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Briefings on How To Use the Federal Register—
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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: March 31; at 9 am.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
RESERVATIONS: Beverly Fayson, 202–523–3517

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 1987–88 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the quantity of spearmint oil produced in the Far West, by class, that may be purchased from or handled for producers, by handlers, during the 1987–88 marketing year which begins June 1, 1987. This action was recommended under the marketing order for spearmint oil produced in the Far West in order to avoid extreme fluctuations in supplies and prices and thus stabilize the market for spearmint oil.

EFFECTIVE DATE: June 1, 1987, through May 31, 1988.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, DC 20250. Telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the impact of this rule on small entities and has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, hereinafter referred to as the Act, and rules issued thereunder, are unique in that they are brought about through the group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Although handlers and/or marketers will be affected by the establishment of salable quantities and allotment percentages, the intent of the Act is to benefit agricultural producers. The Far West spearment oil industry is characterized by producers whose farming operations generally involve more than one commodity and whose income from farming operations is not exclusively dependent on the production of spearmint oil. The production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (the area covered under the marketing order). Spearmint oil is also produced in the Midwest. The production area covered by the marketing order usually accounts for over 75 percent of the U.S. production of spearmint oil.

The Spearmint Oil Administrative Committee reports that there are 9 handlers and 253 producers of spearmint oil under the marketing order for spearmint oil produced in the Far West. Of the 253 producers, 164 producers hold Class I oil (Scotch) allotment base and 132 producers hold Class III oil (native) allotment base. As of June 1, 1986, producers' allotment bases ranged from 1,200 to 181,902 pounds for Class I oil and 617 to 82,167 pounds for Class III oil. The average total allotment base held is 9,964 pounds and 13,695 pounds for Class I and Class III oil, respectively.

Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.1 (1985)) as those having average annual gross revenues for the last three years of less than $100,000. Handlers are considered small entities if gross annual revenues are less than $3.5 million. The most recent three years sales for spearmint oil from the marketing order area averaged $20.4 million. Thus, the average gross revenue from the sale of spearmint oil per producer (based on 253 producers) would be approximately $80,550.

The regulatory action in this instance is the establishment of salable quantities and allotment percentages for spearmint oil produced in the Far West, by class, such that the amount of spearmint oil that may be purchased from or handled for producers, by handlers, during the 1987–88 marketing year, which begins June 1, 1987, will be limited. Such salable quantities and allotment percentages have been placed into effect each season since the order's inception in 1980. The establishment of salable quantities and allotment percentages will likely result in the production of less than half of the total allotment base available for production of spearmint oil. However, the amounts recommended for sale are based on the average sales over the past six years, and are not expected to cause a shortage of spearmint oil supplies. Any unanticipated or additional market needs which may develop can be more than satisfied by current reserve stocks which are equal to more than 50 percent of the volume of spearmint oil utilized by the market on a yearly basis. In addition, those producers who produce more than their annual percentage of allotment may transfer such excess spearmint oil to a producer with a deficiency in spearmint oil production, or such excess spearmint oil will be placed into reserve stocks.

This regulation is similar to that which has been issued in prior seasons. Costs to producers and handlers as a result of this action are expected to be offset by the benefits derived from improved returns to such producers and handlers, while at the same time maintaining ample supplies of spearmint oil to be marketed.

Based on available information, the Administrator has concluded that this action will not have a significant economic impact on a substantial number of small entities.

The establishment of a salable quantity and allotment percentage for each class of spearmint oil is in accordance with the provisions of Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West. The order is effective under the Agricultural Marketing

Agreement Act of 1937, as amended (7 U.S.C. 601–674). The rule was recommended by the Spearmint Oil Administrative Committee, at its August 13, 1986, meeting. The proposed rule was published in the **Federal Register** on December 19, 1986, (51 FR 45475) and provided interested persons the opportunity to file written comments through January 20, 1987. No comments were received.

The salable quantity and allotment percentage for each class of spearmint oil for the 1987–88 marketing year, which begins June 1, 1987, is based upon recommendations of the committee and the following data and estimates:

(1) Class I Oil (Scotch Spearmint)

(A) Estimated carryin on June 1, 1987—60,382 pounds.

(B) Estimated trade demand (domestic and export) for the 1987–88 marketing year, based on an average of producer sales for the past six marketing years, beginning with the 1980–81 marketing year through the 1985–86 marketing year—758,914 pounds.

(C) Recommended desirable carryout on May 31, 1988—0 pounds.

(D) Salable quantity required from 1987 production—698,532 pounds.

(E) Total allotment bases for Class I oil—1,650,497 pounds.

(F) Computed allotment percentage—42.3 percent.

(G) The committee's recommended salable quantity—693,209 pounds.

(H) Recommended allotment percentage—42 percent.

(2) Class III Oil (Native Spearmint)

(A) Estimated carryin on June 1, 1987—179,599 pounds.

(B) Estimated trade demand (domestic and export) for the 1987–88 marketing year, based on an average of producer sales for the past six marketing years, beginning with the 1980–81 marketing year through the 1985–86 marketing year—859,648 pounds.

(C) Recommended desirable carryout on May 31, 1988—0 pounds.

(D) Salable quantity required from 1987 production—680,049 pounds.

(E) Total allotment bases for Class III oil—1,826,673 pounds.

(F) Computed allotment percentage—37.2 percent.

(G) The committee's recommended salable quantity—675,869 pounds.

(H) Recommended allotment percentage—37 percent.

The salable quantity is the total quantity of each class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The establishment of these salable quantities and allotment percentages will allow for anticipated market needs based on historical sales and provide spearmint oil producers with information on the amount of oil which should be produced for next season. Spearmint oil has an extremely inelastic demand and excess production normally is placed into the industry's reserves. Current reserves are equal to more than 50 percent of the volume of spearmint oil utilized by the market on a yearly basis. These reserve stocks are sufficient to meet any unanticipated marketing opportunities in the coming season. The regulation this season should aid the industry in reducing its burdensome and price depressing reserves.

Pursuant to the order, the committee issued additional allotment bases to both new and existing producers for the 1987–88 marketing year. The issuance of additional allotment base to both new and existing producers is expected to increase the total supply available for sale of Class I oil by 16,608 pounds and Class III oil by 18,080 pounds.

List of Subjects in 7 CFR Part 985

Agricultural Marketing Service, Marketing agreements and orders, Far West, and Spearmint oil.

1. The authority citation for 7 CFR Part 985 continues to read as follows:

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

2. A new § 985.207 under Subpart—Salable Quantities and Allotment Percentages is added to read as follows:

Note.—The following provisions will not be published in the Code of Federal Regulations.

PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

Subpart—Salable Quantities and Allotment Percentages

§ 985.207 Salable quantities and allotment percentages—1987–88 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year which begins June 1, 1987, shall be as follows:

(a) Class I oil—a salable quantity of 693,209 pounds and an allotment percentage of 42 percent.

(b) Class III oil—a salable quantity of 675,869 pounds and an allotment percentage of 37 percent.

Dated: March 20, 1987.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division.

[FR Doc. 87-6501 Filed 3-24-87; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 87-041]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the regulations governing the interstate movement of cattle because of brucellosis by changing the classification of Alabama from Class B to Class A. This action is necessary because we have determined that Alabama meets the standards for Class A status. The effect of this action is to relieve certain restrictions on the interstate movement of cattle from Alabama.

EFFECTIVE DATE: March 25, 1987. We will consider your comments if we receive them on or before May 26, 1987.

ADDRESSES: Send written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 87–041. Comments received may be inspected in Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Jan Huber, Senior Staff Veterinarian, Domestic Programs Support Staff, VS, APHIS, USDA, Room 812, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 (301) 436–5965.

SUPPLEMENTARY INFORMATION:

Background

The brucellosis regulations (contained in 9 CFR Part 78 and referred to below as the regulations) provide a system for classifying States or portions of States according to the rate of brucella infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine. The State of Alabama is designated as a Class B status. This document amends the regulations to change the brucellosis program status of Alabama from Class B to Class A.

The brucellosis Class Free classification is based on a finding of no

known brucellosis in cattle for the period of 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis, with Class A and Class B in between. Restrictions on the movement of cattle are more stringent for movements from Class A States or areas compared with movements from Free States or areas, and are more stringent for movements from Class B States or areas compared with movements from Class A States or areas, and so on.

The basic standards for the different classifications of States or areas concern maintenance of: (1) A cattle herd infection rate, based on the number of herds found to have brucellosis reactors, not to exceed a stated level during 12 consecutive months; (2) a rate of infection in the cattle population, based on the percentage of brucellosis reactors found in Market Cattle Identification (MCI)—testing at stockyards and slaughtering establishments—not to exceed a stated level; (3) a surveillance system that requires testing of dairy herds, participation of all slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection, including herds adjacent to infected herds and herds from which infected animals have been sold or received; and (4) minimum procedural standards for administering the program.

Prior to the effective date of this document, Alabama was classified as a Class B State because of the herd infection rate and the MCI reactor prevalence rate. However, a review of the brucellosis program establishes that Alabama should be changed to Class A status.

In order to attain and maintain Class A status, a State or area must (1) not exceed a cattle herd infection rate, due to field strain *Brucella abortus* of 0.25 percent or 2.5 herds per 1,000 based on the number of reactors found within the State or area during any 12 consecutive months, except in States with 10,000 or fewer herds; (2) maintain a 12 consecutive months MCI reactor prevalence rate not to exceed one reactor per 1,000 cattle tested (0.10 percent); and (3) have an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd. Alabama now meets the criteria for classification as Class A.

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 its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Alabama reduces certain testing and other requirements on the interstate movement of these cattle. However, cattle from certified brucellosis-free herds moving interstate are not affected by these changes in status. We have determined that the changes in brucellosis status made by this document will not affect market patterns and will not have a significant economic impact on those persons affected by this document.

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.)

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted in order to delete unnecessary restrictions on the interstate movement of certain cattle from Alabama.

Further, pursuant to administrative procedure provisions in 5 U.S.C. 533, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest, and good cause is found for making this interim rule effective less than 30 days after the publication of this document in the **Federal Register.** Comments are being solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

List of Subjects in 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, 9 CFR Part 78 is amended as follows:

1. The authority citation for Part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 78.41 [Amended]

2. Section 78.41, paragraph (b) is amended by adding "Alabama" immediately before "Arizona".

3. Section 78.41, paragraph (c) is amended by removing "Alabama".

Done in Washington, DC, this 20th day of March, 1987.

B. G. Johnson,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87–6421 Filed 3–24–87; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 55

Operators' Licenses and Conforming Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to (1) clarify the regulations for issuing licenses to operators and senior operators; (2) revise the requirements and scope of written examinations and operating tests for operators and senior operators, including a requirement for a simulation facility; (3) codify procedures for administering requalification examinations; and (4) describe the form and content for operator license applications. The rule is necessary to meet NRC responsibilities under Section

306 of the Nuclear Waste Policy Act of 1982.

DATES: Effective Date: May 26, 1987. *Public meeting dates:* April 9, 14, 16, and 20, 1987.

ADDRESSES: Public meeting locations: Public meetings will be held to discuss implementation of the requirements of this rule. The meetings will be held as follows:

A. April 9, 1987 for Region II, Richard B. Russell Federal Building, Strom Auditorium, Lower Level, 75 Spring Street, SW., Atlanta, Georgia.

Point of Contact: Mr. Kenneth E. Brockman, U.S. Nuclear Regulatory Commission, Region II, 101 Marietta Street, Suite 3100, Altanta, GA 30323, (404) 331–5594.

B. April 14, 1987 for Regions IV and V, Stouffer Concourse Hotel, 3801 Quebec Street, Denver, Colorado (Across from Stapleton Airport).

Points of Contact: Mr. Ralph Colley, U.S. Nuclear Regulatory Commission, Region IV, Parkway Central Plaza Building, 611 Ryan Plaza Drive, Suite 1000, Arlington, TX 76011, (817) 860–8147.

Mr. Phillip Morrill, U.S. Nuclear Regulatory Commission, Region V, 1450 Maria Lane, Suite 210, Walnut Creek, CA 94596, (415) 943–3740.

C. April 16, 1987 for Region III, Ramada Hotel O'Hare, 6600 N. Mannheim Road (corner of Higgins), Rosemont, Illinois (One mile from O'Hare Airport), Phone: (312) 827–5131.

Point of Contact: Mr. Thomas Burdick, U.S. Nuclear Regulatory Commission, Region III, 799 Roosevelt Road, Glen Ellyn, IL 60137, (312) 790–5566.

D. April 20, 1987 for Region I, Hilton Hotel Valley Forge, 251 West DeKalb Pike, King of Prussia, Pennsylvania, Phone: (215) 337–1200.

Point of Contact: Mr. Noel F. Dudley, U.S. Nuclear Regulatory Commission, Region I, 631 Park Avenue, King of Prussia, PA 19406, (215) 337–5211.

Background information for the rule includes a copy of the regulatory analysis, the supporting statement for the Office of Management and Budget clearance of the information collection requirements, Regulatory Guides, ANSI/ANS standards, NUREG-series documents, other documents discussed in this notice, and reports that contain a detailed analysis of the public comments received during the public comment period and their resolution may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

A single copy of the reports concerning public comments may be obtained from Chief, Operator Licensing Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–4868.

FOR FURTHER INFORMATION CONTACT: Chief, Operator Licensing Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–4868.

SUPPLEMENTARY INFORMATION:

I. Background

Section 107 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2137), requires the Nuclear Regulatory Commission to prescribe uniform conditions for licensing individuals as operators of production and utilization facilities and to determine the qualifications of these individuals and to issue licenses to such individuals. The regulations implementing these requirements are set out in Part 55 of Title 10, Chapter 1, of the Code of Federal Regulations. To assist licensees and others, the Commission also has issued regulatory guides and generic letters that provide guidance on acceptable methods of meeting these regulatory requirements.

The Commission has become increasingly aware of the need to update its operator licensing regulations and related regulatory guides. These revisions are needed to clarify the extent to which simulators should be used in licensing examinations and to reflect upgraded requirements for licensed operator selection, training, and requalification programs resulting from the accident at TMI–2. Although the Commission has been actively engaged in investigating these matters, the schedule for completing these activities was further accelerated by the enactment of January 7, 1983, of the Nuclear Waste Policy Act of 1982, Pub. L. 97–425. Section 306 of that act (42 U.S.C. 10226, 96 Stat. 2201 at 2262–2263) directs the NRC to establish (1) simulator training requirements for applicants for operator licenses and for operator requalification programs, (2) requirements governing NRC administration of requalification examinations, and (3) requirements for operating tests at civilian nuclear power plant simulators.

On November 26, 1984, the Commission published proposed amendments to 10 CFR Part 55, "Operators' Licenses" in the **Federal Register** (49 FR 46428). These amendments proposed granting, in part, a petition for rulemaking (PRM–55–1) that was filed by KMC, Inc. PRM–55–1 is discussed more fully under Section II.B, "Medical Requirements." A 90-day comment period expired on February 25, 1985. Comments were received from 88 respondents. An additional 47 respondents commented on the three associated regulatory guides, also issued for public comment. Reports that contain a detailed analysis of these comments and their resolution are available as indicated under **"ADDRESSES:"**.

These proposed revisions to 10 CFR Part 55 were to improve the operator licensing process and to achieve the following objectives:

(1) Improve the safety of nuclear power plant operations by improving the operator licensing process and examination content,

(2) Provide the NRC with an improved basis for administering operator licensing examinations and conducting operating tests, and

(3) Respond to the specific direction given by Congress in Section 306, Nuclear Waste Policy Act of 1982, Pub. L. 97–425, to promulgate regulations and guidance in the area of examinations.

On March 20, 1985, the Commission published a Final Policy Statement on Training and Qualification of Nuclear Power Plant Personnel (50 FR 11147) that describes the Commission's current policy regarding training of operators. In addition to this policy statement, the Commission is publishing the new rules described in this notice; these rules supercede all current regulations for operator licenses. Those facility licensees that have made a commitment that is less than that required by these new rules must conform to the new rules automatically. Those facility licensees that have made a commitment different from or more than that required by these new rules for license amendments and technical specification changes, may apply to the Commission so that they can conform to these new rules. Other changes should be made in accordance with 10 CFR 50.59.

Production facilities previously included in Part 55 are not referenced in the revisions since there are no operators at production facilities currently licensed by the Commission. Although special consideration has been given to the smaller size and scope of test and research reactors the requirements in this notice apply to all utilization facilities licensed under 10 CFR Part 50, including test and research reactors. Consequently, except where specific wording has been used to note different requirements, these rules apply to test and research reactors.

II. Summary of Public Comments and Final Actions

The proposed amendments to improve the operator licensing process have been modified in response to the comments received. A summary of the public comments and, where appropriate, a description of the changes that resulted from them follows.

(A) *General Comments*—(1) *General purpose of these amendments.* Several commenters provided general support for the proposed rule. Other commenters suggested changes to clarify the purpose and exemptions sections. These sections were reworded as a result of the evaluation of these comments. In particular, the purpose of the rule indicates that terms and conditions of operators' licenses and renewal are covered. Exemption for trainees at a facility is clarified to indicate that a trainee is only exempted while participating in an NRC-approved training program to qualify for an operator license. In addition, employees involved in fuel handling are exempt if they are supervised by a licensed senior operator.

(2) *Definitions.* Many commenters were concerned with the specific definitions in the rule. A number of commenters addressed the definitions of "simulation facility" and "Plant-referenced simulator," and requested clarification of the NRC's intent for the use of such devices in the partial conduct of operating tests. Several commenters believed that only plant-referenced simulators would be permitted.

The definition of a "plant-referenced simulator" is intended to mean a simulator that meets all of the requirements of ANSI/ANS 3.5–1985, as endorsed by Regulatory Guide 1.149, "Nuclear Power Plant Simulation Facilities for Use in Operator License Examinations," (see Section V, Regulatory Guides, of this Supplementary Information).

The definition of a "simulation facility" is intended to provide for flexibility in the conduct of the simulator (non-plant-walkthrough) portion of the operating test. The intent is to permit, under circumstances specified in 10 CFR 55.45(b), the use of the plant itself, and/or a plant-referenced simulator, and/or some other type of simulation device such as a part-task or basic-principles simulator, for the conduct of the simulator portion of the operating test.

A number of commenters expressed concern that a plant, when used as a simulator, could not safely perform the full range of functions that a simulator could perform, and some commenters requested clarification about the limitation of the conditions under which the plant could be used.

It is not the intent of NRC to permit or encourage the initiation of transients on the plant when and if the plant is used as a simulation facility. The use of the plant is envisioned as a possible approach that a facility licensee might propose to use in conjunction with another simulation device or devices, in lieu of a plant-referenced simulator. This approach might be suitable, for example, for older plants without access to plant-referenced simulators, where manipulations of the plant, to the extent consistent with plant conditions, might be used to demonstrate familiarity with the plant for which the candidate would be licensed.

Several commenters suggested that the definition of "reference plant" should not be specific to a plant and its unit. The word "unit" has been deleted from this definition, although it remains the NRC's intent that a reference plant refer to a specific docket number. For those situations in which a multi-unit plant is composed of units from the same vendor and vintage, it is likely that only one simulation facility would be required. For others, Regulatory Guide 1.149 provides specific guidance for those facility licensees that want to consider the use of one simulation facility for use at more than one nuclear power plant. This guidance is based upon existing NRC policy on the granting of multiunit operator's licenses.

(B) *Medical requirements*—(1) *Criteria for medical requirements.* Most commenters agreed with the revisions to the medical certification process, which would require, for the usual case, a brief certification by the facility licensee on Form NRC–396, as revised. Some commenters questioned the relationship of these requirements to drug and alcohol problems and programs. Other commenters were confused about who would have responsibility for determining the medical condition of an operator or applicant for an operator's license. Some comments were made about the specific language in the medical requirements regarding disqualifying conditions and commenters requested changes or clarification. Many commenters noted the need to adjust the medical requirements to the renewal cycle.

The medical requirements reflect the industry standard articulated in ANSI/ANS 3.4–1983, "Medical Certification and Monitoring of Personnel Requiring Operating Licenses for Nuclear Power Plants." [1] The intent is to prevent the manipulation of the controls by an operator whose medical condition and general health would cause operational errors endangering public health and safety. The medical requirements rely on examination of the applicant or operator by a licensed physician who evaluates the medical conditon of the operator, based on the criteria of ANSI/ANS 3.4–1983 that is endorsed by Regulatory Guide 1.134, "Medical Evaluation of Licensed Personnel for Nuclear Power Plants," and makes recommendations to the facility's management. The facility's management is responsible for certifying the suitability of the applicant for a license. The NRC has the responsibility for making an assessment of the applicant for a license, including the applicant's medical fitness. Neither the facility nor the NRC staff will make medical judgments. When a conditional license is requested, the NRC will use a qualified medical expert to review the medical evidence submitted by the facility to make a determination. For minor conditions, such as the need to wear corrective lenses or a hearing aid, the Form NRC 396 is modified to simplify the process for obtaining a medically conditioned license. Moreover, while the biennial medical examination required under § 55.21 is intended to detect alcoholism or drug dependency or both, no reference is made in the rule to alcohol or drug problems. These issues are covered in a Policy Statement on Fitness for Duty of Nuclear Power Plant Personnel (51 FR 27921), published on August 4, 1986, by the Commission. In addition, the license renewal period is changed to 6 years to be compatible with the biennial medical examination requirements.

In July 1983, KMC, Inc., petitioned the Commission (PRM–55–1) "to simplify the procedure for the review of the medical status of applicants for operator- . . . licenses." KMC stated that the current procedures require that a detailed medical history and results of the applicant's medical examination by a licensed physician be sent to the Commission. The petitioner requested that the Commission amend its regulations to permit designated medical examiners, as defined in ANSI N546–1976, "Medical Certification and Monitoring of Personnel Requiring Operator Licenses for Nuclear Power Plants," to certify that the applicant has

[1] Standards discussed in this rule are available for purchase from American Nuclear Society, 555 North Kensington Avenue, La Grange Park, Illinois 60525.

been examined (using the guidance contained in ANSI N546–1976 as endorsed by Regulatory Guide 1.134) and that the applicant's general health and physical condition is not such as may cause operational errors. Under the petitioner's request the use of the current NRC Form 396 would be discontinued for utility operators and detailed medical records would be retained by the licensee's designated medical examiner. Subpart C to Part 55 responds to the KMC, Inc. petition. NRC grants its request, in part, by eliminating the requirement to submit, in usual cases, medical information for an applicant for an operator's license directly to the NRC. Instead, as described above, a certification to NRC about compliance with the health requirements in § 55.33(a)(1) would be made by the facility licensee.

(2) *Notification of incapacitation because of disability or illness.* Some confusion was noted by several commenters regarding the process to notify the Commission when an operator was incapacitated because of disability or illness. The final rule is changed to reflect more clearly the Commission's intent. That is, if, during the term of the license, an operator's medical condition changes and does not meet the requirements set forth in ANSI/ANS 3.4–1983, notification of the Commission by the facility licensee is required. At the same time, if the examining physician indicates that the condition can be accommodated as noted in § 5.1 of the ANSI/ANS 3.4–1983, a conditional license may be requested by an authorized representative of the facility licensee. Form NRC 396 must be used and supporting medical evidence must be supplied. However, the facility licensee does not have to wait for permission from the Commission before returning an operator to licensed duties, if the operator has been examined by a physician, who, using ANSI/ANS 3.4–1983 as a basis, has recommended to the facility's management that the operator can return.

(3) *Test and research reactors.* Many test and research reactor operators were concerned that the requirements in the rule changed the medical requirements for them. The rule changes only the requirements for test and research reactor facility licensees. It does not change the status quo for reactor operators, for whom ANSI/ANS–15.4–1977(N 380), "Selection and Training of Personnel for Research Reactors," requirements continue.

(C) *Applications.* Applications for an operator license require the facility licensee to certify that there is a need for the applicant to perform assigned duties. Several commenters were concerned that the "need" was not clearly defined. The requirements are intended to simply have the facility licensee's management internally review the need for the license before the application is made. Another concern of many commenters was the relationship between industry-accredited training programs and the details regarding training and experience needed to apply to the NRC on Form NRC–398. In addition, some commenters were concerned with the definition of the phrase "learned to operate." This phrase has been deleted from § 55.31 and replaced by wording which indicates that if a candidate successfully completes the training and experience requirements to be licensed as an operator, the NRC will conduct the appropriate examination and operating test. Section 55.31(a)(5) has been added to specify the minimum number of control manipulations to be conducted by an applicant. Details regarding other training and qualification will not be required to be supplied on Form NRC–398, if these requirements are contained in an NRC-approved training program that uses a simulation facility acceptable to the NRC under § 55.45(b). Subject to continued Commission endorsement of the industry's accreditation process under the Final Policy Statement on Training and Qualification of Nuclear Power Plant Personnel (50 FR 11147; March 20, 1985), a facility licensee's training program would be approved by being accredited by the National Nuclear Accrediting Board.

(D) *Written examinations and operating tests*—(1) *Content.* Most commenters recommended that the principal means of determining the knowledge, skills, and abilities to be included in operator licensing written examinations and operating tests should be the learning objectives derived from a systematic analysis of the job performance requirements. These commenters recommended that these learning objectives form the basis and scope of examinations and tests and that other sources of information should only be used until the learning objectives are available for a facility. Conversely, some commenters questioned as premature the endorsement by NRC of a systematic analysis from which to draw the content for licensing examinations and tests. One commenter recommended that NRC issue a document that specifically delineates what an operator is responsible for on NRC examinations and operating tests.

Systematic analysis of job performance requirements is an accepted methodology for deriving licensing examination content. The job-task analyses are being performed as part of the performance-based programs that are being implemented by facility licensees as part of the industry supported accreditation program. The learning objectives derived from these job-task analyses should form the basis for licensing written examinations and operating tests at a facility. Ultimately, the NRC testing objectives will reflect facility licensee-developed learning objectives. In the interim, while these programs are being developed and reviewed for accreditation, the NRC has activities underway to improve the content validity of NRC examinations and operating tests.

(2) *Specific wording of categories.* Many commenters made specific wording recommendations for the categories listed under content of the written examinations and operating test. These suggestions were reviewed by subject-matter experts and changes were made to clarify or improve the content categories. No major changes resulted except to two categories under the operating test. Under § 55.45, categories (12) and (13) were reworded as follows:

(12) Demonstrate the knowledge and ability as appropriate to the assigned position to assume that responsibilities associated with the safe operation of the facility.

(13) Demonstrate the applicant's ability to function within the control room team as appropriate to the assigned position, in such a way that the facility licensee's procedures are adhered to and that the limitations in its license and amendments are not violated.

(3) *Waivers.* Several commenters suggested that examinations and tests be automatically waived under specific circumstances. As the agency responsible for public health and safety with regard to nuclear facilities, the Commission cannot waive its independent assessment of operators. Waivers are based on operators previously passing all or part of a licensing examination. Details regarding the processing of waivers are addressed in NUREG–1021, "Operator Licensing Examiner Standards." [2]

[2] NUREG-series documents are available for public inspection and copying for a fee in the Commission's Public Document Room at 1717 H

Continued

(4) *Integrity and examinations and tests.* Although many commenters supported the addition of § 55.49, "Integrity of Examinations and Tests," they felt that the penalties in § 55.71 were excessive. Other commenters were afraid that any action might be interpreted as cheating and that the role of facility licensees in enforcement was unclear. The NRC always has prosecutorial discretion not to take enforcement action in unclear cases. The language in § 55.71 on criminal violations only covers persons who "willfully violate" the Atomic Energy Act or the NRC's regulations and does not apply to situations such as discussions after an examination is administered or when a previously administered examination is used as a practice examination.

(E) *Simulation facilities*—(1) *Application process.* Many commenters were concerned with what they termed the burdensome procedure requiring initial and subsequent application for approval to use a simulation facility. Most of these commenters felt that certification by the facility licensee to the NRC that the simulation facility met industry standards should suffice, when combined with the NRC's ability to audit the simulation facility and review the supporting documentation.

The Commission has amended the final rule to reflect the position taken in these comments. Any facility licensee that proposes to use a simulation facility that meets the definition of a plant-referenced simulator (essentially a simulator that meets the requirements of ANS–3.5, 1985, "Nuclear Power Plant Simulators for Use In Operator Training," as modified by Regulatory Guide 1.149) will be required only to certify this to the Commission, and to maintain records pertaining to performance testing results for Commission review or audit. Any facility licensee that proposes to use a simulation facility that is other than a plan-referenced simulator will be required to submit a plan detailing how the requirements of § 55.45 will be met on the alternative device or devices, followed by an application for NRC approval for use of the simulation facility. However, in response to the numerous comments received, this application process has been greatly simplified, and the requirement for a periodic "subsequent" application has been eliminated. In support of its certification or its application, as appropriate, each facility licensee will be required to conduct periodic performance tests on its simulation facility, and maintain records pertaining to the conduct of these tests and the results obtained.

It is the Commission's intent that those facility licensees that submit a certification for a simulation facility may immediately begin use of the certified simulation facility for the conduct of operating tests at the reference plant.

(2) *Performance testing.* Many comments addressed the requirement for the conduct of a series of performance tests, in which an extensive range of tests would be conducted over a 4-year cycle, 25 percent per year. The industry standard which was in effect at the time of the proposed rulemaking, ANSI/ANS 3.5–1981, required complete simulator performance testing every four years, and R.G. 1.149 endorsed that requirement. In addition, the R.G. specified that all malfunctions which a simulation facility was capable of performing should be tested to the extent that such malfunctions could be used in the conduct of operating tests. The majority of commenters felt that the burden of conducting these tests would demand an excessive amount of time on the part of the simulation facility as well as the facility licensee's staff. Numerous suggestions were made proposing lists of performance tests thought to be appropriate, suggesting alternative formulas for the cycle of performance testing, or offering suggestions that the rule merely endorse a new version of the industry standard which was in preparation at the time.

A new version of the standard, identified as ANSI/ANS 3.5–1985, was published after the expiration of the public comment period. In response to the comments received and to the newly issued industry standard, R.G. 1.149 has been changed to endorse the new standard, with exceptions, and to include in its endorsement the specific, limited list of malfunction performance tests contained in the standard. However, although the new standard continues to require the conduct of simulator performance tests, it has deleted the requirement that these tests be conducted on a four-year cycle for the life of the simulator. Instead it has substituted an annual operability test, and now required that performance tests be conducted only upon completion of initial simulator construction and in the event that simulator design changes result in significant simulator configuration or performance variations.

In addition, the standard is silent on the subject of periodic testing of malfunctions. The NRC endorsement of the standard in the R.G. takes exception to the deletion of periodic performance testing. The regulations will require performance testing to be conducted throughout the life of a simulation facility, on a four-year cycle, at the rate of approximately 25 percent per year.

The protection of public health and safety requires that licensed operators not only be proficient in general operations but be able to safely cope with plant transients and malfunctions. Thus a reactor operator license candidate's response to malfunctions during an operating test is an important factor in the examiner's assessment of that candidate's performance. It is also necessary to avoid misleading or negative training, which could result from the use of a simulation facility which does not correctly portray plant response to malfunctions. Therefore the ability of a simulation facility to faithfully portray plant malfunctions as well as general operability is to be verified by periodic performance testing. Such testing provides assurance that the simulation facility remains acceptable over time and continues to meet the Commission's regulations. A definition of performance testing has been added to § 55.4, and the requirements for performance testing have been clarified in the applicable paragraphs of § 55.45(b), as they apply to all simulation facilities, whether certified or approved.

(3) *Schedule.* A number of comments included criticism of the time schedules specified as being unreasonably short for submitting a simulation facility plan and for having a simulation facility in full compliance with the regulation.

The regulation has been changed to allow 1 year (versus 120 days) for a facility licensee to submit a plan detailing its approach to the simulation facility requirement; and to allow 4 years (versus 3) for its simulation facility to be in full compliance with the regulation. Those facility licensees that certify the use of a plant-referenced simulator will not have to submit a plan.

(4) *Penalty for unavailability of simulation facility.* Several comments expressed concern that the penalty was too harsh for the unavailability of a simulation facility acceptable to the Commission.

It is the Commission's intent that every facility licensee have available a simulation facility that meets the

Street NW., Washington, DC. These documents may be purchased from the U.S. Government Printing Office (GPO) by calling 202–275–2060 or by writing the GPO, P.O. Box 37082, Washington, DC 20013–7082. They may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Commission's requirements within a reasonable period of time after the effective date of the rule, and that, once available, the simulation facility be maintained and upgraded, as needed, to continue its acceptability for the conduct of operating tests. The Commission recognizes that unique circumstances may arise on a plant-specific basis that cause some deviation from the time requirements established in the rule and that, from time-to-time, a previously certified or approved simulation facility may become temporarily unacceptable for the conduct of operating tests. It is the Commission's intent to address any such situations on a case-by-case basis.

(5) *Lack of guidance for assessment.* A number of comments expressed concern that the guidance to be used by the Commission in its assessment of simulation facility adequacy was not yet available. It is the Commission's intent that no simulation facility audits will be conducted until this guidance has been fully developed and made publicly available for a minimum of 6 months.

(6) *Applicability to future facility licensees.* Several commenters questioned whether the Commission's regulations regarding simulation facilities were intended to apply to future facility licensees.

It is the Commission's intent that these regulations apply to future facility licensees as well as current facility licensees.

(7) *Test and research reactor operators.* Several test and research reactor operators were concerned that the requirements in the rule changed the licensing process for them. As stated above, the rule does not change the status quo for this category of operator. The definition of "simulation facility" in § 55.4 allows the plant to be used to meet the requirements of § 55.45(b). In addition, specific wording in § 55.45(b) permits test and research reactor facility licensees to be exempted from submitting a plan for the use of a simulation facility that is other than a plant-referenced simulator.

(F) *Licenses*—(1) *Special senior operator licenses.* Many commenters questioned the issuance of special senior licenses. Several argued that current instructor certification requirements were sufficient, others indicated that industry-accredited programs include instructor evaluation, and others cited the Commission's Policy Statement on Training and Qualifications of Nuclear Power Plant Personnel as conflicting with these licenses.

The Commission has deleted the provision for the issuance of special senior operator licenses from the final rule. This action is in recognition of the industry accreditation of training programs, which includes instructor training, qualification and evaluation, and is in keeping with the intent of the Commission Policy Statement on Training and Qualifications of Nuclear Power Plant Personnel. Industry efforts in implementing instructor training, qualification and evaluation programs will be monitored as described by the Policy Statement. Moreover, senior operator licenses limited to fuel handling will continue to be issued as they are currently. However, since industry accreditation includes instructor evaluation, current NRC instructor certification will not continue at facilities with industry accreditation.

A great number of commenters had specific suggestions regarding the requirements for special senior operators. These comments are no longer applicable since the Commission has deleted these licenses from the final rule.

(2) *"Actively performing the functions of an operator or senior operator."* Although only one commenter specifically questioned the definition of "actively performing the [functions] of," a great many commenters questioned this phrase in regard to R.G. 1.8, "Personnel Qualifications and Training for Nuclear Power Plants," as it was published for public comment in conjunction with the proposed rule. From the comments made in response to the regulatory guide and other comments made regarding the provision in the rule under "Requalification," which required that an operator or senior operator be "actively and extensively engaged" as an operator or senior operator, it is clear that many commenters were confused about the degree of participation in plant operations that is required as a condition to maintain an operator's or senior operator's license. To prevent further confusion, the rule has been modified in § 55.4, "Definitions," to provide the following definition:

> Actively performing the functions of an operator or senior operator" means that an individual has a position on the shift crew that requires the individual to be licensed as defined in the facility's technical specifications, and that the individual carries out and is responsible for the duties covered by that position.

In addition, several commenters were concerned that the requirements were unclear regarding the return to "active" status following a period during which a licensee has not been "actively performing the functions of an operator or senior operator" for a period of 4 months or longer. Therefore, the following requirements have been added:

> If an operator has not performed licensed duties on a minimum of seven 8-hour shifts or five 12-hour shifts per quarter, before resumption of activities authorized by a license issued under these regulations, an authorized representative of the facility licensee shall certify that the qualifications and status of the licensee are current and valid, and that the licensee has completed a minimum of 40 hours of shift functions under the direction of the operator or senior operator, as appropriate, and in the position to which the individual licensee will be assigned. For licenses limited to fuel handling, one supervised shift is sufficient. Certification shall be maintained at the facility.

The revision in the wording of the rule was made so that it is no longer necessary to include the wording "actively and extensively engaged" under requalification. A licensee can now maintain licensed status by successfully completing the facility licensee's NRC-approved requalification program and passing the requalification examinations and operating tests. However, to return to active performance after a period of not participating on shift, the conditions of a license in § 55.53(f) must be met. In this manner, a licensee without current knowledge of the facility would not be able to perform shift duties.

For test and research reactors, the requirements for "actively performing the functions of an operator or senior operator" would be met with a minimum of four hours per calendar quarter. Similarly, under § 55.53(f), a minimum of six hours parallel work would be required to return to active status.

(3) *Notification of the Commission.* Some commenters noted that the Commission had no need to know about the criminal conviction of a licensee. However, § 55.53(g) is intended to cover criminal behavior. NRC is interested in felonious criminal convictions of a licensee. The NRC considers that there may be a relationship between conviction for a felony and job performance.

(G) *Expiration.* Currently, licenses expire after two years. To lessen the paperwork burdens of facility licensees and the NRC, a five year expiration was proposed. Many commenters suggested that the proposed five year expiration and renewal of licenses be adjusted to meet the biennial medical examination requirements. The renewal cycle has been changed and licenses will now expire after 6 years.

(H) *Requalification and renewal*—(1) *Requalification program and*

examination content. A great many commenters were unclear about the relationship of the NRC requalification requirements and performance-based training programs. Moreover, many commenters urged more flexibility in the requalification cycle and more clarity in the program content requirements.

Although the requirement for NRC approval of requalification programs will remain, the list of content areas under §§55.41, 55.43 and 55.45 will be referenced in § 55.59 to clarify the issue of examination and operating test content. In addition, § 55.59(c) content requirements (formerly Appendix A to 10 CFR Part 55) can be met with a performance-based program for a facility as approved by the NRC. In its Final Policy Statement on Training and Qualification of Nuclear Power Plant Personnel, the Commission endorsed industry-accredited programs as performance based. The frequency of the comprehensive requalification written examination has been changed to a maximum of every 2 years and of the requalification operating test to once a year. The requalification program must be conducted for a continuous period not to exceed 24 months. The specific cycle will be approved by the NRC as part of each facility's training program.

(2) *"Actively and extensively engaged."* As explained above, many commenters were concerned with the implementation of the provision for "actively and extensively engaged as an operator or senior operator" as it related to renewal. This provision is deleted in the final rule. This action complements the additions § 55.53 (e) and (f) to "Conditions of Licenses."

(3) *Test and research reactors.* Several commenters were concerned that the requalification requirements for operators at this class of reactor were changed. The requirements in § 55.59(c)(7) continue the requirements of former Appendix A to 10 CFR Part 55 for test and research reactors. No change in requirements is intended.

(4) *NRC administration of requalification examinations.* Some commenters questioned the NRC administration of requalification examinations. The Commission believes that an NRC administered examination for license renewal provides assurance that an operator or senior operator can operate the controls in a safe and competent manner and that a senior operator can direct the activities of other licensed operators in a safe and competent manner. The Commission also believes that NRC administered examinations provide assurance that facility licensee administered requalification programs are successfully maintaining the proficiency and knowledge of licensed personnel. To this end, the rule requires in § 55.57 that each applicant for renewal of a six-year license pass an NRC administered comprehensive requalification written examination and operating test at least once during each six-year license. The NRC will administer these requalification written examinations and operating tests on a random basis so that no operator or senior operator will go longer than six years without being examined by the NRC once a six-year license is issued.

(I) *Modification and revocation of licenses.* Some comments were received about the Commission's authority to modify and revoke licenses. The Commission has the authority to modify, suspend or revoke a license under the Atomic Energy Act. Moreover, inherent in the Commission's authority to modify, suspend, or revoke a license is its ability to place a licensed operator or senior operator under probation, if warranted.

(J) *Editorial.* Many commenters had non-substantive editorial changes to suggest. These comments were reviewed by an NRC technical editor and incorporated as appropriate.

(K) *Conforming amendments.* A conforming amendment, 10 CFR 50.74, requires the facility licensee to notify the Commission of a change in operator status. This amendment complements § 55.53(g).

(L) *Revision to 10 CFR 50.54 and 10 CFR 50.34(b)(8).* Revisions have been made to 10 CFR 50.34(b)(8) and 50.54 to reflect the changes made to 10 CFR Part 55.

Separate Views of Commissioner Asselstine

This rule is a good idea, but it does not go far enough. The Commission should have required all licensees to obtain plant referenced simulators. There are two reasons for this. First, I believe that section 306 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425) requires it. Second, plant referenced simulators are an excellent way for reactor operators to practice control manipulations for the plant and to actually see how the plant would respond. This is especially important in training the operators to deal with emergency or other situations when the plant is not in its normal state. It is a much more effective teaching tool for the operators to actually manipulate controls and watch the "plant" respond than to have them merely memorize emergency procedures. Further, a simulator which is referenced to the plant on which the operator will be licensed will be a much more effective training tool than one which is not.

The Commission decided, however, that because there might be special circumstances in some cases which would weigh against requiring that a particular utility purchase a simulator the Commission would not make it a requirement. This kind of case-specific special circumstances is precisely what our exemption procedures are intended to handle. If a licensee had appropriate justification, the Commission could always consider whether to grant an exemption to the regulation. Instead, the Commission chose to water down the regulation and require less.

Separate Views of Commissioner Bernthal

I fully support the Commission's broad objective that operators be reexamined on a regular basis. But I believe the final rule is too inflexible for good regulatory and administrative practice. NRC may indeed need to examine operators every six years; in some cases, perhaps more often. But if a licensee satisfactorily demonstrates its ability to conduct high quality, performance-based examinations in accordance with § 55.57(b)(2)(iii), such licensee performance may well justify extension or relaxation of this requirement. This approach would have been consistent with the Commission's policy of rewarding good licensee performance and focusing attention and resources on deficient performers. The Commission thus could have provided incentive to licensees and flexibility to the NRC examiner staff, and should have thereby focused NRC's limited regulatory resources where they are most urgently needed.

I also continue to believe that the time has come (given the decreased cost and increased sophistication of the technology) for all but a few small powerplants to be required to have plant reference simulators for operator training. While there may be some special cases that would qualify for exemption from such a requirement, on the basis of geography and/or plant similarity, licensees could in those circumstances apply for and receive an exemption.

III. Regulatory Analysis

The regulatory analysis describes the values (benefits) and impacts (costs) of implementing the proposed regulations and guidance for operator licensing. The accuracy of these estimates in the regulatory analysis is limited by the lack of extensive data on human performance improvement associated

with an improved licensing process. Where possible, quantitative measures were qualitatively compared to related information from other sources for verification. The full text of the regulatory analysis on these amendments 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 Chief, Operator Licensing Branch, telephone: (301) 492–4868.

IV. Backfit Analysis

The Commission has determined that these rules are in response to section 306 of the Nuclear Waste Policy Act of 1982 and, therefore, are exempt from the backfit rule 10 CFR 50.109 (50 FR 38097).

V. Regulatory Guides

Three regulatory guides were published in draft form for public comment in conjunction with the proposed rule. These guides were intended to provide guidance on acceptable methods of implementing the revisions to the regulations. As a result of public comment and additional staff review, these three guides are being issued in final form:

(1) R.G. 1.134, Revision 2, "Medical Evaluation of Licensed Personnel for Nuclear Power Plants."

(2) R.G. 1.149, Revision 2, "Nuclear Power Plant Simulation Facilities for Use in Operator License Examinations."

(3) R.G. 1.8, Revision 2, "Qualification and Training of Personnel for Nuclear Power Plants."

Copies of these guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082, telephone (202) 275–2060 or (202) 275–2171.

VI. Environmental Impact: Categorical Exclusion

The NRC has determined that this regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

VII. Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These paperwork requirements were approved by the Office of Management and Budget approval number 3150–0018.

VIII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. The conforming amendment to 10 CFR Part 50 and the revision of 10 CFR Part 55 affect primarily the companies that own and operate light-water nuclear power reactors and the vendors of those reactors. They also affect individuals licensed as operators at these companies. Neither the companies that own and operate reactors nor these individuals fall within the scope of the definition of "small entity" set forth in section 501(b) of the Regulatory Flexibility Act, NRC's Size Standards adopted December 9, 1985 (50 FR 50241), or the Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR Part 121.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 55

Manpower training programs, Nuclear power plants and reactors, Penalty, 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, the Nuclear Waste Policy Act of 1982, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 55 and 10 CFR Part 50.

1. 10 CFR Part 55 is revised to read as follows:

PART 55—OPERATORS' LICENSES

Subpart A—General Provisions

Sec.
55.1 Purpose.
55.2 Scope.
55.3 License requirements.
55.4 Definitions.
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Subpart B—Exemptions

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Subpart C—Medical Requirements

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Subpart D—Applications

55.31 How to apply.
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Subpart E—Written Examinations and Operating Tests

55.41 Written examination: Operators.
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55.45 Operating tests.
55.47 Waiver of examination and test requirements.
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Subpart F—Licenses

55.51 Issuance of licenses.
55.53 Conditions of licenses.
55.55 Expiration.
55.57 Renewal of licenses.
55.59 Requalification.

Subpart G—Modification and Revocation of Licenses

55.61 Modification and revocation of licenses.

Subpart H—Enforcement

55.71 Violations.

Authority: Secs. 107, 161, 182, 68 Stat. 939, 948, 953 as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Sections 55.41, 55.43, 55.45 and 55.59 also issued under sec. 306, Pub. L. 97–425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273) §§ 55.3, 55.21, 55.49 and 55.53 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 55.23, 55.25 and 55.53(f) are issued under sec. 161o, 88 Stat. 950, as amended (42 U.S.C. 2201(o)).

Subpart A—General Provisions

§ 55.1 Purpose.

The regulations in this part:

(a) Establish procedures and criteria for the issuance of licenses to operators and senior operators of utilization facilities licensed pursuant to the Atomic Energy Act of 1954, as amended, or section 202 of the Energy Reorganization Act of 1974, as amended, and Part 50 of this chapter,

(b) Provide for the terms and conditions upon which the Commission will issue or modify these licenses, and

(c) Provide for the terms and conditions to maintain and renew these licenses.

§ 55.2 Scope.

The regulations in this part apply to—

(a) Any individual who manipulates the controls of any utilization facility licensed pursuant to Part 50 of this chapter, and

(b) Any individual designated by a facility licensee to be responsible for directing any licensed activity of a licensed operator.

§ 55.3 License requirements.

A person must be authorized by a license issued by the Commission to perform the function of an operator or a senior operator as defined in this part.

§ 55.4 Definitions.

As used in this part:

"Act" means the Atomic Energy Act of 1954, including any amendments to the Act.

"Actively performing the functions of an operator or senior operator" means that an individual has a position on the shift crew that requires the individual to be licensed as defined in the facility's technical specifications, and that the individual carries out and is responsible for the duties covered by that position.

"Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

"Controls" when used with respect to a nuclear reactor means apparatus and mechanisms the manipulation of which directly affects the reactivity or power level of the reactor.

"Facility" means any utilization facility as defined in Part 50 of this chapter. In cases for which a license is issued for operation of two or more facilities, "facility" means all facilities identified in the license.

"Facility licensee" means an applicant for or holder of a license for a facility.

"Licensee" means an individual licensed operator or senior operator.

"Operator" means any individual licensed under this part to manipulate a control of a facility.

"Performance testing" means testing conducted to verify a simulation facility's performance as compared to actual or predicted reference plant performance.

"Physician" means an individual licensed by a State or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico to dispense drugs in the practice of medicine.

"Plant-referenced simulator" means a simulator modeling the systems of the reference plant with which the operator interfaces in the control room, including operating consoles, and which permits use of the reference plant's procedures. A plant-referenced simulator demonstrates expected plant response to operator input, and to normal, transient, and accident conditions to which the simulator has been designed to respond.

"Reference plant" means the specific nuclear power plant from which a simulation facility's control room configuration, system control arrangement, and design data are derived.

"Senior operator" means any individual licensed under this part to manipulate the controls of a facility and to direct the licensed activities of licensed operators.

"Simulation facility" means one or more of the following components, alone or in combination, used for the partial conduct of operating tests for operators, senior operators, and candidates:

(1) The plant,

(2) A plant-referenced simulator,

(3) Another simulation device.

"Systems approach to training" means a training program that includes the following five elements:

(1) Systematic analysis of the jobs to be performed.

