86.884–12 of Subpart I is amended by revising paragraphs (a), (c)(9)(iv), and (c)(11) to read as follows:

§ 86.884–12 Test run.

(a) The temperature of the air supplied to the engine shall be between 68 °F and 86 °F. The engine fuel inlet temperature shall be 100 °F ±10 °F and shall be measured at a point specified by the manufacturer. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance will be made for possible increased smoke emissions because of such conditions.

* * * * *

(c) * * *

(9) * * *

(iv) The smoke meter zero and full scale response may be rechecked and reset during the idle mode of each test sequence.

* * * * *

(11)(i) Check zero and reset if necessary.

(ii) Check span response (*linearity*) of the smokemeter by inserting neutral density filters.

(iii) If either zero drift *or the linearity check* is in excess of two percent opacity, the results shall be invalidated.

29. Section 86.1105–87 Subpart L is amended by revising the introductory texts of paragraphs (b), (b)(1) and (b)(2) to read as follows:

§ 86.1105–87 Emission standards for which nonconformance penalties are available.

* * * * *

(b) Effective in the model years indicated, NCPs will be available for the following emission standards:

(1) Diesel heavy-duty engine oxides of nitrogen emission standard of 6.0 grams per brake horsepower-hour, effective in the 1990 model year.

* * * * *

(2) Diesel heavy-duty engine particulate emission standard of 0.60 gram per brake horsepower-hour, effective in the 1988 model year.

* * * * *

30. Section 86.1308–84 of Subpart N is amended by revising paragraph (e)(2)(iii) to read as follows:

§ 86.1308–84 Dynamometer and engine equipment specifications.

* * * * *

(e) * * *

(2) * * *

(iii) Transfer of calibration from the case or master load cell to the flywheel torque measuring device shall be performed with the dynamometer operating at a constant speed. The flywheel torque measurement device readout shall be calibrated to the master load cell torque readout at a minimum of six loads approximately equally spaced across the full useful ranges of both measurement devices. (Note that good engineering practice requires that both devices have approximately equal useful ranges of torque measurement.) The transfer calibration shall be performed in a manner such that the accuracy requirements of paragraph (a)(2) of this section for the flywheel torque measurement device readout be met or exceeded.

* * * * *

31. Section 86.1310–88 of Subpart N is amended by revising paragraphs (b)(1)(iv)(A), (b)(3)(v)(D), and (b)(6)(ii)(C) to read as follows:

§ 86.1310–88 Exhaust gas sampling and analytical system; diesel engines.

* * * * *

(b) * * *

(1) * * *

(iv) * * *

(A) Shall have a temperature of 77°±9 °F (25°±5 °C). For the first 10 seconds of sampling, this specification is 77°±20 °F (25°±11 °C).

* * * * *

(3) * * *
(v) * * *
(D) 0.19 in (0.483 cm) minimum inside diameter.
* * * * *
(6) * * *
(ii) * * *
(C) The secondary dilution air shall be at a temperature of 77°±9 °F (25°±5 °C). For the first 10 seconds of sampling, this specification is 77°±20 °F (25°±11 °C).
* * * * *

32. Section 86.1312–88 of Subpart N is amended by revising paragraph (a)(3) and adding paragraphs (a)(4), (a)(5), (a)(6), (a)(7) and (a)(8) to read as follows:

§ 86.1312–88 Weighing chamber and microgram balance specifications.

(a) * * *
(3) The chamber (or room) environment shall be free of any ambient contaminates (such as dust) that would settle on the particulate filters during their stabilization. It is required that at least two unused reference filters remain in the weighing room at all times in covered (to reduce dust contamination) but unsealed (to permit humidity exchange) petri dishes. These reference filters shall be placed in the same general area as the sample filters. These reference filters shall be weighed within 4 hours of, but preferably at the same time as, the sample filter weighings.

(4) If the average weight of the reference filters changes between sample filter weighings by ±5.0 percent or more of the nominal filter loading (a recommended minimum of 5.3 milligrams), then all sample filters in the process of stabilization shall be discarded and the emissions tests repeated.

(5) If the average weight of the reference filters changes between sample filter weighings by more than −1.0 percent but less than −5.0 percent of the nominal filter loading (a weight loss) then the manufacturer has the option of either repeating the emissions test or adding the average amount of weight loss to the net weight of the sample.

(6) If the average weight of the reference filters changes between sample filter weighing by more than 1.0 percent but less than 5.0 percent of the nominal filter loading (a weight gain), then the manufacturer has the option of either repeating the emissions test or accepting the measured sample filter weight values.

(7) If the average weight of the reference filters changes between sample filter weighings by not more than ±1.0 percent, then the measured sample filter weights shall be used.

(8) The reference filters shall be changed at least once a month, but never between clean and used weighings of a given sample filter. More than one set of reference filters may be used. The reference filters shall be the same size and material as the sample filters.
* * * * *

33. Section 86.1313–87 of Subpart N is amended by revising paragraph (a)(1) to read as follows:

§ 86.1313–87 Fuel specifications.

(a) *Gasoline.* (1) Gasoline having the specifications listed in Table N87–1 will be used by the Administrator in exhaust emission testing. Gasoline having these specifications or substantially equivalent specifications approved by the Administrator, shall be used by the manufacturer in exhaust emission testing, except that the lead and octane specifications do not apply.

TABLE N87–1

Item	ASTM	Leaded	Unleaded
Octane, research, min.	D2699	98	93
Sensitivity, (min.)		7.5	7.5
Pb (organic), gm/U.S. gal. (g/liter)	D3237	[1] 0.100	[1] 0.050
		[1] 0.026	[1] 0.013
Distillation range:			
IBP, °F (°C)	D86	75–95	75–95
		(23.9–35)	(23.9–35)
10 percent point, °F (°C)	D86	120–135	120–135
		(48.9–57.2)	(48.9–57.2)
50 percent point, °F (°C)	D86	200–230	200–230
		(93.3–110)	(93.3–110)
90 percent point, °F (°C)	D86	300–325	300–325
		(148.9–162.8)	(148.9–162.8)
EP, °F, (maximum) (°C)	D86	415	415
		(212.8)	(212.8)
Sulphur, wt, pct. (max.)	D1266	0.10	0.10
Phosphorus, gm/U.S. gal. (g/liter) max.		0.01	0.005
		(0.0026)	(0.0026)
RVP, psi	D323	8.0–9.2	8.0–9.2
Hydrocarbon composition:			
Olefins, pct., max.	D1319	10	10
Aeromatics, pct., max.	D1319	35	35
Saturates	D1319	[2]	[2]

[1] Maximum.
[2] Remainder.

* * * * *

34. Section 86.1319–84 of Subpart N is amended by revising paragraphs (c)(7)(iv) and (e)(2) to read as follows:

§ 86.1319–84 CVS calibration.

* * * * *
(c) * * *
(7) * * *

(iv) A linear least squares fit is performed to generate the calibration equation which has the form:

$$V_o = D_o - M(X_o)$$

D_o and M are the intercept and slope constants, respectively, describing the regression lines.

* * * * *

(e) * * *

(2) Determine the weight of the reference propane cylinder to an accuracy of ±0.2 percent or less of the actual amount of propane discharged into the system.