(2) Learning objectives derived from the analysis which describe desired performance after training.

(3) Training design and implementation based on the learning objectives.

(4) Evaluation of trainee mastery of the objectives during training.

(5) Evaluation and revision of the training based on the performance of trained personnel in the job setting.

"United States," when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

§ 55.5 Communications.

(a) Except as provided under a regional licensing program identified in paragraph (b) of this section, an applicant or licensee or facility licensee shall submit any communication or report concerning the regulations in this part and shall submit any application filed under these regulations to the Commission as follows:

(1) By mail addressed to—Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or

(2) By delivery in person to the Commission offices at—(i) 1717 H Street NW., Washington, DC or (ii) 7920 Norfolk Avenue, Bethesda, Maryland.

(b)(1) The Director of Nuclear Reactor Regulation has delegated to the Regional Administrators of Regions I, II, III, IV, and V authority and responsibility pursuant to the regulations in this part for the issuance and renewal of licenses for operators and senior operators of nuclear reactors licensed under 10 CFR Part 50 and located in these regions.

(2) Any application for a license or license renewal filed under the regulations in this part involving a nuclear reactor licensed under 10 CFR Part 50 and any related inquiry, communication, information, or report must be submitted by mail or in person to the Regional Administrator. The Regional Administrator or the Administrator's designee will transmit to the Director of Nuclear Reactor Regulation any matter that is not within the scope of the Regional Administrator's delegated authority.

(i) If the nuclear reactor is located in Region I, submission must be made to the Regional Administrator, Region I, U.S. Nuclear Regulatory Commission, 631 Park Avenue, King of Prussia, Pennsylvania 19406.

(ii) If the nuclear reactor is located in Region II, submission must be made to the Regional Administrator, Region II, U.S. Nuclear Regulatory Commission, 101 Marietta Street, Suite 2900, Atlanta, Georgia 30303.

(iii) If the nuclear reactor is located in Region III, submission must be made to the Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

(iv) If the nuclear reactor is located in Region IV, submission must be made to the Regional Administrator, Region IV, U.S. Nuclear Regulatory Commission, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

(v) If the nuclear reactor is located in Region V, submission must be made to the Regional Administrator, Region V, U.S. Nuclear Regulatory Commission, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596.

§ 55.6 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 55.7 Additional requirements.

The Commission may, by rule, regulation, or order, impose upon any licensee such requirements, in addition to those established in the regulations in this part, as it deems appropriate or necessary to protect health and to minimize danger to life or property.

§ 55.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). OMB has approved the information collection requirements contained in this part under control number 3150–0018.

(b) The approved information collection requirements contained in this part appear in §§ 55.45, 55.53, and § 55.59.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In §§ 55.23, 55.25, 55.27, 55.31, Form NRC–396 is approved under control number 3150–0024.

(2) In §§ 55.31, 55.35, 55.47, and 55.57, Form NRC–398 is approved under control number 3150–0090.

(3) In § 55.45, Form NRC–474 is approved under control number 3150–0138.

Subpart B—Exemptions

§ 55.11 Specific exemptions.

The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest.

§ 55.13 General exemptions.

The regulations in this part do not require a license for an individual who—

(a) Under the direction and in the presence of a licensed operator or senior operator, manipulates the controls of—

(1) A research or training reactor as part of the individual's training as a student, or

(2) A facility as a part of the individual's training in a facility licensee's training program as approved by the Commission to qualify for an operator license under this part.

(b) Under the direction and in the presence of a licensed senior operator, manipulates the controls of a facility to load or unload the fuel into, out of, or within the reactor vessel.

Subpart C—Medical Requirements

§ 55.21 Medical examination.

An applicant for a license shall have a medical examination by a physician. A licensee shall have a medical examination by a physician every two years. The physician shall determine that the applicant or licensee meets the requirements of § 55.33(a)(1).

§ 55.23 Certification.

To certify the medical fitness of the applicant, an authorized representative of the facility licensee shall complete and sign Form NRC–396, "Certification of Medical Examination by Facility Licensee," available from Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(a) Form NRC–396 must certify that a physician has conducted the medical examination of the applicant as required in § 55.21.

(b) When the certification requests a conditional license based on medical evidence, the medical evidence must be submitted on NRC Form 396 to the Commission and the Commission then makes a determination in accordance with § 55.33.

§ 55.25 Incapacitation because of disability or illness.

If, during the term of the license, the licensee develops a physical or mental condition that causes the licensee to fail to meet the requirements of § 55.21 of this part, the facility licensee shall notify the Commission within 30 days of learning of the diagnosis. For conditions for which a conditional license (as describing in § 55.33(b) of this part) is requested, the facility licensee shall provide medical certification on Form NRC 396 to the Commission (as described in § 55.23 of this part).

§ 55.27 Documentation.

The facility licensee shall document and maintain the results of medical qualifications data, test results, and each operator's or senior operator's medical history for the current license period and provide the documentation to the Commission upon request. The facility licensee shall retain this documentation while an individual performs the functions of an operator or senior operator.

Subpart D—Applications

§ 55.31 How to apply.

(a) The applicant shall:

(1) Complete Form NRC–398, "Personal Qualification Statement—Licensee," available from Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555;

(2) File an original and two copies of Form NRC–398, together with the information required in paragraphs (a)(3), (4), (5) and (6) of this section, with the appropriate Regional Administrator;

(3) Submit a written request from an authorized representative of the facility licensee by which the applicant will be employed that the written examination and operating test be administered to the applicant;

(4) Provide evidence that the applicant has successfully completed the facility licensee's requirements to be licensed as an operator or senior operator and of the facility licensee's need for an operator or a senior operator to perform assigned duties. An authorized representative of the facility licensee shall certify this evidence on Form NRC–398. This certification must include details of the applicant's qualifications, and details on courses of instruction administered by the facility licensee, and describe the nature of the training received at the facility, and the startup and shutdown experience received. In lieu of these details, the Commission may accept certification that the applicant has successfully completed a Commission-approved training program that is based on a systems approach to training and that uses a simulation facility acceptable to the Commission under § 55.45(b) of this part;

(5) Provide evidence that the applicant, as a trainee, has successfully manipulated the controls of the facility for which a license is sought. At a minimum, five significant control manipulations must be performed which affect reactivity or power level. For a facility that has not completed preoperational testing and initial startup test program as described in its Final Safety Analysis Report, as amended and approved by the Commission, the Commission may accept evidence of satisfactory performance of simulated control manipulations as part of a Commission-approved training program by a trainee on a simulation facility acceptable to the Commission under § 55.45(b) of this part. For a facility which has (i) completed preoperational testing as described in its Final Safety Analysis Report, as amended and approved by the Commission, and (ii) is in an extended shutdown which precludes manipulation of the control of the facility in the control room, the Commission may process the

application and may administer the written examination and operating test required by §§ 55.41 or 55.43 and 55.45 of this part, but may not issue the license until the required evidence of control manipulations is supplied. For licensed operators applying for a senior operator license, certification that the operator has successfully operated the controls of the facility as a licensed operator shall be accepted; and

(6) Provide certification by the facility licensee of medical condition and general health on Form NRC–396, to comply with §§ 55.21, 55.23 and 55.33(a)(1).

(b) The Commission may at any time after the application has been filed, and before the license has expired, require futher information under oath or affirmation in order to enable it to determine whether to grant or deny the application or whether to revoke, modify, or suspend the license.

(c) An applicant whose application has been denied because of a medical condition or general health may submit a further medical report at any time as a supplement to the application.

(d) Each application and statement must contain complete and accurate disclosure as to all matters required to be disclosed. The applicant shall sign statements required by paragraphs (a)(1) and (2) of this section.

§ 55.33 Disposition of an initial application.

(a) *Requirements for the approval of an initial application.* The Commission will approve an initial application for a license pursuant to the regulations in this part, if it finds that—

(1) *Health.* The applicants medical condition and general health will not adversely affect the performance of assigned operator job duties or cause operational errors endangering public health and safety. The Commission will base its finding upon the certification by the facility licensee as detailed in § 55.23.

(2) *Written examination and operating test.* The applicant has passed the requisite written examination and operating test in accordance with §§ 55.41 and 55.45 or 55.43 and 55.45. These examinations and tests determine whether the applicant for an operator's license has learned to operate a facility competently and safely, and additionally, in the case of a senior operator, whether the applicant has learned to direct the licensed activities of licensed operators competently and safely.

(b) *Conditional license.* If an applicant's general medical condition does not meet the minimum standards under § 55.33(a)(1) of this part, the Commission may approve the application and include conditions in the license to accommodate the medical defect. The Commission will consider the recommendations and supporting evidence of the facility licensee and of the examining physician (provided on Form NRC–396) in arriving at its decision.

§ 55.35 Re-applications.

(a) An applicant whose application for a license has been denied because of failure to pass the written examination or operating test, or both, may file a new application two months after the date of denial. The application must be submitted on Form NRC–398 and include a statement signed by an authorized representative of the facility licensee by whom the applicant will be employed that states in detail the extent of the applicant's additional training since the denial and certifies that the applicant is ready for re-examination. An applicant may filed a third application six months after the date of denial of the second application, and may file further successive applications two years after the date of denial of each prior application. The applicant shall submit each successive application on Form NRC–398 and include a statement of additional training.

(b) An applicant who has passed either the written examination or operating test and failed the other may request in a new application on Form NRC–398 to be excused from re-examination on the portions of the examination or test which the applicant has passed. The Commission may in its discretion grant the request, if it determines that sufficient justification is presented.

Subpart E—Written Examinations and Operating Tests

§ 55.41 Written examination: Operators.

(a) *Content.* The written examination for an operator will contain a representative selection of questions on the knowledge, skills, and abilities needed to perform licensed operator duties. The knowledge, skills, and abilities will be identified, in part, from learning objectives derived from a systematic analysis of licensed operator duties performed by each facility licensee and contained in its training program and from information in the Final Safety Analysis Report, system description manuals and operating procedures, facility license and license amendments, Licensee Event Reports, and other materials requested from the facility licensee by the Commission.

(b) The written examination for an operator for a facility will include a representative sample from among the following 14 items, to the extent applicable to the facility.

(1) Fundamentals of reactor theory, including fission process, neutron multiplication, source effects, control rod effects, criticality indications, reactivity coefficients, and poison effects.

(2) General design features of the core, including core structure, fuel elements, control rods, core instrumentation, and coolant flow.

(3) Mechanical components and design features of the reactor primary system.

(4) Secondary coolant and auxiliary systems that affect the facility.

(5) Facility operating characteristics during steady state and transient conditions, including coolant chemistry, causes and effects of temperature, pressure and reactivity changes, effects of load changes, and operating limitations and reasons for these operating characteristics.

(6) Design, components, and functions of reactivity control mechanisms and instrumentation.

(7) Design, components, and functions of control and safety systems, including instrumentation, signals, interlocks, failure modes, and automatic and manual features.

(8) Components, capacity, and functions of emergency systems.

(9) Shielding, isolation, and containment design features, including access limitations.

(10) Administrative, normal, abnormal, and emergency operating procedures for the facility.

(11) Purpose and operation of radiation monitoring systems, including alarms and survey equipment.

(12) Radiological safety principles and procedures.

(13) Procedures and equipment available for handling and disposal of radioactive materials and effluents.

(14) Principles of heat transfer thermodynamics and fluid mechanics.

§ 55.43 Written examination: Senior operators.

(a) *Content.* The written examination for a senior operator will contain a representative selection of questions on the knowledge, skills, and abilities needed to perform licensed senior operator duties. The knowledge, skills, and abilities will be identified, in part, from learning objectives derived from a systematic analysis of licensed senior operator duties performed by each facility licensee and contained in its

training program and from information in the Final Safety Analysis Report, sytem description manuals and operating procedures, facility license and license amendments, Licensee Event Reports, and other materials requested from the facility licensee by the Commission.

(b) The written examination for a senior operator for a facility will include a representative sample from among the following seven items and the 14 items specified in § 55.41 of this part, to the extent applicable to the facility:

(1) Conditions and limitations in the facility license.

(2) Facility operating limitations in the technical specifications and their bases.

(3) Facility licensee procedures required to obtain authority for design and operating changes in the facility.

(4) Radiation hazards that may arise during normal and abnormal situations, including maintenance activities and various contamination conditions.

(5) Assessment of facility conditions and selection of appropriate procedures during normal, abnormal, and emergency situations.

(6) Procedures and limitations involved in initial core loading, alterations in core configuration, control rod programming, and determination of various internal and external effects on core reactivity.

(7) Fuel handling facilities and procedures.

§ 55.45 Operating tests.

(a) *Content.* The operating tests administered to applicants for operator and senior operator licenses in accordance with paragraph (b)(1) of this section are generally similar in scope. The content will be identified, in part, from learning objectives derived from a systematic analysis of licensed operator or senior operator duties performed by each facility licensee and contained in its training program and from information in the Final Safety Analysis Report, system description manuals and operating procedures, facility license and license amendments, Licensee Event Reports, and other materials requested from the facility licensee by the Commission. The operating test, to the extent applicable, requires the applicant to demonstrate an understanding of and the ability to perform the actions necessary to accomplish a representative sample from among the following 13 items.

(1) Perform pre-startup procedures for the facility, including operating of those controls associated with plant equipment that could affect reactivity.

(2) Manipulate the console controls as required to operate the facility between shutdown and designated power levels.

(3) Identify annunciators and condition-indicating signals and perform appropriate remedial actions where appropriate.

(4) Identify the instrumentation systems and the significance of facility instrument readings.

(5) Observe and safely control the operating behavior characteristics of the facility.

(6) Perform control manipulations required to obtain desired operating results during normal, abnormal, and emergency situations.

(7) Safely operate the facility's head removal systems, including primary coolant, emergency coolant, and decay heat removal systems, and identify the relations of the proper operation of these systems to the operation of the facility.

(8) Safely operate the facility's auxiliary and emergency systems, including operation of those controls associated with plant equipment that could affect reactivity or the release of radioactive materials to the environment.

(9) Demonstrate or describe the use and function of the facility's radiation monitoring systems, inlcuding fixed radiation monitors and alarms, portable survey instruments, and personnel monitoring equipment.

(10) Demonstrate knowledge of significant radiation hazards, including permissible levels in excess of those authorized, and ability to perform other procedures to reduce excessive levels of radiation and to guard against personnel exposure.

(11) Demonstrate knowledge of the emergency plan for the facility, including, as appropriate, the operator's or senior operator's responsibility to decide whether the plan should be executed and the duties under the plan assigned.

(12) Demonstrate the knowledge and ability as appropriate to the assigned position to assume the responsibilities associated with the safe operation of the facility.

(13) Demonstrate the applicant's ability to function within the control room team as appropriate to the assigned position, in such a way that the facility licensee's procedures are adhered to and that the limitations in its license and amendments are not violated.

(b) *Implementation*—(1) *Administration.* The operating test will be administered in a plant walkthrough and in either—

(i) A simulation facility which the Commission has approved for use after application has been made by the facility licensee, or

(ii) A simulation facility consisting solely of a plant-referenced simultator which has been certified to the Commission by the facility licensee.

(2) *Schedule for facility licensees.* (i) Within one year after the effective date of this part, each facility licensee which proposes to use a simulation facility pursuant to paragraph (b)(1)(i) of this section, except test and research reactors, shall submit a plan by which its simulation facility will be developed and by which an application will be submitted for its use.

(ii) Those facility licensees which propose to conform with paragraph (b)(1)(i) of this section, not later than 42 months after the effective date of this rule, shall submit an application for use of this simulation facility to the Commission, in accordance with paragraph (b)(4)(i) of this section.

(iii) Those facility licensees which propose to conform with paragraph (b)(1)(ii) of this section, not later than 46 months after the effective date of this rule, shall submit a certification for use of this simulation facility to the Commission on Form NRC–474, "Simulation Facility Certification," available from Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555, in accordance with paragraph (b)(5)(i) of this section.

(iv) The simulation facility portion of the operating test will not be administered on other than a certified or an approved simulation facility after May 26, 1991.

(3) *Schedule for facility applicants.* (i) For facility licensee applications after the effective date of this rule, except test and research reactors, the applicant shall submit a plan which identifies whether its simulation facility will conform with paragraph (b)(1)(i) or (b)(1)(ii) of this section at the time of application.

(ii) Those applicants which propose to conform with paragraph (b)(1)(i) of this section, not later than 180 days before the date when the applicant proposes that the Commission conduct operating tests, shall submit an application for use of its simulation facility to the NRC, in accordance with paragraph (b)(4)(i) of this section.

(iii) Those applicants which propose to conform with paragraph (b)(1)(ii) of this section, not later than 60 days before the date when the applicant

proposes that NRC conduct operating tests, shall submit a certification for use of its simulation facility to the Commission on Form NRC–474, in accordance with paragraph (b)(5)(i) of this section.

(4) *Application for and approval of simulation facilities.* Those facility licensees which propose, in accordance with paragraph (b)(1)(i) of this section, to use a simulation facility that is other than solely a plant-referenced simulator as defined in § 55.4 shall—

(i) In accordance with the plan submitted pursuant to paragraph (b)(2)(i) or (b)(3)(i) of this section, as applicable submit an application for approval of the simulation facility to the Commission, in accordance with the schedule in paragraph (b)(2)(ii) or (b)(3)(ii) of this section, as appropriate. This application must include:

(A) A statement that the simulation facility meets the plan submitted to the Commission pursuant to paragraph (b)(2)(i) or (b)(3)(i) of this section, as applicable;

(B) A description of the components of the simulation facility which are intended to be used for each part of the operating test; and

(C) A description of the performance tests as part of the application, and the results of such tests.

(ii) The Commission will approve a simulation facility if it finds that the simulation facility and its proposed use are suitable for the conduct of operating tests for the facility licensee's reference plant, in accordance with paragraph (a) of this section.

(iii) Submit, every four years on the anniversary of the application, a report to the Commission which identifies any uncorrected performance test failures, and submit a schedule for correction of these performance test failures, if any.

(iv) Retain the results of the performance test conducted until four years after the submittal of the application under paragraph (b)(4)(i), each report pursuant to paragraph (b)(4)(iii), or any reapplication under paragraph (b)(4)(iv) of this section, as appropriate.

(v) If the Commission determines, based upon the results of performance testing, that an approved simulation facility does not meet the requirements of this part, the simulation facility may not be used to conduct operating tests.

(vi) If the Commission determines, pursuant to paragraph (b)(4)(v) of this section, that an approved simulation facility does not meet the requirements of this part, the facility licensee may again submit an application for approval. This application must include a description of corrective actions taken, including results of completed performance testing as required for approval.

(vii) Any application or report submitted pursuant to paragraphs (b)(4)(i), (b)(4)(iii) and (b)(4)(vi) of this section must include a description of the performance testing completed for the simulation facility, and must include a description of performance tests, if different, to be conducted on the simulation facility during the subsequent four-year period, and a schedule for the conduct of approximately 25 percent of the performance tests per year for the subsequent four years.

(5) *Certification of simulation facilities*—Those facility licensees which propose, in accordance with paragraph (b)(1)(ii) of this section, to use a simulation facility consisting solely of a plant-referenced simulator as defined in § 55.4, shall—

(i) Submit a certification to the Commission that the simulation facility meets the Commission's regulations. The facility licensee shall provide this certification on Form NRC–474 in accordance with the schedule in paragraph (b)(2)(iii) or (b)(3)(iii) of this section, as applicable.

(ii) Submit, every four years on the anniversary of the certification, a report to the Commission which identifies any uncorrected performance test failures, and submit a schedule for correction of such performance test failures, if any.

(iii) Retain the results of the performance test conducted until four years after the submittal of certification under paragraph (b)(5)(i), each report pursuant to paragraph (b)(5)(ii), or recertification under paragraph (b)(5)(v) of this section, as applicable.

(iv) If the Commission determines, based upon the results of performance testing, that a certified simulation facility does not meet the requirements of this part, the simulation facility may not be used to conduct operating tests.

(v) If the Commission determines, pursuant to paragraph (b)(5)(iv) of this section, that a certified simulation facility does not meet the requirements of this part, the facility licensee may submit a recertification to the Commission on Form NRC–474. This recertification must include a description of corrective actions taken, including results of completed performance testing as required for recertification.

(vi) Any certification report, or recertification submitted pursuant to paragraph (b)(5)(i), (b)(5)(ii) or (b)(5)(v) of this section must include a description of performance testing completed for the simulation facility, and must include a description of the performance tests, if different, to be conducted on the simulation facility during the subsequent four-year period, and a schedule for the conduct of approximately 25 percent of the performance tests per year for the subsequent four years.

§ 55.47 Waiver of examination and test requirements.

(a) On application, the Commission may waive any or all of the requirements for a written examination and operating test, if it finds that the applicant—

(1) Has had extensive actual operating experience at a comparable facility, as determined by the Commission, within two years before the date of application;

(2) Has discharged his or her responsibilities competently and safely and is capable of continuing to do so; and

(3) Has learned the operating procedures for and is qualified to operate competently and safely the facility designated in the application.

(b) The Commission may accept as proof of the applicant's past performance a certification of an authorized representative of the facility licensee or of a holder of an authorization by which the applicant was previously employed. The certification must contain a description of the applicant's operating experience, including an approximate number of hours the applicant operated the controls of the facility, the duties performed, and the extent of the applicant's responsibility.

(c) The Commission may accept as proof of the applicant's current qualifications a certification of an authorized representative of the facility licensee or of a holder of an authorization where the applicant's services will be utilized.

§ 55.49 Integrity of examinations and tests.

Applicants, licensees, and facility licensees shall not engage in any activity that compromises the integrity of any application, test, or examination required by this part.

Subpart F—Licenses

§ 55.51 Issuance of licenses.

Operator and senior operator licenses. If the Commission determines that an applicant for an operator license or a senior operator license meets the requirements of the Act and its regulations, it will issue a license in the form and containing any conditions and limitations it considers appropriate and necessary.

§ 55.53 Conditions of licenses.

Each license contains and is subject to the following conditions whether stated in the license or not:

(a) Neither the license nor any right under the license may be assigned or otherwise transferred.

(b) The license is limited to the facility for which it is issued.

(c) The license is limited to those controls of the facility specified in the license.

(d) The license is subject to, and the licensee shall observe, all applicable rules, regulations, and orders of the Commission.

(e) If a licensee has not been actively performing the functions of an operator or senior operator, the licensee may not resume activities authorized by a license issued under this part except as permitted by paragraph (f) of this section. To maintain active status, the licensee shall actively perform the functions of an operator or senior operator on a minimum of seven 8-hour or five 12-hour shifts per calendar quarter. For test and research reactors, the licensee shall actively perform the functions of an operator or senior operator for a minimum of four hours per calendar quarter.

(f) If paragraph (e) of this section is not met, before resumption of functions authorized by a license issued under this part, an authorized representative of the facility licensee shall certify the following:

(1) That the qualifications and status of the licensee are current and valid; and

(2) That the licensee has completed a minimum of 40 hours of shift functions under the direction of an operator or senior operator as appropriate and in the position to which the individual will be assigned. The 40 hours must have included a complete tour of the plant and all required shift turnover procedures. For senior operators limited to fuel handling under paragraph (c) of this section, one shift must have been completed. For test and research reactors, a minimum of six hours must have been completed.

(g) The licensee shall notify the Commission within 30 days about a conviction for a felony.

(h) The licensee shall complete a requalification program as described by § 55.59.

(i) The licensee shall have a biennial medical examination.

(j) The licensee shall comply with any other conditions that the Commission may impose to protect health or to minimize danger to life or property.

§ 55.55 Expiration.

(a) Each operator license and senior operator license expires six years after the date of issuance, upon termination of employment with the facility licensee, or upon determination by the facility licensee that the licensed individual no longer needs to maintain a license.

(b) If a licensee files an application for renewal or an upgrade of an existing license on Form NRC–398 at least 30 days before the expiration of the existing license, it does not expire until disposition of the application for renewal or for an upgraded license has been finally determined by the Commission. Filing by mail or telegram will be deemed to be complete at the time the application is deposited in the mail or with a telegraph company.

§ 55.57 Renewal of licenses.

(a) The applicant for renewal of a license shall—

(1) Complete and sign Form NRC–398 and include the number of the license for which renewal is sought.

(2) File an original and two copies of Form NRC–398 with the appropriate Regional Administrator specified in § 55.5(b).

(3) Provide written evidence of the applicant's experience under the existing license and the approximate number of hours that the licensee has operated the facility.

(4) Provide a statement by an authorized representative of the facility licensee that during the effective term of the current license the applicant has satisfactorily completed the requalification program for the facility for which operator or senior operator license renewal is sought.

(5) Provide evidence that the applicant has discharged the license responsibilities competently and safely. The Commission may accept as evidence of the applicant's having met this requirement a certificate of an authorized representative of the facility licensee or holder of an authorization by which the licensee has been employed.

(6) Provide certification by the facility licensee of medical condition and general health on Form NRC–396, to comply with §§ 55.21, 55.23 and 55.27.

(b) The license will be renewed if the Commission finds that—

(1) The medical condition and the general health of the licensee continue to be such as not to cause operational errors that endanger public health and safety. The Commission will base this finding upon the certification by the facility licensee as described in § 55.23.

(2) The licensee—

(i) Is capable of continuing to competently and safely assume licensed duties;

(ii) Has successfully completed a requalification program that has been approved by the Commission as required by § 55.59; and

(iii) Has passed the requalification examinations and annual operating tests as required by § 55.59.

(iv) Has passed a comprehensive requalification written examination and operating test administered by the Commission during the term of a six-year license.

(3) There is a continued need for a licensee to operate or for a senior operator to direct operators at the facility designated in the application.

(4) The past performance of the licensee has been satisfactory to the Commission. In making its finding, the Commission will include in its evaluation information such as notices of violations or letters of reprimand in the licensee's docket.

§ 55.59 Requalification.

(a) *Requalification requirements.* Each licensee shall—

(1) Successfully complete a requalification program developed by the facility licensee that has been approved by the Commission. This program shall be conducted for a continuous period not to exceed 24 months in duration.

(2) Pass a comprehensive requalification written examination and an annual operating test.

(i) the written examination will sample the items specified in §§ 55.41 and 55.43 of this part, to the extent applicable to the facility, the licensee, and any limitation of the license under § 55.53(c) of this part.

(ii) The operating test will require the operator or senior operator to demonstrate an understanding of and the ability to perform the actions necessary to accomplish a comprehensive sample of items specified in § 55.45(a) (2) through (13) inclusive to the extent applicable to the facility.

(iii) In lieu of the Commission accepting a certification by the facility licensee that the licensee has passed written examinations and operating tests administered by the facility licensee within its Commission-approved program developed by using a systems approach to training under paragraph (c) of this section, the Commission may administer a comprehensive requalification written examination and an annual operating test.

(b) *Additional training.* If the requirements of paragraphs (a) (1) and (2) of this section are not met, the Commission may require the licensee to complete additional training and to submit evidence to the Commission of successful completion of this training before returning to licensed duties.

(c) *Requalification program requirements.* A facility licensee shall have a requalification program reviewed and approved by the Commission. The requalification program must meet the requirements of paragraphs (c) (1) through (7) of this section. In lieu of paragraphs (c) (2), (3), and (4) of this section, the Commission may approve a program developed by using a systems approach to training.

(1) *Schedule.* The requalification program must be conducted for a continuous period not to exceed two years, and upon conclusion must be promptly followed, pursuant to a continuous schedule, by successive requalification programs.

(2) *Lectures.* The requalification program must include preplanned lectures on a regular and continuing basis throughout the license period in those areas where operator and senior operator written examinations and facility operating experience indicate that emphasis in scope and depth of coverage is needed in the following subjects:

(i) Theory and principles of operation.
(ii) General and specific plant operating characteristics.
(iii) Plant instrumentation and control systems.
(iv) Plant protection systems.
(v) Engineered safety systems.
(vi) Normal, abnormal, and emergency operating procedures.
(vii) Radiation control and safety.
(viii) Technical specifications.
(ix) Applicable portions of Title 10, Chapter I, *Code of Federal Regulations.*

(3) *On-the-job training.* The requalification program must include on-the-job training so that—

(i) Each licensed operator of a utilization facility manipulates the plant controls and each licensed senior operator either manipulates the controls or directs the activities of individuals during plant control manipulations during the term of the licensed operator's or senior operator's license. For reactor operators and senior operators, these manipulations must consist of the following control manipulations and plant evolutions if they are applicable to the plant design. Items described in paragraphs (c)(3)(i) (A) through (L) of this section must be performed annually; all other items must be performed on a two-year cycle. However, the requalification programs must contain a commitment that each individual shall perform or participate in a combination of reactivity control manipulations based on the availability of plant equipment and systems. Those control manipulations which are not performed at the plant may be performed on a simulator. The use of the Technical Specifications should be maximized during the simulator control manipulations. Senior operator licensees are credited with these activities if they direct control manipulations as they are performed.

(A) Plant or reactor startups to include a range that reactivity feedback from nuclear heat addition is noticeable and heatup rate is established.

(B) Plant shutdown.

(C) Manual control of steam generators or feedwater or both during startup and shutdown.

(D) Boration or dilution during power operation.

(E) Significant (≥10 percent) power changes in manual rod control or recirculation flow.

(F) Reactor power change of 10 percent or greater where load change is performed with load limit control or where flux, temperature, or speed control is on manual (for HTGR).

(G) Loss of coolant, including—

(1) Significant PWR steam generator leaks

(2) Inside and outside primary containment

(3) Large and small, including lead-rate determination

(4) Saturated reactor coolant response (PWR).

(H) Loss of instrument air (if simulated plant specific).

(I) Loss of electrical power (or degraded power sources).

(J) Loss of core coolant flow/natural circulation.

(K) Loss of feedwater (normal and emergency).

(L) Loss of service water, if required for safety.

(M) Loss of shutdown cooling.

(N) Loss of component cooling system or cooling to an individual component.

(O) Loss of normal feedwater or normal feedwater system failure.

(P) Loss of condenser vacuum.

(Q) Loss of protective system channel.

(R) Mispositioned control rod or rods (or rod drops).

(S) Inability to drive control rods.

(T) Conditions requiring use of emergency boration or standby liquid control system.

(U) Fuel cladding failure or high activity in reactor coolant or offgas.

(V) Turbine or generator trip.

(W) Malfunction of an automatic control system that affects reactivity.

(X) Malfunction of reactor coolant pressure/volume control system.

(Y) Reactor trip.

(Z) Main steam line break (inside or outside containment).

(AA) A nuclear instrumentation failure.

(ii) Each licensed operator and senior operator has demonstrated satisfactory understanding of the operation of the apparatus and mechanisms associated with the control manipulations in paragraph (c)(3)(i) of this section, and knows the operating procedures in each area for which the operator or senior operator is licensed.

(iii) Each licensed operator and senior operator is cognizant of facility design changes, procedure changes, and facility license changes.

(iv) Each licensed operator and senior operator reviews the contents of all abnormal and emergency procedures on a regularly scheduled basis.

(v) A simulator may be used in meeting the requirements of paragraphs (c) (3)(i) and (3)(ii) of this section, if it reproduces the general operating characteristics of the facility involved and the arrangement of the instrumentation and controls of the simulator is similar to that of the facility involved. If the simulator or simulation device is used to administer operating tests for a facility, as provided in § 55.45 (b)(1), the device approved to meet the requirements of § 55.45(b)(1) must be used for credit to be given for meeting the requirements of paragraphs (c)(3)(i) (G through AA) of this section.

(4) *Evaluation.* The requalification program must include—

(i) Comprehensive requalification written examinations and annual operating tests which determine areas in which retraining is needed to upgrade licensed operator and senior operator knowledge.

(ii) Written examinations which determine licensed operators' and senior operators' knowledge of subjects covered in the requalification program and provide a basis for evaluating their knowledge of abnormal and emergency procedures.

(iii) Systematic observation and evaluation of the performance and competency of licensed operators and senior operators by supervisors and/or training staff members, including evaluation of actions taken or to be taken during actual or simulated abnormal and emergency procedures.

(iv) Simulation of emergency or abnormal conditions that may be

accomplished by using the control panel of the facility involved or by using a simulator. Where the control panel of the facility is used for simulation, the actions taken or to be taken for the emergency or abnormal condition shall be discussed; actual manipulation of the plant controls is not required. If a simulator is used in meeting the requirements of paragraph (c)(4)(iii) of this section, it shall accurately reproduce the operating characteristics of the facility involved and the arrangement of the instrumentation and controls of the simulator shall closely parallel that of the facility involved. After the provisions of § 55.45(b) have been implemented at a facility, the certified or approved simulation facility must be used to comply with this paragraph.

(v) Provisions for each licensed operator and senior operator to participate in an accelerated requalification program where performance evaluations conducted pursuant to paragraphs (c)(4) (i) through (iv) of this section clearly indicated the need.

(5) *Records.* The requalification program documentation must include the following:

(i) The facility licensee shall maintain records documenting the participation of each licensed operator and senior operator in the requalification program. The records must contain copies of written examinations administered, the answers given by the licensee, and the results of evaluations and documentation of operating tests and of any additional training administered in areas in which an operator or senior operator has exhibited deficiencies. The facility licensee shall retain these records until the operator's or senior operator's license is renewed.

(ii) Each record required by this part must be legible throughout the retention period specified by each Commission regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period.

(iii) If there is a conflict between the Commission's regulations in this part, and any license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified for these records by the regulations in this part apply unless the Commission, pursuant to § 55.11, grants a specific exemption from this record retention requirement.

(6) *Alternative training programs.* The requirements of this section may be met by requalification programs conducted by persons other than the facility licensee if the requalification programs are similar to the program described in paragraphs (c) (1) through (5) of this section and the alternative program has been approved by the Commission.

(7) *Applicability to research and test reactor facilities.* To accommodate specialized modes of operation and differences in control, equipment, and operator skills and knowledge, the requalification program for each licensed operator and senior operator of a research reactor or test reactor facility must conform generally but need not be identical to the requalification program outlined in paragraphs (c) (1) through (6) of this section. Significant deviations from the requirements of paragraphs (c) (1) through (6) of this section will be permitted only if supported by written justification and approved by the Commission.

Subpart G—Modification and Revocation of Licenses

§ 55.61 Modification and revocation of licenses.

(a) The terms and conditions of all licenses are subject to amendment, revision, or modification by reason of rules, regulations, or orders issued in accordance with the Act or any amendments thereto.

(b) Any license may be revoked, suspended, or modified, in whole or in part:

(1) For any material false statement in the application or in any statement of fact required under section 182 of the Act,

(2) Because of conditions revealed by the application or statement of fact or any report, record, inspection or other means that would warrant the Commission to refuse to grant a license on an original application,

(3) For willful violation of, or failure to observe any of the terms and conditions of the Act, or the license, or of any rule, regulation, or order of the Commission, or

(4) For any conduct determined by the Commission to be a hazard to safe operation of the facility.

Subpart H—Enforcement

§ 55.71 Violations.

(a) An injunction or other court order may be obtained prohibiting any violation of any provision of:

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) Any regulation or order issued under these Acts.

(b) A court order may be obtained for the payment of a civil penalty imposed under section 234 of the Aomic Energy Act for violation of:

(1) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act;

(2) Section 206 of the Energy Reorganization Act of 1974;

(3) Any rule, regulation, or order issued under these Acts;

(4) Any term, condition, or limitation of any license issued under these Acts; or

(5) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act.

(c) Any person who willfully violates any provision of the Atomic Energy Act or any regulation issued under the Act, including the regulations in this part, may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment, or both, as provided by law.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

2. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

3. In § 50.34, paragraph (b)(8) is revised as follows:

§ 50.34 Contents of applications; technical information.

* * * * *

(b) * * *

(8) A description and plans for implementation of an operator requalification program. The operator requalification program must as a minimum, meet the requirements for those programs contained in § 55.59 of Part 55 of this chapter.

* * * * *

4. In § 50.54, paragraphs (i) and (i–1) are revised to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(i) Except as provided in § 55.13 of this chapter, the licensee may not permit the manipulation of the controls of any facility by anyone who is not a licensed operator or senior operator as provided in Part 55 of this chapter.

(i–1) Within three months after issuance of an operating license, the licensee shall have in effect an operator requalification program which must as a minimum, meet the requirements of § 55.59(c) of this chapter. Notwithstanding the provisions of § 50.59, the licensee may not, except as specifically authorized by the Commission decrease the scope of an approved operator requalification program.

* * * * *

5. Immediately following § 50.73, "Licensee Event Report System," a new § 50.74 is added as a conforming amendment to read as follows:

§ 50.74 Notification of change in operator or senior operator status.

Each licensee shall notify the Commission in accordance with § 50.4 within 30 days of the following in regard to a licensed operator or senior operator:

(a) Permanent reassignment from the position for which the licensee has certified the need for a licensed operator or senior operator under § 55.31(a)(3) of this chapter;

(b) Termination of any operator or senior operator;

(c) Disability or illness as descrided in § 55.25 of this chapter.

Dated at Washington, DC, this 20th day of March 1987.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary for the Commission.

[FR Doc. 87–6478 Filed 3–24–87; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–NM–215–AD; Amdt. 39–5588]

Airworthiness Directives; Boeing Model 747 and 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Models 747 and 757 series airplanes, which requires inspection of the passenger door emergency power reservoir for integrity of the pressure relief rupture disk, repair, if necessary, and replacement of defective disk retainers. This amendment is prompted by numerous reports of emergency power reservoirs found to be prematurely discharged. This condition, if not corrected, would render the emergency power reservoir incapable of providing power to assist in opening the door quickly when required for emergency evacuation.

DATES: Effective May 1, 1987.

ADDRESSES: The applicable Boeing service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124; the applicable H.R. Textron service information may be obtained from H.R. Textron, 25200 West Rye Canyon Road, Valencia, California 91355. 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, Washingon 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Pliny Brestel, Airframe Branch, ANM–120S; telephone (206) 431–1931. 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 which requires inspection of the passenger door emergency power reservoir on Boeing Models 747 and 757 series airplanes for integrity of the pressure relief rupture disk, repair, if necessary, and replacement of defective disk retainers, was published in the **Federal Register** on December 24, 1986 (51 FR 46687). The comment period for the NPRM, which ended February 16, 1987, afforded interested persons an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The Air Transport Association (ATA) of America, representing operators of Boeing Model 747 and 757 airplanes stated that the proposed rule requiring inspection of all 747 and 757 airplanes is not justified for those operators whose records list the serial numbers and applicable aircraft of the subject reservoirs installed. The ATA, therefore, requested that paragraph A. of the proposed rule be deleted and that the effectivity be revised to read "*Boeing*: Applies to all Model 747 and 757 series airplanes equipped with emergency power reservoirs listed in H.R. Textron Service Bulletin No. 803300–52–05." The FAA agrees that it is unnecessary to inspect the airplanes if records are available to determine the serial numbers of the reservoirs installed, and the AD has been revised accordingly; however, in absence of such records, operators must inspect for serial numbers in accordance with the applicable service bulletin.

The ATA also commented that the "NOTE" in the proposed rule which advises readers that the affected reservoirs may be installed on other airplanes should be deleted because, if adopted, will create confusion in the field since the effectivity of the proposed rule is clearly only against Boeing aircraft. The FAA concurs that the effectivity is only Boeing aircraft and specifically Models 747 and 757; however, the "NOTE" should not be deleted because, while some Boeing 747 and 757 aircraft may have been delivered without defective reservoirs, a defective reservoir could have been installed in the field since delivery. The note has been revised to reflect "Boeing Model 747 and 757 series airplanes."

The ATA also requested that the initial compliance period in paragraph A. of the proposed rule be changed from 60 to 90 days to afford those operators, who may not have records listing serial numbers of reservoirs, additional time to complete the fleet inspection to determine if they are affected by the rule. The ATA stated that, in some instances (likely 50%), the installed reservoirs would require removal to read the serial number. Further, some operators check the reservoirs every four days and, therefore, need time to change their maintenance program to comply with the daily check requirement of paragraph B. The FAA does not concur with an extension of the initial compliance period from 60 to 90 days in that air safety and public interest

require that the initial compliance period remain at 60 days.

The ATA also requested that the compliance period in paragraph C. of the proposed rule be changed from 12 to 15 months to allow operators to replace reservoirs during their scheduled main base visits and that safety would not be compromised since the daily check of proposed paragraph B. would remain in effect during the additional time period requested. The FAA concurs with this request and the AD has been revised accordingly.

One operator commented that the proposed AD does not provide an option for those operators whose standard operating procedures is to check the pressure of all passenger door emergency power reservoirs on a daily basis and objects to the proposed requirement to campaign the fleet to check for reservoir serial numbers in lieu of the daily pressure check. The FAA agrees that there are other acceptable methods of complying with the rule, and paragraph C. of the AD contains provisions for alternate means of compliance. Since alternate means must be considered on a case-by-case basis, it is not practicable to incorporate all possible means of compliance in the final rule. However, serial number verification is required to modify those reservoirs with defective pressure relief disk retainers.

The manufacturer requested that certain airplanes be exempt from the AD if the operator can prove, through maintenance records, that the emergency power reservoir has not been changed since delivery, or if it has been changed, that the serial numbers of the replacement reservoir was not on the list of affected reservoirs. As discussed above, the AD has been revised to allow, as an option, checking the airplane records for applicable reservoir serial numbers to show compliance.

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 changes noted above.

It is estimated that 157 Boeing Model 747 and 64 Boeing Model 757 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2,182 total manhours 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 this AD on U.S. operators is estimated to be $87,280.

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 a significant economic effect on a substantial number of small entities, because few, if any, Boeing Model 747 and 757 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

PART 39—[AMENDED]

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 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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 747 and 757 series airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure proper passenger door operation during energency evaluation, accomplish the following:

A. Within 60 days after the effective date of this AD, in order to find defective passenger door emergency power reservoirs, inspect the serial numbers of those reservoirs installed on airplanes in accordance with Boeing Service Bulletin 747–52A2201 (for Model 747 airplanes) or 757–52A0022 (for Model 757 airplanes), both dated September 15, 1986, or later FAA-approved revisions or check the applicable airplane records for those passenger door emergency power reservoir serial numbers listed in H.R. Textron Service Bulletin 803300–52–05 dated September 15, 1986, or later FAA-approved revisions.

1. If the serial number is not one listed in H.R. Textron Service Bulletin referenced above, no further action is necessary.

2. For any reservoir on which the serial number matches one listed in the H.R. Textron Service Bulletin referenced above, determine if the reservoir is fully charged. If any discharged emergency power reservoirs is found, replace or modify before further flight in accordance with the applicable Boeing Service Bulletin referenced above.

Note: These units may have been installed on Boeing Models 747 and 757 series airplanes other than those listed in the Boeing Service Bulletins referenced above.

3. For each emergency power reservoir installed on an airplane with a serial number listed in H.R. Textron Service Bulletin 803300–52–05, dated September 15, 1986, determine on a daily basis that the reservoir is fully charged. This daily procedure may be discontinued once the reservoir is modified in accordance with the applicable Boeing Service Bulletin referenced above. If any discharged emergency power reservoir is found, replace or modify before further flight in accordance with the applicable Boeing Service Bulletin referenced above.

B. Within 15 months after the effective date of this AD, modify all emergency power reservoirs listed in H.R. Textron Service Bulletin 803300–52–05, dated September 15, 1986, in accordance with the applicable Boeing Service Bulletin referenced above.

C. 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.

D. 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 inspections and/or modifications 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 98124–2207. 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 May 1, 1987.

Issued in Seattle, Washington, on March 18, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87–6396 Filed 3–24–87; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–200–AD; Amdt. 39–5589]

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Model BAC 1–11 200 and 400 series airplanes, which requires periodic inspection, and repair or

replacement, as necessary, of the keel beam lateral diaphragm assembly. This amendment is prompted by reports of cracks in the radii of the flanges of the keel beam lateral diaphragms attached to the keel beam structure immediately below the saddle bracket. This condition, if not corrected, could result in a situation where the keel structure cannot carry design loads.

DATES: Effective May 1, 1987.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. 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: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. 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, which requires repetitive inspections of Model BAC 1-11 200 and 400 series airplanes for cracks in the saddle bracket diaphragms, closing plates, and web angles, and replacement or repair, as necessary, if cracks are found, was published in the **Federal Register** on November 20, 1986 (51 FR 41980.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received; the commenter concurred with the proposal.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 60 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 to this AD to U.S. operators is estimated to be $4,800.

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 a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($80). 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

PART 39—[AMENDED]

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 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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to all Model BAC 1-11 200 and 400 series airplanes, certificated in any category. Compliance is required prior to the accumulation of 12,000 landings, or within the next 1,500 landings after the effective date of this AD, whichever occurs later.

To prevent failure of the keel structure to carry design loads due to structural crack propagation in the keel beam lateral diaphragm, accomplish the following, unless previously accomplished:

A. Inspect, and repair or replace, as necessary, the keel beam lateral diaphragm assembly in accordance with BAC 1-11 Alert Service Bulletin 53-A-PM5918, dated May 6, 1986.

B. Repeat the requirements of paragraph A., above, at intervals not to exceed 3,600 landings.

C. 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, Standardization Branch ANM-113, FAA, Northwest Mountain Region.

D. 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 requirements of this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This document 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 May 1, 1987.

Issued in Seattle, Washington, on March 18, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-6395 Filed 3-21-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 133

[T.D. 87-40]

Customs Regulations Amendments Relating to Copyrights

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations concerning the recordation of copyrights with the Customs Service and importations in violation of the copyright law. The changes conform the regulations to an extensive revision of the U.S. copyright law made by the Copyright Act of 1976. The changes include: (1) A shortened term of copyright recordation with Customs; (2) the deletion of requirements for copyrighted works manufactured outside the U.S. or Canada; (3) a new provision allowing for the return of infringing articles to the country of export; and (4) the deletion of the copyright regulation prohibiting the importation of articles bearing a false notice of copyright.

EFFECTIVE DATE: April 24, 1987.

FOR FURTHER INFORMATION CONTACT:

Legal aspects: Samuel Orandle, Entry Procedures and Penalties Division (202-566-5765);

Operational aspects: Harrison C. Feese, Commercial Compliance Division (202-566-8651).

SUPPLEMENTARY INFORMATION:

Background

The copyright law of the U.S. was substantially revised by the copyright Act of 1976, Pub. L. 94-553, 17 U.S.C. 101-810 ("the Act"), effective January 1, 1978. Several provisions of the Act directly affect procedures of the Customs Service ("Customs") relating to copyrights.

Section 601 of the Act substantially revised the requirements applicable to

copyrighted works manufactured outside the U.S. or Canada. However, section 601, the "manufacturing clause," expired on July 1, 1986. Section 603 made important changes concerning the importation of articles which infringe copyrights protected in the U.S. Under section 603(b), the copyright owner may seek to prevent importation of an article which he claims infringes the copyright by obtaining a court order prohibiting importation, or, if the copyright has been recorded with Customs, by seeking exclusion through an administrative procedure. Section 603(c) provides that articles imported in violation of the Act may be seized by Customs. However, Customs may authorize infringing articles to be returned to the country of export if the importer can show he had no reasonable grounds for believing his actions violated the Act.

Because of these changes in the copyright law, it was necessary to make conforming changes to the Customs procedures contained in Part 133, Customs Regulations (19 CFR Part 133), relating to the recordation of copyrights with Customs and importations violating the copyright law. Therefore, by notice published in the **Federal Register** on July 7, 1983 (48 FR 31245), the public was invited to submit comments on the following proposed changes:

1. An amendment to § 133.31(b) to provide that only the copyright owner or persons who have an ownership interest in the copyright and claim actual or potential injury from unauthorized importations may record the copyright with Customs;

2. An amendment to §§ 133.32(e) and 133.33(a)(1), to delete references to the Universal Copyright Convention (UCC) since the requirement for a statement that all copies of a copyrighted work contain a UCC notice (required by present § 133.32(e)) has been eliminated;

3. Amendments to §§ 133.34(b) and 133.37, to shorten the time for which a recordation of a copyright with Customs is effective from 28 years to 20 years, or until the recordant's ownership interest expires, whichever is shorter; and to provide procedures for renewals of recordation at 20-year intervals, or until the recordant's ownership interest expires, whichever period is shorter;

4. An amendment to § 133.37 to require that applications for renewal of recordation be submitted no later than 3 months before the expiration date of the term then in effect;

5. The deletion of § 133.41, which provides that the importation of articles bearing a false notice of copyright is prohibited and that the articles shall be seized and forfeited;

6. An amendment to § 133.43(c)(2) to allow release of an allegedly infringing article if the copyright owner fails to present sufficient evidence to substantiate his claim of infringement;

7. A revision of §133.45 to reflect the new requirements for copyright protection for works by American citizens or foreign nationals domiciled in the U.S.; and

8. An amendment to §§ 133.42(c) and 133.44(a), as well as the addition of a new § 133.47, to authorize the return of infringing articles to the country of export if the importer can show he had no reasonable grounds for believing that his actions violated the Act.

Eight comments were received in response to the notice. Most of the commenters commended Customs for its efforts in amending the regulations to conform them to the Act. However, as discussed below, all of the commenters recomended modifications to the proposed amendments.

Discussion of Comments

Comment: Proposed § 133.45 should make reference to the definition of the word "preponderantly", as set forth in the case of *Stonehill Communications, Inc. v. Martuge,* 512 F. Supp. 349 (1981).

Response: We concur. The method set forth in the *Stonehill* case for determining whether a work is preponderantly nondramatic literary material in the English language and therefore subject to the manufacturing restrictions of the Act, was adopted by Customs. However, the "manufacturing clause" (17 U.S.C. 601), which is the subject of § 133.45, expired on July 1, 1986. Therefore, § 133.45 is being deleted.

Comment: Sections 133.43 and 133.44 should be amended to afford both the importer and the copyright owner an opportunity to rebut each other's arguments before Customs makes a decision as to whether articles detained on suspicion of copyright infringement are in fact infringing; or whether a prospective import will be infringing.

Response: Section 133.43(b) provides for initial input from the copyright owner and the importer if imported articles are suspected of infringing a copyrighted work protected by Customs. Customs makes its decision as to whether the articles are infringing without further input from the copyright owner or the importer. If these parties disagree with Customs decision, they may avail themselves of applicable appeal procedures.

The existing system is satisfactory. Customs does not have administrative law judges, subpoena powers, discovery procedures, or any of the other trappings of a court which would be needed to afford the copyright owner and the importer an opportunity to exchange legal briefs and rebut each other's arguments.

In accordance with the general ruling procedure set forth in Part 177, Customs Regulations (19 CFR Part 177), Customs need not obtain public input before issuing a ruling to a requesting party. Likewise, Customs need not request input from the copyright owner in determining whether a prospective import would be infringing.

Comment: The amendment to § 133.43(c)(2), which authorizes the district director of Customs to release a shipment of goods detained on suspicion of infringement if the copyright owner fails to present sufficient proof of infringement, should not be adopted. Customs officers at the ports lack the legal training necessary to make the decision that the copyright owner has submitted insufficient proof of infringement.

Response: The present regulations, under which the detained goods are released to the importer only if the copyright owner concedes that he possesses insufficient proof of infringement, places the copyright owner, who often has minimal proof of infringement, in too powerful a position. To correct this imbalance, Customs is well within its discretion in requiring the copyright owner to submit sufficient proof of infringement in order to have the articles continue under detention. Furthermore, the district director is amply qualified to make the determination that insufficient evidence of infringement has been presented and that the articles should be released to the importer. It should be noted that the district director, upon importation of the articles, ordinarily makes the decision as to release of the articles without consulting the copyright owner.

We disagree with the suggestion that the amendment to § 133.43(c)(2) not be adopted.

Comment: Proposed § 133.44(a) should be amended to specify what will happen to the copyright owner's bond once forfeiture proceedings are instituted.

Response: We agree. It is unclear from proposed § 133.44(a) that the copyright owner's bond will be returned in the event that forfeiture proceedings are instituted. Therefore, this section has been revised to clarify owner's bond will be returned if forfeiture proceedings are initiated or if the articles are returned to the country of export.

Comment: The regulations should be amended to require all video game printed circuit boards (PCB's) to be

marked explicitly to indicate that the imported articles are video game PCB's. This is necessary to aid Customs enforcement of copyright restrictions applicable to some PCB's for video games.

Response: Requiring special marking for video game PCB's would impose an onerous burden upon manufacturers of lawfully made video game PBC's. It could also lead to the imposition of specific marking requirements for all the different PCB's, such as those for typewriters and other office equipment which may be subject to copyright restrictions. Furthermore, Customs is becoming increasingly familiar with video game PCB's.

We believe this suggestion would be unfair and prohibitively burdensome to the importing community, and that it is unnecessary.

Comment: Several commenters suggest that Customs prescribe regulations to provide persons claiming an interest in a copyright, upon payment of a specified fee, with notification of the importation of lawfully made copies and phonorecords, so that copyright owners can enforce their rights through judicial proceedings. A commenter also suggests that the requirement in existing § 133.32(f), that an application to record a copyright in a sound recording include the name(s) of the performing artist(s), be retained. The proposed amendment to § 133.32(f) eliminates this requirement.

Response: Section 602(a) of the Act states that lawfully made copies or phonorecords intended for distribution and in fact acquired outside the U.S., which are imported without the authority of the copyright owner, constitute an infringement of the exclusive right of the copyright owner to distribute copies or phonorecords, under section 106, and is actionable under section 501. However, section 602(b) specifically provides that Customs has no authority to prevent the importation of these lawfully made copies or phonorecords.

Furthermore, the Act authorizes the Secretary of the Treasury to prescribe regulations under which any person claiming an interest in the copyrighted work may, upon payment of a specified fee, receive notification from Customs of any importation of articles that appear to be copies or phonorecords of the copyrighted work. However, because of the interest shown by many commenters in such a regulation and because of its impact upon copyright owners and Customs, by separate notice of proposed rulemaking, the public is being given an opportunity to submit comments on this matter.

We also agree with the comment suggesting the retention of existing § 133.32(f), the requirement that an application to record a copyright in a sound recording include the name(s) of the performing artist(s). Current § 133.32(f) is retained.

Furthermore, to strengthen Customs overall enforcement program with respect to infringing phonorecords, a new paragraph (d) has been added to § 133.42, citing the "Piracy and Counterfeiting Amendments Act of 1982," which provides for criminal prosecution of violators of the Act.

Comment: The Copyright Office suggests that we revise proposed § 133.31 (a) and (b) to clarify who is considered a copyright owner. They also suggest that § 133.43(c)(1) be amended to permit Customs to retain the option of requiring the copyright owner to obtain a court order before Customs excludes articles detained on suspicion of piratical copying, when the infringement question is referred to Customs Headquarters for decision.

Response: We agree with the suggestion to clarify who is a copyright owner. Accordingly, proposed § 133.31(b) has been revised to clarify the term "copyright owner," with respect to any one of the exclusive rights contained in a copyright, to refer to the owner of that particular right. Also, to avoid confusion, the term "copyright proprietor," used in the proposal, has been changed to "copyright owner."

As to the suggestion concerning § 133.43(c)(1), we do not agree that it should be further amended. We do not interpret the Act as providing Customs with the option of making the easy administrative decisions and requiring a court order when difficult infringement questions are presented. The option to seek either an administrative decision or a court order is made by the copyright owner.

Comment: The term "phonorecords" should be added to the regulations to indicate that they, as well as copies, are importations which are protected.

Response: We concur. Although we initially thought that this was unnecessary because Customs protection in this area would be limited, it now appears that Customs protection of phonorecords will be extensive. Accordingly, the term "phonorecords" is being added, as appropriate.

Comment: The Copyright Office notes an apparent conflict between proposed §§ 133.31(a) and 133.33(a)(1). Section 133.31(a) appears to invite the recordation of unregistered claims to copyright, while § 133.33(a)(1) requires an additional certificate of copyright registration in order to record a copyright with Customs for import protection.

Response: We agree. The conflict arose because Customs provided separate registration and enforcement procedures for foreign copyright owners, who often did not register their copyrights. It is no longer necessary, under our international copyright obligations, to treat foreign claimants differently from domestic claimants. Therefore, references to the recordation of unregistered claims to copyrights or to separate registration or enforcement procedures for foreign copyright owners have been deleted from proposed §§ 133.31, 133.32, and 133.33.

Comment: The proposal to change the time periods for copyright recordations and renewals from 28 years to 20 years should be eliminated, and the time period for initial copyright recordations should be extended to at least 50 years.

Response: We disagree. In the usual case, the popularity of a work diminishes greatly after 20 years. Importations of unlawful copies of the work correspondingly diminish. To prevent Customs files from being overloaded with active copyright recordations in cases where problems with infringing imports have ceased to exist, we chose 20 years as the initial recordation period. We believe that this is an adequate period. It is consistent with our trademark provisions which have a similar 20-year initial recordation period. Also, having a 20-year initial and renewal recordation period is easier to administer, and it is not burdensome upon copyright owners.

Comment: Customs should not exercise its discretion to allow the return of infringing articles to the country of export, regardless of a finding that the importer had no reasonable grounds for believing that his actions constituted a violation of law. In all cases the infringing articles should be seized, forfeited, and destroyed, to prevent their continued illicit flow in international commerce.

Response: Title 17, United States Code, section 603(c), expressly provides for administrative discretion in allowing infringing articles to be returned to the country of export in certain cases. We see no reason to thwart Congress' intent to permit administrative consideration of the question of the importer's innocence in importing infringing articles into the U.S. The commenter apparently is concerned that the return of infringing articles to the country of export would only encourage subsequent attempts to reenter them. It is noted that Customs keeps records of

importer's violations and would scrutinize any subsequent violation for evidence as to the importer's knowledge that the articles are in violation of the copyright law.

Comment: Customs should retain the present provisions of § 133.41, which prohibit the entry of articles bearing a false notice of copyright. The deletion of these provisions would be contrary to Congressional intent as shown in the statutory language of 17 U.S.C. 601–603, and the "Piracy and Counterfeiting Amendments Act of 1982," 18 U.S.C. 2318, signed into law by the President on May 24, 1982.

Response: We disagree. Our examination of the relevant laws and legislative histories shows no clear Congressional intent to continue imposing import restrictions on articles bearing a false notice of copyright. There is a provision of the Copyright Law (17 U.S.C. 506(c)), which imposes criminal penalties on "any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false. . . " There is no language in the law, however, which indicates that Customs is primarily responsible for the enforcement of this provision. It appears that enforcement is within the jurisdiction of the U.S. Attorney, to whom appropriate cases are referred by Customs for prosecution.

The present text of § 133.41, therefore, is removed and § 133.41 is reserved.

Further, a new paragraph (d) has been added to § 133.42 to state that in the event phonorecords arrive in the U.S. bearing counterfeit labels, Customs officers should consider referring the violation to the U.S. Attorney for possible criminal prosecution.

In addition, the second sentence in present § 133.43(c)(3) is being deleted. The first sentence provides that if a copyright owner fails to file a written demand for exclusion and bond as required, detained articles shall be released to the importer and the copyright owner notified of this. The second sentence then provides that the district director shall withhold delivery of all further importations of the same article.

This is somewhat illogical, since if the copyright owner is not concerned enough to file a written demand for exclusion and bond for one shipment, there would seem to be no point in Customs continuing to detain further importations of the same article. However, if the copyright owner provides a satisfactory explanation to Customs of why he failed to file a written demand for exclusion and bond, Customs may again detain the same article on suspicion of infringement if further importations occur.

Also, the definition of infringing copies or phonorecords, contained in § 133.42, is being modified to state that infringing copies or phonorecords are piratical copies or phonorecords. This is designed to make it clear that no change is intended from the prior copyright statute's use of the term "piratical," which applied to copies or phonorecords made in contravention of the rights of the copyright owner.

After careful analysis of the comments received, and further review of the matter, it has been determined advisable to adopt the proposal, with some minor changes. It is noted that § 133.33(a)(2) was amended by T.D. 84–133, published in the **Federal Register** on June 28, 1984 (49 FR 26571), to reduce the number of likenesses which must accompany the application for recordation of a copyrighted work from 1,000 to 5.

Executive Order 12291

These amendments do not meet the criteria for a "major rule" as defined by section 1(b) of E.O. 12291. They merely conform the Customs Regulations to the Copyright Act of 1976. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

It is certified that the provisions of the Regulatory Flexibility Act, relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are not applicable to these amendments because they will not have a significant economic impact upon a substantial number of small entities. Any economic impact flows directly from the Copyright Act of 1976 and not the conforming amendments.

Paperwork Reduction Act

The collection of information requirements contained in §§ 133.32 and 133.33 are subject to the provisions of the Paperwork Reduction Act (44 U.S.C. 3504(h)) and have been cleared by the Office of Management and Budget (OMB). They were assigned OMB control number 1515–0097, which was added to the list of OMB-approved control numbers appearing in § 178.2, Customs Regulations (19 CFR 178.2), as added by T.D. 85–53, published in the **Federal Register** on March 26, 1985 (49 FR 11849).

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 133

Trademarks, Tradenames, Copyrights, Imports.

Amendments to the Regulations

Part 133, Customs Regulations (19 CFR Part 133), is amended as set forth below.

PART 133—TRADEMARKS, TRADENAMES, AND COPYRIGHTS

1. The general authority citation for Part 133 is revised to read as follows:

Authority: 17 U.S.C. 101, 601, 602, 603; 19 U.S.C. 66, 1624, 48; (31 U.S.C. 9701).

2. Sections 133.31 (a) and (b) are revised to read as follows:

§ 133.31 Recordation of copyrighted works.

(a) *Eligible works.* Claims to copyright which have been registered in accordance with the Copyright Act of July 30, 1947, as amended, or the Copyright Act of 1976, as amended, may be recorded with Customs for import protection.

(b) *Persons eligible to record.* The copyright owner, including any person who has acquired copyright ownership through an exclusive license, assignment, or otherwise, and claims actual or potential injury because of actual or contemplated importations of copies (or phonorecords) of eligible works, may file an application to record a copyright. "Copyright owner," with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

* * * * *

3. Section 133.31 is further amended by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

4. Section 133.32 is revised to read as follows:

§ 133.32 Application to record copyright.

An application to record a copyright to secure Customs protection against the importation of infringing copies or phonorecords shall be in writing addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, Washington, DC 20229, and shall include the following information:

(a) The name and complete address of the copyright owner or owners;

(b) If the applicant is a person claiming actual or potential injury by reason of actual or contemplated importations of copies or phonorecords of the eligible work, a statement setting forth the circumstances of such actual or potential injury;

(c) The country of manufacture of genuine copies or phonorecords of the protected work;

(d) The name and principal address of any foreign person or business entity authorized or licensed to use the protected work, and a statement as to the exclusive rights authorized;

(e) The foreign title of the work, if different from the U.S. title; and

(f) In the case of an application to record a copyright in a sound recording, a statement setting forth the name(s) of the performing artist(s), and any other identifying names appearing on the surface of reproduction of the sound recording, or its label or container.

5. Section 133.33(a)(1) is revised and the introductory text of paragraph (a) is republished to read as follows:

§ 133.33 Documents and fee to accompany application.

(a) *Documents.* The application for recordation shall be accompanied by the following documents:

(1) An "additional certificate" of copyright registration issued by the U.S. Copyright Office. If the name of the applicant differs from the name of the copyright owner identified in the certificate, the application shall be accompanied by a certified copy of any assignment, exclusive license, or other document recorded in the U.S. Copyright Office showing that the applicant has acquired copyright ownership in the copyright.

* * * * *

6. Section 133.34(b) is revised to read as follows:

§ 133.34 Effective date, term, and cancellation of recordation.

* * * * *

(b) *Term.* The recordation of copyright shall remain in effect for 20 years unless the copyright ownership of the recordant expires before that time. If the ownership expires in less than 20 years, recordation shall remain in effect until the ownership expires. If the ownership has not expired after 20 years, recordation may be renewed as provided in § 133.37.

* * * * *

7. Section 133.37 is revised to read as follows:

§ 133.37 Renewal of copyright recordation.

(a) *Term of renewal.* If a recorded copyright has a term which exceeds the original 20-year recordation, continued Customs protection may be obtained by renewing the recordation. The renewed recordation shall remain in effect for 20 years, unless the recordant's copyright ownership expires sooner, in which case it shall remain in effect until the ownership expires. There is no limit to the number of times recordation of a subsisting copyright may be renewed.

(b) *Application for renewal.* An application to renew recordation shall be made no later than 3 months before the date the recordation then in effect expires. The application shall be in writing addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, Washington, DC 20229.

(c) *Materials to be submitted with application.* An application to renew Customs recordation shall include:

(1) Proof that the recordant's copyright ownership is valid. The proof required shall vary with the date that the work was first copyrighted as follows:

(i) *Works in which copyright subsists on or after January 1, 1978.* An affidavit signed by the recordant attesting to the continued validity of the copyright, stating the date the copyright was registered with the U.S. Copyright Office, whether the author of the work is still alive and, if not, the date of his death, and any additional information that Customs may require of the recordant.

(ii) *Works under statutory copyright on December 31, 1977.* If the copyright is still in its first term when recordation expires, a certificate of registration issued by the U.S. Copyright Office or, if the copyright has been renewed, a certificate of renewal registration issued by the U.S. Copyright Office.

(2) A statement describing any change of ownership or name of owner, in compliance with §§ 133.35 and 133.36, and any change of address of the owner.

(3) Payment of a fee of $80. A check or money order shall be made payable to the U.S. Customs Service.

(d) *Untimely application.* If the recordant fails to submit a renewal application at least 3 months before the recordation expires, he may not renew the recordation. The recordant shall be required to reapply to record the copyright in accordance with the procedures and requirements of §§ 133.32 and 133.33.

8. The heading and text of § 133.41 are removed and § 133.41 is reserved.

§ 133.41 [Reserved].

9. The heading and text of § 133.42 are revised to read as follows:

§ 133.42 Infringing copies or phonorecords.

(a) *Definition.* Infringing copies or phonorecords are "piratical" articles, i.e., copies or phonorecords which are unlawfully made (without the authorization of the copyright owner).

(b) *Importation prohibited.* The importation of infringing copies or phonorecords of works copyrighted in the U.S. is prohibited by Customs. The importation of lawfully made copies is not a Customs violation.

(c) *Seizure and forfeiture.* The district director shall seize any imported article which he determines is an infringing copy or phonorecord of a copyrighted work protected by Customs. The district director also shall seize an imported article if the importer does not deny a representation that the article is an infringing copy or phonorecord as provided in § 133.42(a). In either case, the district director also shall institute forfeiture proceedings in accordance with Part 162 of this chapter, unless the article may be returned to the country of export as provided in § 133.47. Lawfully made copies are not subject to seizure and forfeiture by Customs.

(d) *Referral to the U.S. Attorney.* In the event that phonorecords or copies of motion pictures arrive in the U.S. bearing counterfeit labels, Customs officers should consider referring the violation to the U.S. Attorney, Department of Justice, for possible criminal prosecution pursuant to the "Piracy and Counterfeiting Amendments Act of 1982" (18 U.S.C. 2318). This law provides a minimum fine of $25,000 or imprisonment for not more than one year, or both, for willful infringement of a copyright for commercial advantage, and a maximum fine of $250,000 or imprisonment for not more than 5 years, or both, where trafficking in counterfeit labels for phonorecords or copies of motion pictures or other audiovisual works is involved.

10. The heading and text of § 133.43 are revised to read as follows:

§ 133.43 Procedure on suspicion of infringing copies.

(a) *Notice to the importer.* If the district director has any reason to believe that an imported article may be an infringing copy or phonorecord of a recorded copyrighted work, he shall withhold delivery, notify the importer of his action, and advise him that if the facts so warrant he may file a statement denying that the article is in fact an

infringing copy and alleging that the detention of the article will result in a material depreciation of its value, or a loss or damage to him. The district director also shall advise the importer that in the absence of receipt within 30 days of a denial by the importer that the article constitutes an infringing copy or phonorecord, it shall be considered to be such a copy and shall be subject to seizure and forfeiture.

(b) *Notice to copyright owner.* If the importer of suspected infringing copies of phonorecords files a denial as provided in paragraph (a) of this section, the district director shall furnish the copyright owner with a sample of the imported article, together with notice that the imported article will be released to the importer unless, within 30 days from the date of the notice, the copyright owner files with the district director:

(1) A written demand for the exclusion from entry of the detained imported articles; and

(2) A bond, in the form and amount specified by the district director, conditioned to hold the importer or owner of the imported article harmless from any loss or damage resulting from Customs detention in the event the Commissioner of Customs or his designee determines that the article is not an infringing copy prohibited importation under § 602 of the Copyright Act of 1976 (17 U.S.C. 602) (See Part 113 of this chapter).

(c) *Result of action or inaction by copyright owner.* After notice to the copyright owner that delivery is being withheld for imported articles suspected of being infringing copies of his recorded copyrighted work, the district director shall proceed in accordance with the following procedures:

(1) *Demand and bond.* If the copyright owner files a written demand for exclusion of the suspected infringing copies together with a proper bond, the district director shall promptly notify the importer and the copyright owner that, during a specified time limited to not more than 30 days, they may submit further evidence, legal briefs, or other pertinent material to substantiate the claim or denial of infringement. The burden of proof shall be upon the party claiming that the article is in fact an infringing copy. At the close of the period specified for submission of evidence, the district director shall forward the entire file, together with a sample of the imported articles, and his views or comments, to the Commissioner of Customs or his designee, for decision on the disputed claim of infringement.

(2) *Infringement disclaimed or unsupported.* If the copyright owner disclaims that the specified imported article is an infringing copy of his recorded copyrighted work, or fails to present sufficient evidence or proof to substantiate a claim of infringement, the district director shall release the detained shipment to the importer and all further importations of the same article, by whomever imported, without further notice to the copyright owner.

(3) *Failure to file demand or bond.* If the copyright owner fails to file a written demand for exclusion and bond as required by paragraph (b) of this section, the district director shall release the detained articles to the importer and notify the copyright owner of the release.

(4) *Withdrawal of bond.* At any time before transmittal of the case to the Commissioner of Customs or his designee for decision, the copyright owner may withdraw a bond filed in accordance with paragraph (b) of this section. Before returning the bond to the copyright owner and release of the detained articles, the district director shall require the copyright owner and the importer to file written statements agreeing to hold Customs and the district director harmless for any consequence of the return of the bond and release of the detained articles. After the withdrawal of a bond, the district director shall release importations of the same article by the same importer without further notice to the copyright owner.

(d) *Alternative procedure: court action.* As an alternative to the administrative procedure described in this section, the copyright owner, whether or not he has recorded his copyright with Customs, may seek a court order enjoining importation of the article. To obtain Customs enforcement of an injunction, the copyright owner shall submit a certified copy of the court order to the Commissioner of Customs, Attention: Office of the Chief Counsel, Washington, D.C. 20229. In addition, if the copyright in question is not recorded with Customs, the copyright owner shall submit the $190 fee required by § 133.33(b) and, if the work is a three-dimensional or other work not readily identifiable by title and author, 5 photographic or other likenesses reproduced on paper approximately 8" × 10½" in size.

11. The heading and text of § 133.44 are revised to read as follows:

§ 133.44 Decision of disputed claim of infringement.

(a) *Claim of infringement sustained.* Upon determination by the Commissioner of Customs or his designee that the detained article forwarded in accordance with § 133.43(c)(1) is an infringing copy, the district director shall seize the imported article and either institute forfeiture proceedings in accordance with Part 162 of this chapter or, if the conditions prescribed by § 133.47 are met, permit the importer to return the article to the country of export. In either event, the bond of the copyright owner shall be returned.

(b) *Denial of infringement sustained.* Upon determination by the Commissioner of Customs or his designee that the detained article forwarded in accordance with § 133.43(c)(1) is not an infringing copy, the district director shall release all detained merchandise and transmit the copyright owner's bond to the importer.

§ 133.45 [Reserved]

12. The heading and text of § 133.45 are removed and marked "reserved".

13. Part 133 is further amended by adding a new § 135.47, to read as follows:

§ 133.47 Return of seized or detained articles to country of export.

Articles seized or detained for violations or suspected violations of the Copyright Act of 1976 may be returned to the country of export whenever it is shown to the satisfaction of the district director that the importer had no reasonable grounds for believing that his actions constituted a violation of the Act. If the district director is in doubt as to whether the articles should be returned, the matter may be forwarded to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, Washington, DC 20229, for decision.

§ 133.51 [Amended]

14. Section 133.51(b)(3) is amended by removing "Copyright Act (17 U.S.C. 16)" and inserting, in its place, "Copyright Act of 1976 (17 U.S.C. 602, 603)."

Michael H. Lane,

Acting Commissioner of Customs.

Approved: March 10, 1987.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 87-6486 Filed 3-24-87; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 40

[Docket No. R-87-1186; FR-1957]

Accessibility Standards for Design, Construction, and Alteration of Publicly Owned Structures

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; nomenclature change.

SUMMARY: The purpose of this nomenclature change is to identify the Office of Fair Housing and Equal Opportunity as the program office from which reprints of the Uniform Federal Accessibility Standards may be obtained.

EFFECTIVE DATE: May 5, 1987.

FOR FURTHER INFORMATION CONTACT: Robert Ardinger, Section 504 Program Manager, Office of Fair Housing and Equal Opportunity, Room 5230, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-5404. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: This nomenclature change is intended to notify the public that reprints of the Uniform Federal Accessibility Standards are now available through the Office of Fair Housing and Equal Opportunity. Updated contact information for this program office is also provided.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more: (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have 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.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321-4347) is unnecessary since this nomenclature change constitutes an internal administrative procedure, which is categorically excluded under HUD regulations at 24 CFR 50.20(k).

List of Subjects in 24 CFR Part 40

Handicapped, Public housing.

PART 40—[AMENDED]

For the reason set forth in the preamble, the Department amends 24 CFR Part 40 as follows:

1. The authority citation for Part 40 continues to read as follows:

Authority: Sec. 3, Architectural Barriers Act of 1968 (42 U.S.C. 4153); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Appendix A to Part 40—[Amended]

2. The Note immediately following the caption "APPENDIX A TO PART 40—Accessibility Standards for Publicly Owned Residential Structures" is revised to read as follows:

Note: Full-size reprints of the Uniform Federal Accessibility Standards as published in this Appendix are available from the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Room 5230, 451 Seventh Street, SW., Washington, DC 20410, telephone 202-755-5404 (this is not a toll-free number).

Dated: March 17, 1987.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 87-6449 Filed 3-24-87; 8:45 am]

BILLING CODE 4210-32-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 882

[Docket No. R-87-955; FR-1539]

Section 8 Housing Assistance Payments Program; Existing Housing

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

ACTION: Final rule; technical amendment.

SUMMARY: This rule corrects a typographical error in 24 CFR 882.215 relating to the Section 8 Certificate Program. By substituting the word "on" instead of "or" in paragraph (a)(5), the amended subsection properly reflects the original intention of the paragraph (as expressed in the preamble to the proposed rule at 49 FR 12232, published on March 29, 1984) that a Lease must be terminable by a Family without cause after the first year of the lease term, upon no more than 60 days written notice to the Owner.

EFFECTIVE DATE: May 10, 1984.

FOR FURTHER INFORMATION CONTACT: Madeline Hastings, Existing Housing Division, Office of Elderly and Assisted Housing, (202) 755-6887, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6126, Washington DC 20410. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have 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.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

An environmental finding under the National Environment Policy Act (42 U.S.C. 4321-4347) is unnecessary since this technical amendment constitutes an internal administrative procedure which is categorically excluded under HUD regulations at 24 CFR 50.20(k).

List of Subjects in 24 CFR Part 882

Grant programs: Housing and community development, Housing, Mobile homes, Rent subsidies, Low and moderate income housing.

For the reason set forth in the preamble, the Department amends 24 CFR Part 882 as follows:

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM; EXISTING HOUSING

1. The authority citation for Part 882 continues to read as follows:

Authority: Secs. 3, 5, and 8, U.S. Housing Act of 1937 (42 U.S.C. 1437a, 1437c, and 1437f); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

2. Section 882.215 is amended by revising paragaph (a)(5) as follows:

§ 882.215 Assisted tenancy.

(a) * * *

(5) The Lease shall permit a termination of the Lease by the Family without cause, at any time after the first year of the term of the Lease, on not more than sixty days written notice by the Family to the Owner [with copy to the PHA].

* * * * *

Dated: March 17, 1987.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 87-6447 Filed 3-24-87; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Part 888

[Docket No. N-87-1664, FR-2309]

Section 8 Housing Assistance Payments Program—Contract Rent Annual Adjustment Factors

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

ACTION: Notice updating contract rent annual adjustment factors.

SUMMARY: The United States Housing Act of 1937 requires that the assistance contracts signed by owners participating in the Department's Section 8 Housing Assistance Payments Programs provide for annual or more frequent adjustment in the maximum monthly rentals for units covered by the contract to reflect changes based on fair market rents prevailing in a particular market area, or on a reasonable formula. This notice announces revised Annual Adjustment Factors, which are based on a formula using rent and utility data from the Consumer Price Index and using the Bureau of the Census American Housing Surveys. The revised Factors are to be used to adjust contract rents in the Section 8 Housing Assistance Payment Programs.

EFFECTIVE DATE: March 25, 1987.

FOR FURTHER INFORMATION CONTACT: Shirley C. Stone, Existing Housing Division, Office of Elderly and Assisted Housing (202) 755-6887; James Tahash, Program Planning Division, Office of Multifamily Housing Management (202) 426-3970; for technical information regarding the development of the schedules for specific areas or the method used for calculating the Adjustment Factors, Michael R. Allard, Economic and Market Analysis Division, Office of Policy Development and Research (202) 755-5577. Mailing address for above persons: Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) requires the Department to provide for adjustments in the maximum monthly rents for units covered by the Section 8 Housing Assistance Payments (HAP) Contracts. Adjustments must reflect changes in the fair market rents prevailing in particular market areas or be based on a reasonable formula.

This notice establishes revised Annual Adjustment Factors (AAFs), based on a formula using rent and utility data from the Consumer Price Index (CPI) and using the Bureau of the Census American Housing Surveys (AHS) (formerly called Annual Housing Survey). The revised AAFs are to be used to adjust Contract Rents under the Section 8 Housing Assistance Payments Programs. HUD regulations (see 24 CFR 888.202) provide that the AAFs will be published annually in the **Federal Register**. The annual anniversary data for publication of the Factors is November 8.

Applicability of AAFs to Various Section 8 Programs

In general, AAFs established by this notice are used to adjust Contract Rents for Section 8 units. The following provides a general description as to how AAFs apply under the several Section 8 Housing Assistance Payments Programs. The application of the AAFs should be determined by reference to the HAP Contract and to appropriate program regulations.

In certain cases, however, AAFs are not used to adjust Contract Rents. AAFs are not used for Section 8 Certificate Program units subject to 24 CFR 882.110(d), which applies to units in certain otherwise subsidized projects that are rented to Section 8 Certificate Program families. (The housing assistance payment for such a unit is equal to the difference between the subsidized rent and the rent payable by the eligible family. Adjustments to the subsidized rents are made in accordance with rules and procedures governing the particular subsidized housing program involved.) In addition, AAFs are not used for units placed under HAP contract in recent years under the Section 202/Section 8 Program. Instead, rents are based on a HUD-approved budget for the project.

Contract Rents for many projects receiving Section 8 subsidies under the Loan Management provisions of 24 CFR Part 886, Subpart A, and for projects receiving Section 8 subsidies under the Property Disposition provisions of 24 CFR Part 886, Subpart C, are adjusted, at HUD's option, either by applying the AAFs or by adjusting rents in accordance with 24 CFR 207.19 (e)(2) and (e)(4).

The AAFs developed by the formula apply to rental units of all bedroom sizes in each rent interval. Under the Section 8 Moderate Rehabilitation Program, the Public Housing Agency should use the base rent, not the Contract Rent, to select the correct AAF to apply to the base rent.

Each AAF applies to a particular geographical area, as indicated in the Tables at the end of this document. However, application of a Factor to the prior Contract Rent for a unit may not result in material differences between the rents charged for assisted and comparable unassisted units as determined by the Secretary. (See 42 U.S.C. 1437f(c)(2)(C), and applicable program regulations in 24 CFR Chapter VIII.) Thus, an AAF for an entire PMSA may not be uniformly applicable to all rental housing within the geographical area, if the rent comparability test cannot be met.

In certain cases, however, the AAF established for a particular area may result in rents that are substantially lower than rents charged for comparable units not receiving assistance under the Section 8 Program. If this occurs, a PHA or private owner may apply to the field office for consideration by HUD of a revised Adjustment Factor for the area, as provided for in 24 CFR 888.204.

Owners of Section 8 units (other than units assisted under the Section 8 Certificate and FmHA Programs) who have HAP Contracts with anniversary dates falling on November 8, 1986 through March 24, 1987 may request that the AAFs be applied retroactively to the anniversary date of their HAP Contracts. Retroactivity is permitted to avoid any detriment to owners because of HUD's delay in the annual publication of the factors as required by 24 CFR 888.202. For units assisted under the Section 8 Certificate and the FmHA Programs, the factors are not applied retroactively; the annual adjustments, as

of any anniversary date, are determined using the AAFs most recently published in the **Federal Register** (see 24 CFR 882.108(a)(1)(i) and 884.109(b)(2)).

Calculation of Adjustment Factors

Different AAFs are provided for the four Census Regions, the States of Alaska and Hawaii, and 72 metropolitan areas. A list of the counties (and cities and towns in New England) that are included in each metropolitan area is being published as part of this Notice.

Except for rent adjustments for manufactured home space rents under the Section 8 Certificate Program, the formula for calculating the Adjustment Factors for each area was developed as follows: (1) The increases in the residential rent component and the fuel and utilities component of the CPI were caluculated for the 12-month period from June 1985 to June 1986; (2) a shelter rent increase factor was calculated by eliminating the effect of heating costs on the CPI residential rent component as determined by Bureau of Labor Statistics data; (3) a gross rent factor for each of the metropolitan areas covered by the CPI and for each of the four Census Regions was calculated by weighting the shelter rent and the fuel and utility increases in accordance with updated 1980 Census State weights of these component parts of rent, as derived from 1983 AHS data; (4) Adjustment Factors for Contract Rents including the highest cost utility were calculated by adjusting the gross rent factors to reflect variations by rent range in each area based on variations developed from 1983 national AHS data as applied to the local FMR levels; and (5) Adjustment Factors for Contract Rents excluding the highest cost utility were calculated by developing updated shelter rents from the updated gross rents, by rent ranges, and then dividing the updated shelter rents by that of the previous year.

Section 8 Certificate Program AAFs for Manufactured Home Spaces

This notice contains a separate set of AAFs for adjusting Contract Rents for manufactured home spaces. There is one factor for each area, which represents the change in the median rent for the area. These factors were derived by following steps one and two in the formula described above. In past notices, PHAs were instructed to use the AAFs excluding highest cost utility at the applicable rent interval to adjust Contract Rents for manufactured home space. (See 51 FR 32909, September 17, 1986.) Using these AAFs to adjust Contract Rents for manufactured home spaces is unappropriate because the data used to adjust the factors in steps (4) and (5) above do not include information about manufactured home space rents. In the absence of any information indicating the relationship between rent increases at various rents levels for manufactured home spaces, the Department believes that it is more appropriate to use a single AAF for each area, which is based on the change in median rent for the area.

Other Matters

An environmental assessment is unnecessary, since revising Annual Adjustment Factors is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(*l*).

The Catalog of Federal Domestic Assistance program number for Lower Income Housing Assistance Programs (Section 8) is 14.156.

Authority: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d); sec. 8(c)(2)(A), U.S. Housing Act (U.S.C. 1437f(c)(2)(A)).

Dated: March 17, 1987.

Thomas T. Demery,

Assistant Secretary for Housing—Federal Housing Commissioner.

Accordingly, the Department publishes these Contract Rent Annual Adjustment Factors for the Section 8 Housing Assistance Payments Program as set forth in the following Tables:

BILLING CODE 4210-27-M

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE

PREPARED ON 101586

NORTH EAST CENSUS REGION

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.104	1.121
$ 190 TO 239	1.077	1.108
$ 240 TO 289	1.071	1.107
$ 290 TO 339	1 067	1.094
$ 340 TO 379	1.066	1.088
$ 380 TO 429	1.064	1.087
$ 430 TO 479	1.057	1.075
$ 480 TO 529	1.053	1.075
$ 530 TO 569	1.052	1.075
$ 570 PLUS	1.043	1.075

MIDWEST CENSUS REGION

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 170	1.064	1.070
$ 170 TO 209	1.048	1.066
$ 210 TO 249	1.044	1.063
$ 250 TO 289	1.042	1.057
$ 290 TO 329	1.041	1.053
$ 330 TO 369	1.040	1.044
$ 370 TO 409	1.036	1.044
$ 410 TO 459	1.033	1.044
$ 460 TO 499	1.032	1.044
$ 500 PLUS	1.027	1.044

SOUTH CENSUS REGION

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 170	1.060	1.057
$ 170 TO 209	1.044	1.050
$ 210 TO 249	1.041	1.049
$ 250 TO 289	1.039	1.047
$ 290 TO 339	1.038	1.039
$ 340 TO 379	1.037	1.038
$ 380 TO 419	1.033	1.031
$ 420 TO 459	1.030	1.031
$ 460 TO 499	1.030	1.031
$ 500 PLUS	1.025	1.031

WEST CENSUS REGION

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 210	1.083	1.075
$ 210 TO 259	1.062	1.069
$ 260 TO 309	1.057	1.065
$ 310 TO 359	1.054	1.062
$ 360 TO 409	1.053	1.055
$ 410 TO 459	1.052	1.051
$ 460 TO 509	1.046	1.050
$ 510 TO 569	1.042	1.041
$ 570 TO 619	1.041	1.041
$ 620 PLUS	1.034	1.041

STATE ALASKA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 300	1.007	1.001
$ 300 TO 379	1.005	1.001
$ 380 TO 449	1.005	1.000
$ 450 TO 529	1.004	1.000
$ 530 TO 599	1.004	1.000
$ 600 TO 679	1.004	1.000
$ 680 TO 749	1.004	1.000
$ 750 TO 829	1.003	1.000
$ 830 TO 899	1.003	1.000
$ 900 PLUS	1.003	1.000

STATE HAWAII

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 270	1.048	1.068
$ 270 TO 329	1.035	1.065
$ 330 TO 399	1.033	1.063
$ 400 TO 459	1.031	1.062
$ 460 TO 529	1.030	1.061
$ 530 TO 599	1.030	1.055
$ 600 TO 659	1.026	1.055
$ 660 TO 729	1.024	1.050
$ 730 TO 799	1.024	1.050
$ 800 PLUS	1.020	1.050

PMSA AKRON, OH

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 180	1.050	1.054
$ 180 TO 229	1.037	1.051
$ 230 TO 269	1.034	1.049
$ 270 TO 319	1.033	1.044
$ 320 TO 359	1.032	1.039
$ 360 TO 409	1.031	1.033
$ 410 TO 459	1.028	1.033
$ 460 TO 499	1.026	1.033
$ 500 TO 549	1.025	1.033
$ 550 PLUS	1.021	1.033

PMSA ANAHEIM-SANTA ANA, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 310	1.131	1.097
$ 310 TO 389	1.097	1.088
$ 390 TO 459	1.090	1.082
$ 460 TO 539	1.085	1.080
$ 540 TO 619	1.083	1.067
$ 620 TO 689	1.081	1.060
$ 690 TO 769	1.072	1.058
$ 770 TO 849	1.067	1.045
$ 850 TO 929	1.065	1.045
$ 930 PLUS	1.054	1.045

PMSA ANN ARBOR, MI

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 240	1.086	1.106
$ 240 TO 289	1.064	1.101
$ 290 TO 349	1.059	1.097
$ 350 TO 409	1.056	1.088
$ 410 TO 469	1.055	1.081
$ 470 TO 529	1.053	1.070
$ 530 TO 589	1.048	1.070
$ 590 TO 649	1.044	1.070
$ 650 TO 709	1.043	1.070
$ 710 PLUS	1.036	1.070

MSA ATLANTA, GA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 210	1.101	1.093
$ 210 TO 259	1.074	1.081
$ 260 TO 309	1.069	1.079
$ 310 TO 359	1.065	1.077
$ 360 TO 409	1.064	1.062
$ 410 TO 459	1.062	1.060
$ 460 TO 519	1.056	1.049
$ 520 TO 569	1.051	1.049
$ 570 TO 619	1.050	1.049
$ 620 PLUS	1.042	1.049

PMSA AURORA-ELGIN, IL

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 250	1.075	1.065
$ 250 TO 309	1.055	1.061
$ 310 TO 369	1.051	1.058
$ 370 TO 429	1.049	1.050
$ 430 TO 489	1.048	1.044
$ 490 TO 549	1.046	1.034
$ 550 TO 619	1.041	1.034
$ 620 TO 679	1.038	1.034
$ 680 TO 739	1.037	1.034
$ 740 PLUS	1.031	1.034

MSA BALTIMORE, MD

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 220	1.069	1.080
$ 220 TO 269	1.051	1.075
$ 270 TO 329	1.047	1.071
$ 330 TO 379	1.045	1.069
$ 380 TO 439	1.044	1.063
$ 440 TO 489	1.043	1.058
$ 490 TO 539	1.038	1.051
$ 540 TO 599	1.035	1.051
$ 600 TO 649	1.034	1.051
$ 650 PLUS	1.028	1.051

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE

PREPARED ON 101586

PMSA BEAVER COUNTY, PA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 180	1.083	1.091
$ 180 TO 219	1.061	1.087
$ 220 TO 269	1.057	1.083
$ 270 TO 309	1.054	1.075
$ 310 TO 359	1.053	1.068
$ 360 TO 399	1.051	1.058
$ 400 TO 439	1.046	1.058
$ 440 TO 489	1.042	1.058
$ 490 TO 529	1.041	1.058
$ 530 PLUS	1.034	1.058

PMSA BERGEN-PASSAIC, NJ

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 300	1.115	1.119
$ 300 TO 379	1.085	1.111
$ 380 TO 449	1.079	1.104
$ 450 TO 529	1.074	1.101
$ 530 TO 599	1.073	1.091
$ 600 TO 679	1.071	1.083
$ 680 TO 749	1.063	1.070
$ 750 TO 829	1.058	1.070
$ 830 TO 899	1.057	1.070
$ 900 PLUS	1.047	1.070

PMSA BOSTON, MA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 310	1.095	1.133
$ 310 TO 389	1.070	1.121
$ 390 TO 469	1.065	1.119
$ 470 TO 549	1.062	1.117
$ 550 TO 629	1.061	1.103
$ 630 TO 709	1.059	1.101
$ 710 TO 789	1.052	1.091
$ 790 TO 859	1.048	1.091
$ 860 TO 939	1.047	1.091
$ 940 PLUS	1.039	1.091

PMSA BOULDER-LONGMONT, CO

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 250	1.023	1.015
$ 250 TO 309	1.017	1.014
$ 310 TO 379	1.016	1.013
$ 380 TO 439	1.015	1.012
$ 440 TO 499	1.015	1.010
$ 500 TO 559	1.014	1.009
$ 560 TO 629	1.013	1.006
$ 630 TO 689	1.012	1.006
$ 690 TO 749	1.012	1.006
$ 750 PLUS	1.010	1.006

PMSA BRAZORIA, TX

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 210	1.000	1.021
$ 210 TO 259	1.000	1.021
$ 260 TO 319	1.000	1.021
$ 320 TO 369	1.000	1.021
$ 370 TO 419	1.000	1.021
$ 420 TO 469	1.000	1.021
$ 470 TO 529	1.000	1.021
$ 530 TO 579	1.000	1.021
$ 580 TO 629	1.000	1.021
$ 630 PLUS	1.000	1.021

PMSA BRIDGEPORT-MILFORD, CT

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 240	1.111	1.128
$ 240 TO 299	1.082	1.114
$ 300 TO 359	1.076	1.112
$ 360 TO 419	1.072	1.099
$ 420 TO 479	1.071	1.092
$ 480 TO 539	1.069	1.077
$ 540 TO 599	1.061	1.077
$ 600 TO 659	1.057	1.077
$ 660 TO 719	1.055	1.077
$ 720 PLUS	1.046	1.077

PMSA BROCKTON, MA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 260	1.095	1.133
$ 260 TO 319	1.070	1.121
$ 320 TO 379	1.065	1.119
$ 380 TO 449	1.062	1.117
$ 450 TO 509	1.061	1.103
$ 510 TO 579	1.059	1.101
$ 580 TO 639	1.052	1.091
$ 640 TO 699	1.048	1.091
$ 700 TO 769	1.047	1.091
$ 770 PLUS	1.039	1.091

PMSA BUFFALO, NY

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 180	1.056	1.056
$ 180 TO 219	1.041	1.049
$ 220 TO 259	1.038	1.048
$ 260 TO 309	1.036	1.047
$ 310 TO 349	1.036	1.038
$ 350 TO 399	1.035	1.038
$ 400 TO 439	1.031	1.031
$ 440 TO 479	1.028	1.031
$ 480 TO 529	1.028	1.031
$ 530 PLUS	1.023	1.031

PMSA CHICAGO, IL

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 240	1.076	1.069
$ 240 TO 299	1.056	1.059
$ 300 TO 359	1.052	1.058
$ 360 TO 419	1.050	1.056
$ 420 TO 479	1.049	1.044
$ 480 TO 539	1.047	1.043
$ 540 TO 599	1.042	1.034
$ 600 TO 659	1.039	1.034
$ 660 TO 719	1.038	1.034
$ 720 PLUS	1.031	1.034

PMSA CINCINNATI, OH-KY-IN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 170	1.047	1.047
$ 170 TO 209	1.035	1.045
$ 210 TO 249	1.032	1.043
$ 250 TO 299	1.031	1.038
$ 300 TO 339	1.030	1.034
$ 340 TO 379	1.029	1.028
$ 380 TO 419	1.026	1.028
$ 420 TO 459	1.024	1.028
$ 460 TO 509	1.023	1.028
$ 510 PLUS	1.019	1.028

PMSA CLEVELAND, OH

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 190	1.050	1.054
$ 190 TO 239	1.037	1.051
$ 240 TO 279	1.034	1.049
$ 280 TO 329	1.033	1.044
$ 330 TO 379	1.032	1.039
$ 380 TO 429	1.031	1.033
$ 430 TO 469	1.028	1.033
$ 470 TO 519	1.026	1.033
$ 520 TO 569	1.025	1.033
$ 570 PLUS	1.021	1.033

PMSA DALLAS, TX

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 190	1.060	1.053
$ 190 TO 239	1.044	1.048
$ 240 TO 289	1.041	1.045
$ 290 TO 339	1.039	1.043
$ 340 TO 379	1.038	1.038
$ 380 TO 429	1.037	1.034
$ 430 TO 479	1.033	1.027
$ 480 TO 529	1.030	1.027
$ 530 TO 579	1.030	1.027
$ 580 PLUS	1.025	1.027

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE

PREPARED ON 101586

PMSA DANBURY, CT

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 260	1.111	1.120
$ 260 TO 319	1.082	1.114
$ 320 TO 389	1.076	1.112
$ 390 TO 449	1.072	1.099
$ 450 TO 519	1.071	1.092
$ 520 TO 579	1.069	1.090
$ 580 TO 649	1.061	1.077
$ 650 TO 709	1.057	1.077
$ 710 TO 779	1.055	1.077
$ 780 PLUS	1.046	1.077

PMSA DENVER, CO

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 230	1.023	1.015
$ 230 TO 289	1.017	1.014
$ 290 TO 349	1.016	1.013
$ 350 TO 409	1.015	1.012
$ 410 TO 459	1.015	1.010
$ 460 TO 519	1.014	1.009
$ 520 TO 579	1.013	1.008
$ 580 TO 639	1.012	1.006
$ 640 TO 699	1.012	1.006
$ 700 PLUS	1.010	1.006

PMSA DETROIT, MI

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.086	1.106
$ 190 TO 239	1.064	1.101
$ 240 TO 279	1.059	1.097
$ 280 TO 329	1.056	1.088
$ 330 TO 379	1.055	1.081
$ 380 TO 429	1.053	1.070
$ 430 TO 469	1.048	1.070
$ 470 TO 519	1.044	1.070
$ 520 TO 569	1.043	1.070
$ 570 PLUS	1.036	1.070

PMSA FT LAUDERDALE-HOLLYWOOD-POMPANO BH, FL

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 240	1.017	1.028
$ 240 TO 309	1.013	1.027
$ 310 TO 369	1.012	1.025
$ 370 TO 429	1.011	1.025
$ 430 TO 489	1.011	1.024
$ 490 TO 549	1.011	1.023
$ 550 TO 609	1.010	1.021
$ 610 TO 669	1.009	1.021
$ 670 TO 729	1.009	1.021
$ 730 PLUS	1.007	1.021

PMSA FORT WORTH-ARLINGTON, TX

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.060	1.053
$ 190 TO 239	1.044	1.048
$ 240 TO 289	1.041	1.045
$ 290 TO 339	1.039	1.043
$ 340 TO 379	1.038	1.038
$ 380 TO 429	1.037	1.034
$ 430 TO 479	1.033	1.027
$ 480 TO 529	1.030	1.027
$ 530 TO 579	1.030	1.027
$ 580 PLUS	1.025	1.027