* * * * *

35. Section 86.1320–88 of Subpart N is amended by revising paragraphs (a)(1), (a)(3), (a)(5), (a)(6), and adding paragraph (a)(7) to read as follows:

§ 86.1320–88 Gas meter or flow instrumentation calibration, particulate measurement.

(a) * * *

(1) (i) Install a calibration device in series with the instrument. A critical flow orifice, a bellmouth nozzle, a laminar flow element or an NBS traceable flow calibration device is required as the standard device.

(ii) The flow system should be checked for leaks between the calibration and sampling meters, including any pumps that may be part of the system, using good engineering practice.

* * * * *

(3) When the temperature and pressure in the system have stabilized, measure the indicated gas volume over a time period of at least 5 minutes or until a gas volume of at least ±1 percent accuracy can be determined by the calibration device. Record the stabilized air temperature and pressure upstream of the instrument and as required for the calibration device.

* * * * *

(5) Repeat the procedures of paragraphs (a) (2) through (4) of this section using at least two additional flow rates which bracket the typical operating range.

(6) If the air flow at standard conditions measured by the instrument differs from the standard measurement at any of the flow rates by ±1.0 percent of the maximum operating range or ±2.0 percent of the point (whichever is smaller), then a correction shall be made by either of the following two methods:

(i) Mechanically adjust the instrument so that it agrees with the calibration measurement at the specified flow rates using the criteria of paragraph (a)(6) of this section, or

(ii) Develop a continuous best fit calibration curve for the instrument (as a function of the calibration device flow measurement) from the calibration points to determine corrected flow. The points on the calibration curve relative to the calibration device measurements must be within ±1.0 percent of the maximum operating range or ±2.0 percent of the point (whichever is smaller).

(7) For double dilution systems, the accuracy of the secondary dilution flow measurement device should be within ±1.0 percent of the total flow through the filter.

* * * * *

36. Section 86.1321–84 of Subpart N is amended by revising paragraphs (a)(3)(i) and (a)(3)(ii) to read as follows:

§ 86.1321–84 Hydrocarbon analyzer calibration.

(a) * * *

(3) * * *

(i) For gasoline fueled engines, the procedures outlined in Society of Automotive Engineers (SAE) paper No. 770141, "Optimization of Flame Ionization Detector for Determination of Hydrocarbons in Diluted Automobile Exhaust"; author, Glen D. Reschke.

(ii) For diesel fueled engines, the HFID optimization procedures outlined in 40 CFR 86.331–79, except for the oxygen interference checks in § 86.331–79(d).

* * * * *

37. Section 86.1327–84 of Subpart N is amended by revising paragraph (f)(2)(iii) to read as follows:

§ 86.1327–84 Engine dynamometer test procedures; overview.

* * * * *

(f) * * *

(2) * * *

(iii) If the tubing is required to be insulated, the radial thickness of the insulation must be at least 1.0 inch. The thermal conductivity of the insulating material must have a value no greater than 0.75 BTU-in/hr/ft²/°F measured at 700 °F.

* * * * *

38. Section 86.1327–88 of Subpart N is amended by revising paragraph (f)(2)(i)(E) to read as follows:

§ 86.1327–88 Engine dynamometer test procedures; overview.

* * * * *

(f) * * *

(2) * * *

(i) * * *

(E) If the tubing is required to be insulated, the radial thickness of the insulation must be at least 1.0 inch. The thermal conductivity of the insulating material must have a value no greater than 0.75 BTU-in/hr/ft²/°F measured at 700 °F.

* * * * *

39. Section 86.1330–84 of Subpart N is amended by revising paragraphs (b)(1) and (f) to read as follows:

§ 86.1330–84 Test sequence, general requirements.

* * * * *

(b) * * *

(1) The temperature of the CVS dilution air shall be maintained above 68 °F (20 °C) throughout the test sequence, except as permitted by § 86.1335–84.

* * * * *

(f) *Diesel-Fueled Engines only.* (1)(i) Air inlet and exhaust restrictions shall be set to represent the average restrictions which would be seen in use in a representative application.

(ii) Inlet depression and exhaust backpressure shall be set with the engine operating at rated speed and wide open throttle, except for the case of inlet depression for naturally aspirated engines, which shall be set at maximum engine speed and nominal zero load (high idle).

(iii) The location at which the inlet depression and exhaust backpressure is measured shall be specified by the manufacturer.

(iv) The settings shall take place during the final mode of the preconditioning prior to determining the maximum torque curve.

(2)(i) The temperature of the inlet fuel to the engine shall not exceed 110 °F (or 130 °F during the first 10 seconds of the hot start test).

(ii) The pressure of the inlet fuel and the point at which it is measured shall be specified by the manufacturer.

* * * * *

40. Section 86.1332–84 of Subpart N is amended by revising paragraphs (c) (1), (2) and (e)(1)(i) to read as follows:

§ 86.1332–84 Engine mapping procedures.

* * * * *

(c) * * *

(1) *Gasoline-fueled engines.* (i) For ungoverned engines using the transient operating cycle set forth in paragraph (f)(1) of Appendix I to this part, the maximum mapping speed shall be no less than that calculated from the following equation:

$$\text{Maximum speed} = \text{curb idle rpm} + \frac{105\ (\text{measured rated rpm} - \text{curb idle rpm})}{100}$$

or when a 3.0 percent drop in maximum horsepower occurs, whichever of the two is greater.

(ii) For ungoverned engines using the transient operating cycle set forth in paragraph (f)(3) of Appendix 1 to this part, the maximum mapping speed shall be no less than that calculated from the following equation:

Maximum speed =

$$\text{curb idle rpm} + \frac{115\ (\text{measured rated rpm} - \text{curb idle rpm})}{100}$$

or when a 3.0 percent drop in horsepower occurs, whichever of the two is greater.

(iii) For governed engines the maximum mapping speed shall be no less than either that speed at which the wide-open throttle torque drops off to zero, or the maximum speed as calculated for ungoverned engines (paragraph (c)(1)(i) of this section).

(2) *Diesel-fueled engines.* (i) For ungoverned engines the maximum mapping speed shall be no less than that calculated from the following equation:

Maximum speed =

$$\text{curb idle rpm} + \frac{113\ (\text{measured rated rpm} - \text{curb idle rpm})}{100}$$

or when a 3.0 percent drop in horsepower occurs, whichever of the two is greater.

(ii) For governed engines the maximum mapping speed shall be no less than either that speed at which wide-open throttle torque drops off to zero, or the maximum speed as calculated for ungoverned engines, (paragraph (c)(2)(i) of this section).

* * * * *

(e) * * *

(1) * * *

(i) Fit all data points recorded under paragraphs (d)(2) (vi) and (vii) of this section (100 rpm increments) with a cubic spline, Akima, or other technique approved in advance by the Administrator. The resultant curve shall be accurate to within ± 1.0 ft-lbs. of all recorded engine torques.

* * * * *

41. Section 86.1333–84 of Subpart N is amended by revising paragraphs (a) introductory text, (b), (d), and (e) and adding paragraph (a)(3) to read as follows:

§ 86.1333–84 Transient test cycle generation.

(a) The heavy-duty transient engine cycles for gasoline-and diesel-fueled engines are listed in Appendix I ((f)(1), (2), and (3) to this part). These second-by-second listings represent torque and rpm maneuvers characteristic of heavy-duty engines. Both rpm and torque are normalized (expressed as a percentage of maximum) in these listings.