PMSA GALVESTON-TEXAS CITY, TX

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 200	1.000	1.019
$ 200 TO 249	1.000	1.019
$ 250 TO 289	1.000	1.019
$ 290 TO 339	1.000	1.019
$ 340 TO 389	1.000	1.019
$ 390 TO 439	1.000	1.019
$ 440 TO 489	1.000	1.019
$ 490 TO 539	1.000	1.019
$ 540 TO 589	1.000	1.019
$ 590 PLUS	1.000	1.019

PMSA GARY-HAMMOND, IN

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 200	1.075	1.065
$ 200 TO 249	1.055	1.061
$ 250 TO 289	1.051	1.058
$ 290 TO 339	1.049	1.050
$ 340 TO 389	1.048	1.044
$ 390 TO 439	1.046	1.034
$ 440 TO 489	1.041	1.034
$ 490 TO 539	1.038	1.034
$ 540 TO 589	1.037	1.034
$ 590 PLUS	1.031	1.034

PMSA HAMILTON-MIDDLETOWN, OH

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.047	1.047
$ 190 TO 239	1.035	1.045
$ 240 TO 279	1.032	1.043
$ 280 TO 329	1.031	1.038
$ 330 TO 379	1.030	1.034
$ 380 TO 419	1.029	1.028
$ 420 TO 469	1.026	1.028
$ 470 TO 519	1.024	1.028
$ 520 TO 559	1.023	1.028
$ 560 PLUS	1.019	1.028

PMSA HOUSTON, TX

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.000	1.021
$ 190 TO 229	1.000	1.021
$ 230 TO 279	1.000	1.021
$ 280 TO 329	1.000	1.021
$ 330 TO 379	1.000	1.021
$ 380 TO 419	1.000	1.021
$ 420 TO 469	1.000	1.021
$ 470 TO 519	1.000	1.021
$ 520 TO 559	1.000	1.021
$ 560 PLUS	1.000	1.021

PMSA JERSEY CITY, NJ

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 210	1.114	1.121
$ 210 TO 259	1.084	1.108
$ 260 TO 309	1.078	1.106
$ 310 TO 359	1.074	1.103
$ 360 TO 409	1.073	1.093
$ 410 TO 459	1.070	1.085
$ 460 TO 519	1.063	1.072
$ 520 TO 569	1.058	1.072
$ 570 TO 619	1.057	1.072
$ 620 PLUS	1.047	1.072

PMSA JOLIET, IL

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 250	1.076	1.069
$ 250 TO 309	1.056	1.059
$ 310 TO 369	1.052	1.058
$ 370 TO 429	1.050	1.056
$ 430 TO 489	1.049	1.044
$ 490 TO 549	1.047	1.043
$ 550 TO 619	1.042	1.034
$ 620 TO 679	1.039	1.034
$ 680 TO 739	1.038	1.034
$ 740 PLUS	1.031	1.034

PMSA KANSAS CITY, MO-KS

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.036	1.069
$ 190 TO 229	1.026	1.067
$ 230 TO 279	1.025	1.066
$ 280 TO 329	1.023	1.062
$ 330 TO 379	1.023	1.059
$ 380 TO 419	1.022	1.054
$ 420 TO 469	1.020	1.054
$ 470 TO 519	1.018	1.054
$ 520 TO 559	1.018	1.054
$ 560 PLUS	1.015	1.054

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE

PREPARED ON 101586

PMSA KENOSHA, WI

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 190	1.076	1.069
$ 190 TO 239	1.056	1.060
$ 240 TO 289	1.052	1.058
$ 290 TO 329	1.049	1.049
$ 330 TO 379	1.048	1.045
$ 380 TO 429	1.047	1.034
$ 430 TO 479	1.042	1.034
$ 480 TO 519	1.039	1.034
$ 520 TO 569	1.038	1.034
$ 570 PLUS	1.031	1.034

PMSA LAKE COUNTY, IL

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 250	1.076	1.069
$ 250 TO 309	1.056	1.059
$ 310 TO 379	1.052	1.058
$ 380 TO 439	1.050	1.049
$ 440 TO 499	1.049	1.044
$ 500 TO 559	1.047	1.043
$ 560 TO 629	1.042	1.034
$ 630 TO 689	1.039	1.034
$ 690 TO 749	1.038	1.034
$ 750 PLUS	1.031	1.034

PMSA LAWRENCE-HAVERHILL, MA-NH

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 230	1.095	1.133
$ 230 TO 289	1.070	1.121
$ 290 TO 349	1.065	1.119
$ 350 TO 409	1.062	1.117
$ 410 TO 469	1.061	1.103
$ 470 TO 529	1.059	1.101
$ 530 TO 589	1.052	1.091
$ 590 TO 649	1.048	1.091
$ 650 TO 699	1.047	1.091
$ 700 PLUS	1.039	1.091

PMSA LORAIN-ELYRIA, OH

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 180	1.050	1.054
$ 180 TO 219	1.037	1.051
$ 220 TO 269	1.034	1.049
$ 270 TO 309	1.033	1.044
$ 310 TO 359	1.032	1.039
$ 360 TO 399	1.031	1.033
$ 400 TO 449	1.028	1.033
$ 450 TO 489	1.026	1.033
$ 490 TO 539	1.025	1.033
$ 540 PLUS	1.021	1.033

PMSA LOS ANGELES-LONG BEACH, CA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 270	1.131	1.097
$ 270 TO 329	1.097	1.088
$ 330 TO 399	1.090	1.082
$ 400 TO 469	1.085	1.080
$ 470 TO 529	1.083	1.067
$ 530 TO 599	1.081	1.060
$ 600 TO 669	1.072	1.058
$ 670 TO 739	1.067	1.045
$ 740 TO 799	1.065	1.045
$ 800 PLUS	1.054	1.045

PMSA LOWELL, MA-NH

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 250	1.095	1.133
$ 250 TO 309	1.070	1.121
$ 310 TO 369	1.065	1.119
$ 370 TO 429	1.062	1.117
$ 430 TO 489	1.061	1.103
$ 490 TO 549	1.059	1.101
$ 550 TO 619	1.052	1.091
$ 620 TO 679	1.048	1.091
$ 680 TO 739	1.047	1.091
$ 740 PLUS	1.039	1.091

PMSA MIAMI-HIALEAH, FL

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 240	1.017	1.028
$ 240 TO 299	1.013	1.027
$ 300 TO 369	1.012	1.026
$ 370 TO 429	1.011	1.025
$ 430 TO 489	1.011	1.024
$ 490 TO 549	1.011	1.023
$ 550 TO 609	1.010	1.021
$ 610 TO 669	1.009	1.021
$ 670 TO 729	1.009	1.021
$ 730 PLUS	1.007	1.021

PMSA MIDDLESEX-SOMERSET-HUNTERDON, NJ

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 280	1.114	1.121
$ 280 TO 349	1.084	1.113
$ 350 TO 419	1.078	1.106
$ 420 TO 479	1.074	1.103
$ 480 TO 549	1.073	1.093
$ 550 TO 619	1.070	1.085
$ 620 TO 689	1.063	1.072
$ 690 TO 759	1.058	1.072
$ 760 TO 829	1.057	1.072
$ 830 PLUS	1.047	1.072

PMSA MILWAUKEE, WI

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 200	1.049	1.076
$ 200 TO 249	1.036	1.070
$ 250 TO 299	1.033	1.069
$ 300 TO 349	1.031	1.063
$ 350 TO 399	1.031	1.060
$ 400 TO 449	1.030	1.054
$ 450 TO 499	1.027	1.054
$ 500 TO 549	1.025	1.054
$ 550 TO 599	1.024	1.054
$ 600 PLUS	1.020	1.054

MSA MINNEAPOLIS-ST. PAUL, MN-WI

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 230	1.077	1.078
$ 230 TO 279	1.057	1.072
$ 280 TO 339	1.053	1.067
$ 340 TO 389	1.050	1.066
$ 390 TO 449	1.049	1.059
$ 450 TO 509	1.048	1.053
$ 510 TO 559	1.042	1.044
$ 560 TO 619	1.039	1.044
$ 620 TO 679	1.038	1.044
$ 680 PLUS	1.032	1.044

PMSA MONMOUTH-OCEAN, NJ

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 250	1.114	1.121
$ 250 TO 309	1.084	1.108
$ 310 TO 369	1.078	1.106
$ 370 TO 439	1.074	1.103
$ 440 TO 499	1.073	1.087
$ 500 TO 559	1.070	1.085
$ 560 TO 619	1.063	1.072
$ 620 TO 679	1.058	1.072
$ 680 TO 749	1.057	1.072
$ 750 PLUS	1.047	1.072

PMSA NASHUA, NH

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 260	1.093	1.134
$ 260 TO 319	1.069	1.123
$ 320 TO 389	1.064	1.121
$ 390 TO 449	1.060	1.119
$ 450 TO 519	1.059	1.105
$ 520 TO 579	1.057	1.103
$ 580 TO 649	1.051	1.092
$ 650 TO 709	1.047	1.092
$ 710 TO 779	1.046	1.092
$ 780 PLUS	1.038	1.092

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE
PREPARED ON 101586

PMSA NASSAU-SUFFOLK, NY

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 290	1.115	1.119
$ 290 TO 369	1.085	1.111
$ 370 TO 439	1.079	1.104
$ 440 TO 509	1.074	1.101
$ 510 TO 589	1.073	1.091
$ 590 TO 659	1.071	1.083
$ 660 TO 729	1.063	1.070
$ 730 TO 809	1.058	1.070
$ 810 TO 879	1.057	1.070
$ 880 PLUS	1.047	1.070

PMSA NIAGARA FALLS, NY

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 170	1.056	1.056
$ 170 TO 209	1.041	1.049
$ 210 TO 249	1.038	1.048
$ 250 TO 299	1.036	1.047
$ 300 TO 339	1.036	1.038
$ 340 TO 379	1.035	1.038
$ 380 TO 419	1.031	1.031
$ 420 TO 459	1.028	1.031
$ 460 TO 509	1.028	1.031
$ 510 PLUS	1.023	1.031

PMSA ORANGE COUNTY, NY

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 200	1.115	1.119
$ 200 TO 249	1.085	1.111
$ 250 TO 299	1.079	1.106
$ 300 TO 359	1.074	1.101
$ 360 TO 409	1.073	1.091
$ 410 TO 459	1.071	1.083
$ 460 TO 509	1.063	1.070
$ 510 TO 559	1.058	1.070
$ 560 TO 609	1.057	1.070
$ 610 PLUS	1.047	1.070

PMSA PITTSBURGH, PA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.083	1.091
$ 190 TO 229	1.061	1.087
$ 230 TO 279	1.057	1.083
$ 280 TO 329	1.054	1.075
$ 330 TO 379	1.053	1.068
$ 380 TO 419	1.051	1.058
$ 420 TO 469	1.046	1.058
$ 470 TO 519	1.042	1.058
$ 520 TO 559	1.041	1.058
$ 560 PLUS	1.034	1.058

PMSA NEW YORK, NY

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 220	1.115	1.119
$ 220 TO 279	1.085	1.111
$ 280 TO 329	1.079	1.104
$ 330 TO 389	1.074	1.101
$ 390 TO 439	1.073	1.091
$ 440 TO 499	1.071	1.083
$ 500 TO 549	1.063	1.070
$ 550 TO 609	1.058	1.070
$ 610 TO 659	1.057	1.070
$ 660 PLUS	1.047	1.070

PMSA NORWALK, CT

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 280	1.111	1.120
$ 280 TO 339	1.082	1.114
$ 340 TO 409	1.076	1.112
$ 410 TO 479	1.072	1.099
$ 480 TO 549	1.071	1.092
$ 550 TO 619	1.069	1.090
$ 620 TO 689	1.061	1.077
$ 690 TO 759	1.057	1.077
$ 760 TO 829	1.055	1.077
$ 830 PLUS	1.046	1.077

PMSA OXNARD-VENTURA, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 260	1.131	1.097
$ 260 TO 329	1.097	1.088
$ 330 TO 399	1.090	1.082
$ 400 TO 459	1.085	1.080
$ 460 TO 529	1.083	1.067
$ 530 TO 589	1.081	1.060
$ 590 TO 659	1.072	1.058
$ 660 TO 729	1.067	1.045
$ 730 TO 789	1.065	1.045
$ 790 PLUS	1.054	1.045

PMSA PORTLAND, OR

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.022	1.038
$ 190 TO 239	1.016	1.037
$ 240 TO 289	1.015	1.036
$ 290 TO 339	1.014	1.035
$ 340 TO 379	1.014	1.033
$ 380 TO 429	1.014	1.032
$ 430 TO 479	1.012	1.032
$ 480 TO 529	1.011	1.029
$ 530 TO 579	1.011	1.029
$ 580 PLUS	1.009	1.029

PMSA NEWARK, NJ

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 230	1.114	1.121
$ 230 TO 289	1.084	1.113
$ 290 TO 349	1.078	1.106
$ 350 TO 409	1.074	1.103
$ 410 TO 459	1.073	1.093
$ 460 TO 519	1.070	1.085
$ 520 TO 579	1.063	1.072
$ 580 TO 639	1.058	1.072
$ 640 TO 699	1.057	1.072
$ 700 PLUS	1.047	1.072

PMSA OAKLAND, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 300	1.121	1.112
$ 300 TO 379	1.090	1.104
$ 380 TO 449	1.083	1.098
$ 450 TO 529	1.079	1.096
$ 530 TO 609	1.077	1.084
$ 610 TO 679	1.075	1.078
$ 680 TO 759	1.067	1.076
$ 760 TO 829	1.062	1.063
$ 830 TO 909	1.060	1.063
$ 910 PLUS	1.050	1.063

PMSA PHILADELPHIA, PA-NJ

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 210	1.095	1.097
$ 210 TO 259	1.070	1.092
$ 260 TO 309	1.065	1.088
$ 310 TO 359	1.061	1.079
$ 360 TO 409	1.060	1.073
$ 410 TO 459	1.059	1.060
$ 460 TO 519	1.052	1.060
$ 520 TO 569	1.048	1.060
$ 570 TO 619	1.047	1.060
$ 620 PLUS	1.039	1.060

PMSA RACINE, WI

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.049	1.076
$ 190 TO 239	1.036	1.070
$ 240 TO 279	1.033	1.069
$ 280 TO 329	1.031	1.063
$ 330 TO 379	1.031	1.060
$ 380 TO 419	1.030	1.054
$ 420 TO 469	1.027	1.054
$ 470 TO 519	1.025	1.054
$ 520 TO 559	1.024	1.054
$ 560 PLUS	1.020	1.054

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE

PREPARED ON 101586

PMSA RIVERSIDE-SAN BERNARDINO, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 220	1.131	1.097
$ 220 TO 269	1.097	1.088
$ 270 TO 319	1.090	1.082
$ 320 TO 379	1.085	1.080
$ 380 TO 429	1.083	1.067
$ 430 TO 489	1.081	1.060
$ 490 TO 539	1.072	1.058
$ 540 TO 589	1.067	1.045
$ 590 TO 649	1.065	1.045
$ 650 PLUS	1.054	1.045

MSA SAN DIEGO, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 250	1.112	1.108
$ 250 TO 319	1.083	1.101
$ 320 TO 379	1.077	1.096
$ 380 TO 439	1.072	1.095
$ 440 TO 509	1.071	1.083
$ 510 TO 569	1.069	1.077
$ 570 TO 629	1.062	1.076
$ 630 TO 699	1.057	1.064
$ 700 TO 759	1.056	1.064
$ 760 PLUS	1.046	1.064

PMSA SANTA CRUZ, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 300	1.121	1.112
$ 300 TO 369	1.090	1.104
$ 370 TO 449	1.083	1.098
$ 450 TO 519	1.079	1.096
$ 520 TO 589	1.077	1.084
$ 590 TO 669	1.075	1.078
$ 670 TO 739	1.067	1.076
$ 740 TO 819	1.062	1.063
$ 820 TO 889	1.060	1.063
$ 890 PLUS	1.050	1.063

PMSA SEATTLE, WA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 220	1.039	1.057
$ 220 TO 269	1.029	1.054
$ 270 TO 319	1.026	1.052
$ 320 TO 379	1.025	1.051
$ 380 TO 429	1.025	1.048
$ 430 TO 489	1.024	1.046
$ 490 TO 539	1.021	1.041
$ 540 TO 589	1.020	1.041
$ 590 TO 649	1.019	1.041
$ 650 PLUS	1.016	1.041

PMSA ST. LOUIS, MO-IL

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.089	1.083
$ 190 TO 229	1.066	1.078
$ 230 TO 279	1.061	1.077
$ 280 TO 319	1.058	1.075
$ 320 TO 369	1.057	1.061
$ 370 TO 419	1.055	1.060
$ 420 TO 459	1.049	1.049
$ 460 TO 509	1.046	1.049
$ 510 TO 559	1.044	1.049
$ 560 PLUS	1.037	1.049

PMSA SAN FRANCISCO, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 330	1.121	1.112
$ 330 TO 419	1.090	1.104
$ 420 TO 499	1.083	1.098
$ 500 TO 579	1.079	1.096
$ 580 TO 669	1.077	1.084
$ 670 TO 749	1.075	1.078
$ 750 TO 829	1.067	1.076
$ 830 TO 919	1.062	1.063
$ 920 TO 999	1.060	1.063
$1000 PLUS	1.050	1.063

PMSA SANTA ROSA-PETALUMA, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 260	1.121	1.112
$ 260 TO 329	1.090	1.104
$ 330 TO 389	1.083	1.098
$ 390 TO 459	1.079	1.096
$ 460 TO 519	1.077	1.084
$ 520 TO 589	1.075	1.078
$ 590 TO 649	1.067	1.076
$ 650 TO 719	1.062	1.063
$ 720 TO 779	1.060	1.063
$ 780 PLUS	1.050	1.063

PMSA STAMFORD, CT

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 290	1.111	1.120
$ 290 TO 359	1.082	1.114
$ 360 TO 429	1.076	1.112
$ 430 TO 499	1.072	1.099
$ 500 TO 579	1.071	1.092
$ 580 TO 649	1.069	1.077
$ 650 TO 719	1.061	1.077
$ 720 TO 789	1.057	1.077
$ 790 TO 859	1.055	1.077
$ 860 PLUS	1.046	1.077

PMSA SALEM-GLOUCESTER, MA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 270	1.095	1.133
$ 270 TO 339	1.070	1.121
$ 340 TO 409	1.065	1.119
$ 410 TO 479	1.062	1.117
$ 480 TO 539	1.061	1.103
$ 540 TO 609	1.059	1.101
$ 610 TO 679	1.052	1.091
$ 680 TO 749	1.048	1.091
$ 750 TO 819	1.047	1.091
$ 820 PLUS	1.039	1.091

PMSA SAN JOSE, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 300	1.121	1.112
$ 300 TO 379	1.090	1.104
$ 380 TO 449	1.083	1.098
$ 450 TO 529	1.079	1.096
$ 530 TO 599	1.077	1.084
$ 600 TO 679	1.075	1.078
$ 680 TO 749	1.067	1.076
$ 750 TO 829	1.062	1.063
$ 830 TO 899	1.060	1.063
$ 900 PLUS	1.050	1.063

MSA SCRANTON--WILKES-BARRE, PA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 150	1.048	1.070
$ 150 TO 189	1.036	1.067
$ 190 TO 219	1.033	1.065
$ 220 TO 259	1.031	1.060
$ 260 TO 299	1.031	1.056
$ 300 TO 329	1.030	1.050
$ 330 TO 369	1.027	1.050
$ 370 TO 409	1.025	1.050
$ 410 TO 449	1.024	1.050
$ 450 PLUS	1.020	1.050

PMSA TACOMA, WA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.039	1.057
$ 190 TO 229	1.029	1.054
$ 230 TO 279	1.026	1.052
$ 280 TO 329	1.025	1.051
$ 330 TO 379	1.025	1.048
$ 380 TO 419	1.024	1.046
$ 420 TO 469	1.021	1.041
$ 470 TO 519	1.020	1.041
$ 520 TO 559	1.019	1.041
$ 560 PLUS	1.016	1.041

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE

PREPARED ON 101586

PMSA TRENTON, NJ

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 260	1.097	1.102
$ 260 TO 319	1.072	1.089
$ 320 TO 389	1.066	1.088
$ 390 TO 449	1.063	1.085
$ 450 TO 519	1.062	1.071
$ 520 TO 579	1.060	1.069
$ 580 TO 649	1.053	1.058
$ 650 TO 709	1.049	1.058
$ 710 TO 779	1.048	1.058
$ 780 PLUS	1.040	1.058

PMSA VALLEJO-FAIRFIELD-NAPA, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 230	1.121	1.112
$ 230 TO 289	1.090	1.104
$ 290 TO 339	1.083	1.098
$ 340 TO 399	1.079	1.096
$ 400 TO 459	1.077	1.084
$ 460 TO 509	1.075	1.078
$ 510 TO 569	1.067	1.076
$ 570 TO 629	1.062	1.063
$ 630 TO 679	1.060	1.063
$ 680 PLUS	1.050	1.063

PMSA VANCOUVER, WA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 170	1.023	1.038
$ 170 TO 209	1.017	1.037
$ 210 TO 249	1.016	1.036
$ 250 TO 289	1.015	1.035
$ 290 TO 339	1.015	1.033
$ 340 TO 379	1.014	1.032
$ 380 TO 419	1.013	1.031
$ 420 TO 459	1.012	1.029
$ 460 TO 509	1.011	1.029
$ 510 PLUS	1.009	1.029

PMSA VINELAND-MILLVILLE-BRIDGETON, NJ

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 210	1.097	1.102
$ 210 TO 259	1.072	1.089
$ 260 TO 309	1.066	1.088
$ 310 TO 369	1.063	1.085
$ 370 TO 419	1.062	1.071
$ 420 TO 469	1.060	1.069
$ 470 TO 519	1.053	1.058
$ 520 TO 569	1.049	1.058
$ 570 TO 629	1.048	1.058
$ 630 PLUS	1.040	1.058

MSA WASHINGTON, DC-MD-VA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 250	1.073	1.082
$ 250 TO 309	1.054	1.077
$ 310 TO 369	1.050	1.073
$ 370 TO 439	1.047	1.071
$ 440 TO 499	1.046	1.064
$ 500 TO 559	1.045	1.060
$ 560 TO 619	1.040	1.051
$ 620 TO 679	1.037	1.051
$ 680 TO 749	1.036	1.051
$ 750 PLUS	1.030	1.051

PMSA WILMINGTON, DE-NJ-MD

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 200	1.091	1.101
$ 200 TO 249	1.067	1.096
$ 250 TO 299	1.062	1.092
$ 300 TO 349	1.059	1.082
$ 350 TO 409	1.058	1.075
$ 410 TO 459	1.056	1.063
$ 460 TO 509	1.050	1.063
$ 510 TO 559	1.046	1.063
$ 560 TO 609	1.045	1.063
$ 610 PLUS	1.037	1.063

SCHEDULE C - ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - FOR MANUFACTURED HOME SPACE

PREPARED ON 101586

AREA	FACTOR
NORTH EAST CENSUS REGION	1.102
SOUTH CENSUS REGION	1.046
STATE ALASKA	1.000
PMSA AKRON, OH	1.048
PMSA ANN ARBOR, MI	1.095
PMSA AURORA-ELGIN, IL	1.056
PMSA BEAVER COUNTY, PA	1.082
PMSA BOSTON, MA	1.115
PMSA BRAZORIA, TX	1.023
PMSA BROCKTON, MA	1.115
PMSA CHICAGO, IL	1.055
PMSA CLEVELAND, OH	1.048
PMSA DANBURY, CT	1.107
PMSA DETROIT, MI	1.095
PMSA FORT WORTH-ARLINGTON, TX	1.042
PMSA GARY-HAMMOND, IN	1.056
PMSA HOUSTON, TX	1.023
PMSA JOLIET, IL	1.055
PMSA KENOSHA, WI	1.055
PMSA LAWRENCE-HAVERHILL, MA-NH	1.115
PMSA LOS ANGELES-LONG BEACH, CA	1.075
PMSA MIAMI-HIALEAH, FL	1.025
PMSA MILWAUKEE, WI	1.067
PMSA MONMOUTH-OCEAN, NJ	1.101
PMSA NASSAU-SUFFOLK, NY	1.099
PMSA NEWARK, NJ	1.101
PMSA NORWALK, CT	1.107
PMSA ORANGE COUNTY, NY	1.099
PMSA PHILADELPHIA, PA-NJ	1.086
PMSA PORTLAND, OR	1.035
PMSA RIVERSIDE-SAN BERNARDINO, CA	1.075
PMSA SALEM-GLOUCESTER, MA	1.115
PMSA SAN FRANCISCO, CA	1.092
PMSA SANTA CRUZ, CA	1.092
MSA SCRANTON--WILKES-BARRE, PA	1.064
PMSA STAMFORD, CT	1.107
PMSA TRENTON, NJ	1.084
PMSA VANCOUVER, WA	1.034
MSA WASHINGTON, DC-MD-VA	1.069

AREA	FACTOR
MIDWEST CENSUS REGION	1.062
WEST CENSUS REGION	1.061
STATE HAWAII	1.061
PMSA ANAHEIM-SANTA ANA, CA	1.075
MSA ATLANTA, GA	1.075
MSA BALTIMORE, MD	1.068
PMSA BERGEN-PASSAIC, NJ	1.099
PMSA BOULDER-LONGMONT, CO	1.011
PMSA BRIDGEPORT-MILFORD, CT	1.107
PMSA BUFFALO, NY	1.046
PMSA CINCINNATI, OH-KY-IN	1.042
PMSA DALLAS, TX	1.042
PMSA DENVER, CO	1.011
PMSA FT LAUDERDALE-HOLLYWOOD-POMPANO BH, FL	1.025
PMSA GALVESTON-TEXAS CITY, TX	1.023
PMSA HAMILTON-MIDDLETOWN, OH	1.042
PMSA JERSEY CITY, NJ	1.101
PMSA KANSAS CITY, MO-KS	1.064
PMSA LAKE COUNTY, IL	1.055
PMSA LORAIN-ELYRIA, OH	1.048
PMSA LOWELL, MA-NH	1.115
PMSA MIDDLESEX-SOMERSET-HUNTERDON, NJ	1.101
MSA MINNEAPOLIS-ST. PAUL, MN-WI	1.064
PMSA NASHUA, NH	1.117
PMSA NEW YORK, NY	1.099
PMSA NIAGARA FALLS, NY	1.046
PMSA OAKLAND, CA	1.092
PMSA OXNARD-VENTURA, CA	1.075
PMSA PITTSBURGH, PA	1.082
PMSA RACINE, WI	1.067
PMSA ST. LOUIS, MO-IL	1.073
MSA SAN DIEGO, CA	1.091
PMSA SAN JOSE, CA	1.092
PMSA SANTA ROSA-PETALUMA, CA	1.092
PMSA SEATTLE, WA	1.050
PMSA TACOMA, WA	1.050
PMSA VALLEJO-FAIRFIELD-NAPA, CA	1.092
PMSA VINELAND-MILLVILLE-BRIDGETON, NJ	1.084
PMSA WILMINGTON, DE-NJ-MD	1.090

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - DEFINITIONS OF REGIONS

AREA TITLE	DEFINITION
NORTHEAST CENSUS REGION	Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont
MIDWEST CENSUS REGION	Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin
SOUTH CENSUS REGION	Alabama, Arkansas, Delaware, Dist. Of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia
WEST CENSUS REGION	Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming
OUTLYING AREAS	Puerto Rico and Virgin Islands use the south census region factors Guam and Trust Territories use the west census region factors

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - DEFINITIONS OF METROPOLITAN AREAS

MSA/PMSA	DEFINITION
Akron, Oh	COUNTY(IES) Portage, Summit Oh
Anaheim-Santa Ana, Ca	COUNTY(IES) Orange Ca
Ann Arbor, Mi	COUNTY(IES) Washtenaw Mi
Atlanta, Ga	COUNTY(IES) Barrow, Butts, Cherokee, Clayton, Cobb, Coweta, De Kalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Rockdale, Spalding, Walton Ga
Aurora-Elgin, Il	COUNTY(IES) Kane, Kendall Il
Baltimore, Md	COUNTY(IES) Anne Arundel, Baltimore, Carroll, Harford, Howard, Queen Annes, Baltimore Ct Md
Beaver County, Pa	COUNTY(IES) Beaver Pa
Bergen-Passaic, Nj	COUNTY(IES) Bergen, Passaic Nj
Boston, Ma	COUNTY Bristol, Ma (PART): TOWNS OF Mansfield, Norton, Raynham COUNTY Essex, Ma (PART): TOWNS OF Lynn, Lynnfield, Nahant, Saugus COUNTY Middlesex, Ma (PART): TOWNS OF Acton, Arlington, Ashland, Ayer, Bedford, Belmont, Boxborough, Burlington, Cambridge, Carlisle, Concord, Everett, Framingham, Groton, Holliston, Hopkinton, Hudson, Lexington, Lincoln, Littleton, Malden, Marlborough, Maynard, Medford, Melrose, Natick, Newton, North Readin, Reading, Sherborn, Shirley, Somerville, Stoneham, Stow, Sudbury, Townsend, Wakefield, Waltham, Watertown, Wayland, Weston, Wilmington, Winchester, Woburn COUNTY Norfolk, Ma (PART): TOWNS OF Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxborough, Franklin, Holbrook, Medfield, Medway, Millis, Milton, Needham, Norfolk, Norwood, Quincy, Randolph, Sharon, Stoughton, Walpole, Wellesley, Westwood, Weymouth, Wrentham COUNTY Plymouth, Ma (PART): TOWNS OF Carver, Duxbury, Hanover, Hanson, Hingham, Hull, Kingston, Lakeville, Marshfield, Middleboroug, Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate COUNTY Suffolk, Ma (PART): TOWNS OF Boston, Chelsea, Revere, Winthrop COUNTY Worcester, Ma (PART): TOWNS OF Berlin, Bolton, Harvard, Hopedale, Lancaster, Mendon, Milford, Southborough, Upton

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - DEFINITIONS OF METROPOLITAN AREAS

MSA/PMSA	DEFINITION
Boulder-Longmont, Co	COUNTY(IES) Boulder Co
Brazoria, Tx	COUNTY(IES) Brazoria Tx
Bridgeport-Milford, Ct	COUNTY Fairfield, Ct (PART): TOWNS OF Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull COUNTY New Haven, Ct (PART): TOWNS OF Ansonia, Beacon Falls, Derby, Milford, Oxford, Seymour
Brockton, Ma	COUNTY Bristol, Ma (PART): TOWNS OF Easton COUNTY Norfolk, Ma (PART): TOWNS OF Avon COUNTY Plymouth, Ma (PART): TOWNS OF Abington, Bridgewater, Brockton, East Bridgew, Halifax, West Bridgew, Whitman
Buffalo, Ny	COUNTY(IES) Erie Ny
Chicago, Il	COUNTY(IES) Cook, Du Page, Mchenry Il
Cincinnati, Oh-Ky-In	COUNTY(IES) Dearborn In; Boone, Campbell, Kenton Ky; Clermont, Hamilton, Warren Oh
Cleveland, Oh	COUNTY(IES) Cuyahoga, Geauga, Lake, Medina Oh
Dallas, Tx	COUNTY(IES) Collin, Dallas, Denton, Ellis, Kaufman, Rockwall Tx
Danbury, Ct	COUNTY Fairfield, Ct (PART): TOWNS OF Bethel, Brookfield, Danbury, New Fairfiel, Newtown, Redding, Ridgefield, Sherman COUNTY Litchfield, Ct (PART): TOWNS OF Bridgewater, New Milford
Denver, Co	COUNTY(IES) Adams, Arapahoe, Denver, Douglas, Jefferson Co
Detroit, Mi	COUNTY(IES) Lapeer, Livingston, Macomb, Monroe, Oakland, St Clair, Wayne Mi
Fort Lauderdale-Hollywood-Pompano Beach, Fl	COUNTY(IES) Broward Fl
Fort Worth-Arlington Tx	COUNTY(IES) Johnson, Parker, Tarrant Tx
Galveston-Texas City, Tx	COUNTY(IES) Galveston Tx
Gary-Hammond, In	COUNTY(IES) Lake, Porter In
Hamilton-Middletown, Oh	COUNTY(IES) Butler Oh
Houston, Tx	COUNTY(IES) Fort Bend, Harris, Liberty, Montgomery, Waller Tx
Jersey City, Nj	COUNTY(IES) Hudson Nj
Joliet, Il	COUNTY(IES) Grundy, Will Il
Kansas City, Mo-Ks	COUNTY(IES) Johnson, Leavenworth, Miami, Wyandotte Ks; Cass, Clay, Jackson, Lafayette, Platte, Ray Mo
Kenosha, Wi	COUNTY(IES) Kenosha Wi
Lake County, Il	COUNTY(IES) Lake Il

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - DEFINITIONS OF METROPOLITAN AREAS

MSA/PMSA	DEFINITION
Lawrence-Haverhill, Ma-Nh	COUNTY Essex, Ma (PART): TOWNS OF Amesbury, Andover, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, Newbury, Newburyport, North Andove, Salisbury, West Newbury COUNTY Rockingham, Nh (PART): TOWNS OF Atkinson, Brentwood, Danville, Derry, East Kingsto, Hampstead, Kingston, Newton, Plaistow, Salem, Sandown, Seabrook, Windham
Lorain-Elyria, Oh	COUNTY(IES) Lorain Oh
Los Angeles-Long Beach, Ca	COUNTY(IES) Los Angeles Ca
Lowell, Ma-Nh	COUNTY Middlesex, Ma (PART): TOWNS OF Billerica, Chelmsford, Dracut, Dunstable, Lowell, Pepperell, Tewksbury, Tyngsborough, Westford COUNTY Hillsborough, Nh (PART): TOWNS OF Pelham
Miami-Hialeah, Fl	COUNTY(IES) Dade Fl
Middlesex-Somerset-Hunterdon, Nj	COUNTY(IES) Hunterdon, Middlesex, Somerset Nj
Milwaukee, Wi	COUNTY(IES) Milwaukee, Ozaukee, Washington, Waukesha Wi
Minneapolis-St. Paul, Mn-Wi	COUNTY(IES) Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, Wright Mn; St Croix Wi
Monmouth-Ocean, Nj	COUNTY(IES) Monmouth, Ocean Nj
Nashua, Nh	COUNTY Hillsborough, Nh (PART): TOWNS OF Amherst, Brookline, Hollis, Hudson, Litchfield, Merrimack, Milford, Mont Vernon, Nashua, Wilton COUNTY Rockingham, Nh (PART): TOWNS OF Londonderry
Nassau-Suffolk, Ny	COUNTY(IES) Nassau, Suffolk Ny
New York, Ny	COUNTY(IES) Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland, Westchester Ny
Newark, Nj	COUNTY(IES) Essex, Morris, Sussex, Union Nj
Niagara Falls, Ny	COUNTY(IES) Niagara Ny
Norwalk, Ct	COUNTY Fairfield, Ct (PART): TOWNS OF Norwalk, Weston, Westport, Wilton
Oakland, Ca	COUNTY(IES) Alameda, Contra Costa Ca
Orange County, Ny	COUNTY(IES) Orange Ny
Oxnard-Ventura, Ca	COUNTY(IES) Ventura Ca
Philadelphia, Pa-Nj	COUNTY(IES) Burlington, Camden, Gloucester Nj; Bucks, Chester, Delaware, Montgomery, Philadelphia Pa
Pittsburgh, Pa	COUNTY(IES) Alleghany, Fayette, Washington, Westmoreland Pa
Portland, Or	COUNTY(IES) Clackamas, Multnomah, Washington, Yamhill Or
Racine, Wi	COUNTY(IES) Racine Wi

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - DEFINITIONS OF METROPOLITAN AREAS

MSA/PMSA	DEFINITION
Riverside-San Bernardino, Ca	COUNTY(IES) Riverside, San Bernadin Ca
St Louis, Mo-Il	COUNTY(IES) Clinton, Jersey, Madison, Monroe, St Clair Il; Franklin, Jefferson, St Charles, St Louis, St Louiscity Mo
Salem-Gloucester, Ma	COUNTY Essex, Ma (PART): TOWNS OF Beverly, Danvers, Essex, Gloucester, Hamilton, Ipswich, Manchester, Marblehead, Middleton, Peabody, Rockport, Rowley, Salem, Swampscott, Topsfield, Wenham
San Diego, Ca	COUNTY(IES) San Diego Ca
San Francisco, Ca	COUNTY(IES) Marin, San Francisc, San Mateo Ca
San Jose, Ca	COUNTY(IES) Santa Clara Ca
Santa Cruz, Ca	COUNTY(IES) Santa Cruz Ca
Santa Rosa-Petaluma, Ca	COUNTY(IES) Sonoma Ca
Scranton--wilkes-Barre, Pa	COUNTY(IES) Columbia, Lackawanna, Luzerne, Monroe, Wyoming Pa
Seattle, Wa	COUNTY(IES) King, Snohomish Wa
Stamford, Ct	COUNTY Fairfield, Ct (PART): TOWNS OF Darien, Greenwich, New Canaan, Stamford
Tacoma, Wa	COUNTY(IES) Pierce Wa
Trenton, Nj	COUNTY(IES) Mercer Nj
Vallejo-Fairfield-Napa, Ca	COUNTY(IES) Napa, Solano Ca
Vancouver, Wa	COUNTY(IES) Clark Wa
Vineland-Millville-Bridgeton, Nj	COUNTY(IES) Cumberland Nj
Washington, Dc-Md-Va	COUNTY(IES) Washington Dc; Calvert, Charles, Frederick, -columbia(u), Montgomery, Prince Georg Md; Arlington, Fairfax, Loudoun, Princewillia, Stafford, Alexandria, Fairfax City, Falls Church, Manassas, Manassas Prk Va
Wilmington, De-Nj-Md	COUNTY(IES) New Castle De; Cecil Md; Salem Nj

[FR Doc. 87–6503 Filed 3–24–87; 8:45 am]
BILLING CODE 4210–27–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 5E3247, 6E3426/R873; FRL-3174-5]

Tolerances for Certain Pesticide Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These rules establish tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities. These regulations to establish maximum permissible levels for residues of the pesticide chemicals in or on certain commodities was requested in petitions by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on March 25, 1987.

ADDRESS: Written objections, identified by the document control number [PP 5E3247, 6E3426/R873], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald R. Stubbs, 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. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1806).

SUPPLEMENTARY INFORMATION: The EPA issued notices of proposed rulemaking published in the **Federal Register**, which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, submitted the following pesticide petitions (PP) to EPA, on behalf of Dr. Robert H. Kupelian, IR–4 Project National Director, and the named Agricultural Experiment Stations (AES).

1. *PP 5E3247.* 52 FR 2953, January 29, 1987. Proposed amending 40 CFR 180.205 by establishing a tolerance for residues of the pesticide paraquat (1,1'-dimethyl-4,4'-bipyridinium ion) derived from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation) in or on the raw agricultural commodity pigeon peas at 0.05 part per million (ppm). The petitioner proposed that use on pigeon peas be limited to Puerto Rico 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.

2. *PP 6E3426.* 52 FR 4356, February 11, 1987. Proposed amending 40 CFR 180.399 by establishing a tolerance for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)*N*(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide] its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] and its metabolite 3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide in or on the raw agricultural commodity ginseng at 2 ppm. In addition IR–4 has, in a separate action, proposed a regulation to permit residues of iprodione in dried ginseng at 4 ppm, resulting from application to the growing crop.

There were no comments or requests for referral to an advisory committee received in response to the proposed rules.

The data submitted and order relevant information have been evaluated and discussed in the proposed rulemaking. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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, Reporting and recordkeeping requirements.

Dated: March 16, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.205 is amended by designating the current paragraph and list of tolerances as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 180.205 Paraquat; tolerances for residues.

* * * * *

(b) Tolerances with regional registration as defined in § 180.1(n), are established for residues of the pesticide paraquat (1,1'-dimethyl-4,4'bipyridinium ion) derived from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation) in or on the following raw agricultural commodities:

Commodities	Parts per million
Pigeon peas	0.05

3. Section 180.399(a) is amended, by adding and alphabetically inserting, the commodity ginseng to read as follows:

§ 180.399 Iprodione; tolerances for residues.

(a) * * *

Commodities	Parts per million
Ginseng	2.0

* * * * *

[FR Doc. 87–6458 Filed 3–24–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 4E2998/R875; FRL-3175-3]

Pesticide Tolerance for 3-(3,5-Dichlorophenyl)-5-Ethenyl-5-Methyl-2,4-Oxazolidinedione

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione (hereafter referred to in the preamble as "vinclozolin") and its metabolities containing the 3,5-dichloroaniline moiety in or on peppers (bell) at 3.0 parts per million (ppm). This regulation, to establish a maximum permissible level for residues of vinclozolin on peppers, was requested by BASF Wyandotte Corp.

EFFECTIVE DATE: Effective on March 25, 1987.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
By mail:
Lois A. Rossi, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of October 17, 1984 (49 CFR 40658), which announced that BASF Wyandotte Corp., Agricultural Chemical Division, 110 Cherry Hill Road, Parsippany, New Jersey 07054 submitted pesticide petition 4E2998 proposing the establishment of a tolerance for the combined residues of the fungicide vinclozolin and its metabolities in or on the raw agricultural commodities tomatoes at 2.0 ppm, peppers (bell) at 3.0 ppm, and cucumbers at 1.0 ppm. The petitioners have withdrawn the proposed tolerances for residues of vinclozolin in or on cucumbers and tomatoes.

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include the following:

1. A 90-day rat feeding study with a no-observed-effect level (NOEL) of 450 ppm (22.5 mg/kg/day) the highest dose tested.
2. A 90-day dog feeding study with a NOEL of 300 ppm (7.5 mg/kg/day).
3. A 6-month dog feeding study with a NOEL of 100 ppm (2.5 mg/kg/day).
4. A mouse teratology study with a developmental toxicity NOEL of 600 ppm (90 mg/kg/day). Levels tested: 0, 600, 6000, and 60,000 ppm.
5. A rabbit teratology study with a developmental toxicity NOEL 80 mg/kg/(2640 ppm). Levels tested: 0, 20, 80, and 300 mg/kg.
6. A chronic feeding/oncogenicity study in rats for 103 weeks, with a NOEL of 486 ppm (24 mg/kg), and no compound-related oncogenic effects under the conditions of the study at doses up to 4,374 ppm (219 mg/kg bw/day), the highest dose tested.
7. A chronic feeding/oncogenicity study in mice for 26 months, with a NOEL of 486 ppm (73 mg/kg) and no compound-related oncogenic effects under the conditions of the study at doses up to 4,374 ppm (503 mg/kg bw/day), the highest dose tested.
8. A dominant lethal assay in mice negative at 2,000 mg/kg, only level tested.
9. Sister chromatid exchange study in the bone marrow of the chinese hamster was negative.
10. Reverse Mutation Test with and without a Metabolic Activation System negative for mutagenic effects.

A primary rat hepatocyte unscheduled DNA synthesis assay and a mouse lymphoma forward mutation assay on vinclozolin have been received and are currently undergoing review and evaluation.

Based on the NOEL of 2.5 mg/kg/day in the 6-month dog feeding study, and using a hundred-fold safety factor, the acceptable daily intake (ADI) for vinclozolin is calculated to be 0.025 mg/kg/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.5 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg diet is calculated to be 0.0116 mg/day. The proposed action increases the TMRC to 0.0117 mg/day, which utilizes 46.8 percent of the ADI or an additional .35 percent of the ADI.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography using an electron capture detector, is available for enforcement purposes. There is no reasonable expectation of residues in eggs, milk, meat, or poultry from the use on peppers (bell).

Based on the data and information considered, the Agency concludes that the proposed tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this Notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections.

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, 4 U.S.C. 601-612), the Administrator has determined that regulations establishing 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, Agriculture commodities, Pesticide and pests, Reporting and recordkeeping requirements.

Dated: March 16, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is 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 180.380 is amended by adding, and alphabetically inserting the following commodity to read as follows:

§ 180.380 3-(3,5-Dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione: tolerances for residues.

* * * * *

Commodities	Part per million
* * * * *	
Peppers (bell)	3.0

[FR Doc. 87-6453 Filed 3-4-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 97

Consolidation of Grants to the Insular Areas

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule with comment period.

SUMMARY: This rule amends the list of Department of Health and Human Services formula and block grant programs which may be consolidated by the Virgin Islands; the Commonwealth of the Northern Mariana Islands; Guam; American Samoa; and the Trust Territory of the Pacific Islands which consists of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. The rule deletes the Primary Care Block Grant as it has been repealed by Congress and the State Agency (Aging) Administration Grants as this is no longer a separate grant program.

The rule also adds four new formula grant programs recently enacted: (1) Dependent Care Planning and Development State Grants; (2) the Family Violence Prevention and Services Act; (3) the Children's Justice Act; and (4) the Child Development Associate Scholarship Assistance Act.

EFFECTIVE DATE: March 25, 1987. Comments on the final regulation must be received on or before May 26, 1987.

ADDRESSES: Please submit written comments to: Howard A. Foard, Jr., Office of the Deputy Under Secretary, Department of Health and Human Services, Room 632F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Comments received in response to this rule may be reviewed in Room 632F between the hours of 9:00 a.m. and 5:30 p.m. Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Howard A. Foard, Jr., (202) 245–6036.

SUPPLEMENTARY INFORMATION:

Background

Section 501 of Pub. L. 95–134, the Omnibus Territories Act as amended, 48 U.S.C. 1469a, authorizes Federal agencies to consolidate grants to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands ("insular areas"). Specifically, section 501 permits:

(a) A Federal agency to consolidate any or all grants to each of these insular areas except those grants used to make direct payments to individuals;

(b) A Federal agency to waive requirements for matching funds, applications, and reports with respect to the consolidated grants;

(c) An insular area to use the consolidated grant funds for any purpose or purposes authorized under any of the grant programs that have been consolidated; and

(d) An insular area to determine the amount of funds to allocate to each program or purpose authorized under the consolidated grant.

The Department published regulations authorizing the consolidation of certain formula and block grants to insular areas on January 19, 1981 (46 FR 4921) and on December 16, 1982 (47 FR 56466). Since that time, all the eligible insular areas, except the Virgin Islands, have submitted consolidated grant applications. Some examples of consolidation include:

- Four programs under the Older Americans Act were consolidated by an insular area to permit more flexibility in the delivery of services to senior citizens.
- Three health block grant programs were consolidated to permit the insular area to spend authorized funds in amounts that differ from those prescribed by the statutory formulas for each of these programs, thus better meeting certain priority health needs.
- Eight programs have been consolidated by two insular areas under the social services block grant which authorizes provision of a wide range of social services.

Provisions of the Final Rule

This amendment to 45 CFR Part 97 will delete the Primary Care Block Grant from the existing regulations since it has been repealed by Congress. It also deletes the State Agency (Aging) Administration Grants as this is no longer a separate grant program.

The amendment will also allow four additional programs to be consolidated:

(1) Dependent Care Planning and Development State Grants, 42 U.S.C. 9871, *et seq.* (Catalog of Federal Domestic Assistance Program No. 13.673);

(2) Family Violence Prevention and Services Act, 42 U.S.C. 10401, *et seq.* (Catalog of Federal Domestic Assistance Program No. 13.671);

(3) Children's Justice Act, 42 U.S.C. 5101, *et seq.*; and

(4) Child Development Associate Scholarship Assistance Act of 1985, 42 U.S.C. 10901, *et seq.*

Finally, a technical amendment to section 97.11 clarifies that the successor entities to the Trust Territory of the Pacific Islands are included as eligible jurisdictions.

Waiver of Notice and Comment Procedures

A final rule is being published as this action is a technical change which will afford the insular areas maximum flexibility in the submission of their FY 1987 consolidated grant applications. Accordingly, the Secretary has determined that it would be impracticable, unnecessary, and contrary to the public interest to use notice and comment procedures in issuing these regulations. All comments received will be considered, and the rules will be revised, if appropriate.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules, which are defined in the Order as any rule that has an annual effect in the national economy of $100 million or more or certain other specified effects. The Department has determined that these regulations are not major rules within the meaning of the Executive Order because they will not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria. The changes merely amend a listing of programs in an existing regulation.

Regulatory Flexibility Act of 1980

Consistent with the Regulatory Flexibility Act of 1980 (5 U.S.C. Ch. 6), the Department tries to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis is prepared describing the rule's impact on small entities. Small entities are defined in the Act to include small businesses, small non-profit organizations, and small governmental entities.

The primary impact of these regulations is on the States, which are

not "small entities" within the meaning of the Act. For these reasons, the Secretary certifies that these rules will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, all Departments are required to submit to the Office of Management and Budget for review and approval any reporting or recordkeeping requirements in a proposed or final rule. This rule does not contain information collection requirements or increase Federal paperwork burden on the public or private sector.

List of Subjects in 45 CFR Part 97

Administrative practice and procedures, Aged, Alcoholism, Child welfare, Community action programs, Dependent care planning, Drug abuse, Energy, Family violence prevention, Grant programs-energy, Grant programs-health, Grant programs-social programs, Health care, Maternal and child health, Mental health programs, Public health.

For the reasons set forth in the preamble, Title 45 Part 97 of the Code of Federal Regulations is amended to read as follows:

PART 97—CONSOLIDATION OF GRANTS TO THE INSULAR AREAS

1. The authority citation for Part 97 continues to read as follows:

Authority: Sec. 501, Pub. L. 95–134, 91 Stat. 1164 amended, sec. 9, Pub. L. 95–348, 92 Stat. 495, sec. 601, Pub. L. 96–205, 94 Stat. 90 (48 U.S.C. H69a).

2. Section 97.11 is revised to read as follows:

§ 97.11 Which jurisdictions may apply for a consolidated grant?

The following jurisdictions ("insular areas"), as appropriate with respect to each block and formula grant program, may apply for a consolidated grant under this Part: the Virgin Islands, Guam, American Samoa, the Comonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands which consists of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

3. Section 97.12 is amended to remove paragraphs (c) and (m) and add four new paragraphs. The amended § 97.12 reads as follows:

§ 97.12 Which grants may be consolidated?

These regulations apply to the consolidation of grants under the following programs:

Title and Statutory Citation

Block Grants

(a) Preventive Health and Health Services, 42 U.S.C. 300w–300w–8.

(b) Alcohol and Drug Abuse and Mental Health Services, 42 U.S.C. 300x–300x–9.

(c) Maternal and Child Health Services, 42 U.S.C. 701–709.

(d) Social Services, 42 U.S.C. 1397–1397f.

(e) Community Services, 42 U.S.C. 9901–9912.

(f) Low-Income Home Energy Assistance, 42 U.S.C. 8621–8629.

Other Grants

(g) Child Welfare Services, 42 U.S.C. 620, et seq.

(h) Developmental Disabilities, 42 U.S.C. 6061–6068.

(i) Aging Supportive Services and Senior Centers, 42 U.S.C. 3030d.

(j) Congregate Meals for the Elderly, 42 U.S.C. 3030e.

(k) Home Delivered Meals for the Elderly, 42 U.S.C. 3030f.

(l) Child Abuse and Neglect State Grants, 42 U.S.C. 5103(b).

(m) Dependent Care Planning and Development State Grants, 42 U.S.C. 9871, et. seq.

(n) Family Violence Prevention and Services, 42 U.S.C. 10401, et seq.

(o) Children's Justice Act, 42 U.S.C. 5101, et seq.

(p) Child Development Associate Scholarship Assistance Act, 42 U.S.C. 10901, et seq.

Approved: February 27, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87–6068 Filed 3–24–87; 8:45 am]

BILLING CODE 4130–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 61238–6238]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the share of the sablefish target quota (TQ) allocated to trawl gear in the Western Regulatory Area of the Gulf of Alaska will be achieved before the end of the fishing year if directed fishing for sablefish with trawl gear is allowed to continue. In order to provide adequate bycatch amounts of sablefish for continued groundfish fishing by trawlers, the Regional Director is prohibiting directed fishing for sablefish in the Western Regulatory areas by persons using trawl gear from March 21, 1987, through the remainder of the 1987 fishing year.

EFFECTIVE DATES: From noon, March 21, Alaska Standard Time (AST), until midnight, AST, December 31, 1987.

ADDRESSES: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Resource Management Specialist, NMFS) 907–586–7230.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Regulations implementing the FMP are at 50 CFR Part 672. Section 672.2 of the regulations defines the Western, Central and Eastern Regulatory Areas in the Gulf of Alaska. An emergency rule (52 FR 442, January 6, 1987) is currently in effect which establishes an optimum yield range for groundfish in the Gulf of Alaska of 116,000 to 800,000 metric tons (mt). Section 672.20(f)(2) establishes target quotas (TQs) for each groundfish species and the "other species" category, the sum of which falls within the optimum yield range. TQs serve as harvest quotas and are virtually identical to the species-specific OYs (optimum yields) in place before implementation of the emergency rule. Under procedures set forth by the emergency rule at § 672.20(f), 1987 TQs were established for each of the groundfish species, which were then apportioned among the regulatory areas. One of the groundfish species is sablefish, for which the 1987 TQ in the Western Regulatory Area is 3,000 mt.

Section 672.24(b)(2) of the current regulations restricts the trawl take of sablefish in the Western Regulatory Area to 20 percent of the harvest quota, or 600 mt. Section 672.24(b)(3) specifies that when the Regional Director determines that the share of the sablefish harvest quota assigned to any type of gear for any year and any area or district may be taken before the end of that year, he will prohibit directed fishing for sablefish by persons using that type of gear for the remainder of the year, in order to provide adequate bycatch amounts to ensure continued groundfish fishing activity by that gear group.

For trawlers, the fishing season began on January 1, 1987. Several trawlers

have targeted or are targeting on sablefish and others have reported bycatch amounts of sablefish. At current harvest levels, the estimated trawl catch through February 28 in the Western Gulf is 200 mt. Currently, most of the domestic trawl fleet is fishing for pollock and rock sole in the Bering Sea area. NMFS projects, however, that those fisheries will soon experience their usual seasonal decline and as many as a dozen large catcher-processors may move into the Gulf of Alaska. Vessels of that type have experienced sablefish catches as high as 80 mt per week when targeting on sablefish. Should such an influx of vessels with high catch rates occur, the remainder of the sablefish trawl quotas in the Western area could be taken in a few weeks, or even in a few days.

The total TQ tonnage of other target groundfish species (Pacific cod, flounders and Pacific ocean perch) in the Western Regulatory area is 19,500 mt. In addition, at least 30,000 mt of the pollock quota of 84,000 mt in the combined Western and Central Regulatory areas is expected to be taken in the Western area. Only about 600 mt has been taken to date. However, observer data indicate that sablefish bycatches can be as high as nine percent in fisheries for other target species. Thus, the sablefish amount remaining in the Western regulatory trawl quota is needed to provide bycatch for trawlers fishing in those areas for other target species.

Under 672.24(b)(3)(ii), if the share of the sablefish harvest quota assigned to any type of gear for any area or district is reached, further catches of sablefish must be treated as a prohibited species by persons using that type of gear for the remainder of the year. Such closures prevent overfishing of the stocks, but also result in wastage, due to the required discard of a valuable species, and in operational inefficiencies to the boat operator, who must promptly sort sablefish and return them to the sea. This action will alleviate such problems by postponing the date when the sablefish trawl quota will be reached, thereby shortening the time period during which sablefish must be discarded.

After the effective date of this notice, fishing that is intended or can reasonably be expected to result in the catching, taking, or harvesting of quantities of sablefish that amount to 20 percent or more of the catch, take, or harvest, or 20 percent or more of the total amount of fish or fish products on board at any time is prohibited.

This closure will be effective when this notice is filed for public inspection with the Office of the Federal Register and after it has been publicized for 48 hours through procedures of the Alaska Department of Fish and Game under § 672.22(a). Public comments on this notice may be submitted to the Regional Director at the address above for 15 days following its effective date.

Classification

Wastage of sablefish that must be treated as prohibited species will result unless this notice takes effect promptly. NOAA therefore finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed. This action is taken under §§ 672.22 and 672.24 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Dated: March 20, 1987.

Joseph W. Angelovic,

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

[FR Doc. 87-6488 Filed 3-20-87; 4:38 pm]

BILLING CODE 3510-22-M

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50 CFR Part 681

[Docket No. 61235-7043]

Western Pacific Spiny Lobster Fisheries

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement Amendment 4 to the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific Region (FMP). Amendment 4 closes all lobster fishing within 20 nautical miles of Laysan Island and within the exclusive economic (EEZ) landward of 10 fathoms in the Northwestern Hawaiian Islands (NWHI). The intended effect of this action is to implement conservation and mangement measures to protect spiny lobsters within refuge areas.

EFFECTIVE DATE: March 26, 1987.

FOR FURTHER INFORMATION CONTACT: Doyle E. Gates, Administrator, Western Pacific Program Office, 2570 Dole Street, Room 106, Honolulu, HI 96822-2396, (808-955-8831): or Svein Fougner, Chief, Fisheries Management and Analysis Branch, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731 (213-514-6660).

SUPPLEMENTARY INFORMATION: Regulations implementing the FMP appear at 50 CFR Part 681. The regulations at § 681.23 prohibit fishing only for spiny lobsters within 20 nautical miles of Laysan Island and landward of 10 fathoms in the NWHI. Emergency regulations effective from September 26, 1986 through March 26, 1987 (51 FR 34991, 51 FR 46863), established a prohibition on all lobster fishing within the designated refuge areas (refugia). The emergency rule is necessary for the protection of all spiny lobster and to minimize interactions with Hawaiian monk seals, and is consistent with the original intent of the FMP.

Amendment 4 of the FMP was prepared by the Western Pacific Fishery Management Council and approved by the Secretary of Commerce on March 5, 1987. Proposed regulations for Amendment 4 were published in the Federal Register on January 6, 1987 (52 FR 442), and comments were accepted through February 13, 1987. The need and justification for the amendment were presented in the Federal Register on January 6 and are now repeated here. Amendment 4 makes permament the emergency rule now in effect to prohibit all lobster fishing within the refugia in NWHI.

The 30 day delayed-effectiveness period required by the Administrative Procedure Act (APA) is waived according to section 553(d)(3) of the APA because delaying the effective date of the final rule is contrary to the public interest. The effective date of the amendment and the expiration date of the emergency rule will coincide on March 26, 1987 so that there will be no break in controlling fishing in the refuge areas. Failure to make this rule effective before the emergency rule terminates could cause significant harm to the spiny lobster resource in the refugia and could potentially harm Hawaiian monk seals, an endangered species, due to increased interaction with the fishery. In addition, no sudden change in fishing practice will be caused by advancing the effective date of this final rule, because it merely continues restrictions which are already in effect under the emergency rule.

Comments and Response

Comments were received on the amendment and proposed rule, from the different agencies within the State of Hawaii that raised questions on the effectiveness of the refugia as control areas to monitor the lobster resource

and the effectiveness of the refugia in protecting lobster spawners from fishing mortality. These questions were considered and addressed in the orginal FMP and were not at issue in Amendment 4. The 20-mile closure around Laysan Island was established as a refuge for control purposes because it is representative of lobster habitat in the NWHI, was a relatively unfished area, and offered needed protection for Hawaiian monk seals. The Laysan Island and 10-fathom refuge areas in the NWHI are known to be used by adult lobsters for spawning and were closed to fishing in order to protect the reproductive potential of the spiny lobster resource. The 10-fathom contour was used to delimit refuge boundaries because it also offered protection of the feeding grounds commonly used by Hawaiian monk seals.

Classification

The Administrator of NOAA determined that Amendment 4 is necessary for the conservation and management of the lobster resource and that it is consistent with the Magnuson Fishery Conservation and Management Act and other applicable law.

The Council prepared an environmental assessment (EA) as part of the amendment and concluded that there will be no significant impact on the environment as a result of the rule. A copy of the EA may be obtained at the above address.

The Administrator of NOAA determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. A summary of his determination appears in the proposed rule.

The General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule will not have a significant economic impact on a substantial number of small businesses because the rule ensures the continuance of current fishing practices and will not reduce revenue or impose additional incremental costs on fishermen. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council has determined and the responsible State agency has concurred that the measures established in Amendment 4 are consistent with the approved coastal zone management program of the State of Hawaii.

The Assistant Administrator finds for good cause, as explained in the preamble, that the reasons justifying promulgation of these rules also makes it impracticable and contrary to the public interest to delay for 30 days the effective date of these regulations, under provision of section 553 (b) and (d) of the APA.

Because the phrase "fishery conservation zone" (FCZ) has been replaced by the phrase "exclusive economic zone" (EEZ) in the Magnuson Act, changes have been made in this rule to reflect that amendment.

List of Subjects in 50 CFR Part 681

Fisheries, Reporting and recordkeeping requirements.

Dated: March 20, 1987.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR Part 681 is amended as follows:

PART 681—[AMENDED]

1. The authority citation for Part 681 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 681.2 the definition for *Fishery conservation zone (FCZ)* is removed and a new definition for *Exclusive economic zone (EEZ)* is added in alphabetical order to read as follows:

§ 681.2 Definitions.

* * * * *

Exclusive economic zone (EEZ) means the zone established by Presidential Proclamation 5030, dated March 10, 1983, and is that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

* * * * *

3. In § 681.7, paragraph (b)(1) is revised to read as follows:

§ 681.7. Prohibitions.

* * * * *

(b) * * *

(1) Fish for, take, or retain lobsters:

(i) By methods other than lobster traps or by hand for spiny lobsters, as specified in § 681.24, or

(ii) From closed areas for lobsters, as specified in § 681.23.

* * * * *

§ 681.20 [Amended]

4. In § 681.20, remove the word "spiny".

5. Section 681.23 is revised to read as follows:

§ 681.23. Closed areas (refugia).

(a) All lobster fishing is prohibited within 20 nautical miles of Laysan Island.

(b) All lobster fishing is prohibited within the FCZ landward of the 10 fathom curve as depicted on National Ocean Survey Charts, Numbers 19022, 19019, 19016.

6. In addition to the amendments set forth above, the initials "FCZ" or the phrase "U.S. Fishery Conservation Zone" are revised to read the initials "EEZ" in the following places:

§ 681.1(b);

§ 681.2, definitions for *Closed area, Management area, Permit Areas 1–3;*

§ 681.5(d)(1); and

§ 681.7(a)(12)

[FR Doc. 87–6489 Filed 3–20–87; 4:38 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 57
Wednesday, March 25, 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.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 133

Proposed Customs Regulations Amendment Relating to Notification to Copyright Owners of Lawfully Made Copies

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide for notification to copyright owners of the importations of lawfully made copies or phonorecords of the copyright protected work. This proposal results from provisions of the Copyright Act of 1976, which authorizes the Secretary of the Treasury to prescribe regulations under which any person claiming an interest in the copyrighted work may, upon payment of a specified fee, receive notification from Customs of any importation of articles that appear to be copies or phonorecords of the copyrighted work.

DATE: Comments must be received on or before May 26, 1987.

ADDRESS: Comments (preferably in triplicate) may be addressed to, and inspected at, the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Samuel Orandle, Entry Procedures and Penalties Division, (202–566–5765).

SUPPLEMENTARY INFORMATION:

Background

The copyright law of the U.S. was substantially revised by the Copyright Act of 1976, Pub. L. 94–533, 17 U.S.C. 101–810 ("the Act"), effective January 1, 1978. Several provisions of the Act directly affect procedures of the Customs Service relating to copyrights.

Section 602(a) of the Act provides that the importation of copies or phonorecords of a copyrighted work, that have been acquired outside the U.S. and are intended for distribution inside the U.S. without the authority of the copyright owner, with certain exceptions, constitute an infringement of the exclusive right of the copyright owner to distribute copies or phonorecords, under section 106, and is actionable under section 501. Section 602(b) states that where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. However, in a case where the copies or phonorecords were lawfully made Customs has no authority to prevent their importation. In either case, the Secretary of the Treasury is authorized to prescribe, by regulations, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by Customs of the importation of articles that appear to be copies or phonorecords of the work.

To conform to the revised copyright law, by notice published in the Federal Register on July 7, 1983 (48 FR 31245), Customs proposed several amendments to Part 133, Customs Regulations (19 CFR Part 133), relating to trademarks, tradenames, and copyrights. However, no amendments were proposed to provide notification to copyright owners of the importation of articles that appear to be copies or phonorecords of their works. The reasons for this omission were: (1) Notification of unlawfully made infringing copies (piratical copies) would be unnecessary since these copies are either seized, forfeited, and destroyed by Customs, or ordered returned to the country of export, and therefore they are not a threat to the U.S. copyright owner; and (2) although lawfully made copies may be a threat to the U.S. copyright owner, there was though to be little demand by copyright owners for notification of these imports.

Some of the comments received in response to the proposal, however, requested that the final revised copyright regulations include such a notification provision.

We therefore propose that § 133.41, Customs Regulations (19 CFR 133.41), be amended to provide for notification of lawfully made copies or phonorecords, to copyright owners who request such service at the time of their recordation of the copyright or at any time thereafter. Initially, the fee of $190 paid by the copyright owner for import protection would cover this service. However, if the proposal is adopted, Customs plans to conduct a feasibility study to determine if a separate fee should be imposed on those copyright owners who request notification, and the amount of the additional fee, if any.

Requests for notice to copyright owners when piratical copies are seized will not be honored inasmuch as these infringing copies are either seized, forfeited, and destroyed by Customs, or ordered returned to the country of export, and therefore they are not a threat to the U.S. copyright owner.

Comments

Before adopting this proposal, consideration will be given to any written comments 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) and § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendment will not have a significant economic impact upon a substantial number of small entities inasmuch as it will affect only those U.S. copyright owners who record their copyrights with Customs and request lawfully made copies notification and those U.S. importers involved in the importation of lawfully made copies.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service.

However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 133

Trademarks, Tradenames, Copyrights, Imports.

Proposed Amendment

It is proposed to amend Part 133, Customs Regulations (19 CFR Part 133), as set forth below.

PART 133—TRADEMARKS, TRADENAMES, AND COPYRIGHTS

1. The general authority citation for Part 133 would continue to read as follows:

Authority: 17 U.S.C. 101, 602, 603.; 19 U.S.C. 66, 1624, 48 (31 U.S.C. 9701).

2. It is proposed to revise the heading and text of § 133.41, to read as follows:

§ 133.41 Lawfully made copies.

(a) *Notification to copyright owner.* Copyright owners may ask to be notified of the importation of lawfully made copies or phonorecords when making application to record their copyrights or at any time thereafter. The notice to copyright owners should include the name and address of the importer or consignee, a description of each copyright protected article in the shipment, and the quantity being imported.

(b) *Detention not authorized.* In a case where copies or phonorecords are lawfully made, Customs has no authority to prevent their importation. Accordingly, lawfully made copies or phonorecords shall not be detained for violation of the Copyright Law.

Michael H. Lane,

Acting Commissioner of Customs.

Approved.

Francis A. Keating II,

Assistant Secretary of the Treasury.

March 10, 1987.

[FR Doc. 87-6485 Filed 3-24-87; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 818a

Personal Commercial Affairs

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force is revising its rule on Personal Commercial Affairs to implement Department of Defense (DOD) Directive 1344.7, February 13, 1986 (32 CFR Part 43). This revision is intended to update and clarify the rule for better understanding by the public.

DATE: Comments must be submitted on or before April 24, 1987.

ADDRESS: HQ AFMPC/DPMASC, Randolph AFB TX 78150-6001.

FOR FURTHER INFORMATION CONTACT: MSgt Richard R. Hollett, HQ AFMPC/DPMASC, Randolph AFB TX 78150-6001, telephone (512) 652-3996.

SUPPLEMENTARY INFORMATION: Part 818a of Chapter VII, Title 32 of the Federal Regulations is being revised to update DOD policies covering the conduct of private commercial solicitation and sales on Air Force installations. It updates the list of references; expands the explanation of terms; clarifies explanations of life insurance products and securities; deletes the requirement for a sign on solicitation restrictions to be posted at base entry points; adds a paragraph on private, nonprofit, tax-exempt organizations; allows advertising addresses or telephone numbers for authorized commercial sales activities conducted by members of military families residing in military family housing; and clarifies action by the installation commander to suspend or revoke on-base solicitation privileges.

The Department of the Air Force has determined that this regulation is not a major rule as defined by Executive Order 12291, is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 32 CFR Part 818a

Federal buildings and facilities, Life insurance, Military personnel.

The revised Part 818a is proposed to read as follows:

PART 818a—PERSONAL COMMERCIAL AFFAIRS

Subpart A—Introduction

Sec.
818a.0 Purpose.
818a.1 References.
818a.2 Terms explained.

Subpart B—Life Insurance Products and Securities

818a.3 Life insurance.
818a.4 Securities.
818a.5 The accreditation program.
818a.6 Use of the allotment system for paying life insurance premiums.

Subpart C—Private Commercial Solicitation on an Air Force Installation

818a.7 Policy on soliciting.
Sec.
818a.8 Solicitation practices that are prohibited.
818a.9 Denial, suspension, and revocation of on-base solicitation privileges.
818a.10 Action by the installation commander to suspend or revoke privileges.

Subpart D—Personal Commercial Affairs Training

818a.11 Training provided by Air Training Command (ATC).
818a.12 Training provided by installation commanders.

Authority: 10 U.S.C. 8012.

Note:—This part is derived from Air Force Regulation 211-16.

Subpart A—Introduction

§ 818a.0 Purpose.

This part sets policy for private commercial solicitation and sales on Air Force installations. It is designed to safeguard and promote the welfare and interests of military personnel as consumers. It requires commanders to be sure that all commercial soliciting and selling of all types of insurance, securities, and other goods, services, and commodities are monitored and controlled. This rule applies to all Air Force installations. It does not apply to the USAF Reserve or the Air National Guard. It implements 32 CFR Part 43 (Department of Defense (DOD) Directive 1344.7, February 13, 1986).

§ 818a.1 References.

(a) Part 806 of this chapter.

(b) AFR 34-4, Morale, Welfare, and Recreation (MWR) Basic Responsibilities, Policies, and Practices-Private Organizations.

(c) Part 818 of this chapter.

(d) AFR 40-735, Civilian Conduct and Responsibility.

(e) Part 818b of this chapter.

(f) AFR 110-27, Preventive Law Program.

(g) AFR 145-15, Air Force Commissary Store Regulation.

(h) AFR 147-7, Army and Air Force Exchange Service (AAFES) General Policies.

(i) AFR 170-32, Personal Financial Management Program (PFMP).

(j) Federal Reserve Board Regulation Z.

(k) Federal Personnel Manual.

Note—Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 818a.2 Terms explained.

(a) *Agent.* An individual who receives pay as a salesperson or whose pay is dependent on volume of sales of a product or products.

(b) *Association.* Any organization, whether or not the word "association" appears in its title, composed of and serving exclusively members of the military services on active duty, in a Reserve status, in a retired status, and their dependents, that offers its members life insurance coverage, either as part of the membership dues, or as a separately purchased plan made available through an insurance carrier or the association as self-insurer, or a combination of both.

(c) *DOD installation.* Any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which DOD personnel are assigned for duty, including barracks, transient housing, and family quarters.

(d) *DOD personnel.* All active duty officers (commissioned and warrant) and enlisted members of the military services and all civilian employees, including nonappropriated fund employees and special government employees of all officies, agencies, and departments carrying on functions on DOD installations.

(e) *General agent.* A person who has a legal contract to represent a company solely and exclusively.

(f) *Insurance carrier.* An insurance company issuing insurance through an association or reinsuring or coinsuring such insurance.

(g) *Insurance product.* A policy, annuity, or certificate of insurance issued by an insurer or evidence of insurance coverage issued by a self-insured association.

(h) *Insurer.* Any company or association engaged in the business of selling insurance policies.

(i) *Normal home enterprises.* Sales or services that are customarily conducted in a domestic setting and do not compete with an installation's officially sanctioned commerce.

(j) *Securities.* Mutual funds, stocks, bonds, or any product registered with the Securities and Exchange Commission except for any insurance or annuity product issued by a corporation subject to supervision by state insurance authorities.

(k) *Solicitation.* The conduct of any private business, including the offering and sale of insurance, securities, and other goods, services and commodities on a military installation. Solicitation on installations is a privilege as distinguished from a right, and its control is a responsibility of the installation commander.

Subpart B—Life Insurance Products and Securities

§ 818a.3 Life insurance

(a) Life insurance products, other than certificates or other evidence of insurance issued by a self-insured association, offered and sold worldwide to personnel on Air Force installations, must:

(1) Comply with the insurance laws of the state or country in which the installation is located.

(2) Contain no restrictions by reason of military service or military occupational specialty of the insured, unless such restrictions are clearly indicated on the face of the contract.

(3) Plainly indicate any extra premium charges imposed by reason of military service or military occupational specialty.

(4) Contain no variation in the amount of death benefit or premium based on the length of time the contract has been in force, unless all such variations are clearly described in the content.

(b) To comply with paragraph (a) of this section, an appropriate reference stamped on the face of the contract shall draw the attention of the policyholder to any extra premium charges and any variations in the amount of death benefit or premium based on the length of time the contract has been in force.

(c) Variable life insurance products may be offered if they meet the criteria of the appropriate insurance regulatory agency and the Securities and Exchange Commission.

(d) Premiums shall reflect only the actual premiums payable for the life insurance product.

§ 818a.4 Securities.

(a) The following information pertains to the sale of securities:

(1) All securities must be registered with the Securities and Exchange Commission.

(2) All sales of securities must comply with existing and appropriate Securities and Exchange Commission regulations.

(3) All securities representatives must apply directly to the commander of the installation on which they desire to solicit the sale of securities.

(b) Where the accredited insurer's policy permits, an oversea accredited life insurance agent—if duly qualified to engage in security activities either as a registered representative of the National Association of Securities and Exchange Commission may offer life insurance and securities for sale simultaneously. In cases of commingled sales, the allotment of pay for the purchase of securities cannot be made to the insurer.

§ 818a.5 The accreditation program.

(a) Any life insurance company is automatically accredited in the state if it is licensed under the laws of the state where the installation is located.

(b) The recent growth and general acceptability of quasi-military association offering various insurance plans to military personnel is acknowledged. Some associations are not organized within the supervision of insurance laws of either a state or the federal government. While some are organized for profit, others function as nonprofit associations under Internal Revenue Service (IRS) regulations. Regardless of the manner in which insurance plans are offered to members, the management of the association is responsible for complying fully with the instructions contained in this rule.

§ 818a.6 Use of the allotment system for paying life insurance premiums.

(a) Allotments of military pay for life insurance products shall be made according to AFM 177–373, Volume I, Joint Uniform Pay System-JUMPS AFO Procedures. Allotments are not made out to an insurer for a commingled sale such as retirement plans or securities.

(b) For personnel in pay grades E–1, E–2, and E–3, at least 7 days shall elapse for counseling between the signing of a life insurance application and the certification of an allotment. The purchaser's commanding officer may grant a waiver of this requirement for good cause, such as the purchaser's imminent permanent change of station (PCS).

Subpart C—Private Commercial Solicitation on an Air Force Installation

§ 818a.7 Policy on soliciting.

(a) No person has authority to enter an Air Force installation and transact personal commercial solicitation as a matter of right. Personal commercial solicitation will be permitted only if the following requirements are met:

(1) The solicitor is duly licensed under applicable federal, state, or municipal laws and has complied with this rule.

(2) Personal commercial solicitation is permitted by the local installation commander.

(3) A specific appointment has been made with the individual concerned and conducted in family quarters or in other

areas designated by the installation commander.

(b) Those seeking to transact personal commercial solicitation on oversea installations shall be required to observe, in addition to the above, the applicable laws of the host country and, on demand, present documentary evidence to the installation commander, or designee, that the company they represent, and its agents, meet the licensing requirements of the host country.

(c) Organizations involved in sales are permitted to display literature on Air Force installations in locations selected by the commander.

(d) All pertinent installation regulations shall be posted in a place easily accessible to those conducting personal solicitation activities on the installation.

(e) When practicable, as determined by the installation commander, a copy of the applicable regulations shall be given to those conducting on-base commercial activities with the warning that any infractions of the regulations will result in the withdrawal of solicitation privileges.

(f) Canvassing, soliciting, and peddling to Air Force civilian employees is governed by AFR 40–735.

(g) Nothing in this rule should be construed to preclude private, nonprofit, tax-exempt organizations composed of active and retired members of military services from holding membership meetings that do not involve commercial solicitation on Air Force installations. Attendance at these meetings shall be voluntary and the time and place of such meetings are subject to the discretion of the installation commander.

(h) Insurers and their agents are authorized to solicit on Air Force installations if they are licensed under the insurance laws of the state in which the installation is located. In oversea areas, installations shall limit this authorization to those insurers accredited under regulations issued by the unified or specified command having authority in the area.

(i) The conduct of all insurance and securities business on Air Force installations shall be by specific appointment. When establishing the appointment, agents must identify themselves to the prospective purchaser as an agent for a specific company.

(j) Installation commanders shall designate areas where insurance and securities interviews by appointment may be conducted. Invitations to conduct interviews shall be extended to all agents on an equitable basis. Where space and other considerations limit the number of agents using the interviewing area, the installation commander may develop and publish local policy.

(k) Installation commanders shall make disinterested third-party counseling available to Air Force personnel desiring counseling.

(l) In addition to the solicitation prohibitions in § 818a.8, the following prohibitions also apply to insurance and securities sales:

(1) DOD personnel from representing any insurer or broker, or dealing directly or indirectly with any insurer or broker, or any recognized representative of any insurer or broker on the installation, as an agent or in any official or business capacity with or without compensation.

(2) The use of an agent as a participant in any military services-sponsored insurance education or orientation program.

(3) The designation of any agent or the use by any agent of titles such as Unit Insurance Advisor, Servicemen's Group Life Insurance Conversion Consultant, and so forth.

(4) The assignment of desk space for interviews for other than a specific prearranged appointment. During such appointment, the agent shall not be permitted to display desk or other signs announcing his or her name or company affiliation.

(5) The use of the base bulletin or any other notice, official or unofficial, announcing the presence of an agent and this agent's availability.

§ 818a.8 Solicitation practices that are prohibited.

(a) Solicitation of recruits, trainees, and transient personnel in a mass or captive audience.

(b) Making appointments with or soliciting military personnel who are in an on-duty status.

(c) Soliciting without appointment in areas utilized for the housing or processing of transient personnel, in barracks areas, in family quarters areas, in open mess facilities, in cafeterias, and in areas provided by installation commanders for interviews by appointment.

(d) Use of official identification cards by retired or Reserve members of the military services to gain access to Air Force installations for the purpose of soliciting.

(e) Procuring, or attempting to procure, or supplying roster lists of DOD personnel for purposes of commercial solicitation, except for releases granted according to Part 806 of this chapter.

(f) Offering unfair, improper, and deceptive inducements to purchase or trade.

(g) Using rebates to facilitate transactions or to eliminate competition.

(h) Using manipulative, deceptive, or fraudulent devices, schemes, or artifices, including misleading advertising and sales literature.

(i) Using oral or written representations to suggest or give the appearance that the Department of Defense sponsors or endorses any particular company, its agents, or the goods, services, and commodities it sells.

(j) Full-time DOD personnel making personal commercial solicitations or sales to DOD personnel who are junior in grade.

(k) Entering into any unauthorized or restricted area.

(l) Using any portion of installation facilities, including quarters, as a showroom or store for the sale of goods or services, except as specifically authorized by:

(1) AFR 34–4.

(2) AFR 145–15.

(3) AFR 147–7.

Note.—This is not intended to preclude normal home enterprises, providing applicable state and local laws are complied with.

(m) Soliciting door to door.

(n) Advertising addresses or telephone number of commercial sales activities conducted on the installation. *Exception:* Authorized activities conducted by members of military families residing in family housing.

§ 818a.9 Denial, suspension, and revocation of on-base solicitation privileges.

(a) The installation commander shall deny, suspend, or revoke permission to a company and its agents to conduct commercial activities on the base if such action is in the best interests of the Air Force. The grounds for taking this action shall include, but not be limited to, the following:

(1) Failure to meet the licensing and other regulatory requirements that are prescribed.

(2) Commission of any solicitation practices that are prohibited.

(3) Substantiated complaints or adverse reports regarding quality of goods, services, and commodities and the manner in which they are offered for sale.

(4) Knowing and willful violations of Pub. L. 90–321, the Truth in Lending Act.

(5) Personal misconduct by a company's agent or representative while on the installation.

(6) The possession of or any attempt to obtain supplies of allotment forms used by the military departments, or possession or use of their facsimiles.

(7) Failure to incorporate and abide by the Standards of Fairness Act in sales contracts as required by Part 818 of this chapter.

(b) Individuals having any information that might be grounds for suspending or revoking soliciting privileges should report it to the consolidated base personnel office (CBPO/DPMAP), who will notify the base commander through personnel channels. (If there is no CBPO, the base commander will designate an office of officer to do this.)

§ 818a.10 Action by the installation commander to suspend or revoke privileges.

(a) The installation commander may, if circumstances dictate, immediately suspend solicitation privileges for up to 30 days while an investigation is conducted. Requests for extension beyond 30 days, up to a limit of 90 days, are forwarded through major command (MAJCOM) to Headquarters Air Force Military Personnel Center, Directorate of Personnel Program Management, Personal Programs Branch (HQ AFMPC/DPMASC), Randolph AFB TX 78150-6001, for approval. Upon suspending solicitation privileges, the installation commander shall promptly inform the agent and the company the agent represents, in writing.

(b) In denying or revoking solicitation privileges, the installation commander shall determine whether to limit the action to the agent alone or extend it to the company the agent represents. This decision shall be communicated to the agent and to the company the agent represents, in writing, and shall be based on the circumstances of the particular case, including, among others, the nature of the violations, frequency of violations, the extent to which other agents of the company have engaged in such practices, and any other matters tending to show the company's culpability.

(1) If the grounds for the action involve the eligibility of the agent or company to hold a state license or to meet other regulatory requirements, the appropriate authorities will be notified.

(2) The installation commander shall afford the individual or company an opportunity to show cause why the action should not be taken. To show cause means an opportunity must be given for the grieved party to present facts on his or her behalf on an informal basis for the consideration of the installation commander. If the alleged offender fails to respond, rebut, or mitigate the alleged violation, the installation commander will advise the agent, in writing, that his or her privilege to solicit on the installation has been revoked.

(3) All denials or revocation or privileges will be for a minimum of 6 months and a maximum of 12 months, at the end of which the individual may reapply for permission to solicit. Denial or revocation of privileges may or may not be continued, as warranted.

(4) Notices of revocation of solicitation privileges are published in the base bulletin periodically during the revocation period.

(5) If the installation commander believes the offender may be soliciting on other military installations, the commander should notify MAJCOM and recommend that the action taken be extended to other installations. If warranted, the MAJCOM recommends to HQ AFMPC/DPMASC that the action be extended to additional Air Force installations. If appropriate, the order may be extended to the other military departments by the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)).

Subpart D—Personal Commercial Affairs Training

§ 818a.11 Training provided by Air Training Command (ATC).

HQ ATC, and those other activities that provide initial active duty indoctrination (for example, USAF Academy, AF Reserve Officer Training Corps and so forth), will make sure that a comprehensive block of instruction on personal commercial affairs is included in their teaching guides or course curriculums, as appropriate.

§ 818a.12 Training provided by installation commanders.

Installation commanders must provide education and information programs to help members conduct their personal commercial matters.

(a) These programs should include information about the protection and remedies offered under the Truth in Lending Act and the Federal Reserve Board Regulation Z. They may be incorporated into training covering savings, budgeting, commercial insurance, personal financial responsibilities, legal assistance, and similar subjects.

(b) At the request of the installation commander, representatives of the following agencies may be used to help set up the program.

(1) Base credit unions.

(2) Base banks.

(3) Nonprofit military associations that are:

(i) Not underwritten by a commercial life insurance company, and

(ii) Are approved by HQ AFMPC/DPMASC.

(c) Under no circumstances may the services of commercial agents, including loan, finance, insurance, or investment companies, be used for this purpose. Educational materials prepared or presented by outside organizations may be adapted or used if they: are solely educational (free of advertising, applications, contracts, and so forth) and are approved by HQ AFMPC/DPMASC.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-6399 Filed 3-24-87; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3174-6]

Approval and Promulgation of Implementation Plans Connecticut; Reasonably Available Control Technology for Belding Corticelli Thread Company

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compounds (VOC) emissions from Belding Corticelli in Putnam, Connecticut. The intended effect of this action is to propose approval of a source-specific RACT determination made by the State in accordance with commitments made in its Ozone Attainment Plan approved by EPA on March 21, 1984 (49 FR 10542).

DATES: Comments must be received on or before April 24, 1987.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2312, JFK Federal Bldg., Boston, MA 02203. Copies of Connecticut's submittal and EPA's Technical Support Document prepared for this revision are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2311, JFK Federal Bldg., Boston, MA 02203; and the Air Compliance Unit, Department of Environmental Protection, State Office Bldg., 165 Capitol Avenue, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565-3252; FTS 835-3252.

SUPPLEMENTARY INFORMATION: On November 4, 1986, the Connecticut Department of Environmental Protection (DEP) submitted a SIP revision to EPA. This revision is proposed State Order No. 8007 which defines VOC control requirements for Belding Corticelli Thread Company in Putnam, Connecticut. These control requirements constitute RACT for this facility as required by subsection 22a-174-20(ee), "Reasonably Available Control for Large Sources," of Connecticut's regulations.

Subsection 22a-174-20(ee) requires the DEP to determine and impose RACT on all stationary sources with potential VOC emissions of one hundred tons per year (TPY) or more that are not already subject to Connecticut's regulations developed pursuant to the Control Techniques Guideline (CTG) documents. EPA approved this regulation on March 21, 1984 (49 FR 10542) as part of Connecticut's 1982 Ozone Attainment Plan. That approval was granted with the agreement that all source-specific RACT determinations made by the DEP would be submitted to EPA as source-specific SIP revisions.

Summary of SIP Revision

Belding Corticelli Thread Company (Belding) produces coated nylon and polyester threads. Belding operates nine thread coating drying towers at its Putnam facility. At each thread coating drying tower, the thread is coated at the application station with VOC containing coatings, dyes, and specialty formulations and then passed vertically through the drying towers for drying and curing. The VOC emission points in the process are the coating applicators, which are hooded and effective at minimizing fugitive emissions, and the drying towers.

Each drying tower is equipped with a refractory-lined combustor and fuel oil burner which provide heat for the drying and curing of the threads. As RACT, the State Order requires Belding to modify each combustor to serve as a thermal oxidizing unit to destroy the VOC emissions. Each modified combustion unit is required to maintain a destruction efficiency of ninety-seven percent and operate at a minimum temperature of 1300°F with a minimum residence time of 0.33 seconds.

Belding is also required by the State Order to initiate modifications to the lower and upper zones of the drying towers to increase the overall capture of VOC emissions to a minimum of sixty-five percent. The modifications include capping the top of each tower and improving the hooding at each application station. A minimum overall capture efficiency of sixty-five percent is considered RACT since the coating application areas require considerable operator access due to the variety of operations which must be performed for the products involved.

Belding is required to achieve full compliance with the requirements of State Order No. 8007 on all nine thread coating drying towers by December 31, 1987 which is allowed under subsection 22a-174-20(ee) of the Connecticut's federally-approved SIP. The application of RACT by Belding as required by State Order No. 8007 will reduce Beldings actual emissions from approximately 100 tons per year to 37 tons per year.

EPA has reviewed the requirements of State Order No. 8007 and its compliance dates, and has determined that they constitute RACT for Belding Corticelli Thread Company.

EPA is proposing to approve DEP's proposed Order as a revision to the Connecticut SIP, and is soliciting public comments. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the Region I office listed in the **ADDRESSES** section of this notice.

This revision is being proposed under a procedure called parallel-processing, whereby EPA proposes rulemaking action concurrently with the State's procedures for amending its regulations. If the proposed revision is substantially changed, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made to the proposed revision, EPA will publish a final rulemaking notice. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the State of Connecticut and submitted for incorporation into the SIP.

Proposed Action

EPA is proposing to approve Connecticut's proposed State Order No. 8007 as a revision to the Connecticut SIP. The provisions of Connecticut's proposed State Order No. 8007 define and impose RACT for Belding Corticelli Thread Company as required by subsection 22a-174-20(ee) of Connecticut's regulations.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7642.

Dated: December 17, 1986.

Paul G. Keough,

Acting Regional Administrator, Region I.

[FR Doc. 87-6456 Filed 3-24-87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 86

[FRL-3173-8]

Nonconformance Penalties for 1991 Through 1994 Model Year Emission Standards for Heavy-Duty Vehicles and Engines; Public Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: On May 4, 1987, EPA will hold a public workshop to discuss the available options for the combined use of both Nonconformance Penalties (NCPs) and Averaging.

DATE: The workshop will be convened at 10:00 a.m., Monday, May 4, 1987. The session will be adjourned at 5:00 p.m. or at a later time if necessary to complete the business of the workshop.

Requests to make presentations and, if possible, a copy of the proposed presentation should be submitted to EPA by Friday, April 27, 1987.

The record of the workshop will be left open for 30 calendar days following the close of the workshop for subsequent written submissions and thus will close on Wednesday, June 3, 1987.

ADDRESS: The workshop will be held at the EPA Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313-668-4200). Supporting materials relevant to this workshop are available in Public Docket No. EN-87-02. The docket is located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower, Gallery I, 401 M Street, SW,

Washington, DC 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Richard Babst, U.S. Environmental Protection Agency, Manufacturers Operations Division (EN-340F), 401 M Street, SW, Washington, DC 20460, (202-382-2535).

SUPPLEMENTARY INFORMATION: On August 30, 1985, EPA published the first phase of NCP rulemaking. It established the criteria for the availability of NCPs, the method of establishing upper limits, a testing program called Production Compliance Auditing, a penalty formula to determine the dollar amount of the NCP, and other general aspects. On December 31, 1985, EPA published the second phase of NCP rulemaking, which specified the 1987 and 1988 model year emission standards for which NCPs are available and specific upper limits and penalty rates for those emission standards.

EPA is initiating rulemaking for the third phase of NCP, and anticipates publishing the Notice of Proposed Rulemaking in December 1987. It will propose specific 1991 and 1994 model year emission standards for which NCPs will be available and specific upper limits and penalty rates for those emission standards. In addition, it will propose general criteria for implementing NCPs and averaging for those situations in which both averaging and NCPs are available options for the same emission standard.

It is this latter issue on which the workshop will primarily focus. The averaging program was published prior to promulgation of the NCP program and did not address the NCP program. The NCP Phase I and Phase II rulemakings only generally addressed averaging.

The procedure for the combined use of averaging and NCPs is unspecified. EPA has identified several possible options, which range from a very restrictive policy to a very liberal policy. EPA is concerned that unrestricted combined use of averaging and NCPs might adversely impact fleet emission levels, could place certain manufacturers at a competitive disadvantage, and could violate the letter and intent of the Clean Air Act. A very restrictive policy, on the other hand, might unnecessarily limit manufacturer flexibility.

EPA is conducting this public workshop to provide an open discussion with interested parties on the issues and options of combined use of averaging and NCPs. EPA encourages all potential participants to present and discuss at the workshop factual information and data on this subject area.

An agenda and supporting materials for this workshop will be placed in the public docket by Friday, March 13, 1987. Comments on additional items to be added to the agenda are solicited.

Dated: March 18, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 87-6335 Filed 3-24-87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 167

[OPP-70000; FRL 3123-1]

Registration of Pesticide- and Active Ingredient-Producing Establishments and Submission of Pesticide Reports

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to require that producers of pesticide active ingredients register their establishments and submit reports to EPA. The Agency is taking this action in response to a congressional amendment to section 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), which already imposes registration and reporting requirements upon producers of pesticide products. A period of 6 months would be provided for compliance by producers of active ingredients after the effective date of this regulation.

DATE: Comments should be received by May 26, 1987.

ADDRESS: Submit three copies of written comments identified with the document control number "OPP-70000," by mail to:

Information Servies 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 in any comment concerning this proposed rule may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Claudia R. Goforth, Office of Compliance Monitoring (EN-342), Environmental Protection Agency, Rm. E-707, 401 M St., SW., Washington, DC 20460, (202-382-7825).

SUPPLEMENTARY INFORMATION:

I. Background

FIFRA section 7 requires producers of pesticides and devices to register their producing establishments and file annual reports of pesticide production. In 1978, FIFRA section 7 was amended to add a requirement that producers of the active ingredients, incorporated into pesticides, also register their establishments and file annual production reports. This proposal expands the establishment registration and reporting requirement found in the current regulation to include active ingredient producers. Requirements for establishment registration and production reports are codified in 40 CFR Part 167.

II. Proposed Regulation

EPA issued a proposed regulation which was published in the **Federal Register** of July 9, 1980 (45 FR 46100) to implement the 1978 amendment to section 7 of FIFRA. Today's proposal responds to comments on that proposal.

The treatment of multiple-use active ingredient chemicals (i.e., chemicals which have both pesticidal and non-pesticidal uses) was the primary issue facing EPA in implementing the congressional change of requiring registration of establishments producing active ingredients.

In some instances, the primary uses of such multiple-use chemicals are non-pesticidal (such as with xylene, sodium hypochlorite, and copper sulfate). This situation raises a number of problems in implementing the congressional change. First, a producer might not be aware that his multiple-use chemical is being used as a pesticide. If he does know, he may not know exactly what volume of his chemical production is used as a pesticide active ingredient, as opposed to a non-pesticidal use.

The 1980 proposal intended to address these problems by proposing the following requirements:

1. Each active ingredient producer must register his establishment and report the entire production of any chemical which has pesticidal use.

2. Each pesticide producer must notify the suppliers of any active ingredient used in his product if the ingredient is not already registered as a pesticide by the supplier.

3. Both pesticide producers and active ingredient producers must keep records of the notices described in item 2 above.

The Agency believed that this approach would solve the problem of multiple-use chemicals by providing a producer with notice that his product was used as a pesticide and by eliminating the need for that producer to know exactly how much of a multiple-use chemical was actually used for pesticidal purposes.

III. Discussion

In response to comments received during the comment period for EPA's initial proposal, EPA is reproposing the rule with the following changes:

1. The notification requirement

The EPA has dropped the idea of a notification requirement (and its associated recordkeeping requirement). This is in response to comments by producers who feared that their suppliers would refuse to sell to them to avoid additional regulatory burdens. Also considered were comments which expressed doubt that it would be possible to identify the producer of a multiple-use chemical, especially if the multiple-use chemical was a large-volume "commodity" chemical, often sold through long distribution chains. Moreover, EPA believes that the additional reporting burden imposed on pesticide producers is not justified by any environmental benefits.

2. Who must register and what quantities must be reported

Any producer who has actual or constructive knowledge that a substance he produces is used or intended for use as an active ingredient in the manufacture of a pesticide, will be required to register his establishment(s).

A pesticide producer is subject to FIFRA requirements if he intends that the chemical be used as a pesticide or for the formulation of a pesticide product. However, at the level of active ingredient production, a producer may not intend his chemical to be used in a pesticide, but he may produce it with knowledge that it has pesticidal uses. The Agency, therefore, considers chemicals affected by this regulation to be those produced, sold, or distributed with the knowledge, actual or constructive, that they are used or intended for use as an active ingredient in the production of a pesticide.

The proposed regulation requires active ingredient producers to report only the amount of chemical for which the producer has actual or constructive knowledge of its use or intended use as an active ingredient in the manufacture of a pesticide.

EPA will use an objective standard in determining whether a producer knows his chemical is being used as an active ingredient for pesticides, and which amount of the chemical is being used for those purposes. A producer will be considered to know that his chemical is used for pesticidal purposes if a reasonable person in the position of an active ingredient producer would be considered to know of that use. Benchmarks of knowledge will include promotional claims and advertising, common knowledge of the general business of the formulator, and the length of the chain of production and distribution, that is, the commercial distance from the chemical manufacturer to the ultimate pesticide producer.

3. How to report

The reports required by this section must be made by submitting to EPA an EPA form entitled "Pesticides Report," EPA form 3540–16. The term "pesticide," as used in the form and in the instructions to the form, shall be read also to include pesticide products, devices, and active ingredients.

4. How to register

Any person who wishes to register an establishment must complete and submit to EPA a form entitled "Application for Registration of Pesticide-Producing Establishments," EPA form 3540.8. Any establishment which has not previously been required to register and is not currently registered as a producing establishment must apply for establishment registration by submitting an application within 180 days after the effective date of this regulation.

5. Other proposed changes to the regulations

The language of Part 167 was substantially rewritten in the proposed amendment to clarify the regulations. Proposed changes in the language of the regulation were made to reflect more accurately the existing practices of the Agency. However, except for those changes explained above which were made to include the active ingredient producers in the regulatory scheme, these changes do not reflect any substantive change in the requirements to register establishment and/or report production with the exception of deleting the registration and reporting requirement for custom blenders.