* * * * *

(3) The EPA Engine Dynamometer Schedule for Heavy Duty Diesel Engines listed in Appendix I (f)(2) contains torque points referred to as "closed rack motoring." For reference cycle calculation, torque points shall take on unnormalized values determined in either of the following three ways:

(i) Negative 40 percent of the positive torque available at the associated speed point. The generation of this positive maximum torque curve is described in § 86.1332–84.

(ii) Map the amount of negative torque required to motor the engine between idle and maximum mapping speed and use this map to determine the amount of negative torque required at the associated speed point.

(iii) Determine the amount of negative torque required to motor the engine at idle and rated speeds and linearly interpolate using these two points.

(b) Example of unnormalization procedure. The following test point shall be normalized:

Percent RPM/43

Percent torque/82

Given the following values:

Measured Rated rpm = 3800

Curb Idle rpm = 600

Calculate actual rpm:

$$\text{Actual rpm} = \frac{\%\ \text{rpm}\ (\text{measured rated rpm} - \text{curb idle rpm})}{100} + \text{curb idle rpm}$$

Actual rpm = 43 (3800 − 600)/100 + 600

Actual rpm = 1976

Determine actual torque. Determine the maximum observed torque at 1976 rpm from the maximum torque curve. Then multiply this value (e.g. 358 ft-lbs) by 0.82. This results in an actual torque of 294 ft-lbs.

* * * * *

(d) *Cold Start Enhancement Devices.* The zero percent speed specified in the engine dynamometer schedules (Appendix I (f)(1), (f)(2), or (f)(3) to this part) shall be superseded by proper operation of the engine's automatic cold start enhancement device.

(1) During automatic cold start enhancement device operation a manual transmission engine shall be allowed to idle at whatever speed is required to produce a feedback torque of 0 ft-lbs. ±10 ft-lbs. (using, for example, clutch disengagement, speed to torque control switching, software overrides, etc.) at those points in Appendix I (f)(1), (f)(2), or (f)(3) to this part where both reference speed and reference torque are zero percent values.

(2) During automatic cold start enhancement device operation an automatic transmission engine shall be allowed to idle at whatever speed is required to produce a feedback torque of CITT ft-lbs. ±10 ft-lbs. (see (e)(2) of this section for definition of CITT) at those points in Appendix I (f)(1), (f)(2), or (f)(3) to this part where both reference speed and reference torque are zero percent values.

(3) For gasoline engines tested without an operating clutch, modification to the cycle validation criteria for this automatic cold start enhancement device high idle allowance is permitted only for the first 150 seconds of the cold cycle and the first 30 seconds of the hot cycle. After this, the cycles shall be run as specified in Appendix I (f)(1) or (f)(3) to this part. (See 86.1341–84 for allowances in the cycle validation criteria.)

(4) For diesel engines tested without an operating clutch, modification to the cycle validation criteria for this automatic cold start enhancement device high idle allowance is permitted only for up to the first 180 seconds of the cold cycle or up to the first 30 seconds of the hot cycle. However, the sum of the seconds deleted from the cold cycle plus

the sum of the seconds deleted from the hot cycle may not exceed 180 seconds. After this, the cycles shall be run as specified in Appendix I(f)(2) to this part. (See 86.1341–84 for allowances in the cycle validation criteria.)

* * * * *

42. Section 86.1334–84 of Subpart N is amended by revising paragraph (a)(2) to read as follows:

§ 86.1334–84 Pre-test engine and dynamometer preparation.

(a) * * *

(2) Following any practice runs or calibration procedures, the engine shall be turned off and allowed to soak at normal ambient conditions until the oil sump reaches a temperature between 68 °F and 86 °F (20 °C to 30 °C) for a minimum of 0.5 hr., or be cooled per § 86.1335–84.

* * * * *

43. Section 86.1335–84 of Subpart N is amended by revising paragraph (e)(1) to read as follows:

§ 86.1335–84 Optional forced cool-down procedure.

* * * * *

(e)(1) The cold cycle exhaust emission test may begin after a forced cool down only when the engine oil temperature is stabilized between 68 °F and 75 °F (20 °C and 24 °C) for a minimum of 10 minutes.

(i) This temperature measurement is to be made by a temperature measurement device immersed in the sump oil, the sensor part of which is not in contact with any engine surface

(ii) The forced cool down apparatus shall be shut off during this measurement. No engine oil change is permitted during the test sequence.

* * * * *

44. Section 86.1336–84 of Subpart N is amended by revising the section title, redesignating and revising paragraph (d) as (e), and adding a new paragraph (d), to read as follows:

§ 86.1336–84 Engine starting, restarting, and shutdown.

* * * * *

(d) *Engine shutdown.* Engine shutdown shall be performed in accordance with manufacturer's specifications.

(e) Test equipment malfunction.

(1) If a malfunction occurs in any of the required test equipment during the cold cycle portion of the test, the test shall be voided.

(2) If a malfunction occurs in any of the required test equipment (computer, gaseous emissions analyzer, etc.) during the hot cycle portion of the test, complete the full engine cycle before engine shut-down then resoak for 20 minutes.

(i) If the test equipment malfunction can be corrected before the resoak period has been completed the hot cycle portion of the test may be rerun.

(ii)(*A*) If the test equipment malfunction is corrected after the completion of the resoak period, then a preconditioning cycle must be run before the hot cycle. This consists of a full 20 minute transient cycle followed by a 20 minute soak and then the for-record hot cycle.

(*B*) In no case can the start of the cold cycle and the start of the hot cycle be separated by more than 4 hours.

45. Section 86.1337–84 of Subpart N is amended by revising paragraphs (a)(10) and (a)(11) to read as follows:

§ 86.1337–84 Engine dynamometer test run.

(a) * * *

(10) On the last record of the cycle immediately turn the engine off and start a hot soak timer. Sampling systems should continue to sample after the end of the test cycle until system response times have elapsed.

(11)(i) Immediately after the engine is turned off, turn off the engine cooling fan(s) if used.

(ii) Turn off the CVS blower or disconnect or otherwise isolate the exhaust system from the CVS.

(iii) As soon as possible, transfer the "cold start cycle" exhaust and dilution air bag samples to the analytical system and process the samples according to § 83.1340–84.

(iv) A stabilized reading of the exhaust sample on all analyzers shall be made within 20 minutes of the end of the sample collection phase of the test.

* * * * *

46. Section 86.1337–88 of Subpart N is amended by revising paragraph (a)(10) to read as follows:

§ 86.1337–88 Engine dynomometer test run.

(a) * * *

(10) Begin the transient engine cycles such that the first non-idle record of the cycle occurs at 25±1 seconds. The free idle time is included in the 25±1 seconds.

(i) During diesel particulate testing without the use of flow compensation, adjust the sample pump(s) so that the flow rate through the particulate sample probe or transfer tube is maintained at a value within ±5 percent of the set flow rate.

(ii) During diesel particulate sampling with the use of flow compensation (i.e. proportional control of sample flow), it must be demonstrated that the ratio of main tunnel flow to particulate sample flow does not change by more than ±5.0 percent of its set point value (except for the first 10 seconds of sampling). Note: for double dilution operation, sample flow is the net difference between the flow rate through the sample filters and the secondary dilution air flow rate.

(iii) Record the average temperature and pressure at the gas meter(s) or flow instrumentation inlet. If the set flow rate cannot be maintained because of high particulate loading on the filter, the test shall be terminated. The test shall be rerun using a lower flow rate and/or a larger diameter filter

* * * * *

47. Section 86.1338–84 of Subpart N is amended by revising paragraph (a)(1) to read as follows:

§ 86.1338–84 Emission measurement accuracy.

(a) * * *

(1) Good engineering practice dictates that exhaust emission sample analyzer readings below 15 percent of full scale chart deflection should generally not be used.

* * * * *

48. Section 86.1339–88 of Subpart N is amended by revising paragraphs (a), (g) and (h)(2) to read as follows:

§ 86.1339–88 Diesel particulate filter handling and weighing.

(a) At least 1 hour, but not more than 80 hours, before the test, place each filter in a closed (to eliminate dust contamination) but unsealed (to permit humidity exchange) petri dish and place in a weighing chamber meeting the specifications of § 86.1312–88 for stabilization.

* * * * *

(g) The particulate filter weight (P_f) is the sum of the net weight of the primary filter plus the net weight of the back-up filter.

(h) * * *

(2) After the emissions test, in removing the filters from the filter holder, the back-up filter is inverted on top of the primary filter. They must then be conditioned in the weighing chamber for at least one hour but not more than 80 hours. The filters are then weighed as a pair. This reading is the gross weight of the filters (P_f) and must be recorded (see § 86.1344–88(e)(18)).

* * * * *

49. Section 86.1341–84 of Subpart N is revised to read as follows:

§ 86.1341–84 Test cycle validation criteria.

(a) To minimize the biasing effect of the time lag between the feedback and reference cycle values, the entire engine

speed and torque feedback signal sequence may be advanced or delayed in time with respect to the reference speed and torque sequence. If the feedback signals are shifted, both speed and torque must be shifted the same amount in the same direction.

(b) Brake horsepower-hour calculation. (1) Actual brake horsepower-hour shall be calculated using each pair of engine feedback speed and torque values recorded. This shall be done after any feedback data shift has occurred (see § 86.1341–84(a)), if this option is selected. This actual brake horsepower-hour figure is used for comparison to reference brake horsepower-hour (see § 86.1341–84 (b)(3) and (b)(4)) and for calculating brake specific emissions

(2) (i) The same methodology shall be used for integrating both reference and actual brake horsepower-hour.

(ii) If values must be determined between adjacent reference or adjacent measured values then linear interpolation must be used.

(iii) In integrating the reference and actual brake horsepower-hour, all negative torque values shall be set equal to zero and included.

(iv) If integration is performed at a frequency of less than 5 Hertz, and if, during a given time segment, the torque value changes from positive to negative or negative to positive, then the negative portion must be computed and set equal to zero.

(v) The positive portion is included in the integrated value.

(vi) All calculations shall be made to at least five significant digits.

(3) For diesel engines, the actual brake horsepower-hour for each cycle (cold and hot start) shall be between −15 percent and +5 percent of the integrated reference brake horsepower-hour, or the test is void.

(4) For gasoline engines, the actual brake horsepower-hour for the cold cycle shall be within ±5 percent of the reference brake horsepower-hour, or the test is void. The tolerance for the hot cycle shall be ±4 percent.

(c) Regression Line Analysis to Calculate Validation Statistics. (1) Linear regressions of feedback value on reference value shall be performed for speed, torque, and brake horsepower. This shall be done after any feedback data shift has occurred (see § 86.1341–84(a)), if this option is selected. The method of least squares shall be used, with the best fit equation having the form:

$y = mx + b$

Where:

y = The feedback (actual) value of speed (in rpm), torque (in ft-lbs), or brake horsepower
m = Slope of the regression line
x = The reference value (speed, torque, or brake horsepower)
b = The y intercept of the regression line

(2) The standard error of estimate (SE) of y on x and the coefficient of determination (r^2) shall be calculated for each regression line.

(3) It is recommended that this analysis be performed at 1 Hertz.

(4) For diesel engines, all reference torque values specified in Appendix I, (f)(2) as "closed rack motoring" and the associated feedback values shall be deleted from the calculation of cycle torque and power validation statistics.

(5) For a test to be considered valid, the criteria in Figure N84–11 must be met for both cold and hot cycles individually. Point deletions from the regression analyses are permitted where noted in Figure N84–11.

(d) If a dynamometer test run is determined to be void due to reasons such as experimental errors, or violation of validation statistics or integrated horsepower-hour criterion, then corrective action shall be taken. The engine shall then be (1) allowed to cool (naturally or forced) and the dynamometer test rerun per § 86.1337–84 or (2) be retested per § 86.1336–84(e).

FIGURE N84–11—REGRESSION LINE TOLERANCES

	Speed	Torque	BHP
Diesel Engines			
Standard error of estimate (SE) of Y on X	100 rpm	13 pct of power map maximum engine torque.	8 pct of power map maximum BHP.
Slope of the regression line, m	0.970 to 1.030	0.83–1.03 hot, 0.77–1.03 cold	0.89–1.03 (hot) 0.87-1.03 (cold).
Coefficient of determination, r^2	0.9700 [1]	0.8800 (hot) [1] 0.8500 (cold) [1]	0.9100.[1]
Y intercept of the regression line, b	±50 rpm	±15 ft-lb	±5.0 BHP.
Gasoline Engines			
Standard error of estimate (SE) of Y on X	100 rpm	10 pct (hot) 11 pct (cold) of power map max engine torque.	5 pct (hot) 6 pct (cold) of power map max. BHP.
Slope of the regression line	0.980 to 1.020	0.92–1.03 (hot) 0.88–1.03 (cold)	0.93–1.03 (hot) 0.89–1.03 (cold).
Coefficient of determination r^2	0.9700 [1]	0.9300 (hot) [1] 0.9000 (cold) [1]	0.9400 (hot) [1] 0.9300 (cold). [1]
Y intercept of the regression b	+25 (hot) ±40 (cold)	±4 pct (hot) ±5 pct (cold) of power map max. engine torque.	±2 pct (hot) ±2.5 pct (cold) of power map max. BHP.

[1] Minimum.

PERMITTED POINT DELETIONS FROM REGRESSION ANALYSIS

Condition	Points to be deleted
First 24 seconds (#1) of free idle hot and cold cycles	Speed, Torque, BHP
Wide-open throttle and speed control, and torque feedback < torque reference	Torque, BHP.
Wide-open throttle and torque control, and feedback < speed reference	Speed, BHP.
Speed control, and gasoline-fueled engine and closed throttle and torque reference < torque feedback, and:	
A. Manual transmission, and reference torque not equal to zero, or	Torque, BHP.
B. Automatic transmission, and reference torque not equal to curb idle transmission torque	Same as above.
Speed control, and diesel engine, and reference torque equals "Closed Rack Motoring"	Same as above.
Gasoline-fueled engine, and equipped with cold-start enhancement device and first 150 seconds of cold cycle or first 30 seconds of hot cycle, and closed throttle, and no clutch (or with clutch engaged during idle periods) and:	
A. Manual transmission, and torque feedback is equal to zero (±10 ft lb), or	Speed, BHP.
B. Automatic transmission, and torque feedback is equal to curb idle transmission torque (±10 ft lb).	Same as above.
Diesel-fueled engine, and equipped with cold engine idle speed enrichment up to the first 180 seconds or cold cycle or up to the first 30 seconds of hot cycle, the sum of the seconds deleted from the cold cycle plus the sum of the seconds deleted from the hot cycle may not exceed 180 seconds and closed throttle and no clutch (or with clutch engaged during idle periods), and:	
A. Manual transmission, and torque feedback is equal to zero (±10 ft-lb)	Same as above.
B. Automatic transmission, and torque feedback is equal to curb idle transmission torque (±10 ft-lb).	Speed, BHP.
Speed control and engine equipped with an operating clutch, and clutch disengaged	Same as above.