The Agency is proposing to no longer require custom blenders to register their establishments and report production. Custom blenders provide the service of mixing pesticides to a customer's specifications. The custom blend is usually a pesticide(s)/fertilizer(s) mixture, a mixture of end-use formulations derived from pesticides, or an animal feed-through pesticides. Under the Agency's May 10, 1982 FIFRA Compliance Program Policy No. 3.4 entitled "Custom Blenders", the Agency determined that the registration of custom blend pesticides would not be necessary to fulfill the intent of FIFRA. Moreover, the May 10, 1982 FIFRA Compliance Policy No. 7.1, entitled "Custom Blenders", states that custom blenders are not required to report establishment production. Registration of custom blending establishments was required to allow the Agency to schedule inspections and trace pesticides which are contaminated or adulterated. EPA no longer uses the registration of custom blending establishments as the targeting method for conducting inspections for contamination or adulteration of a pesticide. Furthermore, since registrants are required to keep records regarding sales, the Agency believes it can effectively locate such products without custom blending establishments being registered.

Custom blenders remain subject to the provisions of FIFRA section 8 as well as all the requirements relating to the proper use of pesticides including transport, storage and disposal. The Agency believes that the information required under section 8 of FIFRA is sufficient to detect and track the sale and distribution of products that are contaminated or adulterated. EPA feels the public will be adequately protected without such registration and reporting by custom blenders. Therefore, the Agency proposes to exempt producers of custom blended pesticides from the requirement of establishment registration and reporting of production under the authority of FIFRA section 25(b).

This exemption also affects custom blenders of animal feed-through pesticides, especially those who blend feed-through larvicide products. Establishments which custom blend feed-through pesticides, and no other pesticides, are not currently registered as producing establishments. This is due to an interim decision made by EPA, that these establishments would not be required to register until EPA issues

amended section 7 regulations. The decision was based on the issue of dual jurisdication between EPA under FIFRA section 7 and the Food and Drug Administration under the Current Good Manufacturing Practice regulation (21 CFR Part 225). Elimination of the establishment registration and reporting requirements for custom blenders affects approximately 10,000 establishments, most of which are not currently registered with the Agency.

The Agency is also proposing to change the February 1 deadline for annual production reports to February 28. Several comments regarding the 1980 proposal stated that the deadline for receipt of reporting forms by the Agency should be amended to February 28. This change will provide adequate time for the forms to be sent to and received by the Agency. Section 167.85(d) reflects this revision.

The proposal also requires producers to report changes in ownership or address of an establishment on the same form as the registration of establishments form (EPA form 3540-8). This is consistent with current Agency practice.

IV. Related Regulation

The regulation should be read in conjunction with 40 CFR Part 169—Books and Records of Pesticide Production and Distribution, the latest amendment to which was published in the Federal Register of August 15, 1980 (45 FR 54338).

V. Conversion Table

For the convenience of the user, the following table shows the relationship between the old and new CFR section numbers.

Old section	New section
167.1	167.3
167.2	167.20
167.3	167.20
167.5	167.85
	167.90

Section 167.4 has been deleted since it is covered by § 162.10, Labeling requirements.

VI. Statutory Requirements

The Secretary of Agriculture has reviewed this proposed regulation as required by FIFRA section 25(a)(2)(A) and the Scientific Advisory Panel reviewed this proposed regulation as required by FIFRA section 25(d).

VII. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. The Agency has determined that this proposed regulation is not Major. Although it amends an existing regulation to add some respondents to registration and reporting requirements, it will not:

1. Have an annual effect on the economy of $100 million or more.

2. Increase costs to consumers, industry, or government.

3. Have a significant adverse effect on competition, employment, investment, productivity, or innovation.

This proposed regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

VIII. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator may certify that a proposed rule will not, if promulgated, have a significant impact on a substantial number of small entities and, therefore, does not require a regulatory flexibility analysis.

This proposed rule, if promulgated, will require those establishments involved in producing multiple-use chemicals, where the manufacturers intend or have constructive knowledge that such chemicals are used as active ingredients in the production of pesticides, to register their establishments and report production on an annual basis under section 7 of FIFRA. The Agency believes that most establishments which produce multiple-use chemicals are larger businesses, which may already be registered. Additionally, it removes the requirement to register custom blender establishments.

Therefore, I certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

IX. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control numbers 2070-0045 and 2070-0078.

List of Subjects in 40 CFR Part 167

Pesticides, Recordkeeping and reporting requirements, Establishment registration.

Dated: March 11, 1987.

Lee M. Thomas,

Administrator.

Therefore, it is proposed that 40 CFR Chapter I be amended by revising Part 167 to read as follows:

PART 167—REGISTRATION OF PESTICIDE- AND ACTIVE INGREDIENT-PRODUCING ESTABLISHMENTS, SUBMISSION OF PESTICIDE REPORTS

Subpart A—General Provisions

Sec.
167.3 Definitions.

Subpart B—Registration Requirements

167.20 Establishments requiring registration.

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—Reporting

167.85 Reporting requirements.
167.90 Where to obtain and submit forms.

Authority: 7 U.S.C. 136 (e) and (w).

Subpart A—General Provisions

§ 167.3 Definitions.

Terms used in this part shall have the meanings set forth for such terms in the Federal Insecticide, Fungicide, and Rodenticide Act. In addition, when used in this part, the following terms shall have the meanings stated below:

(a) *Act.* The term "Act" means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 *et seq.*

(b) *Establishment.* The term "establishment" means any site where a pesticide, active ingredient, or device is produced, regardless of whether such site is independently owned or operated, and regardless of whether such site is domestic and producing a pesticide or device for export only, or whether the site is foreign and producing any pesticide or device for import into the United States.

(c) *Custom Blender.* The term "custom blender" means any establishment which provides the service of mixing pesticides to a customer's specifications, usually a pesticide(s)-fertilizer(s) or pesticide-pesticide mixture, when:

(1) The blend is prepared to the order of the user and is not held in inventory by the blender;

(2) The pesticide(s) used in the blend bears end-use labeling directions which do not prohibit use of the product in such a blend;

(3) The blend is prepared from registered pesticides;

(4) The blend is delivered to the end-user along with the following items: A copy of the end-use labeling of each pesticide used in the blend and a

statement specifying the composition of mixture; and

(5) No other pesticide production activity is performed at the establishment.

(d) *Produce.* The term "produce" means to manufacture, prepare, propagate, compound, or process any pesticide, including any pesticide produced pursuant to section 5 of the Act, any active ingredient or device, or to package, repackage, label, relabel, or otherwise change the container of any pesticide or device.

(e) *Producer.* The term "producer" means any person, as defined by the Act, who produces any pesticide, active ingredient, or device (including packaging, repackaging, labeling and relabeling).

(f) *Pesticide report.* The term "pesticide report" means information showing the types and amounts of pesticides or devices which are being produced in the current calendar year, and the types and amount which has been sold or distributed in the past calendar year. For active ingredients, the pesticide report must include information on the types and amounts of an active ingredient which is intended for use as a pesticide active ingredient or for which there is actual or constructive knowledge of its use or intended use as a pesticide.

(g) *Current production.* The term "current production" means amount of planned production in the calendar year in which the pesticides report is submitted, including new products not previously sold or distributed.

(h) *Past year.* The term "past year" means the calendar year immediately prior to that in which the report is submitted.

(i) *Sold or distributed.* The term "sold or distributed" means the aggregate amount of a product released for shipment by the establishment in which the pesticide, active ingredient, or device was produced.

(j) *Type of pesticide.* The term "type of pesticide" refers to each individual product as identified by the product name; EPA Registration Number (EPA File Symbol, if any, for planned products); active ingredients; Experimental Permit Number, if the pesticide is produced under an Experimental Use Permit; production type (technical, formulation, repackaging, etc.); product classification (fungicide, insecticide, herbicide, etc.); and use classification. In cases where a pesticide is not registered, registration is not applied for, or is not produced under an Experimental Use Permit, the term shall also include the chemical formulation.

(k) *Amount of pesticide.* The term "amount of pesticide" means quantity, expressed in weight or volume of the product, and is to be reported in pounds for solid or semi-solid products and gallons for liquid products.

(l) *Device.* The term "device" means any device or class of devices as defined by the Act and determined by the Administrator pursuant to section 25(c) to be subject to the provisions of section 7 of the Act.

Subpart B—Registration Requirements

§ 167.20 Establishments requiring registration.

(a) *Requirement.* (1) Any establishment where a pesticide or device is produced must be registered with the Agency. This requirement does not apply to custom blenders as defined in this part.

(2) Any establishment where a substance is produced must be registered with the Agency if the producer intends the substance to be used as an active ingredient of a pesticide, or has actual or constructive knowledge that the substance will be used by any person as an active ingredient of a pesticide.

(b) *Information required.* An applicant for establishment registration must submit the following information:

(1) Name and address of the company.

(2) The type of ownership (individual, partnership, cooperative association, corporation, or any organized group of persons whether incorporated or not).

(3) The name and address of each producing establishment for which registration is sought.

(c) *When to apply.* An application for establishment registration must be submitted, and an establishment registration number must be assigned by EPA, before any production may occur at an establishment. In the case of an establishment which has not previously been required to be registered and is not currently registered, the producer must apply for establishment registration by submitting an application within 180 days after the effective date of this regulation.

(d) *EPA assignment of establishment registration number.* EPA will return incomplete or inaccurately completed applications to the applicant. If the application is complete and accurate, EPA will register the establishment and assign a registration number to the establishment. The establishment registration number will be entered on the application, and a copy of the application will be returned to the applicant.

(e) *Amendment.* Any change in the type of ownership or the address of any establishment registered under this part must be reported to EPA, on forms supplied by the Agency, within 30 days after such change occurs.

(f) *Duration of registration.* Establishment registration will remain effective provided pesticide reports are submitted annually pursuant to the requirements of this part. Failure to submit a report may result in termination of establishment registration.

(Approved by the Office of Management and Budget under control number 2070–0045)

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—Reporting

§ 167.85 Reporting requirements.

(a) *Who must report.* Each producer operating an establishment must submit a pesticide report, concerning any pesticide, active ingredient, or device produced at each establishment. Custom blenders are not required to report production to EPA.

(b) *Information required.* The pesticide report shall include the name and address of the establishment; the past year's amount of production; the amount of each pesticide, active ingredient, or device which was sold or distributed; and the amount of current production of each product. This report shall not include any pesticide product, active ingredient, or device, not produced at the reporting establishment. Reports submitted by foreign producing establishments shall cover those pesticide products or devices exported to the United States.

(c) *How to report.* The reports required by this section must be made on forms supplied by the Agency.

(d) *When to report.* A producer operating an establishment must submit an initial report no later than 30 days after the first registration of each establishment the producer operates. Thereafter, the producer must submit an annual report on or before February 28 of each year, even if the producer has produced no pesticide, device or active ingredient for that reporting year.

(Approved by the Office of Management and Budget under control number 2070–0078)

§ 167.90 Where to obtain and submit forms.

(a) *Where to obtain forms.* Any person may obtain blank forms for the applications and reports required by this part from any EPA Regional Office, or from the address listed in paragraph (b) of this section.

(b) *Where to submit applications and reports.* Each producer operating an establishment must submit applications and reports required by this part to the EPA Regional Office which serves the area where the establishment is located. EPA's regional offices and addresses are given in § 1.7(b) of this chapter. A foreign producer who exports any pesticide product, device, or active ingredient to the United States must submit all applications and reports to: U.S. Environmental Protection Agency, Office of Compliance Monitoring (EN-342), 401 M Street, SW., Washington, DC 20460.

[FR Doc. 87-5915 Filed 3-24-87; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 721

[OPTS-50558; FRL-3174-4]

Ethanol, 2-Amino-, Compound With N-Hydroxy-N-Nitrosobenzenamine (1:1); Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance ethanol, 2-amino-, compound with *N*-hydroxy-*N*-nitrosobenzenamine (1:1), which was the subject of premanufacture notice (PMN) P-86-542 and a TSCA section 5(e) consent order issued by EPA. The Agency believes that this substance may be hazardous to human health and that the uses described in this proposed rule may result in significant human exposure. As a result of this rule, certain persons who intend to manufacture, import, or process this substance for a significant new use would be required to notify EPA at least 90 days before commencing that activity. The required notice would provide EPA with the opportunity to evaluate the intended uses and, if necessary, prohibit or limit those activities before they occur.

DATE: Written comments should be submitted by May 26, 1987.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. E-209, 401 M St., SW., Washington, DC 20460.

Comments should include the docket control number OPTS-50558. Nonconfidential versions of comments received on this proposal will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Rm. NE-G-004 at the address given above. For further information regarding the submission of comments containing confidential business information, see Unit XI of this preamble.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404.

SUPPLEMENTARY INFORMATION:

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h) (1), (2), (3), and (5), and the regulations at 40 CFR Part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities on which it has received a SNUR Notice. If EPA does not take action, section 5(g) of TSCA requires the Agency to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707. Persons who intend to import a substance are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Persons who import a substance identified in a final SNUR must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification requirements appears at 40 CFR Part 707.

II. Applicability of General Provisions

In the **Federal Register** of September 5, 1984 (49 FR 35011), EPA promulgated general regulatory provisions applicable to SNURs (40 CFR Part 721, Subpart A). The general provisions are discussed there in detail, and interested persons should refer to that document for further information. EPA is proposing that these general provisions apply to this SNUR, except as discussed in this preamble and as set forth in proposed § 721.330. On April 22, 1986 (51 FR 15104), EPA proposed revisions to the general provisions, some of which would apply to this proposed SNUR.

III. Summary of This Proposed Rule

The chemical substance which is the subject of this proposed SNUR is identified as ethanol, 2-amino-, compound with *N*-hydroxy-*N*-nitrosobenzenamine (1:1), and is listed as such on the TSCA inventory. It was the subject of PMN P-86-542 and was identified in the PMN as N-nitrosophenylhydroxylamine, ethanolamine salt. EPA is proposing to designate the following as significant new uses of the substance: use other than as a monomer stabilizer; use as a monomer stabilizer involving disposal other than by landfill or incineration; or any manner or method of manufacture, import, or processing associated with use as a monomer stabilizer without establishing a program whereby (1) persons who may be exposed dermally to the substance wear gloves, eye protection, and protective clothing, (2) potentially exposed individuals are informed of the possible hazards and required protective equipment, and (3) containers of the substance which may be distributed in commerce are labeled.

IV. Background

On February 18, 1986, EPA received a PMN which the Agency designated as P-86-542. EPA announced receipt of the PMN in the **Federal Register** of February 28, 1986 (51 FR 7118). The PMN submitter intends to manufacture the substance for use as a monomer stabilizer.

The PMN submitter claimed the following as confidential business information (CBI): production volume, process information, and other information. Under section 14(a)(4) of TSCA, the Agency may disclose CBI relevant to any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve

confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired by these claims as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the CBI at this time. The Agency specifically requests comments on this approach for this SNUR rulemaking. For purposes of clarity, this substance will be referred to by its specific name and PMN number.

Based upon results obtained from bioassays on structurally similar substances, N-nitrosophenylhydroxylamine, ammonium salt and phenylhydroxyamine, the Agency believes the PMN substance may cause cancer and chronic blood and spleen effects. A detailed discussion of these conclusions appear in the toxicity support document available in the public file for this rulemaking (see Unit XII). During review of the PMN, the Agency concluded that the uncontrolled manufacture, import, processing, distribution in commerce, use, and disposal of the substance may present an unreasonable risk of injury to human health. Therefore, EPA regulated the substance under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects.

EPA concluded that the use of appropriate protective equipment will significantly reduce exposure and potential risks to human health. A section 5(e) consent order requiring the use of appropriate controls was negotiated with the PMN submitter. The order became effective July 26, 1986. The terms of the proposed SNUR are essentially the same as those of the consent order.

By issuing a section 5(e) consent order that allows controlled commercial production of the substance, EPA has taken a regulatory approach which is appreciably less burdensome than an order prohibiting manufacture of the substance until additional data are submitted. At the same time, the section 5(e) consent order protects human health by requiring precautionary controls pending the development of the data needed for a reasoned evaluation of the risks associated with the substance.

Section 5(e) orders apply to the PMN submitter. When the PMN submitter commences commercial manufacture of the substance and submits a Notice of Commencement of Manufacture to EPA, the Agency will add the substance to the TSCA Chemical Substance Inventory. When a substance is listed on the Inventory, other persons may manufacture, import, or process the substance without controls. Therefore, EPA is proposing to designate the uses set forth in the proposed § 721.330(a)(2) as significant new uses so that the Agency can review these uses before they occur.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements. In addition, a SNUR would afford EPA the opportunity to review exposure and toxicity information on the substance before a significant new use occurs and, if necessary, take action to ensure that persons will not be exposed to levels of the substance that are potentially hazardous.

V. Determination of Proposed Significant New Uses

To determine what would constitute significant new uses of this chemical substance, EPA considered relevant information about the toxicity of the substance, likely exposures associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA. Based on these considerations, EPA proposes to designate the significant new uses of P–86–542, as set forth in the proposed § 721.330(a)(2).

EPA has already determined in the section 5(e) order that unrestricted manufacture, import, processing, distribution in commerce, use, and disposal of the substance may present an unreasonable risk of injury to human health. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that the uses of the substance designated in this proposed rule would be significant new uses of the substance.

VI. Recordkeeping

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing, under its authority in sections 5 and 8(a) of TSCA, that in addition to meeting the requirements in § 721.17 the following records be maintained for 5 years after the date of their creation by persons who manufacture, import, or process P–86–542:

1. Any determination that gloves are impervious to the substance.

2. Names of persons who have attended safety meetings in accordance with proposed § 721.330(a)(2)(iii)(B), the dates of such meetings, and copies of any written information provided.

3. Copies of any MSDS used.

4. Dates and quantities of shipments of containers which are required to be labeled in accordance with proposed § 721.330(a)(2)(iii)(D).

5. Any names used for the substance and the accompanying dates of use.

6. Information on disposal of the substance, including dates waste material is disposed of, location of disposal sites, volume of disposed solid material, estimated volume of any disposed liquid wastes containing the substances, and method of disposal.

These recordkeeping requirements would apply to all manufacturers, importers, and processors, including small manufacturers, importers, and processors, because the small business exemption of section 8(a) of TSCA is not applicable when the chemical substance which is the subject of the rule also is the subject of a section 5(e) order.

The Agency considered omitting these specific recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult without them. The basis for the Agency's recordkeeping requirements has been set forth in the preambles to previously proposed SNURs. Persons interested in a complete discussion of this issue should read the proposed SNUR For P–83–370 published in the **Federal Register** of January 3, 1984 (19 FR 1753).

VII. Exemptions to Reporting Requirements

EPA has codified in § 721.19, general exemption provisions covering SNUR reporting. One a case-by-case basis the Agency may modify these provisions. However, in this case, the Agency is proposing that § 721.10 apply in its entirety.

On April 22, 1986 (51 FR 15906), EPA issued amendments to 40 CFR Part 720, the premanufacture notification rule including revisions of §§ 720.36 and 720.78(b) which contain detailed rules for the section 5(h)(3) exemption for chemical substances manufactured or imported in small quantities solely for research and development. Because §§ 720.36 and 720.78(b) were not in effect when EPA codified § 721.19 the Agency has relied on the general definition of "small quantities solely for research and development" in § 720.3(cc) and section 5(h)(3) of TSCA to determine whether activities qualify under this exemption. On April 22, 1986, EPA proposed amendents to 40 CFR Part 721 which would redesignate § 721.19 as § 721.18 and which would contain a new § 721.19 establishing detailed rules for the section 5(h)(3) exemption of SNURs and which would ultimately apply to this SNUR. The proposed new § 721.19 is similar to the revised §§ 720.36 and 720.78(b). Until the SNUR amendments are promulgated, manufacturers,

importers, and processors of chemical substances identified in SNURs may look to §§ 720.36 and 720.78(b) and the proposed § 721.19 for guidance in complying with the section 5(h)(3) exemption.

Section 721.19(g) of the general SNUR provisions exempts persons from SNUR reporting when they manufacture (the term manufacture includes import) or process the substances solely for export and label the substance in accordance with section 12(a)(1)(B) of TSCA. While EPA is concerned about worker exposure during manufacturing and processing of the substance, section 12(a) of TSCA prohibits EPA from requiring reporting of such manufacture or processing for a significant new use. However, such persons would be required to notify EPA of such export under section 12(b) of TSCA (see § 721.7 of the general SNUR provisions). Such notification will allow EPA to monitor manufacturing and processing activities which are not subject to significant new use reporting.

The term "manufacture solely for export" is defined in § 720.3(s) of the PMN rule; an amendment clarifying this definition was issued on April 22, 1986 (51 FR 15906). The term "process solely for export" is defined in § 721.3 of the general SNUR provisions in a similar fashion. Thus, persons would be exempt from reporting under this SNUR if they manufacture or process the substance solely for export from the U.S. under the following restrictions; (1) There is no use of the substance in the U.S. except in small quantities solely for research and development; (2) processing is restricted to sites under the control of the manufacturer or processor, respectively; and (3) distribution in commerce is limited to purposes of export. If a person manufactured or processed the substance both for export and for use in the U.S., the manufacturing or processing activity would be not be "solely for export" because the manufacture and processing would be for use in the U.S.

VIII. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

To establish a significant new use, the Agency must determine that the use is not ongoing. In this case, the chemical substance in question has just undergone premanufacture review. When the notice submitter begins manufacture of the substance, the submitter will send EPA a Notice of Commencement of Manufacture and the substance will be added to the Inventory. The notice submitter is prohibited by the section 5(e) order from umdertaking the activities which the Agency is proposing be designated as significant new uses. Therefore, at this time, the Agency has concluded that these uses are not ongoing. However, EPA recognizes that when the chemical substance identified in this SNUR is added to the Inventory, it may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposal before promulgation of the rule.

EPA believes that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the proposal date of the SNUR rather than as of the promulgation of the final rule. If uses begun during the proposal period of a SNUR were considered ongoing, any person could defeat the SNUR by initiating a proposed significant new use before the rule became final. This would make it extremely difficult for the Agency to establish SNUR notice requirements.

Thus, persons who begin commercial manufacture, import, or processing of P–86–542 for a significant new use between proposal and promulgation of this rule would have to cease that activity before the effective date of this rule. In order to resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expired.

EPA recognizes that this interpretation of TSCA may disrupt commercial activities of persons who begin manufacture, import, or processing of the substance for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption; and, persons who commence a proposed significant new use do so at their own risk.

The Agency, not wishing to unnecessarily disrupt the commercial activities of persons who manufacture, import, or process for a proposed significant new use prior to promulgation of a final SNUR, has proposed a new § 721.18(h) in Subpart A of 40 CFR Part 721 (51 FR 15104) to allow for advance SNUR compliance (i.e., compliance prior to the date of promulgation).

IX. Test Data and Other Information

EPA recognizes that, under TSCA section 5, persons are not required to develop any particular test data before submitting a significant new use notice. Rather, persons are only required to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health risks that may be posed by a significant new use of this substance, EPA encourages potential SNUR notice submitters to conduct tests that would permit a reasoned evaluation of the potential risks posed by this substance when utilized for an intended use. The Agency believes that the results of a 90-day subchronic study and 2-year bioassay would adequately characterize possible chronic blood and spleen toxicity and carcinogenicity of the substance. These studies may not be the only means of addressing the potential risks. SNUR notices submitted for significant new uses without such test data may increase the likelihood that EPA will take action under section 5(e).

EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance. As part of this prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance. Test data should be developed according to TSCA good laboratory practices standards at 40 CFR Part 792. Failure to do so may lead the Agency to find such data to be insufficient to reasonably evaluate the health effects of the substance.

EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new uses. In addition, EPA encourages persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

X. Economic Anaylsis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacture, import, or processing of this chemical substance. The Agency's complete economic analysis is available in the public file. This economic analysis is summarized below.

The only direct costs that will definitely occur as a result of the promulgation of this SNUR will be EPA's costs of issuing and enforcing the SNUR. It is estimated that the Agency costs of issuing a SNUR are $10,500 to $17,600. While enforcement costs may also be incurred, the Agency cannot quantify them at this time.

Subsequent to promulgating the SNUR, the Agency believes that there would be three possible outcomes for companies that would manufacture, import, process, distribute in commerce, use, or dispose of the substance. The companies could: (1) manufacture, import, process, distribute in commerce,

use, or dispose of the substance within the limits of this SNUR; (2) manufacture, import, process, distribute in commerce, use, or dispose of the substance under circumstances requiring the submission of a SNUR notice; or, (3) not manufacture, import, process, distribute in commerce, use, or dispose of the substance. The costs of these outcomes are summarized below.

If a company decides to manufacture, import, process, distribute in commerce, use, or dispose of P–86–542 within the limits of the SNUR, it will not incur the cost of submitting a SNUR notice. The only cost to the company would be the cost of specific protective equipment, recordkeeping, labeling, MSDS, and imperviousness determinations. Protective equipment and recordkeeping costs, due to their recurring nature, are calculated as present value cost over an estimated 10-year life of the substance.

The PMN submitter claimed the actual exposure data as CBI. For analytical purposes, EPA has assumed that 10 workers will be exposed to P–86–542 for 8 hours a day, 250 days per year. Each worker will be required to wear gloves (which are determined to be impervious to the chemical substance), other protective clothing, and chemical safety goggles. Assuming a 10 percent discount rate and a 10-year economic life for the substance, the present value of outfitting each worker is estimated to cost $830 per worker; for 10 workers, the cost would be $8,300. On an annualized basis, these costs may exceed $135 and $1,350 for 1 worker and 10 workers, respectively. Permeation tests to determine if the gloves are impervious to the substance have been estimated to cost $500 per test per substrate (annualized cost of $75). These tests may cost up to $7,000 to $10,000 if different substrates (i.e., different compositions of gloves) are tested (annualized cost of $1,480). To the extent a company is able to extrapolate from previous tests, draw from knowledge of similar types of chemicals, or rely on the glove manufacturer's specification as the basis for determining impreviousness, these costs may be less.

A company would also be required to inform the workers of the hazards associated with the chemical substance with an MSDS, with appropriate warning labels, and as part of a training program in safety meetings. In addition, the company would be required to maintain certain records. The initial cost of the labeling requirements is estimated to be between $135 to $500, which is the cost of developing the label. The annualized cost of labeling is $20–$75. Other labeling costs are expected to be minimal. The present value of the cost of complying with the recordkeeping requirements over a 10-year period is estimated to be $1,520 (the annualized cost is $225).

If the company decides to commence a significant new use, it will incur the cost of filing a SNUR notice ($1,400 to $8,000). The company may also experience up to a 3.2 percent reduction in profits due to delays in manufacturing, importing, or processing, and the cost of regulatory follow-up, if any.

If the company elects to test for carcinogenicity and chronic blood and spleen effects, the estimated cost would be $1,038,000 plus the cost of delay (probably a delay in profits of 2.5 to 3 years), and the cost of any regulatory follow-up.

EPA costs following promulgation of the SNUR would include the cost of reviewing SNUR notices, estimated at $7,100 per notice, and the costs of modifying the terms of the SNUR if the information provided indicates that EPA's concerns would be adequately addressed by use of a different type of exposure control. This cost is estimated at $8,700.

Some companies could find the cost of controlling exposure and potential testing costs too expensive to justify production, processing, and/or use. Therefore, there would be no direct costs as a result of the SNUR. The companies and society could lose benefits associated with the manufacture, processing, and use of the substance. However, the fact that the original PMN submitter intends to manufacture the substance under the conditions of the section 5(e) consent order indicates that the intended uses of the substance will still return an acceptable profit under terms of the SNUR.

The Agency has not quantified the benefits of the proposed SNUR. In general, however, benefits will accrue if the proposed action leads to the identification and control of unreasonable risks before significant health effects occur. The proposal and promulgation of the SNUR provide benefits to society by minimizing or eliminating potential health and environmental effects for this chemical substance.

XI. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OTS–50558). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The PMN for the substance.
2. The **Federal Register** notice of receipt of the PMN.
3. The section 5(e) consent order.
4. The economic analysis of the proposed rule.
5. The toxicology support document.
6. The engineering support document.

The Agency will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record.

EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing sanitized copies from which CBI has been deleted is available to the public in the OTS Public Information Office from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The OTS Public Information Office is located in Rm. NE–G–004, 401 M St., SW., Washington, DC.

XIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major rule" because it will not have an effect on the economy of $100 million or more and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this proposed rule, for the reasons discussed in Unit X of this preamble, EPA believes that the cost will be low. EPA believes that, because of the nature of the rule and the substance involved, there will be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited

because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA has determined that this proposed rule would not have a significant impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this proposed rule are likely to be small businesses. However, EPA expects to receive few SNUR notices for the substance. Therefore, the Agency believes that the number of small businesses affected by this rule would not be substantial even if all the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070–0012 to this proposed rule. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Recordkeeping and reporting requirements, Significant new uses.

Dated: March 17, 1987.

Victor J. Kimm,

Assistant Administrator for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, it is proposed that 40 CFR Part 721 be amended as follows.

1. The authority citation for Part 721 would continue to read to follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding a new § 721.330 to read as follows:

§ 721.330 Ethanol, 2-amino-, compound with N-hydroxy-N-nitrosobenzenamine (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance, referred to by its PMN number and chemical name, is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section: P–86–542, Ethanol, 2-amino-, compound with *N*-hydroxy-*N*-nitrosobenzenamine (1:1).

(2) The significant new uses are:

(i) Use other than as a monomer stabilizer.

(ii) Any method of disposal associated with use as a monomer stabilizer other than by landfill or incineration, each of which meets all applicable local, State, and Federal laws and regulations.

(iii) Any manner or method of manufacturing, importing, or processing associated with use as a monomer stabilizer without establishing a program whereby:

(A) Any person who may be exposed dermally to the substance must wear:

(*1*) Gloves which have been determined to be impervious to the substance under the conditions of exposure, including the duration of exposure. This determination is made either by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of specifications includes consideration of permeability, penetration, and potential chemical and mechanical degradation by the substance and associated chemical substances.

(*2*) Clothing which covers any other exposed areas of the arms, legs, and torso;

(*3*) Chemical safety goggles or equivalent eye protection.

(B) All persons who may be exposed to the substance are informed, in writing, and by presenting the information as part of a training program in safety meetings at which attendance is recorded, by means of the following statement:

Warning: Avoid all contact. Contact with skin may be harmful. Chemicals similar in structure to [insert appropriate name] have been found to cause chronic blood and spleen effects and cancer in laboratory animals. To protect yourself, you must wear chemical safety goggles or equivalent eye protection, impervious gloves, and protective clothing while handling this material.

(C) A material safety data sheet (MSDS) is provided. The MSDS includes, at a minimum, the language specified in paragraph (a)(2)(iii)(B) of this section, and specifies the requirement for protective equipment in paragraph (a)(2)(iii)(A) of this section.

(D) Each container of the substance distributed in commerce has affixed to it a label which includes a Warning Statement which consists, at a minimum, of the language specified in paragraph (a)(2)(iii)(B) of this section. The first word of the Warning Statement is capitalized, and the type size for the first word is no smaller than 6 point type for a label 5 square inches or less in area, 10 point type for a label above 5 but no greater than 10 square inches in area, 12 point type for a label above 10 but no greater than 15 square inches in area, 14 point type for a label above 15 but no greater than 30 square inches in area, or 18 point type for all labels over 30 square inches in area. The type size of the remainder of the Warning Statement is no smaller than 6 point type. All required label text is of sufficient prominence, and is placed with such conspicuousness relative to other label text and graphic material, to insure that the Warning Statement is read and understood by the ordinary individual under customary conditions of purchase and use.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers, importers, and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain the following records for 5 years from their creation:

(i) Any determination that gloves are impervious to the substance.

(ii) Names of persons who have attended safety meetings in accordance with paragraph (a)(2)(iii)(B) of this section, the dates of such meetings, and copies of any written information provided in accordance with paragraph (a)(2)(iii)(B) of this section.

(iii) Copies of any MSDS used.

(iv) Dates and quantities of shipments of containers which are required to be labeled in acordance with paragraph (a)(2)(iii)(D) of this section.

(v) Any names used for the substance and the accompanying dates of use.

(vi) Information on disposal of the substance, including dates waste material is disposed of, location of disposal sites, volume of disposed solid material, estimated volume of any disposed liquid wastes containing the substance, and method of disposal.

(2) [Reserved]

(Approved by the Office of Management and Budget under OMB control number 2070–0112)

[FR Doc. 87–6459 Filed 3–24–87; 8:45 am]

BILLING CODE 6560–50–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1330

[Ex Parte No. 346 (Sub-No. 23)]

Exemption; Filing of Rail Quotations

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to exempt from regulation under 49 U.S.C. 10505 the filing at the Commission of quotations or tenders made to the United States Government, or any agency or department thereof, for the transportation, storage or handling of property, or the transportation of persons free or at reduced rates pursuant to 49 U.S.C. 10721(b). Elimination of the filing requirements would provide the railroads with certain savings involved in preparing the duplicate information required in 49 CFR 1330. These would include the costs to the railroad to prepare the duplicate filings and the transmittal letter required by 49 CFR 1330.5(c). Added to this are the Commission's cost of processing, filing, and storage of these 3600 annual notices which are viewed by perhaps 24 persons a year. The filing requirements for other common carriers would be continued.

DATE: Comments are due by May 8, 1987.

ADDRESS: Send original and 15 copies of any comment to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7246.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To receive a copy of the full decision, write to Interstate Commerce Commission, Office of the Secretary, Room 2215, Washington, DC 20423 or call (202) 275–7428.

Environment and Energy

This action will not significantly affect the quality of the human environment or energy conservation.

Regulatory Flexibility Certification

The Commission certifies that the proposed rule (exemption) will not, if promulgated, have a significant impact on a substantial number of small entities, because the proposal is administrative in nature and only eliminates the requirement of rail carriers to file with the Commission copies of quoted or tendered rates which are also filed with the U.S. Government, specifically the department, agency or instrumentality for which the quotation or tender was made.

List of Subjects in 49 CFR Part 1330.

Railroads.

Decided: March 11, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

PART 1330—[AMENDED]

Title 49, Part 1330 would be amended as follows:

1. The authority citation for 49 CFR Part 1330 would be revised to read as follows:

Authority: 49 U.S.C. 10321, 10721, 10762, and 10505; 5 U.S.C. 553.

2. Section 1330.1 would be revised to read as follows:

§ 1330.1 Applicability.

The provisions of this part shall apply to copies of all quotations or tenders made by all common carriers, *except railroads, but* including express and sleeping-cars companies, by pipeline, by motor vehicle, and by water, and household goods freight forwarders, to the United States Government, or any agency or department thereof, for the transportation, storage or handling of property or the transportation of persons free or at reduced rates as permitted by 49 U.S.C. 10721, except quotations or tenders which, as indicated by the United States Government or any department or agency thereof to any carrier or carriers, involves information the disclosure of which would endanger the national security.

[FR Doc. 87–6429 Filed 3–24–87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

Snapper-Grouper Fishery of the South Atlantic; Public Hearing

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

ACTION: Notice of public hearing and request for comments.

SUMMARY: The South Atlantic Fishery Management Council will hold a public hearing and provide an opportunity for the public to comment on the possibility of designating certain artificial reefs as special management zones (SMZs).

DATES: The hearing will begin at 7:00 p.m. on Sunday, March 22, 1987.

Written comments will be received until April 22, 1987.

ADDRESSES: The hearing will be held at the RSMAS Auditorium of the University of Miami, 4600 Rickenbacker Causeway, Miami, Florida.

Written comments may be sent to Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Robert K. Mahood, 803–571–4366.

SUPPLEMENTARY INFORMATION: The Snapper-Grouper Fishery Management Plan provides for designating artificial reefs as SMZs within which certain highly efficient fishing gear may be restricted or prohibited. The intent is to encourage construction of artificial reefs to increase biological production and to create recreational fishing opportunities that would not otherwise exist.

This public hearing will discuss these management measures and specifically address the possibility of establishing SMZs for certain artificial reefs off Dade County, Florida. The proposal is to restrict fish traps, bottom longlines, spearguns, and powerheads in these SMZs.

(16 U.S.C. 1801 *et seq*)

Dated: March 20, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87–6433 Filed 3–24–87; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 57
Wednesday, March 25, 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

March 20, 1987.

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

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of 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., Washinton, 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.

Extension

- Food and Nutrition Service
  Claim for Reimbursement
  FNS–806
  Recordkeeping; Monthly
  Non-profit institutions; 7,216 responses; 11,150 hours; not applicable under 3504(h)
  Joseph Surdick (703) 756–3870
- Rural Electrification Administration
  Acceptance of Standards and Specifications for Electric and Telephone
  On occasion
  Business or other for-profit; Small businesses or organizations; 303 responses; 6,060 hours; not applicable under 3504(h)
  James C. Arnold, Jr., (202) 382–9080

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 87–6500 Filed 3–24–87; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 3–87]

Foreign-Trade Zone 20—Suffolk, VA Norfolk-Newport News Customs Port of Entry, Application for Subzone, Stihl Chain Saw and Power Tool Plant, Virginia Beach

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Virginia Port Authority, grantee of Foreign-Trade Zone 20, requesting special-purpose subzone status for the chain saw and power tool manufacturing plant of Stihl Inc., Virginia Beach, Virginia, adjacent to the Norfolk-Newport News Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 27, 1987.

The Stihl plant, which employees 400 persons, is located at 536 Viking Drive, Virginia Beach. The 44-acre facility is currently used to produce small and mid-sized chain saws and hand-held blowers, and the company plans to expand production to include brush cutters/trimmers. About 50 percent of its parts are presently sourced abroad, including chain, guidebars, castings, crankshafts, fasteners, rod, wire, bearings, hoses, metal covers, engine parts and pump parts; but, the company has a program underway to increase its domestic sourcing. Stihl imports large chain saws and heavy-duty cutters from an affiliate in West Germany. Over one-third of the finished products made at the Virginia Plant are exported.

Zone procedures will allow Stihl to avoid Customs duty payments on the foreign parts used for its export production. On its domestic sales, the company will be able to take advantage of the same duty rate that is available to importers of complete chain saws, blowers and brushcutters, which is 2.8 percent. The average duty rate on the foreign parts and material used at the plant is 4.5 percent. The savings will help the company improve its international competitiveness and expand its Virginia operations.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Howard Cooperman, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southeast Region, 99 SE 5th St., Miami, FL 33131; and Colonel Claude D. Boyd III, District Engineer, U.S. Army District Norfolk, 803 Front St., Norfolk, VA 23510.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before April 30, 1987.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 101 E. Main St., Norfolk, VA 23510

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Rm 1529, 14th and Pennsylvania Ave., N.W., Washington, D.C. 20230.

Dated: March 20, 1987.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–6482 Filed 3–24–87; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[Docket Nos. 6674-01, 6674-02, 6674-03, 6674-04]

Actions Affecting Export Privileges: Hendrik G. Wasmoeth et al.

Summary

Pursuant to the Recommended Decision and order of the Administrative Law Judge in the above captioned proceeding, Hendrik G. Wasmoeth, individually and doing business as Data Maintenance, Kintraco BV, and Traco Supplies BV is hereby denied all export privileges for 20 years from the date of this Order. Wasmoeth's last known personal address is Rolerusstraat 2, 1901 PZ Castricum, the Netherlands. The address of his businesses is Berenkoog 29, 1822 B H Alkmaar, the Netherlands.

Facts

On June 30, 1986, a charging letter was issued by the Director, Office of Export Enforcement (OEE), International Trade Administration, United States Department of Commerce (the Department) against Hendrik G. Wasmoeth, individually and doing business as Data Maintenance, Kintraco BV, and Traco Supplies BV (hereinafter collectively referred to as Respondent), pursuant to section 13(c) of the Export Administration Act of 1979 (50 U.S.C. app. 2401–2440 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985)) (the Act), and Part 388 of the Export Administration Regulations (currently codified at 15 CFR Parts 368–399 (1986)) (the Regulations), based on allegations that respondent violated §§ 387.3, 387.5, and 387.6 of the Regulations.

In his answer of July 16, 1986 to the charging letter, respondent Wasmoeth requested a hearing in this matter. However, because there is a federal criminal indictment outstanding against him, respondent Wasmoeth set forth conditions which were to be satisfied before he would enter the United States to attend a hearing. Since respondent's requirements could not be satisfied by the Department, the parties were ordered to proceed by filing submissions for the record to address the charges against respondent.

Issue

1. Whether the Department has proven, by a preponderance of evidence, that repondent Wasmoeth did in fact violate §§ 387.3, 387.5 and 387.6 of the Regulations.

Discussion and Findings

The charging letter alleged that respondent conspired and acted in concert with others to obtain U.S.-origin computer disk manufacturing equipment for shipment to Holland and subsequent reexport to Bulgaria, without obtaining the required validated export licenses, in violation of § 387.3 of the Regulations. The charging letter further alleged that, as part of that concerted action, respondent did, in fact, export two shipments of the equipment from the United States to Bulgaria without obtaining the required validated export licenses, in violation of § 387.6 of the Regulations, and that Wasmoeth, through his co-conspirators, misrepresented material facts on shipping documents associated with those shipments, in violation of § 387.5 of the Regulations. Additionally, the charging letter claimed that respondent attempted to export one shipment of equipment without obtaining the required validated export license, in violation of § 387.3 of the Regulations, and that respondent, through his co-conspirators, misrepresented material facts on the shipping document associated with that shipment, in violation of § 387.5 of the Regulations. The charging letter further alleged that Wasmoeth acted both individually and doing business as Data Maintenance, Kintraco BV, and Traco Supplies BV.

The Department has set forth evidence showing that Respondent conspired to export U.S.-origin disk manufacturing equipment for the United States to Bulgaria, via Holland, without the required validated licenses. The Department introduced the contract of sale between Data Maintenance, a division of Kintraco BV, and INCO the Bulgarian government procurer. The Department further introduced shipping documents and other contacts of sale. The Department also presented evidence that respondent as part of that conspiracy, did, in fact, export two shipments and attempt to export a third shipment of the equipment from the United States to Bulgaria without obtaining the required validated licenses, and that respondent misrepresented material facts on the shipping documents associated with those shipments.[1]

Accordingly, I find that respondent Wasmoeth committed one violation of § 387.3 of the Regulations, three violations of § 387.5 of the Regulations and two violations of § 387.6 of the Regulations, for a total of six violations of the Regulations, each of which involves U.S.-origin commodities controlled under section 5 of the Act for national security reasons, as alleged in the charging letter of June 30, 1986. I also find that Wasmoeth acted individually and doing business as Data Maintenance, Kintraco BV and Traco Supplies BV. I further find that denying respondent's U.S. export privileges for 20 years from the date of this order is appropriate. No fine is imposed in this case.[2]

Therefore, pursuant to § 388.23 of the Regulations, it is ordered:

I. All outstanding validated export licenses in which Hendrik G. Wasmoeth, individually and doing business as Data Maintenance, Kintraco BV and Traco Supplies BV, or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned to the Office of Export Licensing for cancellation.

II. For a period of 20 years from the date of this Order, Hendrik G. Wasmoeth, individually and doing business as Data Maintenance, Kintraco BV, and Traco Supplies BV, his successors or assignees, officers, partners, representatives, agents, and employees are hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transactions involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in preparing or filing any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or

[1] Although Wasmoeth denies having made any misrepresentations himself, the established principle of the law of conspiracy provides that "the overt act of one partner in crime is attributable to all." *Pinkerton v. U.S.*, 328 U.S. 640, 647 (1946). Thus, although King and Klement made the misrepresentations, they were made in the course of the conspiracy, and attributable to Wasmoeth.

[2] Although jurisdiction exists for imposing a civil penalty against the respondent, the Department has not contested the Administrative Law Judge's decision not to impose such a fine. The power to imposed a civil penalty is to be distinguished from the power to enforce payment of that penalty. The distinction between prescription and enforcement jurisdiction is a well recognized rule of international law. Restatement (Second) of Foreign Relations Law section 64 (1965).

other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend to those commodities and technical data which are subject to the Export Administration Act of 1979, 50 U.S.C. app. sections 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (1985), and the Regulations.

III. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which the respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer or use any license, Shipper's Export Declaration, bill of lading or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. By Order of February 3, 1984 (49 FR 4958, February 9, 1984) (the temporary denial order), respondent, along with several other named parties, was temporarily denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data. The temporary denial order was to remain in effect until the final disposition of any administrative or judical proceedings initiate against the respondent as a result of the then on-going investigation. This Order concludes the administrative proceeding initiated by the Department against respondent Wasmoeth as a result of its investigation relating to the matters which gave rise to the temporary denial order. Accordingly, the temporary denial order of February 9, 1984, is amended by deleting from the list of respondents named therein: Hendrik G. Wasmoeth, individually and doing business as Data Maintenance, Kintraco BV and Traco Supplies BV, Berenkoog 29, 1822 BH Alkmaar, The Netherlands.

VI. A copy of this Decision and Order shall be served upon the respondent and this Decision and Order shall be published in the **Federal Register.**

Dated: March 19, 1987.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 87–6507 Filed 3–24–87; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 6675–03]

Decision and Order Affirming Settlement Agreement; Louis R. Klement

An administrative proceeding was initiated against Louis R. Klement (Klement), individually and doing business as Printemps Corporation, pursuant to section 13(c) of the Export Administration Act of 1979 (50 U.S.C. app. Sections 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985)), and Part 388 of the Export Administration Regulations (currently codified at 15 CFR Parts 368–399 (1986)) (the Regulations). The Office of Export Enforcement issued a charging letter on June 30, 1986, alleging that Klement violated § 387.3, 387.5 and 387.6 of the Regulations between June 1981 and January 1983. During that period Klement conspired with others to, and did in fact, acquire, export and attempt to export U.S.-origin disk manufacturing equipment from the United States to Bulgaria, via Holland, without obtaining the required validated export licenses. In addition, Klement misrepresented material facts in preparing the shipping documents in connection with these shipments.

Pursuant to 15 CFR 388.17, the Agency and Klement have agreed to and submitted a consent proposal to this office whereby Agency counsel and Respondent have agreed that, although Klement was charged individually and doing business as Printemps, he has severed all affiliation with Printemps Corporation as of January 1, 1984, and no longer does business as Printemps Corporation. Therefore, the sanctions imposed shall apply only to Klement, individually. Respondent admits that he violated the regulations as alleged in the charging letter and that this matter is being settled by a denial to Klement of all export privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving the export of U.S.-origin commodities or technical data from the United States or abroad for a period of 20 years following the date of entry of this Order.

The terms of the Consent Agreement are hereby approved;

It is therefore ordered:

First, that all outstanding validated export licenses in which Klement or any related party appears or participates in any manner or capacity are hereby revoked and shall be returned to the Office of Export Licensing for cancellation.

Second, that Klement, for a period ending 20 years from the date of this Order, is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part, or that are otherwise subject to the Regulations.

A. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation.

(i) As a party or as a representative of a party to any export license application submitted to the Department;

(ii) In preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining from the Department or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States and subject to the Regulations; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical

data which are subject to the Act and the Regulations.

B. Such denial of export privileges shall extend not only to Klement, but also to his agents, employees and successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which Klement is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

C. No person, firm, corporation, or business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Klement or anyone who is now or may be subsequently named as a related party, or whereby Klement or any related party may obtain any benefit therefrom or have any interest in or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or techical data exported in whole or in part, or to be exported by, to, or for Klement or any related party denied export privileges; or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

Third, that the Charging Letter, the Consent Agreement and this Order shall be made available to the public and this Order shall be published in the Federal Register.

Fourth, by Order of February 3, 1984 (49 FR 4956, February 9, 1984) (the temporary denial order), Klement was temporarily denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data. The temporary denial order was to remain in effect until the final disposition of any administrative or judicial proceedings initiated against Klement. This Order concludes the administrative proceeding initiated by the Department against Klement as a result of its investigation relating to the matters which gave rise to the temporary denial order. Accordingly, the temporary denial order of February 3, 1984 is amended by deleting from the list of respondents named therein: Louis R. Klement, 1255 Genoa Place, Placentia, California 92670.

Fifth, that this Order constitutes the final agency action in this matter.

Dated: March 18, 1987.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 87-6444 Filed 3-24-87; 8:45 am]

BILLING CODE 3510-DT-M

[Docket Nos. 6675-01, 6675-02]

Decision and Order; Edward F. King

On June 30, 1986, the Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), initiated an administrative proceeding against Edward F. King, individually and doing business as Printemps Corporation (hereinafter collectively referred to as respondent), pursuant to section 13(c) of the Export Administration Act of 1979 (50 U.S.C. app. sections 2401-2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985)) (the Act), and Part 388 of the Export Administration Regulations (currently codified at 15 CFR Parts 368-399 (1986)) (the Regulations), based on allegations that respondent violated §§ 387.3, 387.5 and 387.6 of the Regulations.