(Approved by the Office of Management and Budget under control number 2060–0390)

50. Section 86.1342–84 of Subpart N is amended by revising paragraphs (c)(3) and (d)(5) to read as follows:

§ 86.1342–84 Calculations; exhaust emissions.

* * * * *

(c) * * *

$$(3)\quad CO_{mass} = \sum_{i=1}^{n}\left[\left(\frac{CO_c}{10^6}\right)_i \times (V_{mix})_i \times (Density_{CO}) \times (\Delta T)\right]$$

$$-\left(\frac{CO_d}{10^6}\right)(1-1/DF) \times V_{mix} \times Density_{CO}$$

(d) * * *

(5) $DF = 13.4/[CO_{2c} + (HC_e + CO_e) \times 10^{-4}]$, or $DF = 13.4/CO_{2c}$.

* * * * *

51. Section 86.1343–88 of Subpart N is amended by revising paragraph (b)(8) to read as follows:

§ 86.1343–88 Calculations; particulate exhaust emissions (diesels only).

* * * * *

(b) * * *

(8)(i) Real time flow rate measurement and calculating devices are permitted under these regulations. The appropriate changes in the above calculations shall be made using sound engineering principles.

(ii) Other systems and options, as permitted under these regulations, may require calculations other than these, but these must be based on sound engineering principles and be approved in advance by the Administrator at the time the alternate system is approved.

* * * * *

Appendix I—Urban Dynamometer Schedules

52. Part 86, Appendix I of Subpart N is amended by changing the column heading in the chart in paragraph (f)(1) from "Record (section)" to "Record (seconds)", revising the normalized revolutions per minute and normalized torque values in paragraph (f)(1) for the following entries:

(f)(1) * * *

Record (seconds)	Percent	
	Normalized revolutions per minute	Normalized torque
* * * * *		
35	40.00	10.00
* * * * *		
44	0.0	0.0
45	0.0	0.0
46	0.0	0.0
47	0.0	0.0
48	0.0	0.0
49	0.0	0.0
* * * * *		
125	0.0	0.0
126	0.0	0.0
* * * * *		
386	0.0	0.0
* * * * *		
892	0.0	0.0
* * * * *		
942	0.0	0.0
* * * * *		
1,019	0.0	0.0
1,020	0.0	0.0
1,075	0.0	0.0
1,076	0.0	0.0
* * * * *		

by revising the column heading in the chart in paragraph (f)(2) from "Record (section)" to "Record (seconds)", revising the record column in paragraph (f)(2) at the 996th second thru the 999th such that the sequence of numbers should be changed from

996
977
988
999

to:

996
997
998
999

by revising Footnote 1 at the end of the table in paragraph (f)(2) to read "[1] Closed rack motoring", changing the column heading in the chart in paragraph (f)(3) from "Record (section)" to "Record (seconds)", and revising the texts of paragraphs (f)(1) and (f)(3) to read as follows:

* * * * *

(f)(1) EPA Engine Dynamometer Schedule for Heavy-Duty Gasoline-

Fueled engines. (Known as the "MVMA" Cycle).

* * * * *

(3) Optional EPA Engine Dynamometer Schedule for Heavy-Duty Gasoline-Fueled Engines. (Known as the EPA cycle.)

* * * * *

PART 600—FUEL ECONOMY FOR MOTOR VEHICLES

53. The authority citation for Part 600 continues to read as follows:

Authority: Title III of the Energy Policy and Conservation Act of 1975, Pub. L. 94–163, 89 Stat. 871, Title IV of the National Conservation Policy Act of 1978, Pub. L. 95–619, 92 Stat. 3206.

54. Section 600.306–86 of Subpart D, Fuel Economy of Motor Vehicles is amended by revising paragraph (c)(2) to read as follows:

§ 600.306–86 Labeling requirements.

* * * * *

(c) * * *

(2) The fuel economy label information may be included with the Automobile Information Disclosure Act label if the prominence and legibility of the fuel economy label is maintained. For this purpose, all fuel economy label information must be placed on a separate section in the label and may not be intermixed with the Automobile Information Disclosure Act label information, except for vehicle descriptions as noted in § 600.307–86(c).

* * * * *

[FR Doc. 87–27996 Filed 12–15–87; 8:45 am]

BILLING CODE 6560–50–M

federal register

Wednesday
December 16, 1987

Part IV

Environmental Protection Agency

Toxic Substances; Premanufacture Notices; Monthly Status Report for July 1987; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53099; FRL-3294-5]

Toxic Substances; Premanufacture Notices; Monthly Status Report for July 1987

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption requests pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for July 1987.

Nonconfidential portions of the PMNs and exemption requests may be seen in the Public Reading Room NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53099]" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M Street, SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street, SW, Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during July; (b) PMNs received previously and still under review at the end of July; (c) PMNs for which the notice review period has ended during July; (d) chemical substances for which EPA has received a notice of commencement to manufacture during July; and (e) PMNs for which the review period has been suspended. Therefore, the July 1987 PMN Status Report is being published.

Dated: November 16, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notices Monthly Status Report—July 1987

I. 218 Premanufacture Notices and Exemption Request Received During the Month

PMN No.	
P 87-1351	P 87-1419
P 87-1352	P 87-1420
P 87-1353	P 87-1421
P 87-1354	P 87-1422
P 87-1355	P 87-1423
P 87-1356	P 87-1424
P 87-1357	P 87-1425
P 87-1358	P 87-1426
P 87-1359	P 87-1427
P 87-1360	P 87-1428
P 87-1361	P 87-1429
P 87-1362	P 87-1430
P 87-1363	P 87-1431
P 87-1364	P 87-1432
P 87-1365	P 87-1433
P 87-1366	P 87-1434
P 87-1367	P 87-1435
P 87-1368	P 87-1436
P 87-1369	P 87-1437
P 87-1370	P 87-1438
P 87-1371	P 87-1439
P 87-1372	P 87-1440
P 87-1373	P 87-1441
P 87-1374	P 87-1442
P 87-1375	P 87-1443
P 87-1376	P 87-1444
P 87-1377	P 87-1445
P 87-1378	P 87-1446
P 87-1379	P 87-1447
P 87-1380	P 87-1448
P 87-1381	P 87-1449
P 87-1382	P 87-1450
P 87-1383	P 87-1451
P 87-1384	P 87-1452
P 87-1385	P 87-1453
P 87-1386	P 87-1454
P 87-1387	P 87-1455
P 87-1388	P 87-1456
P 87-1389	P 87-1457
P 87-1390	P 87-1458
P 87-1391	P 87-1459
P 87-1392	P 87-1460
P 87-1393	P 87-1461
P 87-1394	P 87-1462
P 87-1395	P 87-1463
P 87-1396	P 87-1464
P 87-1397	P 87-1465
P 87-1398	P 87-1466
P 87-1399	P 87-1467
P 87-1400	P 87-1468
P 87-1401	P 87-1469
P 87-1402	P 87-1470
P 87-1403	P 87-1471
P 87-1404	P 87-1472
P 87-1405	P 87-1473
P 87-1406	P 87-1474
P 87-1407	P 87-1475
P 87-1408	P 87-1476
P 87-1409	P 87-1477
P 87-1410	P 87-1478
P 87-1411	P 87-1479
P 87-1412	P 87-1480
P 87-1413	P 87-1481
P 87-1414	P 87-1482
P 87-1415	P 87-1483
P 87-1416	P 87-1484
P 87-1417	P 87-1485
P 87-1418	P 87-1486
P 87-1487	Y 87-212
P 87-1488	Y 87-213
P 87-1489	Y 87-214
P 87-1490	Y 87-215
P 87-1491	Y 87-216
P 87-1492	Y 87-217
P 87-1493	Y 87-218
P 87-1494	Y 87-219
P 87-1495	Y 87-220
P 87-1496	Y 87-221
P 87-1497	Y 87-222
P 87-1498	Y 87-223
P 87-1499	Y 87-224
P 87-1500	Y 87-225
P 87-1501	Y 87-226
P 87-1502	Y 87-227
P 87-1503	Y 87-228
P 87-1504	Y 87-229
P 87-1505	Y 87-230
P 87-1506	Y 87-231
P 87-1507	Y 87-232
P 87-1508	Y 87-233
P 87-1509	Y 87-234
P 87-1510	Y 87-235
P 87-1511	Y 87-236
P 87-1512	Y 87-237
Y 87-197	Y 87-238
Y 87-198	Y 87-239
Y 87-199	Y 87-240
Y 87-200	Y 87-241
Y 87-201	Y 87-242
Y 87-202	Y 87-243
Y 87-203	Y 87-244
Y 87-204	Y 87-245
Y 87-205	Y 87-246
Y 87-206	Y 87-247
Y 87-207	Y 87-248
Y 87-208	Y 87-249
Y 87-209	Y 87-250
Y 87-210	Y 87-251
Y 87-211	Y 87-277

II. 162 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	
P 87-1189	P 87-1224
P 87-1190	P 87-1225
P 87-1191	P 87-1226
P 87-1192	P 87-1227
P 87-1193	P 87-1228
P 87-1194	P 87-1229
P 87-1195	P 87-1230
P 87-1196	P 87-1231
P 87-1197	P 87-1232
P 87-1198	P 87-1233
P 87-1199	P 87-1234
P 87-1200	P 87-1235
P 87-1201	P 87-1236
P 87-1202	P 87-1237
P 87-1203	P 87-1238
P 87-1204	P 87-1239
P 87-1205	P 87-1240
P 87-1206	P 87-1241
P 87-1207	P 87-1242
P 87-1208	P 87-1243
P 87-1209	P 87-1244
P 87-1210	P 87-1245
P 87-1211	P 87-1246
P 87-1212	P 87-1247
P 87-1213	P 87-1248
P 87-1214	P 87-1249
P 87-1215	P 87-1250
P 87-1216	P 87-1251
P 87-1217	P 87-1252
P 87-1218	P 87-1253
P 87-1219	P 87-1254
P 87-1220	P 87-1255
P 87-1221	P 87-1256
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P 87-1223	P 87-1258

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P 87-1349
P 87-1350

III. 172 Premanufacture Notices and Exemption Requests for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.

P 87-921
P 87-922
P 87-923
P 87-924
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P 87-926
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P 87-1002
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Y 87-181
Y 87-182
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Y 87-184
Y 87-185
Y 87-186
Y 87-187
Y 87-188
Y 87-189
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Y 87-191
Y 87-192
Y 87-193
Y 87-194
Y 87-195
Y 87-196
Y 87-197

IV. 29 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/generic name	Date of commencement
P 84-641	Generic name: Organo-modified pigment	May 26, 1987.
P 84-680	Generic name: Salt of dialkylphosphorodithioic acid	June 15, 1987.
P 84-1124	Generic name: Modified styrene-divinylbenzene polymer	July 13, 1987.
P 85-353	Generic name: Polymer of aliphatic diisocyanate, aliphatic glycols, aliphatic diacid, aromatic anhydride and alkylene oxides.	Jan. 6, 1986.
P 85-437	Generic name: Hydroxy-propyl-triazine	June 15, 1987.
P 85-480	Generic name: Cellulose ester	June 29, 1987.
P 85-543	2-Butenedioic acid (2)-, mono[2-[(1-oxo-2-propenyl)oxy]ethyl]-ester	June 20, 1987.
P 85-544	2-Propenoic acid, 2-methyl-, 7,7,9-trimethyl-4,13-dioxo-3,14-dioxa-5,12-diaza hexadecane-1,16-diylester	June 20, 1987.
P 85-545	2-Propenoicacid-3-(dimethylamino)-2,2-dimethyl-propylester	June 20, 1987.
P 85-546	2-Propenoic acid, 2-methyl-, 3,3,5-trimethyl-cyclohexylester	June 20, 1987.
P 85-547	2-Propenoic acid, 3,3,5-trimethylcyclohexylester	June 20, 1987.
P 85-1120	Generic name: High molecular weight linear saturated polyester	July 10, 1987.
P 86-1088	Generic name: Urethane acrylate with pendant hydroxy and carboxyl groups	Feb. 27, 1987.
P 86-1264	Generic name: Polyol ester of mixed normal and branched chain monocarboxylic acids	June 12, 1987.
P 87-349	Generic name: Partially crosslinked saturated polyester with medium number-average molecular weight	July 10, 1987.
P 87-352	Generic name: Partially crosslinked saturated polyester with medium number-average molecular weight	July 10, 1987.
P 87-469	Generic name: 2-Propenoic acid sodium salt, 2-propenoic acid	June 23, 1987.
P 87-562	Generic name: Isoindoline derivative	June 29, 1987.
P 87-718	Benzene, ethenyl-, polymer with 1,3-butadiene hydrogenated, containing antioxidants, vinyltriethoxysilane, peroxide, (1,1,4,4- tetramethyl-1,4-butanediyl) bis (1,1-dimethylethyl).	June 30, 1987.
P 87-839	Generic name: Sulfonium borate	July 21, 1987.
P 87-847	Generic name: Alkyl amine	July 6, 1987.
Y 86-136	Generic name: Polyurethane resin	June 17, 1987.

IV. 29 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Identity/generic name	Date of commencement
Y 87-116	Generic name: Polyester resin	June 25, 1987.
Y 87-159	Generic name: Modified oil	July 13, 1987.
Y 87-160	Generic name: Modified oil	July 20, 1987.
Y 87-161	Generic name: Modified oil	July 10, 1987.
Y 87-164	Generic name: Alkyd	July 25, 1987.
Y 87-166	2-Propenoic acid, 2-methyl-, polymer with 1-ethenyl- 2-pyrrolidine and ethyl-2-methyl-2-propenoate, 2-(dimethylamino)ethanol.	July 15, 1987.
Y 87-178	Generic name: Water reducible alkyd resin	July 20, 1987.