The charging letter alleged that respondent conspired and acted in concert with others to obtain U.S.-orgin computer disk manufacturing equipment for shipment to Holland and subsequent reexport to Bulgaria, without obtaining the required validated export licenses, in violation of § 387.3 of the Regulations. The charging letter further alleged that respondent did, in fact, export two shipments of the equipment from the United States to Bulgaria without obtaining the required validated export licenses, in violation of § 387.6 of the Regulations, and that King, through Printemps Corporation, misrepresented material facts on shipping documents associated with those shipments, in violation of § 387.5 of the Regulations. Additionally, the charging letter claimed that respondent attempted to export two shipments of equipment without obtaining the required validated export licenses, in violation of § 387.3 of the Regulations and that King, through Printemps Corporation, misrepresented material facts on shipping documents associated with those shipments.

Respondent answered the charging letter on July 27, 1986 without denying that he had committed the violations alleged therein. Additionally, in his October 3, 1986 responses to the Department's Requests for Admissions, King admitted the facts constituting the elements establishing the violations of the Regulations as alleged in the charging letter. Further, respondent King pled guilty to certain of the same charges in a criminal action arising out of the same transactions as the administrative charges, including conspiracy and attempting to export U.S.-origin goods without obtaining the required validated export licenses. As a result of respondent's admissions, the hearing in this matter scheduled for October 22, 1986 was cancelled and the Department filed a submission for the record which included proof of respondent's guilty plea and his responses to the Department's Request for Admissions in which he admitted to the facts constituting the elements necessary to establish the alleged violations.

Based on the foregoing, I find and conclude that respondent King, individually and doing business as Printempts Corporation, violated the Regulations as alleged in the charging letter.

Therefore, pursuant to § 388.23 of the Regulations,

It is hereby ordered:

I. All outstanding validated export licenses in which Edward F. King, individually and doing business as Printemps Corporation, or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned to the Office of Export Licensing for cancellation.

II. For a period of 10 years from the date that this Order becomes final, Edward King, individually and doing business as Printemps Corporation, his successors or assignees, officers, partners, representatives, agents, and employees are hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in preparing or filing any export license

application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend to those commodities and technical data which are subject to the Export Administration Act of 1979, 50 U.S.C. app. sections 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (1985), and the Regulations.

III. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which the respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. By Order of February 3, 1984 (49 FR 4958, February 9, 1984) (the temporary denial order), respondent, along with several other named parties, was temporarily denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data. The temporary denial order was to remain in effect until the final disposition of any administrative or judicial proceedings initiated against the respondent as a result of the then on-going investigation. This Order concludes the administrative proceeding initiated by the Department against respondent King as a result of its investigation relating to the matters which gave rise to the temporary denial order. Accordingly, the temporary denial order of February 9, 1984 is amended by deleting from the list of respondents named therein: Edward F. King, individually and doing business as Printemps Corporation, 5122 Grandview Avenue, Yorba Linda, California 92686.[1]

[1] Respondent King did raise additional defenses, however, in his letter to the ALJ dated 11/14/86. It remains questionable as to whether King filed his submission properly and in a timely manner. Some confusion arose due to the Office of the ALJ's failure to contact King as prescribed in the ALJ's Order dated 10/10/86. Due to such confusion, this Office deems King's letter dated 11/14/86 as a timely submission. The ALJ addressed one of the defenses raised in this submission regarding the mitigation of administrative sanctions due to the criminal sanctions imposed against respondent. However, the ALJ failed to address the other defenses raised in the King's submission. Because of such oversight, this Office feels compelled to address these defenses at this time.

Respondent King contended that due to the language in the TDO dated 2/3/84, that such Order expired on 3/13/84, the date which the criminal proceedings terminated with King's sentencing. It appears that King alleges that the Department's right to pursue administrative proceedings expired upon the alleged expiration of the TDO. Regardless of whether the TDO expired on 3/13/84, neither the law nor the regulations preclude the initiation of a charging letter in the absence of a current TDO. Rather, the TDO facilitated the denial of King's export privileges during the ongoing administrative and criminal investigations. Upon the culmination of the criminal proceedings, sentencing, and King's release from prison, the Department acted properly in initiating its administrative proceedings by issuing a charging letter of 6/30/86.

Respondent King raises a second argument: that the Department had one year in which to petition the presiding official to reopen the case. Since more than two years had expired after the TDO was imposed and allegedly expired, King alleges that the Department was precluded from reopening the case. EAR section 388.18 applies to the reopening of administrative proceedings where a final administrative decision has been rendered. Even if the TDO expired on 3/13/84 as Respondent King has alleged, a TDO is not viewed as final decision within the administrative proceedings contemplated by this Regulations. Therefore, King's contentions raised in his submission dated 11/14/86 do not warrant relief from the administrative sanctions which have been imposed.

VI. A copy of this Decision and Order shall be served upon the respondent and published in the **Federal Register.**

Dated: March 19, 1987.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

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[A-779–602, A-799–602]

Final Determination of Sales at Less Than Fair Value; Certain Fresh Cut Flowers From Kenya

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that certain fresh cut flowers from Kenya are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have directed the U.S. Customs Service to continue to suspend the liquidation of all entries of certain fresh cut flowers that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in the amount equal to the estimated dumping margin as described in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: March 25, 1987.

FOR FURTHER INFORMATION CONTACT: James Riggs or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–4929 or (202) 377–5288.

SUPPLEMENTARY INFORMATION: .

Final Determination

We have determined that certain fresh cut flowers from Kenya are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act) (10 U.S.C. 1673(a)). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the respondent during the period of investigation, June 1, 1985 through May 31, 1986. Comparisons were based on United States price and foreign market value. Foreign market value was based on third country prices.

The weighted-average margin for the company investigated and all other companies is shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On May 21, 1986, we received a petition in proper form filed by the Floral Trade Council of Davis, California. The petition was filed on behalf of the U.S. industry that grows certain fresh cut flowers. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Kenya are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on June 10, 1986 (51 FR 21947, June 17, 1986), and notified the ITC of our action. On July 7, 1986, the ITC determined that there is a reasonable indication that imports of certain fresh cut flowers from Kenya materially injure a U.S. industry (USITC Pub. No. 1887).

On July 16, 1986, we presented an antidumping duty questionnaire to counsel for Sulmac Co. Ltd. This company accounts for at least 60 percent of exports from Kenya of the subject merchandise to the United States. We requested a response in 30 days. On August 3, and August 15, 1986, we received responses to section A of the Department's questionnaire. On August 8, 1986, at the request of respondent, we granted an extension of the due date for the remaining portions of the questionnaire response. On September 10, we received these remaining sections of the response from the company. On October 1 and 17, we requested supplemental information. We received supplemental information on October 10, 16 and 21, 1986.

On October 28, 1986, we made an affirmative preliminary determination (51 FR 39850, November 3, 1986).

We conducted verification in Nairobi, Kenya from January 12 through January 15, 1987, and in Frankfurt, West Germany on January 15, 1987. On November 24, 1986, we received a request from respondent to extend the due date of our final determination to 135 days after the date of publication of the preliminary determination. On December 29, 1986, pursuant to section 735(a)(2)(A) of the Tariff Act of 1930, we extended the due date of our final determination until no later than March 18, 1987 (52 FR 698, January 8, 1987).

As required by the Act, we afforded interested parties an opportunity to submit written comments to address the issues arising in this investigation. A hearing was held on February 20, 1987.

Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently providing for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations currently provided for in item 192.21 of the TSUS.

Fair Value Comparisons

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared a per stem weighted-average monthly price of U.S. sales with a foreign market value based on a per stem six-month average of third country prices.

Section 620(a) of the Trade and Tariff Act of 1984 (19 U.S.C. 1677(f)(1)) expanded the discretionary use of sampling and averaging by the Department to include the determination of United States price or foreign market value, so long as the average is representative of the transactions under investigation. A combination of factors persuaded us to average U.S. sales in this investigation.

In a situation, such as here, where there is a mass filing of petitions alleging the sale of the same products at less than fair value from a number of countries, the limited resources of the Department are severely taxed due to the statutory deadlines. Eight separate cases were filed, some of them covering up to seven types of flowers. At the time of the preliminary determinations, the Department was confronted with over 260,000 sales transactions in the United States of the fresh cut flowers from various countries under investigation. A decision to make fair value comparisons on a transaction-by-transaction basis would present an onerous, perhaps impossible, burden on the Department in terms of data collection, verification, and analysis. Consequently, the Department exercised its broad discretion to average United States price, as authorized by the 1984 amendment to the Act, in order to reduce the administrative burden and maximize efficient use of limited resources, without loss of reasonable fairness in the results.

Another factor in our determination is the need for consistency in our treatment of all the cut flowers investigations. Although the number of transactions varies among the countries being investigated, uniform application of the averaging methodology ensures that all countries are treated on the same basis.

Moreover, because of the perishability of the product under investigation, we believe that averaging of the United States prices in this case contributes to a fairer and more representative measure of fair value. Because of this perishability, sellers may be faced with the choice of accepting whatever return they can obtain on certain sales or destroying the merchandise. Unlike non-perishable products, sellers cannot withhold their flowers from the market until they can obtain a higher price.

Faced with investigating sales of a product that is perishable, the Department has three options. The first would be to disregard entirely the "end of the day" or "distress" sales that are taken in lieu of destroying the product. The second would be to perform a transaction-by-transaction comparison. Finally, the third approach would be to employ limited averaging of United States prices.

Under the first approach, the Department would ignore the end of the day sales on the basis that such sales are not representative of the sellers' behavior in the U.S. market. To do so, however, would completely overlook the fact that such sales do occur in the ordinary course of trade in this product. Morover, any attempt to segregate end of the day sales from dumped sales would be fraught with difficulties. Therefore, we have rejected this approach.

Under the second alternative, the Department would perform a transaction-by-transaction comparison. As noted above, the administrative burden imposed by a transaction-by-transaction comparison in these cases would be overwhelming. Moreover, given the Department's practice of treating non-dumped sales as having zero margins, even where the margins would be negative, this approach would give disproportionate weight to end of the day sales. In other words, a producer whose normal sales are at prices above fair value could be found to be dumping solely because of these end of the day transactions. Again, we note that these sales arise only because of the perishability of the products under investigation.

The final approach, limited averaging of United States prices, represents a balancing of the concerns raised by other approaches. It does not ignore the

fact that such end of the day sales occur in the ordinary trade of this product. Nor does it assign disproportionate weight to these sales. Therefore, this comparison yields the most accurate basis for determining whether sales are at less than fair value and constitutes the most representative analysis of trading practices which involve perishable products.

Finally, we note that well before passage of the Trade and Tariff Act of 1984, the Department used its discretion to employ nontraditional methodology when circumstances dictated. In *Certain Fresh Winter Vegetables From Mexico; Antidumping: Final Determination of Sales of Not Less Than Fair Value*, 45 FR 20512 (1980), we used economic sampling techniques involving averaging to determine United States price because of the wide fluctuations in price due to the perishability of the product, among other reasons. This decision was affirmed by the Court of International Trade in *Southwest Florida Winter Vegetables Growers Association* v. *United States*, 7 CIT 99, 584, F Supp. 10 (1984). The court noted that the Department has "broad flexibility" in administering the antidumping law, which it employed "with reasonable basis in fact reflecting the unique characteristic of perishability in the produce industry." *Id.* at 107–108.

United States Price

As provided in section 772(c) of the Act, we used the exporter's sales price of the subject merchandise to represent United States price, as all the merchandise was sold to unrelated purchasers after importation. From c.&f., delivered, packed prices, we made deductions, where appropriate, for air freight, commissions, inland freight, handling, and credit expenses.

Because the Generalized System of Preferences is applicable to Kenyan flowers, there was no United States duty charge to deduct.

As noted in the "Fair Value Comparisons" section of this notice, we used monthly weighted-averages for United States price. We chose to use monthly averages rather than semiannual or annual averages because in many instances, the consignees in the United States reported sales on a monthy basis. For exporters in some countries, the only information available on United States sales is monthly totals. To be consistent, therefore, we used monthly averages in all the cut flower cases.

Foreign Market Value

For purposes of this investigation, the Department looked at an extended period of investigation of 12 months in order to compensate for the seasonality of flower production and sales. In calculating foreign market value, the period of investigation was broken into six-month periods, in accordance with our standard practice. We are not persuaded to change that practice in this case. During each six-month period, if sales occurred in three months or more, then the weighted-average prices of the months with sales were used for the entire six-month period.

In accordance with section 773(a) of the Act, we calculated foreign market values for standard carnations and mini carnations based on delivered, packed prices to an unrelated purchaser in West Germany, as Sulmac had insignificant sales of such or similar merchandise in the home market.

We made deductions, where appropriate, for air freight, commissions, inland freight, handling, and credit expenses to the third country.

We made no adjustment for packing differences as packing costs were identical for flowers shipped to both markets.

Currency Conversions

For comparisons involving exporter's sales price transactions, when calculating foreign market value, we used the official exchange rate on the date of purchase pursuant to section 615 of the Trade and Tariff Act of 1984, as it supersedes 353.56(a)(2) of our regulations. We used certified daily exchange rates furnished by the Federal Reserve Bank of New York as the official exchange rates for costs incurred in German Deutsche Marks. For charges incurred in Kenyan Shillings, no certified rates were available. Therefore, in place of the offical certified rate, we used the monthly exchange rates furnished by the International Monetary Fund, as best information available.

Verification

As provided in section 776(a) of the Act, we verified all information provided by respondent, using standard verification procedures, including examination of accounting records and original source documents containing relevant information on selected sales.

Petitioner's Comments

Petitioner's Comment 1: Petitioner argues that the Department should not use monthly averages to determine United States prices for the final determination as it did for the preliminary determination. Further, it argues that the Department should not use three-month, six-month or annual averages as proposed by the respondent. It argues that the use of such averages for products whose prices fluctuate on a daily or weekly basis disguises dumping margins. Petitoner further contends that if the Department uses averages, the law restricts their use to instances in which the use of averaging does not distort the existence or amount of less that fair value sales and to situations involving large numbers of transactions, where a sale-by-sale analysis would impose an onerous burden on the Department. Petitioner maintains that both statute and administrative precedent preclude the use of averaging in this case. If the Department uses averages for United States price, however, petitioner suggests use of daily averages during the winter and spring months and other months which had significant swings in unit prices.

DOC Position: We disagree. See the "Fair Value Comparison," United States Prices," and "Foreign Market Value" sections of this notice.

Petitioner's Comment 2: Petitioner argues that the Department must deduct an amount for insurance costs from United States and third country prices. Although respondent stated that sales to the United States and to Frankfurt are c. & f., respondent stated these shipments were covered under the "Warsaw Convention" which makes it unclear as to whether insurance is accounted for in the response. Petitioner suggests that as respondent has obscured the issue of insurance, the Department should, in its final determination, use as best information available, an insurance amount equal to the difference between c. & f. and c.i.f. prices submitted in the petition.

DOC Position: We disagree. The Department verified that sales to the United States and to West Germany were made on a c. & f. basis. Thus, we verified that no insurance was involved.

Petitioner's Comment 3: Petitioner argues that any errors detected during verification should be corrected for purposes of the final determination. Because the respondent omitted third country sales during June 1985, and because of errors in air freight, handling, and inland freight charges, petitoner recommends the Department use the c.i.f. charges contained in the petition obtained from U.S. Census data, in determining the appropriate deductions from United States price. If the Department does use respondent's information, it should at least deduct the verified freight charges by associating monthly U.S. sales with invoices representative of a sale during that particular month.

DOC Position: To the extent that errors were uncovered at verification, we used the corrected, verified information. Although June 1985 sales to West Germany were omitted from Sulmac's response, it does not appear to be a deliberate attempt on the part of Sulmac to report its sales selectively. All of the sales from June 1985 were submitted to the Department after verification. Since we had verified sales data for four months of the first six-month period, it was unnecessary to use sales data from June 1985 in the foreign market value calculation. Furthermore, we note that June 1985 prices were consistent with third country prices already submitted. Air freight amounts have been verified and are consistent with Sulmac's marketing agreement with Kenya Flowers. Inland freight, handling, and packing figures were all corrected at verification, and we have used these corrected figures for our final determination.

Petitioner's Comment 4: Petitioner argues that the Department should purge all sales of 'seconds' or 'culls' from the third country data base. Although seconds and culls are not under investigation, the response contains flower prices to West Germany which appear too low to represent flowers of export quality. Petitioner further states that some sales were reported at prices which probably do not cover the full cost of production, and certainly do not cover shipping charges.

DOC Position: During verification of West German sales, flower quality was checked as well as prices and charges associated with flower sales. The flowers sold to West Germany were verified to be of export quality. As for petitioner's cost comments, no mention of cost of production was made in this case until February 13, 1987, in petitioner's prehearing brief. The comments were put forward three and a half weeks after verification, and less than five weeks before the final determination, and were considered untimely filed. We have therefore not dropped sales from the West German sales listing.

Respondent's Comments

Respondent's Comment 1: Respondent claims that dumping is precluded by a contractual agreement, which prohibits Sulmac's West German consignee from selling in the United States at prices lower than the West German price.

DOC Position: In its calculations of sales at less than fair value, the Department used actual, sale by sale data, rather than looking solely at the contractual arrangement. We verified the accuracy of the response. We have used this verified actual sales information for our final determination of sales at less than fair value.

Respondent's Comment 2: Respondent argues that since sales price is determined after the flowers are exported from Kenya, and since Sulmac does not determine the sales price, Sulmac cannot be engaged in selling at less than fair value.

DOC Position: We disagree. Although Sulmac does not determine the final sales prices of cut flowers, and these prices are not determined until after shipment, dumping may still exist. It is not necesssary that the seller in the country of origin set the price of the merchandise in question for dumping margins to be found.

Respondent's Comment 3: In its preliminary affirmative determination of sales at less than fair value, the Department used "best information available" where the response was incomplete. Because the record is not complete, there is no need to use best information available for the final determination.

DOC Position: We agree and have used respondent's verified information for purposes of the final determination.

Respondent's Comment 4: Respondent claims that, since total Kenyan exports to the U.S. are so small as to be *de minimis* (less than .05% of total U.S. consumption according to the ITC Staff Report. A–79), they should be considered non-existent. As a result, no statutory finding can be made that imports from Kenya are being sold at less than fair value, and a final negative determination is required. In addition, respondent argues that, contrary to petitioner's statement, the question of whether the *de minimis* amount of flowers at issue here justifies the administrative cost and burden to the ITA of collecting any small duty that may be imposed is an appropriate decision for the ITA to make, and is separate from the ITC decision concerning what level of imports may cause material injury.

DOC Position: We disagree. The Department's role in the investigation of antidumping allegations is to determine to what extent, if any, foreign companies are selling the subject merchandise in the United States at less than fair value within the meaning of section 735 of the Act. The Department reports its findings on these matters to the ITC which makes determinations on injury to a domestic industry as a result of these imports. If the Department finds sales at less than fair value, and the ITC finds that these sales at less than fair value injure, or threaten material injury to, a U.S. industry, an order is issued, and duties are collected.

The Department's investigations are limited to examining sales at less than fair value, and the Department does not have the authority to assess the impact of imports upon the domestic industry.

Respondent's Comment 5: Respondent argues that there is no reason to exclude certain sales from the list of Sulmac's third country sales. The flowers sold at unusually low prices were of export quality, and were usually replacement flowers for earlier shipments which were damaged or delayed in shipment. Also, if the Department deletes from the third country sales listing all flowers below a certain price, the same must be done to the U.S. sales listing. Respondent objects to the timing of petitioner's claim, as it comes after the preliminary determination, and after verification of Sulmac's response. Further, petitioner's claim that sales were made at less than cost has been submitted in an untimely manner and should be ignored.

DOC Position: We agree. See DOC Position to Petitioner's Comment 2.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of certain fresh cut flowers from Kenya that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The U.S. Customs Service shall require a cash deposit or the posting of a bond on all entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below.

	Weighted average margin percentage
Manufacturer/seller/exporter:	
Sulmac Co. Ltd	1.58
All others	1.58

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files,

provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess duties on fresh cut flowers from Kenya entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

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[C-779-601]

Final Negative Countervailing Duty Determination; Certain Fresh Cut Flowers From Kenya

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to producers or exporters in Kenya of certain fresh cut flowers (cut flowers) as described in the "Scope of Investigation" section of this notice. We have notified the U.S. International Trade Commission (ITC) of our determination.

EFFECTIVE DATE: March 25, 1987.

FOR FURTHER INFORMATION CONTACT: Carole Showers or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3217 or 377-0161.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that no benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Kenya of cut flowers.

Case History

On May 21, 1986, we received a petition in proper form from the Floral Trade Council filed on behalf of the U.S. industry producing cut flowers. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that producers or exporters in Kenya of cut flowers receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on June 10, 1986, we initiated an investigation (51 FR 21953, June 17, 1986). We stated that we expected to issue a preliminary determination on or before August 14, 1986.

On June 25, 1986, the petitioner requested a full extension of the period within which a preliminary countervailing duty determination must be made, pursuant to section 703(c)(1)(A) of the Act. On July 3, 1986, we issued a notice of postponement stating that the preliminary determination would be made on or before October 20, 1986 (51 FR 25084, July 10, 1986).

Since Kenya is not a "country under the Agreement" within the meaning of section 701(b) of the Act, section 303 of the Act applies to this investigation. However, because Kenya is a signatory to the General Agreement on Tariffs and Trade and the cut flowers subject to this investigation are duty-free, the petitioner is required to allege that, and the ITC is required to determine whether, imports of the subject merchandise from Kenya materially injure, or threaten material injury to a U.S. industry. On July 7, 1986, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Kenya of the subject merchandise (51 FR 25751, July 16, 1986).

On June 20, 1986, we presented a questionnaire to the Government of Kenya in Washington, DC concerning petitioner's allegations. We received the government and company responses on August 15, September 22, and October 14 and 26, 1986.

On October 20, 1986, we issued a preliminary negative determination in this investigation (51 FR 37925, October 27, 1986). We preliminarily determined that no benefits constituting bounties or grants within the meaning of the Act are being provided to producers or exporters in Kenya of the subject merchandise.

On November 4, 1986, petitioner filed a request for extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the final determination in the antidumping duty investigation. Section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98-573), provides that when a countervailing duty investigation is "initiated simultaneously with an [antidumping] investigation . . . which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination [in the countervailing duty investigation] to the date of the final determination [in the antidumping duty investigation]." 19 U.S.C. 1671d(a)(1). Pursuant to this provision, the Department granted an extension of the deadline for the final determination in the countervailing duty investigation of certain fresh cut flowers from Kenya to January 12, 1987, the original deadline for the final determination in the antidumping duty investigation (51 FR 43649, December 3, 1986).

On November 24, 1986, counsel for respondents requested that the Department postpone the antidumping duty final determination to 135 days from the publication date of our preliminary antidumping duty determination, in accordance with section 735(a)(2)(A) of the Act. We granted this request and postponed our final antidumping duty determination until March 18, 1987. Pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984, the deadline for the final countervailing duty determination on certain fresh cut flowers from Kenya was also postponed until March 18, 1987, to coincide with the revised date on the final antidumping duty determination (52 FR 698, January 8, 1987).

Verification of the government and company responses in this investigation was held from January 8 through 14, 1987. At the request of petitioner, a public hearing was held on February 20, 1987, to afford interested parties an

opportunity to present views orally, in accordance with our regulations (19 CFR 355.35). Petitioner and respondents filed pre-hearing and post-hearing briefs on February 13 and 27, 1987, respectively.

Scope of Investigation

The products covered by this investigation are fresh cut miniature (spray) carnations, currently provided for in item 192.17 of the *Tariff Schedules of the United States* (TSUS), and standard carnations, currently provided for in item 192.21 of the TSUS.

Analysis of Programs

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order* (49 FR 18006, April 26, 1984).

For purposes of this determination, the period for which we are measuring bounties or grants (the revew period) is calendar year 1985. Based upon our analysis of the petition, the responses to our questionnaires, our verification, and comments filed by petitioner and respondents, we determine the following:

I. Program Determined Not to Confer a Bounty or Grant

We determine that bounties or grants are not being provided to producers or exporters in Kenya of cut flowers under the following program:

Government Sponsored Research and Development

The Kenyan Government provides funding for research and development (R&D) for various government-directed agricultural projects through the Ministry of Agriculture. Project results are published by the Ministry in the "Record of Research Annual Report."

There was one project for which the Kenyan government provided partial funding which involved research on a variety of horticultural and agricultural products, including carnations. This project was funded and conducted jointly by the United Nations Development Program (UNDP) and the Kenyan government. The project was divided into two phases, with reports given at the end of each phase. Only the first phase dealt with any type of research on flowers. The results were published by the government in a handbook entitled "Horticultural Crops Protection Handbook." At vertification, we found that this handbook is made available to the public for a fee upon request.

Because the research results are publicly available, and because research is conducted on a wide variety of horticultural and agricultural products, we determine that this program is not countervailable.

II. Programs Determined not to be used

We determine that producers or exporters in Kenya of cut flowers did not use the following programs:

A. Export Compensation Act

Petitioner alleged that exporters of cut flowers receive export incentives under the revised Local Manufacturers' Export Compensation Act of June 1982 (Export Act), including cash payments to exporters, duty drawback, and refund of sales tax.

During verificiation, we found that the Export Act provides for a 20 percent payment to the exporter of the value of the export. This Act provides that these payments are available only to exporters of manufactured products. At verification, government records confirmed that no flower exporter had received payment under this program. We also found that the Export Act does not provide for duty drawback nor for a refund of sales tax. Because flower exporters are not eligible to receive benefits under this program, we determine the program not to be used.

B. Investment Allowances

Petitioner alleged that various investment allowances are provided by the Government of Kenya to assist in the development of areas outside major metropolitan centers.

During verification, we found that investment allowances available to specific regions of Kenya are described in the second schedule of the Income Tax Act published by the Government of Kenya. This Act allows for a "grant" of 50 percent against taxable income for new construction of buildings and for new machinery placed in those buildings, if located outside the two major metropolitan areas. This allowance is available only to the manufacturing sector. At verification, records at Sulmac, the company under investigation, confirmed that no allowance had been claimed. Because flower producers are not eligible for the investment allowance under this program, we determine the program not to be used.

III. Program Determined Not to Exist

Preferential Airfreight Rates for Exports of Flowers

Petitioner alleged that the Government of Kenya subsidizes airfreight rates for exports of cut flowers from Kenya to the United States.

The Government of Kenya has established government directed airfreight rates for two products, fruits and vegetables. There are no government-directed airfreight rates for exports of flowers. During verification, we found that exporters of cut flowers in Kenya pay specific commodity freight rates established by the International Air Transport Authority (IATA) on international shipments of flowers. IATA rates are published in the IATA rate manual and apply to all international airlines flying cargo from Kenya. Commodity-specific rates are a usual practice followed by many countries throughout the world. We found no evidence of a transfer of funds or absorption of costs on behalf of flower growers through these rates nor any evidence of government subsidization. We also verified that Sulmac paid the published rates on shipments of the subject merchandise from Kenya. Similar IATA rates were found not to be countervailable in *Final Affirmative Countervailing Duty Determination: Certain Fresh Cut Flowers from Peru* (52 FR 6837, March 5, 1987).

Therefore, since the Government of Kenya has not established government-directed airfreight rates for international shipments of flowers, we determine that there is no government program providing preferential airfreight rates for flower exports.

Petitioner's Comments

Comment 1: Petitioner states that airfreight rates charged for shipments of flowers from the United States to Kenya (*i.e.*, general cargo rates) are higher than those charged from Kenya to the United States (*i.e.*, commodity-specific IATA rates) and, therefore, they argue that the Kenyan government must be subsidizing airfreight rates charged from that country. Petitioner contends that general cargo rates are a conservative benchmark for measuring the magnitude of the preference and argues that evidence on the record showing subsidized airfreight rates for fruits and vegetables is sufficient to demonstrate that the Government of Kenya subsidizes a wide variety of products which it considers of high export priority.

DOC Position: We disagree. Kenyan flower exporters pay commodity-specific IATA rates for international shipments of flowers on all airlines. We found no evidence of a transfer of funds or absorption of costs on behalf of flower growers through these rates nor any evidence of government subsidization. We also verified that Sulmac paid the published rates on shipments of flowers. We verified the government has no involvement in setting the rates for flowers; any rate the government may set for other products is irrelevant. See also section III. of this notice.

Comment 2: Petitioner disputes respondents' contention that investment allowances provided under the "Income Tax Act" are available only to the manufacturing sector, and cites as evidence to the contrary data collected by independent sources which show that other industries, such as the hotel industry and the mining sector, also receive allowances. Petitioner argues that, because the Government of Kenya refused to surrender any information concerning the "Income Tax Act" or the incentives available under it, we should use petitioner's submitted data as best information available. Petitioner believes that it is very unlikely that flower production has been excluded from this program, given the program's clear bias in favor of rural and labor-intensive industries.

DOC Position: We disagree. As stated earlier in this notice and in the verification report, the "Income Tax Act" is clear as to which sectors and what type of investments are eligible to receive the investment incentives under this program. At verification, we received a copy of the "Income Tax Act" from Sulmac, because the government did not provide it to us before the company verification began. We were able to obtain the information necessary to verify the investment incentives available in Kenya and to verify that Sulmac did not use these incentives. See section II.B. of this notice.

Comment 3: Petitioner contends that Kenyan flower producers receive export incentives, including rebates on the f.o.b. value of exports under certain conditions, duty drawbacks on certain inputs, and refunds of sales tax on certain specific exported goods, and argues that the Government of Kenya has not been forthcoming in providing relevant information. Petitioner suspects that a statue other than the "Export Compensation Act" (Export Act) authorizes duty drawback and sales tax refunds and requests that we use best information available with respect to these programs.

DOC Position: We disagree. The petitioner's original allegation stated that the various export incentives were legislated under the Export Act and it was based upon this allegation, among others, that we initiated this investigation. In our questionnaire, we asked about the incentives provided under the Export Act, specifically about rebates based on the value of exports, duty drawback, and rebates of sales tax. In response to these questions, respondents stated that the Export Act provided for a payment to the exporter based on the value of the exported product, but did not provide for any other incentives such as duty drawback or a refund of sales tax. In our preliminary determination, we determined that this program was not used based upon this response. At that point, petitioner had not submitted any comments alleging that the response in any way led them to "suspect" that some of the incentives might be included in legislation other than the Export Act.

At the government verification, we confirmed that the Export Act did provide payments to exporters (but not to exporters of cut flowers), and did *not* provide other incentives, such as duty drawback or a refund of sales tax. At the company verification, we checked company records which showed that these incentives, even if available under another government program, had not been used. Moreover, we note that in the companion antidumping duty investigation of cut flowers from Kenya, where it would have been to the company's advantage to report such benefits, they were not claimed. In sum, we found no evidence at either the government or company level to lead us to believe that export incentives exist, either under the Export Act or otherwise.

Petitioner did not state their suspicion that provisions for duty drawback and a refund of sales tax may be provided outside of the context of the Export Act until the time at which they filed their pre-hearing brief, well after the verification had been conducted. Given that petitioner had ample opportunity to make such an allegation after receipt of the responses in September and October 1986, we consider petitioner's statement to be a new program allegation that is untimely.

Comment 4: Petitioner argues that the U.S. countervailing duty and antidumping duty law mandates use of best information available in this case. Under section 776(b) of the Act, we are required to use the best information otherwise available, including information provided by petitioner, when respondent refuses or is unable to provide information requested in a timely manner and in the form required. Petitioner argues that the Government of Kenya has failed to provide such information and that we must accordingly reverse our preliminary negative determination and, using best information available, determine that cut flowers exported from Kenya benefit from countervailing subsidies in the form of preferential airfreight rates, investment allowances, and export incentives.

DOC Position: We disagree. We invoke the best information available provision of the Act only in circumstances where no information is provided or where information provided by respondent is so inadequate and incomplete that the adverse inferences associated with use of best information available are justified. Our decision to use best information available in the *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order: In-Shell Pistachios from Iran,* (51 FR 8344, March 11, 1986). *(Pistachios from Iran)* is a textbook situation of its use. In *Pistachios from Iran,* a deficient response was not received until after the preliminary affirmative determination and two months after the original due date. As we stated in that determination, "the response failed to provide even the most basic information requested in all countervailing duty questionnaires such as laws and regulations governing the alleged bounty or grant programs." In addressing specific questions on the alleged programs, the response simply stated that a program did not exist or that no benefits were received under a program. No evidence substantiating these bald statements of denial was provided. Finally, verification, the procedure most valuable for obtaining such information, was not possible.

The present case possesses no such circumstances of untimeliness and inadequacy of the information provided. The Government of Kenya cooperated in providing a punctual response to the questionnaire submitted by the Department. It provided relevant laws and regulations, where requested. At verification, we were provided with a log of legislative actions, enabling us to confirm the existence or non-existence of alleged programs. Finally, we were able to confirm non-receipt of benefits by Sulmac by inspecting its financial books and records provided at verification. Therefore, there is no reason to reject the response and use

the best information otherwise available.

Comment 5: Petitioner disputes our finding in our preliminary determination that government financed research is not countervailing because it is widely available and results are publicly disseminated. Petitioner further argues that because Sulmac represents nearly all of Kenya's production of the subject merchandise, the program is *de facto* specific. Finally, petitioner argues that the fact that the program is also UNDP financed is irrelevant because the Act is very broadly worded to include all forms of private or governmental subsidies.

DOC Position: We disagree. At verification, we found that the research funded jointly by the Government of Kenya and the UNDP was conducted on a wide variety of agricultural products, including flowers. This by itself is sufficient to warrant a finding that the program is available to more than a specific group of industries. *See, e.g., Final Negative Countervailing Duty Determination: Certain Fresh Cut Flowers from Mexico* (49 FR 15007, April 16, 1984). All research results are publicly disseminated and, contrary to petitioner's belief, results of research conducted specifically on flowers was not *de facto* limited to Sulmac, because other producers and exporters of flowers operate in Kenya and because there is nothing to prevent these results from being made available worldwide. Finally, we have consistently held that funds provided by multinational organizations are not countervailable. *See, e.g., Final Affirmative Countervailing Duty Determination: Fuel Ethanol from Brazil* (51 FR 3361, January 27, 1986).

Respondents' Comment

Respondents claim that, since total Kenyan exports to the U.S. are so small as to be *de minimis* (less than .05% of total U.S. consumption according to the ITC Staff Report in this investigation), they should, therefore, be considered non-existent. As a result, no statutory finding can be made that imports from Kenya are in violation of the law and a final negative determination is required.

DOC Position: We disagree. The Department's role in the investigation of countervailable bounties or grants is to determine to what extent, if any, the government has bestowed a bounty or grant within the meaing of section 303 of the Act on the producers and exporters of the subject merchandise. Where, as here, an injury test is required, the ITC, not the Department, makes determinations on injury to a domestic industry. If the Department finds bounties or grants, and the ITC finds that imports of the subject merchandise injure, or threaten material injury to, a U.S. industry, a order is issued and duties are collected.

The Department's investigations are limited to examination of countervailable bounties or grants. Under the Act, the Department does not have the authority to decline to conduct, or to terminate, countervailing duty investigations, on the basis of arguably small levels of imports.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination. During verification, we followed standard verification procedures, including meeting with government and company officials, inspecting documents and ledgers, and tracing information in the response to source documents, accounting ledgers, and financial statements.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Since this determination is negative, the investigation will be terminated upon the publication of this notice in the **Federal Register**. Hence, the ITC is not required to make a final injury determination.

Administrative Procedures

We afforded interested parties an opportunity to submit written views in accordance with § 355.34 of our regulations (19 CFR 355.34). We also afforded the parties to the proceeding an opportunity to present views orally before the Department at a public hearing held on February 20, 1987, in accordance with § 355.35 of our regulations (19 CFR 355.35).

This determination is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 87-6484 Filed 3-24-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management Federal Consistency Appeal by George Taibi From an Objection by the New York Department of State

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Dismissal of Appeal.

On December 22, 1986, George Taibi filed a Notice of Appeal with the Secretary of Commerce under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1456(c)(3)(A), and the Department of Commerce's implementing regulations, 15 CFR Part 930, Subpart H. The appeal was taken from an objection by the New York Department of State to Mr. Taibi's consistency certification for F-86-056 U.S. Army Corps of Engineers Permit Application No. 86-380 L3 involving two ramps and a float on Newbridge Creek in Bellmore, New York.

Mr. Taibi and the State concluded a settlement of the dispute on January 29, 1987. In light of the successful negotiations between Mr. Taibi and the State, the Secretary has dismissed the appeal for good cause pursuant to 15 CFR 930.128. Mr. Taibi is barred from filing another appeal from this permit application.

FOR FURTHER INFORMATION CONTACT: Katherine A. Pease, Attorney/Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Washington, DC 20235; (202) 763-5200.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration]

Dated: March 20, 1987.

Daniel W. McGovern,

General Counsel.

[FR Doc. 87-6475 Filed 3-24-87; 8:45 am]

BILLING CODE 3510-08-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce

The Pacific Fishery Management Council's Groundfish Management Team will convene a public meeting, March 30 through April 1, 1987, at 1 p.m., at the California Department of Fish and Game, Field Station, 1701 Nimbus Road, Rancho Cordova, CA.

The public meeting will address a number of groundfish issues related to Amendment #3 of the Groundfish Fishery Management Plan. These include long-term sablefish management (including limited entry and other proposals); shoreside sorting and retention of prohibited species by whiting fishermen, and experimental fishing permits. Other issues to be addressed include review of 1987 catch and effort levels; landing projection for the second trimester; sablefish minimum

size and trip limits, and a white croaker report.

For further information, contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 221–6352.

Dated: March 19, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87–6434 Filed 3–24–87; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meetings/Public Hearing

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council and its advisory entities will convene separate public meetings and a public hearing, April 6–10, 1987, at the Seattle Airport Hilton Hotel, 17620 Pacific Highway South, Seattle, WA, as follows:

Council—will convene a public hearing, April 6 at 7 p.m., to hear comments on the proposed options for the 1987 ocean salmon seasons.

On April 7 the Council will reconvene at 9 a.m. with an executive session (not open to the public) to discuss litigation and personnei matters. The general session (open to the public) will convene at 10 a.m. to consider administrative matters; hear recommendations from the Council's advisory entities, states, Indian tribes; further public comment on management options for the 1987 ocean salmon seasons, and tentatively adopt options for the Salmon Plan Development Team's (SPDT) review.

On April 8 the Council will review groundfish management issues and, after hearing recommendations from its advisory entities and the public, take action on second trimester management measures, fishery management plan (FMP) amendment issues, and any pending foreign fishing applications. There will be a public comment period at 4 p.m.

On April 9 the Council will hear comments and take action on salmon FMP amendment issues; hear analysis and comments from the SPDT, advisory entities, public, states, and Indian tribes on the 1987 salmon management options, and adopt final management measures for submission to the Secretary of Commerce. This meeting may carry over to April 10 to complete agenda items.

Council Performance Select Group—will convene April 5 at 1 p.m.

Scientific and Statistical Committee—will convene April 6 at 1 p.m., to consider matters on the Council's agenda, and reconvene April 7 to complete their agenda.

Salmon Advisory Subpanel—will convene April 6 at 1 p.m., to consider matters on the Council's agenda and reconvene April 7–9, as necessary, to assist the Council in developing final management actions.

SPDT—will convene April 6 at 1 p.m. to consider matters on the Council's agenda and reconvene April 7–10, as necessary, to analyze the Council's action on management options.

Groundfish Select Group—will convene April 7 at 9 a.m., to develop recommendations for second trimester management proposals, as well as to discuss other matters.

Groundfish Advisory Subpanel—will convene April 7 at 1 p.m., to review FMP amendments, second trimester management proposals, as well as other matters.

Foreign Fishing Committee—will convene April 7 at 7 p.m., to consider foreign fishing applications.

Indian Affairs Committee—will convene April 6 at 4 p.m., to consider treaty fishery regulations.

Budget Committee—will convene at the call of the Council's Chairman during the period April 7–10.

Detailed agendas for all of the above meetings will be available to the public on March 20. For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 S.W. First Avenue, Suite 420, Portland, OR 97201; telephone: (503) 221–6352.

Dated: March 19, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87–6435 Filed 3–24–87; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Bottomfish and Seamount Groundfish Advisory Panel will convene a public meeting, March 30, 1987, at 1 p.m., at 1164 Bishop Street, Suite 602, Honolulu, HI. The Panel will: (1) Review a proposal to limit access for the Northwestern Hawaiian Islands fishery for bottomfish; (2) review issues on the proposal stemming from public hearings and meetings; (3) elect a Vice-Chairman for the Bottomfish/Seamount Groundfish Advisory Panel, as well as discuss other appropriate business.

For further information contact the Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: March 19, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87–6436 Filed 3–24–87; 8:45 am]

BILLING CODE 3510-22-M

Patent and Trademark Office

Electronic Data Dissemination Policies and Guidelines; Introduction

The U.S. Patent and Trademark Office (PTO) has undertaken a program to automate its operations. As a result, electronic patent and trademark data are being created and new techniques are being implemented to expand the use of the PTO's collection of electronic information, which will contain all U.S. patents and registered trademarks and selected foreign patents. These data bases comprise one of the largest information resources of the Nation.

To fulfill its mission to disseminate information and to guide the management of its electronic information resources, on June 8, 1984, the PTO issued guidelines and policies for dissemination and distribution of electronic patent data. These were published in 49 **Federal Register** 24585 (June 14, 1984). Subsequently, the Office of Management and Budget issued revised policies and expanded guidelines for electronic data dissemination in OMB Circular A–130 dated December 1985 and entitled "Management of Federal Information Resources."

The purpose of this notice is to inform the public of the PTO's revised policies and guidelines and to solicit comments about them. The policies and guidelines in this notice replace the policies and guidelines published in the June 14, 1984, notice. Comments should be addressed to: Donald J. Quigg, Assistant Secretary and Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, Washington, DC 20231.

Background

In response to Pub. L. 96–517, the 1980 legislation which amended patent and trademark laws, the PTO prepared and submitted a plan for the automation of its operations to Congress on December 13, 1982. The plan centered on two basic concepts: the creation of electronic data

bases that (1) would replace the PTO's all-paper patent and trademark files, which lack integrity and, practically and economically speaking, cannot be effectively maintained; and (2) would support searches, examinations, office actions and other office functions through electronic workstations which would provide text and image retrieval capabilities and perform other automation functions.

Considerable progress has been made in implementing the automation plan. Active Federal trademark registrations have been converted to an electronic data base of textual and digital image data. A computer system has been installed to enable examiners to search the data base for textual data and codes describing designs, and within calender year 1987 will be fully operational to retrieve and display all information as a substitute for paper file searches.

An Automated Patent System (APS) has been installed for test and evaluation purposes, using one patent examining group as an operational testbed. Major operational components of APS—large scale computers with conventional magnetic storage devices, a high-speed local area data communications network, and electronic workstations equipped with dual high resolution display graphics control devices and laser printers—were interconnected on July 1, 1986, to enable system test and evaluation to begin in the testbed group. Optical disk storage units were subsequently installed to house the test data base of digital images of U.S. and foreign patents. Other equipment that will be needed to simulate the system's performance under full workload conditions will be installed and evaluated during 1987.

The text of U.S. patents issued since 1975 was entered in the system to provide the data base for use with full text searching capabilities of APS. Images of all U.S. and selected foreign patents in the testbed group's search files have been converted to digital form and are being placed on optical disks for use in electronic classification and combined text classification searches. Work has begun to digitize the entire backfile of U.S. patents. Through exchange agreements with the European and Japanese Patent Offices, European patents issued since 1920 and all Japanese patents have been or will be converted to a common facsimile standard and key patents will be entered for on-line retrieval.

Text search capabilities of APS are now being made available to all PTO examiners. A decision on the deployment of the digital image retrieval and other electronic searching capabilities is planned to be made in 1988. Additional system capabilities for office automation and other administrative support will be added to those already installed in the testbed over the next several months to supplement the search and retrieval capabilities. Examiners will be provided with access to commercial data bases, such as industry-specific data bases, through APS, from the electronic workstations.

Dissemination in Government Public Search Facilities and Depository Libraries

It is the goal of the PTO to achieve effective, widespread dissemination of information concerning patents and Federally registered trademarks to all segments of the U.S. public.

A. The dissemination goal will be accomplished directly by the PTO by providing electronic search and retrieval services to the public in search facilities located in the PTO, in other facilities which may be established by the Government and in Patent Depository Libraries (PDLs). PDLs are Federal, state and local government, university or non-profit organization libraries designated by the PTO to offer public access to patent collections.

B. To the extend funding is authorized and appropriated, search and retrieval services will be provided in the PTO's search facilities and PDLs either:

(1) By the PTO, using its own data bases, computers, communications equipment, and software, and/or

(2) By PTO contractors

C. Access to commercial data bases that are available to the PTO's examiners, for example industry-specific data bases, will be furnished either through an APS workstation or a terminal furnished by data base vendors in the PTO public search facilities at commercial rates, provided the user has established a commercial account with the data base vendor. The PTO will not act as an agent for any data base vendor in providing training for, assisting in, or collecting fees for the use of such commercial data bases.

D. Services furnished in the PTO public search facilities and in PDLs will be at no cost to the public for access to PTO owned data bases and systems, provided that funds are appropriated for this purpose, or the Congress specifically authorizes the use of PTO fee revenues to cover the costs of such services and such fee revenues are not required for other PTO operations. If funds for public access to the PTO's automated systems are not authorized or appropriated, search and retrieval services will principally be furnished through the use of the PTO's paper and microfilm collections and existing collections in the PDLs.

E. The type of service for public search and retrieval, either PTO or commercial services, will be chosen based on the method and criteria established by the 1983 revision to OMB Circular A–76, entitled "Performance of Commercial Activities."

Distribution of PTO Data for Commercial Dissemination

F. In addition to B. and C. above, the PTO will pursue its dissemination goal indirectly by encouraging the private sector to offer commercial patent and trademark search and retrieval services and will seek to avoid competition with private sector firms in providing such services to the public outside the PTO search facilities and PDLs.

G. The PTO will offer to sell electronic data developed by it to commerical data base vendors on a non-exclusive basis. The sale price will be set to recover the costs of reproducing and distributing the data according to the guidelines of OMB Circulars A–25, entitled "User Charges" and A–130. Bulk resale of PTO data by commercial data base vendors will be permitted subject to the terms of each bulk data sales agreement.

H. The PTO will receive non-U.S. electronic patent data through exchange agreements with other patent offices and international intergovernmental organizations. In general, the PTO will not distribute such data, except in conjunction with services that may be provided by the PTO or its contractors in the PTO public search facilities and PDLs. Rather, it will seek to have contractual arrangements established directly between the organization and the commercial data base vendor and will not act as a service agent or representative unless there is a special need that cannot be met otherwise.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

March 18, 1987.

[FR Doc. 87–6448 Filed 3–24–87; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Staged Entry for Certain Cotton Textile Products Produced or Manufactured in the People's Republic of China

March 19, 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 March 25, 1987. For further information contact Diana Solkoff, International Trade Specialist (202) 377–4212.

Background

A CITA directive dated December 23, 1986 was published in the **Federal Register** (51 FR 47041), which among other things, established staged entry periods for imports of cotton textile products in Category 315, produced or manufactured in the People's Republic of China and exported during the period which began on January 1, 1986 and extended through December 31, 1986. The directive stated that further staged entry amounts for Category 315 would be determined at a later date.

Accordingly, the letter published below, the Chairman of CITA directs the Commissioner of Customs to permit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 315, produced or manufactured in the People's Republic of China and exported during 1986, in the amount of 17,140,000 square yards during the 30-day period, April 2, 1987 through May 1, 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), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 19, 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 December 23, 1986 by the Chairman of the Committee for the Implementation of Textile Agreements which establishes staged entry periods for certain categories of cotton, wool, and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1986 and extended through December 31, 1986.

Effective on March 25, 1987, merchandise exported during the twelve-month period which began on January 1, 1986 and extended through December 31, 1986 in Category 315, shall be permitted entry into the United States for consumption, or withdrawal from warehouse for consumption, in the amount of 17,140,000 square yards during the 30-day period which begins on April 2, 1987 and extends through May 1, 1987.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairrman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–6441 Filed 3–24–87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Sri Lanka

March 20, 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 March 26, 1987. For further information contact Kathryn Cabral, 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 or call (202) 535–6736. For information on embargoes and quota re-openings, please call (202) 377–3715.