V. 18 PREMANUFACTURE NOTICES FOR WHICH THE PERIOD HAS BEEN SUSPENDED

PMN No.	
P 85-901	P 87-199
P 86-1078	P 87-902
P 86-1686	P 87-903
P 87-197	P 87-963
P 87-198	P 87-971
P 87-973	P 87-1028
P 87-989	P 87-1036
P 87-1009	P 87-1041
P 87-1010	P 87-1408

[FR Doc. 87-27006 Filed 12-15-87; 8:45 am]
BILLING CODE 6560-50-M

federal register

Wednesday
December 16, 1987

Part V

Environmental Protection Agency

Toxic Substances; Premanufacture Notices; Monthly Status Report for August 1987; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53100; FRL-3293-9]

Toxic Substances; Premanufacture Notices; Monthly Status Report for August 1987

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption requests pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for August 1987.

Nonconfidential portions of the PMNs and exemption requests may be seen in the Public Reading Room NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday thru Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53100]" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Room L-100, 401 M Street SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-613, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during August; (b) PMNs received previously and still under review at the end of August; (c) PMNs for which the notice review period has ended during August; (d) chemical substances for which EPA has received a notice of commencement to manufacture during August; and (e) PMNs for which the review period has been suspended. Therefore, the August 1987 PMN Status Report is being published.

Dated: November 16, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notices Monthly Status Report—August 1987

I. 185 Premanufacture Notices and Exemption Request Received During the Month

PMN No.	
P 87-1513	P 87-1581
P 87-1514	P 87-1582
P 87-1515	P 87-1583
P 87-1516	P 87-1584
P 87-1517	P 87-1585
P 87-1518	P 87-1586
P 87-1519	P 87-1587
P 87-1520	P 87-1588
P 87-1521	P 87-1589
P 87-1522	P 87-1590
P 87-1523	P 87-1591
P 87-1524	P 87-1592
P 87-1525	P 87-1593
P 87-1526	P 87-1594
P 87-1527	P 87-1595
P 87-1528	P 87-1596
P 87-1529	P 87-1597
P 87-1530	P 87-1598
P 87-1531	P 87-1599
P 87-1532	P 87-1600
P 87-1533	P 87-1601
P 87-1534	P 87-1602
P 87-1535	P 87-1603
P 87-1536	P 87-1604
P 87-1537	P 87-1605
P 87-1538	P 87-1606
P 87-1539	P 87-1607
P 87-1540	P 87-1608
P 87-1541	P 87-1609
P 87-1542	P 87-1610
P 87-1543	P 87-1611
P 87-1544	P 87-1612
P 87-1545	P 87-1613
P 87-1546	P 87-1614
P 87-1547	P 87-1615
P 87-1548	P 87-1616
P 87-1549	P 87-1617
P 87-1550	P 87-1618
P 87-1551	P 87-1619
P 87-1552	P 87-1620
P 87-1553	P 87-1621
P 87-1554	P 87-1622
P 87-1555	P 87-1623
P 87-1556	P 87-1624
P 87-1557	P 87-1625
P 87-1558	P 87-1626
P 87-1559	P 87-1627
P 87-1560	P 87-1628
P 87-1561	P 87-1629
P 87-1562	P 87-1630
P 87-1563	P 87-1631
P 87-1564	P 87-1632
P 87-1565	P 87-1633
P 87-1566	P 87-1634
P 87-1567	P 87-1635
P 87-1568	P 87-1636
P 87-1569	P 87-1637
P 87-1570	P 87-1638
P 87-1571	P 87-1639
P 87-1572	P 87-1640
P 87-1573	P 87-1641
P 87-1574	P 87-1642
P 87-1575	P 87-1643
P 87-1576	P 87-1644
P 87-1577	P 87-1645
P 87-1578	P 87-1646
P 87-1579	P 87-1647
P 87-1580	P 87-1648
P 87-1649	Y 87-255
P 87-1650	Y 87-256
P 87-1651	Y 87-257
P 87-1652	Y 87-258
P 87-1653	Y 87-259
P 87-1654	Y 87-260
P 87-1655	Y 87-261
P 87-1656	Y 87-262
P 87-1657	Y 87-263
P 87-1658	Y 87-264
P 87-1659	Y 87-265
P 87-1660	Y 87-266
P 87-1661	Y 87-267
P 87-1662	Y 87-268
P 87-1663	Y 87-269
P 87-1664	Y 87-270
P 87-1665	Y 87-271
P 87-1666	Y 87-272
P 87-1667	Y 87-273
P 87-1668	Y 87-274
P 87-1669	Y 87-275
P 87-1670	Y 87-276
Y 87-252	Y 87-278
Y 87-253	Y 87-279
Y 87-254	

II. 162 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN. No.	
P 87-1351	P 87-1402
P 87-1352	P 87-1403
P 87-1353	P 87-1404
P 87-1354	P 87-1405
P 87-1355	P 87-1406
P 87-1356	P 87-1407
P 87-1357	P 87-1408
P 87-1358	P 87-1409
P 87-1359	P 87-1410
P 87-1360	P 87-1411
P 87-1361	P 87-1412
P 87-1362	P 87-1413
P 87-1363	P 87-1414
P 87-1364	P 87-1415
P 87-1365	P 87-1416
P 87-1366	P 87-1417
P 87-1367	P 87-1418
P 87-1368	P 87-1419
P 87-1369	P 87-1420
P 87-1370	P 87-1421
P 87-1371	P 87-1422
P 87-1372	P 87-1423
P 87-1373	P 87-1424
P 87-1374	P 87-1425
P 87-1375	P 87-1426
P 87-1376	P 87-1427
P 87-1377	P 87-1428
P 87-1378	P 87-1429
P 87-1379	P 87-1430
P 87-1380	P 87-1431
P 87-1381	P 87-1432
P 87-1382	P 87-1433
P 87-1383	P 87-1434
P 87-1384	P 87-1435
P 87-1385	P 87-1436
P 87-1386	P 87-1437
P 87-1387	P 87-1438
P 87-1388	P 87-1439
P 87-1389	P 87-1440
P 87-1390	P 87-1441
P 87-1391	P 87-1442
P 87-1392	P 87-1443
P 87-1393	P 87-1444
P 87-1394	P 87-1445
P 87-1395	P 87-1446
P 87-1396	P 87-1447
P 87-1397	P 87-1448
P 87-1398	P 87-1449
P 87-1399	P 87-1450
P 87-1400	P 87-1451
P 87-1401	P 87-1452

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P 87-1470
P 87-1471
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P 87-1500
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P 87-1508
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P 87-1510
P 87-1511
P 87-1512

III. 191 Premanufacture Notices and Exemption Requests for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.

P 85-1335
P 86-36
P 86-823
P 86-1526
P 86-1634
P 87-252
P 87-786
P 87-787
P 87-1408
P 87-1054
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P 87-1120
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Y 87-200
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Y 87-202
Y 87-203
Y 87-204
Y 87-205
Y 87-206
Y 87-207
Y 87-208
Y 87-209
Y 87-210
Y 87-211
Y 87-212
Y 87-213
Y 87-214
Y 87-215
Y 87-216

IV. 15 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/generic name	Date of commencement
P 85-36	Generic name: Substituted pyridine	June 2, 1986.
P 85-1022	Generic name: Barium lithol pigment	Nov. 22, 1985.
P 85-1343	Generic name: Silicon substituted organic amine	Jan. 27, 1986.
P 86-333	Generic name: Aromatic polyamide	July 22, 1987.
P 86-557	Generic name: 2,4-Diamino-5-para-acetylaminophenylazo) sulfocarbopolycyclic azo-hydroxysulfocarbopolycyclic azo-benzenesulfonic acid salt.	July 3, 1987.
P 86-578	Generic name: Dicyanate ester oligomer	July 6, 1987.
P 86-1007	Generic name: Acrylate functional polysiloxane	Aug. 5, 1986.
P 86-1600	Alkyl naphthalene sulfonic acid, compound with amine	Dec. 9, 1986.
P 87-247	Generic name: Thermoplastic elastomer	July 20, 1987.
P 87-702	Generic name: Butanamide, N-(4-alkylcarboxy phenyl)-3-oxo-	June 21, 1987.
P 87-703	Butanamide, N-(2,4-dimethylphenyl)-3-oxo-, sodium chloride	June 21, 1987.
P 87-738	Generic name: Amide soap blend	Oct. 29, 1987.
P 87-854	Generic name: Alkyl substituted 3,3-bis(phenyl) isobenzofuranone	July 12, 1987.
P 87-921	Generic name: Dimethyl, methylphenyl polysiloxane fluid	July 30, 1987.
P 87-924	Generic name: Dimethyl, methylphenyl polysiloxane fluid	July 30, 1987.

V. 21 Premanufacture Notices for Which the Period Has Been Suspended

PMN No.	
P 87-568	P 87-1155
P 87-569	P 87-1159
P 87-570	P 87-1201
P 87-1068	P 87-1212
P 87-1123	P 87-1213
P 87-1147	P 87-1220
P 87-1226	P 87-1385
P 87-1227	P 87-1387
P 87-1272	P 87-1456
P 87-1318	P 87-1511
P 87-1319	

[FR Doc. 87-26918 Filed 12-15-87; 8:45 am]

BILLING CODE 6560-50-M

federal register

Wednesday
December 16, 1987

Part VI

Environmental Protection Agency

Toxic Substances; Premanufacture Notices; Monthly Status Report for September 1987; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53101; FRL-3294-6]

Toxic Substances; Premanufacture Notices; Monthly Status Report for September 1987

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption requests pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for September 1987.

Nonconfidential portions of the PMNs and exemption requests may be seen in the Public Reading Room NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday thru Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53101]" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M Street, SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during September; (b) PMNs received previously and still under review at the end of September; (c) PMNs for which the notice review period has ended during September; (d) chemical substances for which EPA has received a notice of commencement to manufacture during September; and (e) PMNs for which the review period has been suspended. Therefore, the September 1987 PMN Status Report is being published.

Dated: November 16, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notices Monthly Status Report—September 1987

I. 254 Premanufacture Notices and Exemption Request Received During the Month

PMN No.	
P 87-1671	P 87-1739
P 87-1672	P 87-1740
P 87-1673	P 87-1741
P 87-1674	P 87-1742
P 87-1675	P 87-1743
P 87-1676	P 87-1744
P 87-1677	P 87-1745
P 87-1678	P 87-1746
P 87-1679	P 87-1747
P 87-1680	P 87-1748
P 87-1681	P 87-1749
P 87-1682	P 87-1750
P 87-1683	P 87-1751
P 87-1684	P 87-1752
P 87-1685	P 87-1753
P 87-1686	P 87-1754
P 87-1687	P 87-1755
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IV. 27 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/generic name	Date of commencement
P83-949	Generic name: Polyglycidyl ethers of hydrocarbon novolac	July 17, 1987.
P86-389	Generic name: Azoxy bis (substituted phenyl)azo bis substituted naphthalenesulfonic acid, salt	June 30, 1987.
P86-505	Propane, 2,2-bis(p-(p-nitrophenoxy)phenyl)	July 27, 1987.
P86-521	Generic name: Brominated aromatic hydrocarbon	June 24, 1987.
P86-834	D,1-camphorquinone	Sept. 15, 1987.
P86-867	Siloxanes and silicones, Di-Me, Me hydrogen, reaction products with allyl glycidyl ether and polyethylene-polypropylene glycol allyl methyl ether.	July 20, 1987.
P86-1270	Generic name: Fatty acid modified alkyd resin	Mar. 31, 1987.
P86-1341	Generic name: Unsaturated aromatic hydrocarbon	June 25, 1987.
P86-1466	Generic name: Substituted benzenesulfonyl chloride	July 14, 1987.
P86-1467	Generic name: Substituted benzenesulfonamide	Do.
P86-1761	Generic name: Saturated polyester resin	May 20, 1987.
P87-26	Generic name: 2-(2-Aminoethoxy)ethanol, ethanol, 2,2′-oxybis-, ethanol, 2,2′-[1,2-ethanediylbis(oxy)] bis-, ethanol, 2-[2-(2-aminoethoxy)ethoxy]-.	June 30, 1987.
P87-202	Generic name: Alkyl substituted cycloalkenoate	June 25, 1987.
P87-296	1-Penten-3-one, 2-methyl-1-(2,6,6-trimethyl-2-cyclohexen-1-yl)-	June 22, 1987.

IV. 27 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Identity/generic name	Date of commencement
P87-300	Acetic acid, isothiocyanato, ethyl ester	June 18, 1987.
P87-452	3,6-Dimethyl-1-octyn-3-ol	June 10, 1987.
P87-672	4,7,11-trimethyl-4,6,10-dodecatrien-3-one	June 15, 1987.
P87-731	Generic name: Aqueous polyurethane dispersion	June 29, 1987.
P87-753	Amide of polycarboxylic acid	June 4, 1987.
P87-761	Generic name: Phenoxy modified epoxy ester resin	June 23, 1987.
P87-762	2-Butenal, 3-methyl-	July 1, 1987.
P87-789	Generic name: Reaction mixture of carbomonocyclic acid, sulfonated carbomonocyclic ester, alkylene glycol and dialkylene glycol.	July 6, 1987.
P87-835	Benzeneacetonitrile, alpha-hydroxy-3-phenoxy-, (S)-	June 23, 1987.
P87-866	Generic name: Tall oil fatty acid polyamide	July 20, 1987.
P87-914	Generic name: Modified epoxy resin	July 6, 1987.
P87-926	Generic name: Ethylene interpolymer	July 21, 1987.
P87-985	Generic name: Saturated polyester plasticizer	July 15, 1987.

V. 15 Premanufacture Notices for Which the Period Has Been Suspended

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P 87-1273	

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LIST OF PUBLIC LAWS

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 3483/Pub. L. 100-185

Criminal Fine Improvements Act of 1987. (Dec. 11, 1987; 101 Stat. 1279; 7 pages) Price: $1.00

S. 860/Pub. L. 100-186

To designate "The Stars and Stripes Forever" as the national march of the United States of America. (Dec. 11, 1987; 101 Stat. 1286; 1 page) Price: $1.00

S. 1297/Pub. L. 100-187

De Soto National Trail Study Act of 1987. (Dec. 11, 1987; 101 Stat. 1287; 2 pages) Price: $1.00

S.J. Res. 136/Pub. L. 100-188

To designate the week of December 13, 1987, through December 19, 1987, "National Drunk and Drugged Driving Awareness Week." (Dec. 11, 1987; 101 Stat. 1289; 2 pages) Price: $1.00

S.J. Res. 146/Pub. L. 100-189

Designating January 8, 1988, as "National Skiing Day." (Dec. 11, 1987; 101 Stat. 1291; 1 page) Price: $1.00