Background

On May 28, 1986 a notice was published in the **Federal Register** (51 FR 19249) which establishes import restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on June 1, 1986 and extends through may 31, 1987. Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983 and at the request of the Government of Sri Lanka, swing is being applied to the restraint limits previously established for cotton textile products in Categories 335 and 340.

The limit for Category 337 is being reduced to account for the amount of swing applied to Categories 335 and 340.

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the restraint limits previously established for Categories 335, 337 and 340.

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) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

This letter 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.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 20, 1987.

Committee for the Implementation of Textile Agreements

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 May 22, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on June 1, 1986 and extends through May 31, 1987.

Effective on March 26, 1987, the directive of May 22, 1986 is further amended to include the following adjusted limits to the previously established restraint limits for cotton textile products in Categories 335, 337 and 340, as provided under the terms of the bilateral agreement of May 10, 1983.[1]:

[1] The provisions of the bilateral agreement provide, in part, that: (1) Specific limits may be exceeded by designated percentages, provided and equal amount in equivalent square yards is deducted from another specific limit; (2) specific

Continued

Category:	*Adjusted 12-mo limit* [1]
335	146,399 dozen.
337	67,659 dozen.
340	526,767 dozen.

[1] The limits have not been adjusted to account for any imports exported after May 31, 1986.

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.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-6442 Filed 3-24-87; 8:45 am]

BILLING CODE 3510-DR-M

New Export Visa Arrangement and Exempt Certification for Certain Cotton, Wool, Man-Made, Vegetable Fiber, Other Than Cotton, and Silk Blend Textiles and Textile Products Produced or Manufactured in Japan; Correction

March 20, 1987.

In the letter to the Commissioner of Customs published in the **Federal Register** on February 13, 1987 (52 FR 4640), second column, second paragraph, correct line one to read: "Properly marked commercial sample shipments . . .".

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-6443 Filed 3-24-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Command and Control Management

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Command and Control Management will meet in closed session on April 21, 1987 in the MITRE Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting this Task Force will evaluate progress made since 1978 on selected aspects of Command and Control Management.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c) (1) (1982), and that accordingly this meeting will be closed to the public.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

March 20, 1987.

[FR Doc. 87-6508 Filed 3-24-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Non-Nuclear Strategic Capability

ACTION: Change in Location of Advisory Committee Meeting Notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Non-Nuclear Strategic Capability scheduled for April 15-16, May 13-14, and June 24-25, 1987 as published in the **Federal Register** (Vol. 52, No. 28, Page 4377, Wednesday, February 11, 1987, FR Doc. 87-2798) will be held at SAIC, McLean, Virginia; SAIC, McLean, Virginia; and the Lockheed Corporation, Calabasas, California. In all other respects the original notice remains unchanged.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

March 20, 1987.

[FR Doc. 87-6509 Filed 3-24-87; 8:45 am]

BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, April 7, 1987; Tuesday, April 14, 1987; Tuesday, April 21, 1987; and Tuesday, April 28, 1987; at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 52b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby detemines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishmens with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

March 20, 1987.

[FR Doc. 87-6510 Filed 3-24-87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Military Traffic Management Command; Directorate of Personal Property; Domestic Program

AGENCY: Military Traffic Management Command (MTMC), DoD.

ACTION: Notice of a Total Cost Transportation (TCT) Program test to be conducted by the Air Force at JPPSO San Antonio, Texas.

SUMMARY: The Total Cost Transportation Program will award

limits may be increased by carryover and carryforward up to 11 percent of the applicable limit; and (3) administrative arrangements and adjustments may be made to resolve minor problems arising in the implementation of the agreement.

tonnage based on the carrier's rates on file at JPPSO San Antonio, Texas, combined with a claims index based on adjudicated claims costs by individual carriers over a 12-month period. Tonnage will be awarded to the carrier(s) with the lowest TCT cost index. To participate, each carrier must maintain a Carrier Evaluation Reporting Systems minimum score of 85. The TCT test will encompass the timeframe of November 1, 1987 through October 31, 1988.

For more details or copies of the test plan for TCT, interested carriers, Trade groups, or Associations should contact Lt COL Jon Hoghaug at MTMC (202) 756–1140. The JPPSO San Antonio, Texas point of contact is Major Anderson (512) 821–7290.

Joseph R. Marotta,

Colonel, GS, Director of Personal Property.

[FR Doc. 87–6415 Filed 3–24–87; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Water Resources Support Center; Intent

AGENCY: Army Corps of Engineers Water Resources Support Center, Waterborne Commerce Statistics Center, DOD.

ACTION: Notice of Intent to facilitate the implementation of section 1402 of the Pub. L. 99–622, "Imposition of Harbor Maintenance Tax" which amended Chapter 36 of the Internal Revenue Code of 1954, by modifying the Vessel Operation Report (VOR) (ENG Form 3925).

SUMMARY: The U.S. Customs Service (USCS) is responsible for assuring compliance and enforcement of the Harbor Maintenance fee collection process as set forth in section 1402 of Pub. L. 99–662. The U.S. Army Corps of Engineers (USACE) will assist by collecting and providing to the USCS pertinent Waterborne Commerce Statistics Data. This requires a revision to the VOR which will now request additional information covering domestic waterborne commerce movements through ports as defined in section 4462(a)(2) of Pub. L. 99–662. For vessel cargo movements completed after 31 March 1987, the affected vessel operating company shall complete and forward to the USACE a revised VOR. The vessel operating company shall now be required to enter the name of the party paying the freight charges (hereinafter referred to as the "shipper") and either the shippers' 12- digit IRS code or the exemption code, if applicable. The one-digit exemption code will be used if the shipper informs the vessel operator that the cargo is exempt from the 0.04 percent fee as pursuant to the directions set forth on the VOR. Due date for submission of the VORs is 15 days after the close of the month in which the cargo move was completed.

ADDRESS: Comments may be addressed to Mr. D. L. Penick, Chief, Waterborne Commerce Statistics Center, P.O. Box 61280, New Orleans, LA 70161.

Dated: Comments must be received by 1 April 1987.

George R. Kelb,

Colonel, CE, Commander and Director.

[FR Doc. 87–6401 Filed 3–24–87; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Extension of Near Term Intertie Access Policy

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of extension of policy.

SUMMARY: BPA is extending its Near Term Intertie Access Policy (IAP) which is currently scheduled to expire June 30, 1987. The policy will be extended through June 30, 1988, or upon implementation of the Long Term IAP, whichever is first.

The extension is made at this time to provide utilities in the Northwest and California planning certainty for the upcoming operating year and to insure that the fish and wildlife provisions of the Near Term IAP do not lapse July 1, 1987. Transactions granted assured delivery under the extended Near Term IAP will continue to receive assured delivery until July 1, 1988, or the expiration date of the assured delivery contract, whichever is earlier.

BPA had originally anticipated distributing a Final Intertie Develoment and Use Environmental Impact Statement (IDU EIS) and a Final Long Term IAP in July. However, publication of a Final EIS and a Final IAP will be delayed until fall of 1987. The additional time provided by this extension will allow BPA to give the comments received on the IDU EIS and the proposed Long Term IAP the careful attention they deserve. Therefore, it was necessary to extend the Near Term IAP.

Responsible Official: James L. Jones, Deputy Power Manager, is the official responsible for development of the Intertie Access Policy.

FOR FURTHER INFORMATION CONTACT: Roy B. Fox, Environmental Coordinator—PGC, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208 at (503) 230–4261. Or contact the BPA Public Involvement office, telephone numbers: 503–230–3478 in Portland; 800–452–8429 (for Oregon outside Portland); 800–547–6048 for California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Wayne Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Terry Esvelt, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–522–6226.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Room 376, 550 West Fort Street, Boise, Idaho 83724, 208–334–9137.

Issued in Portland, Oregon, on March 13, 1987.

James J. Jura,

Administrator, Bonneville Power Administration.

[FR Doc. 87–6432 Filed 3–24–87; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER87–304–000, et al.]

Electric Rate and Corporate Regulation Filings; Arkansas Power & Light Co. et al.

March 19, 1987.

Take notice that the following filings have been made with the Commission:

1. Arkansas Power & Light Company

[Docket No. ER87–304–000]

Take notice that on March 12, 1987, Arkansas Power & Light Company (AP&L) tendered for filing redetermined rates pursuant to a Letter Agreement

dated December 23, 1986, between AP&L and the Cajun Electric Power Cooperative, Inc. (CAJUN) for transmission service. AP&L requests an effective date of July 1, 1987 for the redetermined rates.

Comment date: April 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Central Vermont Public Service Corporation

[Docket No. ER87-310-000]

Take notice that on March 13, 1987, Central Vermont Public Service Corporation of Rutland, Vermont, tendered for filing revisions to its Rate Schedule FERC No. 108 (the RS-2 rate) under which Central Vermont sells electric power to Connecticut Valley Electric Company, Inc. The purpose of this filing is to reduce the common equity return in the RS-2 rate, which is a formula rate, from 17% to 14.7% for calendar year 1986 and to 13% thereafter. The filing also makes changes to the capacity allocation component of the rate and other minor changes which are described in the filing.

Central Vermont states that this filing has been posted as requried by the Commission's regulations and that it has served copies of this filing upon Connecticut Valley, the New Hampshire Public Utilities Commission and the Vermont Public Serivce Board.

Comment date: April 2, 1987, in accordance with Standard Paragraph E at the end of this document.

3. Citizens Energy Corporation

[Docket No. ER87-299-000]

Take notice that Citizens Energy Corporation ("Citizens") on March 10, 1987, tendered for filing the following agreements:

(1) Master Electric Power Agreement between Citizens and City of Pasadena for its Water and Power Department ("Pasadena"), dated as of August 29, 1986 (the "Master Agreement"), as supplemented by Schedules A-1, A-2, and A-3 thereto, collectively constituting Citizens' initial rate schedule to Pasadena ("Citizens' Rate Schedule No. 1 to Pasadena");

(2) Electric Power Purchase Agreement for Creation of Special Financial Assistance Fund between Citizens and Utah Municipal Power Agency ("UMPA"), dated as of November 21, 1985, as amended and supplemented (the "UMPA Agreement").

Copies of the filing were served upon Pasadena and UMPA.

Citizens request a waiver of the notice requirements of 18 CFR 35.3 and that the Commisson declare Citizens Rate Schedule No. 1 to Pasadena effective retroactively as of August 6, 1986.

Comment date: April 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power & Light Company

[Docket No. EL87-19-100]

Take notice that on March 11, 1987, Florida Power & Light Company (FPL) submitted for filing its petition for a declaratory order pursuant to Rule 207 of the Commission's Rules of Practice and Procedure.

FPL requests that this Commission issue a declaratory order to rule on the jurisdiction of the Commission over the terms and conditions of service for wheeling for Qualifying Facilities. FPL states that the Commission has previously issued an order regarding its jurisdiction over rates.

Comment date: April 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Kansas Gas and Electric Company

[Docket No. ER87-311-000]

Take notice that Kansas Gas and Electric Company (KG&E) on March 13, 1987, tendered for filing a Facilities Use Charge between KG&E and the City of Chanute, Kansas (Chanute).

Kansas Gas and Electric Company states that the filing represents the result of negotiations with Chanute to reach an agreed facilities use charge. The facilities which are the subject of this filing will enable Chanute to continue to receive service from KG&E, and will enable it to deliver retail service to a customer recently acquired through annexation.

A copy of this filing was served upon Chanute.

KG&E requests waiver of the Commission's notice requirements in order to allow an effective date to be determined under the Sale Agreement.

Comment date: April 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. The Montana Power Company

[Docket No. ER87-305-000]

Take notice that on March 12, 1987, The Montana Power Company (Montana Power) tendered for filing a Notice of Cancellation of the Loop Flow Agreement between the Western Systems Coordinating Council (WSCC) and its participating members and Montana Power, FERC Rate Schedule No. 145. Montana Power requests termination of said Agreement as of August 31, 1985, pursuant to its terms.

Copies of this filing have been served upon all of WSCC's participating members.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Power & Light Company, an assumed business name of PacifiCorp

[Docket No. ER87-312-000]

Take notice that Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, on March 13, 1987, tendered for filing, in accordance with Section 35 of the Commission's Regulations, a Notice of Cancellation of the Western Systems Coordinating Council (WSCC) Loop Flow Agreement under Pacific's Rate Schedule FERC No. 232.

Pacific states that the WSCC Loop Flow Agreement has terminated under its own conditions.

Pacific requests waiver of Commission's notice requirements to permit Pacific's Rate Schedule FERC No. 232 to terminate on September 1, 1984, this date being consistent with the date service under the WSCC Loop Flow Agreement terminated.

Copies of this filing have been served upon all of parties of the WSCC Loop Flow Agreement and the California Public Utility Commission.

Comment date: April 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of New Hampshire

[Docket No. ER87-306-000]

Take notice the Public Service Company of New Hampshire ("PSNH") on March 12, 1987, tendered for filing a Transmission Contract dated as of December 15, 1986, between Down East Peat, L.P. ("DEP") and PSNH (the "Transmission Contract"). Under the Transmission Contract, beginning or after the commercial operation date of the generating facility of DEP located in Deblois, Maine, PSNH will provide transmission service to DEP for 22,800 kilowatts of capacity and associated energy under a formula rate to be updated annually based on the most recent available calendar year data. PSNH would receive $497,952 for the initial twelve-month period of service under the Transmission Contract based on the rate as dearived from 1985 data. PSNH requests that the filing be made effective on May 9, 1987.

Copies of this filing have been served on DEP and New Hampshire Public Utilities Commission.

Comment date: April 2, 1987, in accordance with Standard Paragraph E at the end of this document.

9. Southern California Edison Company

[Docket No. ER87-300-000]

Take notice that, on March 11, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following agreement, which has been executed by Edison and the City of Anaheim, California ("Anaheim"): Edison-Anaheim, Hoover Integration Agreement Between Southern California Edison Company and the City of Anaheim ("Agreement").

The Integration Agreement provides for the integration of Anaheim's allocation of capacity and associated energy from the expanded Hoover Power Plant and the Parker-Davis Project.

The Integration Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Anaheim, California.

Comment date: April 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Southern California Edison Company

[Docket No. ER87-301-000]

Take notice that, on March 11, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Anaheim, California ("Anaheim"): Edison-Anaheim, Mead Firm Transmission Service Agreement Between Southern California Edison Company and the City of Anaheim.

Under the terms and conditions of the Agreement, Edison will make available to Anaheim firm transmission service for its allotment of capacity and associated energy from the expanded Hoover Power Plant and the Parker-Davis Project to the Point of Delivery at Anaheim, California.

The Agreement is proposed to become effective when executed by the Parties, and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Anaheim, California.

Comment date: April 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

11. Southern California Edison Company

[Docket No. ER87-302-000]

Take notice that, on March 11, 1987, Southern California Edison Company ("Edison") tendered for filing, as an amendment, the following agreement, which has been executed by Edison and the City of Anaheim, California ("Anaheim" or City"): Agreement for Interim Operating Procedures Between the City of Anaheim and Southern California Edison Company.

The Agreement for Interim Operating Procedures provides an interim procedure for Edison to schedule and dispatch the City's Non-Integrated Sources, along with the City's Integrated Resources for the benefit of the Edison Control Area. The Agreement also provides for the suspension of certain provisions of the Integrated Operations Agreement, the Partial Requirements Rate Schedule, and the Edison-Anaheim Hoover Integration Agreement.

The Agreement for Interim Operating Procedures is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Anaheim, California.

Comment date: April 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

12. Southern California Edison Company

[Docket No. ER87-303-000]

Take notice that, on March 11, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Colton, California ("Colton"): Edison-Colton, PGandE Firm Transmission Service Agreement.

Under the terms and conditions of the Agreement, Edison will make available to Colton firm transmission service for its purchases of nonintegrated capacity and energy from the Pacific Gas and Electric Company ("PGandE") to the Point of Delivery at Colton Substation, Colton, California.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission (without changes unacceptable to either party); and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Colton, California.

Comment date: April 2, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6479 Filed 3-24-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER87-321-000, et al.]

Electric Rate and Corporate Regulation Filings, the Cincinnati Gas & Electric Co. et al.

March 20, 1987.

Take notice that the following filings have been made with the Commission:

1. The Cincinnati Gas & Electric Company

[Docket No. ER87-321-000]

Take notice that the Cincinnati Gas & Electric Company (Cincinnati) tendered for filing on March 16, 1987, a new Service Agreement, between Cincinnati and the City of Lebanon, Ohio (Lebanon) dated February 25, 1987.

The new Service Agreement becomes effective March 1, 1987 and supersedes an existing Agreement with Lebanon.

Cincinnati states that the Agreement is in the form as specified in the "Form of Service Agreements" included in and on file with the Commission as Original Sheet No. 11 of First Revised Volume No. 1. Lebanon, pursuant to the terms of the Service Agreement, will become a full requirements customer of Cincinnati taking service pursuant to the existing rates contained in Cincinnati's FPC Tariff, First Revised Volume I.

A copy of the filing was served upon Lebanon and The Public Utilities Commission of Ohio.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this document.

2. Kansas Gas & Electric Company

[Docket No. ER87-311-000]

Take notice that on March 13, 1987, Kansas Gas and Electric Company submitted for filing an application, pursuant to section 203 of the Federal Power Act, for approval of a Sale Agreement respecting certain transmission facilities ("Sale Agreement") which provides for the sale of certain 69 kV transmission facilities located in southeastern Kansas to the City of Chanute, Kansas.

Under the Sale Agreement, the City of Chanute obtains transmission facilities necessary to provide retail electric service to a newly annexed industrial customer.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Louisiana Power & Light Company

[Docket No. ER86-626-002]

Take notice that on March 10, 1987, Louisiana Power & Light Company (LP&L) tendered for filing a letter stating that no refunds were necessary to comply with the Commission's order, issued February 26, 1987, to refund any amounts collected in excess of amounts which were collectible under LP&L's prior rate schedules.

LP&L states that because of the pendency of the Offer of Settlement, it did not render any bills to the City of Vidalia, Louisiana.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp doing business as Pacific Power & Light Company

[Docket No. ES87.13-000]

Take notice that on March 16, 1987, PacifiCorp doing business as Pacific Power & Light Company (Pacific) filed an amended application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an amended order (1) authorizing it to issue and sell, in one or more public offerings prior to December 31, 1988, not more than $250,000,000 in aggregate principal amount of its No Par Serial Preferred Stock, and (2) exempting issuance from competitive bidding pursuant to 18 CFR 34.2(b)(2).

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of New Mexico

[Docket No. EC87-10-000]

Take notice that on March 12, 1987, Public Service Company of New Mexico (PNM) filed an application pursuant to Title 18, CFR 33.1 *et seq.* requesting that authority be ganted under Title 16, U.S.C. 824b(a) allowing PNM to purchase, acquire, hold and sell securities of other public utilities as part of a planned investment program. PNM proposes to limit its holdings or ownership of any given class of securities to an amount not to exceed (i) one percent (1%) of the outstanding capital stock of the issuer of such security if such security is an equity or convertible into an equity security or (ii) one percent (1%) of the outstanding funded debt of the obligor of such security if such security is a debt security. Additonally, PNM is requesting a modification of the reporting requirement under Title 18, CFR § 33.8 to allow an annual report of acquisitions and holdings of securities. The Application sets forth the limitations and requirements protecting the public interest. The application is on file with the Commission and open to public inspection.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. Southern California Edison Company

[Docket No. ER87-308-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Banning, California ("Banning"): Edison-Banning, Mead Firm Transmission Service Agreement Between Southern California Edison Company and the City of Banning.

Under the terms and conditions of the Agreement, Edison will make available to Banning firm transmission service for its allotment of capacity and associated energy from the expanded Hoover Power Plant and the Parker-Davis Project to the Point of Delivery at Banning, California.

The Agreement is proposed to become effective when executed by the Parties, and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Banning, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER87-309-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Colton, California ("Colton"): Edison-Colton, Mead Firm Transmission Service Agreement Between Southern California Edison Company and the City of Colton.

Under the terms and conditions of the Agreement, Edison will make available to Colton firm transmission service for its allotment of capacity and associated energy from the expanded Hoover Power Plant and the Parker-Davis Project to the Point of Delivery at Colton, California.

The Agreement is proposed to become effective when executed by the Parties, and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Colton, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

8. Southern California Edison Company

[Docket No. ER87-313-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following agreement, which has been executed by Edison and the City of Colton, California ("Colton"): Edison-Colton, Hoover Integration Agreement Between Southern California Edison Company and the City of Colton.

The Integration Agreement provides for the integration of Colton's allocation of capacity and associated energy from the expanded Hoover Power Plant and the Parker-Davis Project.

The Integration Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Colton, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER87-314-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following

agreement, which has been executed by Edison and the City of Azusa, California ("Azusa"): Edison-Azusa, Hoover Integration Agreement Between Southern California Edison Company and the City of Azusa.

The Integration Agreement provides for the integration of Azusa's allocation of capacity and associated energy from the expanded Hoover Power Plant and the Parker-Davis Project.

The Integration Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Azusa, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Southern California Edison Company

[Docket No. ER87-315-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following agreement, which has been executed by Edison and the City of Riverside, California ("Riverside"): Edison-Riverside, Hoover Integration Agreement Between Southern California Edison Company and the City of Riverside.

The Integration Agreement provides for the integration of Riverside's allocation of capacity and associated energy from the expanded Hoover Power Plant and the Parker-Davis Project.

The Integration Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Riverside, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

11. Southern California Edison Company

[Docket No. ER87-316-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Azusa, California ("Azusa"): Edison-Azusa, Mead Firm Transmission Service Agreement Between Southern California Edison Company and the City of Azusa.

Under the terms and conditions of the Agreement, Edison will make available to Azusa firm transmission service for its allotment of capacity and associated energy from the expanded Hoover Power Plant and the Parker-Davis Project to the Point of Delivery at Azusa, California.

The Agreement is proposed to become effective when executed by the Parties, and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Azusa, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

12. Southern California Edison Company

[Docket No. ER87-317-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following agreement, which has been executed by Edison and the City of Banning, California ("Banning"): Edison-Banning, Hoover Integration Agreement Between Southern California Edison Company and the City of Banning.

The Integration Agreement provides for the integration of Banning's allocation of capacity and associated energy from the expanded Hoover Power Plant and the Parker-Davis Project.

The Integration Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Banning, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

13. Southern California Edison Company

[Docket NO. ER87-318-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Riverside, California ("Riverside"): Edison-Riverside, Mead Firm Transmission Service Agreement Between Southern California Edison Company and the City of Riverside.

Under the terms and conditions of the Agreement, Edison will make available to Riverside firm transmission service for its allotment of capacity and associated energy from the expanded Hoover Power Plant and the Parker-Davis Project to the Point of Delivery at Riverside, California.

The Agreement is proposed to become effective when executed by the Parties, and accepted for filing by the Commission.

Copies of this filing were served upon the Public Ultilies Commission of the State of California and the City of Riverside, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

14. Southern California Edison Company

[Docket No. ER87-319-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an amendment, the following agreement, which has been executed by Edison and the City of Riverside, California ("Riverside"): Agreement for Interim Operating Procedures Between the City of Riverside and Southern California Edison Company.

The Agreement for Interim Operating Procedures provides an interim procedure for Edison to schedule and dispatch with the City's Non-Integrated Sources, along with the City's Integrated Resources for the benefit of the Edison Control Area. The Agreement also provides for the supervision of certain provisions of the Integrated Operations Agreement, the Partial Requirements Rate Schedule, and the Edison-Riverside Hoover Integration Agreement.

The Agreement for Interim Operating Procedures is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commision of the State of California and the City of Riverside, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

15. Southern California Edison Company

[Docket No. ER87-320-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an amendment, the following agreement, which has been executed by Edison and the City of Azusa, California ("Azusa"): Agreement for Interim Operating Procedures Between the City of Azusa and Southern California Edison Company.

The Agreement for Interim Operating Procedures provides an interim procedure for Edison to schedule and dispatch with the City's Non-Integrated Sources, along with the City's Integrated Resources for the benefit of the Edison Control Area. The Agreement also

provides for the supervision of certain provisions of the Integrated Operations Agreement, the Partial Requirements Rate Schedule, and the Edison-Azusa Hoover Integration Agreement.

The Agreement for Interim Operating Procedures is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Azusa, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

16. Southern California Edison Company

[Docket No. ER87-322-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an amendment, the following greement, which has been executed by Edison and the City of Banning, California ("Banning"): Agreement for Interim Operating Procedures Between the City of Banning and Southern California Edison Company.

The Agreement for Interim Operating Procedures provides an interim procedure for Edison to schedule and dispatch with the City's Non-Integrated Sources, along with the City's Integrated Resources for the benefit of the Edison Control Area. The Agreement also provides for the supervision of certain provisions of the Integrated Operations Agreement, the Partial Requirements Rate Schedule, and the Edison-Banning Hoover Integration Agreement.

The Agreement for Interim Operating Procedures is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Banning, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

17. Southern California Edison Company

[Docket No. ER87-323-000]

Take notice that, on March 16, 1987, Southern California Edison Company ("Edison") tendered for filing, as an amendment, the following agreement, which has been executed by Edison and the City of Colton, California ("Colton"): Agreement for Interim Operating Procedures Between the City of Colton and Southern California Edison Company.

The Agreement for Interim Operating Procedures provides an interim procedure for Edison to schedule and dispatch with the City's Non-Integrated Sources, along with the City's Integrated Resources for the benefit of the Edison Control Area. The Agreement also provides for the supervision of certain provisions of the Integrated Operations Agreement, the Partial Requirements Rate Schedule, and the Edison-Colton Hoover Integration Agreement.

The Agreement for Interim Operating Procedures is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Colton, California.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

18. St. Joseph Light & Power Company

[Docket No. ER87-266-000]

Take notice that St. Joseph Light & Power Company on March 13, 1987, tendered for filing a Notice of Cancellation for Rate Schedule FPC No. 18 between the Company and The Kansas Power and Light Company, said rate schedule being initially filed on April 4, 1979. This rate schedule was terminated by its own terms in November 1979.

Copies of this filing have been served upon The Kansas Power and Light Company.

Comment date: April 3, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6480 Filed 3-24-87; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-477; FRL-3173-4]

Pesticide Tolerance Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice amends a pesticide petition proposing a tolerance in 40 CFR Part 180 for residues of the herbicide lactofen in or on the raw agricultural commodity soybeans. The petition was submitted by PPG Industries of Pittsburg, PA.

ADDRESS: By mail, submit comments identified by the document control number [PF-477] at the following address: Information Services Section (TS-757C), Attn: Product Manager (PM) 23 Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS-757C), 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. Written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Mountfort, PM-23, Registration Division (TS-767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 247, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of November 6, 1985 (50 FR 46178), which announced that PPG Industries, Inc., One PPG Place, Pittsburg, PA 15272, filed pesticide petition 5F3299 proposing to amend 40

CFR Part 180 by establishing a tolerance for the combined residues of the herbicide lactofen, (1-(carboethoxy) ethyl-5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate and its associated metabolities containing the diphenyl ether linkage expressed as lactofen in or on the raw agricultural commodity soybeans at 0.01 part per million (ppm).

PPG Industries has amended the petition by increasing the tolerance level from 0.01 to 0.05 ppm.

The proposed analytical method for determining residues is electron capture gas chromatography.

Authority: 21 U.S.C. 346a.

Dated: March 13, 1987.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-6193 Filed 3-24-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180727; FRL-3173-3]

Maryland Department of Agriculture; Receipt of Applications for Emergency Exemptions to use (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1-*H*-imidazol-2-yl]-5-ethyl-3-pyridinecarboxylic acid; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received requests for two emergency exemptions from the Maryland Department of Agriculture (hereafter referred to as the "Applicant") to use the active ingredient (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1-*H*-imidazol-2-yl]-5-ethyl-3-pyridinecarboxylic acid (Pursuit™) to control morningglory on 3,000 acres of lima beans and 4,000 acres of snap beans in Maryland. Pursuit™ contains an unregistered active ingredient and, therefore, in accordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant these exemptions.

DATE: Comments must be received on or before April 9, 1987.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180727" 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, Crystal Mall #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 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 CONTACT: By mail: Libby Pemberton, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1806).

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 provisions of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue two specific exemptions to permit the use of an unregistered herbicide, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1-*H*-imidazol-2-yl]-5-ethyl-3-pyridinecarboxylic acid (CAS 81335-77-5), manufactured as Pursuit™, by American Cyanamid Company, on lima beans and snap beans in Maryland. Information in accordance with 40 CFR Part 166 was submitted as part of these requests.

Late in 1986 all labeled uses of the herbicide dinoseb were suspended. According to the Applicant, this has left Maryland farmers with no viable morningglory control agent.

The Applicant indicates that morningglory poses a serious threat to the Delmarva bean industry due to its toxic seed properties, resultant reductions in yields during harvesting and increased amounts of blemishes from increased moisture conditions.

The Applicant indicates that without adequate control a 10 percent yield loss for snap beans and a 15 percent yield loss for lima beans due to weeds will result. This would amount to approximately $438,000. Failure to control annual morningglory would destroy the Delmarva production area, according to the Applicant, because production would shift to more economical production areas.

Pursuit™ will be applied preemergence to the crop at a maximum rate of 0.047 pound active ingredient per acre.

This notice does not constitute a decision by EPA on the applications themselves. The regulations governing section 18 require publication of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for the opportunity for public comment on the application. 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 April 9, 1987, and should bear the identifying notation "OPP-180727." All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except 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 Maryland Department of Agriculture.

Dated: February 26, 1987.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs..

[FR Doc. 87-6194 Filed 3-24-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-36141; FRL-3175-4]

Addenda on Data Reporting to Pesticide Assessment Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for Comments.

SUMMARY: EPA is making available, for public comment, proposed addenda to the following studies in the Pesticide Assessment Guidelines: animal metabolism, product chemistry, fish accumulation, confined rotational crop, dermal, eye, inhalation, and neurotoxicity studies and directions for use. The addenda would supersede paragraphs in the Guidelines on data reporting and would provide a format for the preparation of study reports by

those submitting data to EPA. This will increase the efficiency of pesticide registration and other regulatory activities. Copies of the proposed addenda are available at the address listed below for the Information Services Section.

DATE: Comments, identified by the docket control number OPP-36141, must be received on or before May 26, 1987.

ADDRESS: Submit three copies of written comments, identified with the docket control number "OPP-36141,"

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, deliver 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 public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Copies of the draft guidelines are also available at this address.

FOR FURTHER INFORMATION CONTACT:

Elizabeth M. K. Leovey, Hazard Evaluation Division (TS-769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460.

Office location and telephone number: Rm. 703, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2162).

SUPPLEMENTARY INFORMATION: The Pesticide Assessment Guidelines describe protocols for performing tests to support the registration of pesticides under the Federal Food, Drug, and Cosmetic Act and the Federal Insecticide, Fungicide, and Rodenticide Act. A description of the organization of these Guidelines and their relationship to data requirements, along with the necessary information for ordering them from the National Technical Information Service, appears in 40 CFR 158.115, published in the **Federal Register** of October 24, 1984 (49 FR 42856). The Data Reporting addenda will clarify sections in the Guidelines on data reporting and provide formats which guide pesticide registrants in report preparation. With consistent and complete reports, the Agency will spend less time in reorganizing data, retrieving information, and resolving misunderstanding.

This is the fourth set of Data Reporting addenda which has been made available for public comment. Public comment on the initial set of eight Data Reporting Guidelines was requested in the **Federal Register** of July 31, 1985 (50 FR 31010) and these guidelines have been published by the National Technical Information Service as announced in the **Federal Register** of November 26, 1986 (51 FR 42931). A second set of twelve was reviewed by the public in response to the **Federal Register** request of May 21, 1986 (51 FR 18660) and these guidelines are being processed for publication. Public comment on a third group was requested on October 15, 1986 (51 FR 36753) and these documents are also being prepared for publication. The specific subdivisions and series now being considered are: Subdivision D, Series 61, 62, 63 and 64, Product Chemistry; Subdivision F, Series 81-3, Acute Inhalation Toxicity Study; Subdivision F, Series 81-4, Primary Eye Irritation Study; Subdivision F, Series 81-5, Primary Dermal Irritation Study; Subdivision F, Series 81-6 Dermal Sensitization Study; Subdivision F, Series 81-7 and 82-5, Acute Delayed Neurotoxicity of Organophorphorus Substances and Subchronic Neurotoxicity; Subdivision F, Series 82-4, Subchronic Inhalation Toxicity Test; Subidivision N, Series 165-1, Confined Accumulation Studies on Rotational Crops; Subdivision N, Series 165-4, Laboratory Studies of Pesticide Accumulation in Fish; Subivision O, Series 171-3, Directions for Use; and Subdivision O, Series 171-4(a)(3) Metabolism (qualitative Nature of the Residue): Animals.

Drafts have been reviewed by the Agency. Comments on this set of reporting formats will be considered by the Agency in preparing a final draft for publication by the National Technical Information Service.

Dated: March 19, 1987.

John W. Melone,

Director, Hazard Evaluation Division, Office of Pesticide Programs.

[FR Doc. 87-6452 Filed 3-24-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30277; FRL-3174-3]

Certain Companies; Applications To Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by April 24, 1987.

ADDRESS:

By mail submit comments identified by the document control number [OPP-30277] and the file symbol to: Information Services Section (TS-757C), Program Management and Support Division, Attn: Product Manager (PM) 15, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person bring comments to: Rm. 236 CM #2, Attn: PM 15, Registration Division (TS-767C), Environmental Protection Agency, 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 public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

George LaRocca, PM 15, (703-557-2400).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products involving a changed pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency of the applications.

I Products Involving a Changed Pattern

1. File Symbol: 432–TEO. Applicant: Penick-Bio UCLAF Corp., PO Box 9059, 1050 Wall St., West, Lyndhurst, NJ 07071. Product name: D-End. Insecticide. Active ingredients: (1*R*, 3*S*) 3[(1'*RS*)(1',2',2'2'-Tetrabromoethyl)]-2,2-dimethylcyclopropane-carboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester 3.75% (equivalent to 0.3 lbs. active ingredient per gallon). Proposed classification/Use: General. To include in its presently registered use, a new indoor use in non-food areas of food handling establishments and the control of cockroaches in cracks and crevices. (PM 15)

2. File Symbol: 618–OT. Applicant: MSD AGVET, Division of Merck and Co., Rahway, NJ 07065. Product name: Agrimec™ 0.15 EC. Insecticide/Miticide. Active ingredient: Avermectin B_1 [A mixture of avermectins containing >80% avermectin B_{1a} (5-0-demethyl avermectin A_{1a}) and ≤20% avermectin B_{1b} (5-0-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_{1a})] 2.0%. Proposed classification/Use: General. To include in its presently registered use, a new use for agricultural use on cotton. (PM 15)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703–557–3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: March 13, 1987.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87–6460 Filed 3–24–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–400001A; FRL–3175–1]

Statement of Policy and Guidance Regarding Petitions Under Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Technical amendments.

SUMMARY: EPA is adding to the list of chemicals subject to the provisions of section 313 of the Emergency Planning and Community Right to Know Act of 1986. This document is a technical amendment that merely adds chemicals and categories that were inadvertently omitted from the initial published list.

EFFECTIVE DATE: March 25, 1987.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, DC 20460, 202–554–1404.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 4, 1987 (52 FR 3479), EPA issued the initial "List of Toxic Chemicals Subject to the Provisions of section 313 of the Emergency Planning and Community Right to Know Act of 1986." The initial list is set forth in Senate Environment and Public Works Committee Print 99–169. EPA inadvertently omitted various chemicals and categories in its **Federal Register** document and is adding these as follows:

(Additions to) List of Toxic Chemicals Subject to the Provisions of Section 313 of the Emergency Planning and Community Right to Know Act of 1968

Chemical Name

Antimony compounds
Arsenic compounds
Barium compounds
Beryllium compounds
Cadmium compounds
Chlorophenols
Chromium compounds
Cobalt compounds
Copper compounds
Cyanide compounds
Glycol compounds
Lead compounds
Manganese compounds
Mercury compounds
Nickel compounds
Polybrominated biphenyls (PBBs)
Selenium compounds
Silver compounds
Thallium compounds
Zinc compounds

The entire list of toxic chemicals set forth in the Senate Committee print will be codified at a future date.

Dated: March 16, 1987.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 87–6451 Filed 3–24–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL HOME LOAN BANK BOARD

[No. 87–281]

FSLIC Insurance Premium

Date: March 16, 1987.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), has adopted a resolution pursuant to which the Corporation ordered the assessment against each insured institution of an additional premium for FSLIC insurance in an amount equal to one thirty-second of one percent of the total amount of the accounts of the insured members of each insured institution determined as of December 31, 1986.

EFFECTIVE DATE: March 25, 1987.

FOR FURTHER INFORMATION CONTACT: Mary A. Creedon, Director, Insurance Division, Office of the FSLIC, (202) 377–6620; or LoAnne Morris, Attorney, Office of General Counsel (202) 377–7396, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Whereas, The Federal Home Loan Bank Board ("Bank Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation" or "FSLIC"), may authorize the Corporation, pursuant to section 404(c) of the National Housing Act, as amended ("NHA"), 12 U.S.C. 1727(c) (1982), to assess against each institution the accounts of which are insured by the Corporation pursuant to section 403 of the NHA, 12 U.S.C. 1726 (1982) ("insured institution"), additional premiums for such insurance until the amount of such premiums equals the amount of all losses and expenses of the Corporation, *provided* that the total amount so assessed in any one year against any insured institution shall not exceed one eighth of one per centum of the total amount of the accounts of the insured members of such institution; and

Whereas, The Bank Board, as operating head of the Corporation, by Resolution No. 85–142, dated February 22, 1985, by Resolution No. 85–437, dated

June 5, 1985, by Resolution No. 85-770, dated August 28, 1985, by Resolution No. 85-1142, dated December 9, 1985, by Resolution No. 86-213, dated March 6, 1986, by Resolution No. 86-582, dated June 10, 1986, by Resolution No. 86-941, dated September 2, 1986, and by Resolution No. 86-1253, dated December 15, 1986, ordered assessments against each insured insitution of an additional premium for insurance in an amount equal to one thirty-second of one per centum of the total amount of the accounts of the insured members of each insured institution determined as of Decembert 31, 1984, for the first assessment, as of March 31, 1985, for the second, as of June 30, 1985, for the third, as of September 30, 1985, for the fourth, as of December 31, 1985, for the fifth, as of March 31, 1986, for the sixth, as of June 30, 1986, for the seventh, and as of September 30, 1986, for the eighth

Whereas, The Bank Board has considered memoranda of the Corporate Accounting Branch and the Chief Financial and Administrative Officer, Office of the FSLIC, (a copy of which memoranda are in the Minute Exhibit file), describing the impact of the collection of the additional premiums for insurance asessed pursuant to Resolution No. 85-142, dated February 22, 1985, Resolution No. 85-437, dated June 5, 1985, Resolution No. 85-770, dated August 28, 1985, Resolution No. 85-1142, dated December 9, 1985, Resolution No. 86-213, dated March 6, 1986, Resolution No. 86-582, dated June 10, 1986, Resolution No. 86-941, dated September 2, 1986, and Resolution No. 86-1253, dated December 15, 1986, upon the Corporation's insurance reserves:

Now, therefore, it is resolved, That on the basis of the administrative record, the Bank Board finds and determines that the Corporation has incurred substantial losses during calendar years 1981 through 1986; and

Resolved further, That the Bank Board finds and determines that:

1. Losses and expenses incurred by the Corporation, as defined in Resolution No. 85-142, require the assessment of additional insurance premiums pursuant to section 404(c) of the NHA in addition to the additional insurance premiums assessed pursuant to Resolutions No. 85-142, No. 85-437, No. 85-770, No. 85-1142, No. 86-213, No. 86-582, No. 86-941, and No. 86-1253 in order to maintain the insurance reserves of the Corporation at a level adequate to meet in part the Corporation's losses and expenses and to protect the insured members of insured institutions;

2. It is appropriate, therefore, to provide for the assessment of an additional insurance premium at this time, pursuant to section 404(a)(2) of the NHA, by order of the Corporation; and

Resolved further, That the Corporation hereby orders the assessment against each insured institution of an additional premium for insurance for the first quarter of 1987, in an amount equal to one thirty-second of one per centum of the total amount of the accounts of the insured members of such insured institution determined as of December 31, 1986; and

Resolved further, That the additional insurance premium assessed pursuant to this Resolution shall be payable on or about March 31, 1987; and

Resolved further, That the Director or Deputy Director, Office of the FSLIC ("Director"), shall determine the amount of the additional premium due to be paid on March 31, 1987, by each insured institution and shall notify each insured institution of such amount at least fifteen (15) days prior to the date such amount is due; and

Resolved further, That the Director, on behalf of the Corporation, is hereby authorized to take all other actions necessary or appropriate to determine and collect the additional insurance premium authorized and ordered by this Resolution; and

Resolved further, That the Secretary shall forward this Resolution for publication in the **Federal Register.**

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 87-6418 Filed 3-24-87; 8:45 am]

BILLING CODE 6720-01-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, DC 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.: 213-010886-003

Title: Costa/Italia/Trasatlantica Space Charter and Sailing Agreement

Parties: Costa Container Lines, S.p.A. "Italia" di Navigazione, S.p.A. Compania Trasatlantica Espanola, S.A.

Synopsis: The proposed amendment would require a party withdrawing from the agreement to give 180 days' notice rather than the 90 days' notice presently required.

Agreements No.: 217-011079

Title: Tecomar, S.A./Concorde Line Space Charter Agreement

Parties: Concorde Line (Concorde) Tecomar, S.A. (Tecomar)

Synopsis: The proposed agreement would permit Tecomar to charter space on vessels owned or operated by Concorde in the trade between ports in Mexico and U.S. Florida and Gulf of Mexico ports. Concorde does not currently serve the trade but would position vessels to meet Tocomar's needs under the agreement.

By Order of the Federal Maritime Commission.

Dated: March 20, 1987.

Joseph C. Polking,

Secretary.

[FR Doc. 87-6428 Filed 3-24-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Amcore Financial, Inc. 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 April 15, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Amcore Financial, Inc.*, Rockford, Illinois; to engage *de novo* through its subsidiary, Amcore Mortgage, Inc., Rockford, Illinois, in the origination, acquisition, selling and servicing of residential and commercial loans on its own behalf and on the behalf of other mortage companies and financial institutions pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Thayer Bancshares, Inc.*, Thayer, Kansas; to engage *de novo* in acting as agent for the sale of credit related, life, accident and health insurance sold in connection with credit extensions made by its subsidiary banks pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 19, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-6405 Filed 3-24-87; 8:45 am]

BILLING CODE 6210-01-M

AmeriTrust Corp., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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 the hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than April 15, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *AmeriTrust Corporation*, Cleveland, Ohio; to acquire First Indiana Life Insurance Company, Phoenix, Arizona, and thereby engage in the reinsurance of credit life and disability insurance as permitted by § 225.25(b)(8) of the Board's Regulation Y. This activity will be conducted in the States of Indiana and Michigan.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Algemene Bank Nederland N.V.*, Amsterdam, The Netherlands; to acquire Lease Plan U.S.A. Atlanta, Georgia, and thereby engage in the leasing of personal or real property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve, System, March 19, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-6406 Filed 3-24-87; 8:45 am]

BILLING CODE 6210-01-M

Clevebaco Ltd. Partnership et al.; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have 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 holding company. The factors that are considered in acting on the 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 April 9, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Clevebaco Limited Partnership*, Cleveland, Ohio; to acquire between 10 and 24.9 percent of the voting shares of AmeriTrust Corporation, Cleveland, Ohio, and thereby indirectly acquire AmeriTrust Development Bank, Cleveland, Ohio; AmeriTrust Indiana Corporation, Elkhart, Indiana, and thereby indirectly acquire First National Bank, Elkhart, Indiana, State Bank of Syracuse, Syracuse, Indiana, State Bank of Lima, Howe, Indiana, Union Bank and Trust Company, Kokomo, Indiana, Indiana Bank and Trust Company, Martinsville, Indiana, The Boone County State Bank, Lebanon, Indiana, The American National Bank, Noblesville, Indiana, Central Indiana Bank N.A., Fairland, Indiana Franklin Bank and Trust Company, Franklin, Indiana, American State Bank, Ligonier, Indiana, and First National Bank and Trust Company, Sturgis, Michigan; At Western Coporation, Denver, Colorado; and AmeriTrust Southeast, National Association, Tampa, Florida.

2. *Alex Patterson*, Tierra Verde, Florida; to acquire up to 13.43 percent of the voting shares of Mount Sterling National Holding Company, Mount Sterling, Kentucky.

3. *H.A. Perry,* Whitley City, Kentucky; to acquire 29.85 percent of the voting shares of McCreary Bancshares, Inc., Whitley City, Kentucky.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *William E. McWhirter,* Indianapolis, Indiana; to acquire 25.16 percent of the voting shares of Peoples Bank Corporation of Indianapolis, Indianapolis, Indiana, and thereby indirectly acquire Peoples Bank & Trust Company, Indianapolis, Indiana.

Board of Governors of the Federal Reserve System, March 19, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-6407 Filed 3-24-87; 8:45 am]

BILLING CODE 6210-01-M

Key Corp et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 13, 1987.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Key Corp,* Albany, New York, and Key Pacific Bancorp, Anchorage, Alaska; to acquire 100 percent of the voting shares of Seattle Trust & Savings Bank, Seattle, Washington.

2. *Lyons Bancorp, Inc.,* Lyons, New York; to become a bank holding company by acquiring 100 percent of the voting shares of The Lyons National Bank, Lyons, New York.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Cosmopolitan Financial Services, Inc.,* Countryside, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Old Canal Bankshares II, Inc., Lockport, Illinois, and Old Canal Bankshares Inc., Lockport, Illinois and thereby indirectly acquire Heritage First National Bank of Lockport, Lockport, Illinois.

2. *F & M Bancorporation, Inc.,* Kaukauna, Wisconsin; to acquire 88.2 percent of the voting shares of New London National Bank, New London, Wisconsin.

3. *First of America Bank Corporation,* Kalamazoo, Michigan; to acquire 100 percent of the voting shares of WB Financial Corp, Wayne, Michigan, and thereby indirectly acquire Wayne Bank, Wayne, Michigan.

C. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *CNB Financial Corporation,* Litchfield, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of First Bank Central N.A.—Litchfield, Litchfield, Minnesota.

2. *FMB Bankshares, Inc.,* Madison, South Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of First Madison Bank, Madison, South Dakota, a *de novo* bank.

D. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Azle Bancshares, Inc.,* Azle, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Azle, Azle, Texas.

2. *First Gilmer Bankshares, Inc.,* Gilmer, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Gilmer, Gilmer, Texas.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp,* Portland, Oregon; to acquire 100 percent of the voting shares of Heritage Bank, Camas, Washington.

2. *Western Security Bancorp,* Burbank, California; to become a bank holding company by acquiring 100 percent of the voting shares of Western Security Bank, N.A., Burbank, California.

Board of Governors of the Federal Reserve System, March 19, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-6408 Filed 3-25-87; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers National Corp; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 17, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Manufacturers National Corporation,* Detroit, Michigan; to acquire Manufacturers National Trust Company of Florida, North Palm Beach, Florida, and thereby, in addition to its presently conducted fiduciary activities,

expand its activities to include all the activities of a national bank, except the making of commercial loans.

Board of Governors of the Federal Reserve System. March 19, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-6409 Filed 3-24-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service; Delegation of Authority

Notice is hereby given that on March 16, 1987, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health, with authority to redelegate, the authority vested in the Secretary under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 concerning the development and implementation of a coordinated program for the prevention and treatment of alcohol and substance abuse at the local level and other purposes, excluding the authorities to issue regulations, and submit reports to Congress.

Dated: March 16, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-6474 Filed 3-24-87; 8:45 am]

BILLING CODE 4160-15-M

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Fertility and Maternal Health Drugs Advisory Committee

Date, time and place. April 16 and 17, 9 a.m., Lister Hill Auditorium, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, April 16, 9 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; April 17, 9 a.m. to 5 p.m.; Philip A. Corfman, Center for Drugs and Biologics (HFN-810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3510.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in obstetrics and gynecology.

Agenda—Open public hearing. Interested persons who wish to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee will discuss the following topics: (1) The putative protective effect of spermicides against sexually transmitted diseases; (2) recent reports of serious adverse reactions to bromocriptine and the implications of such reports; and (3) whether progestational drugs should include a warning in the label that such drugs might induce malformation of the fetal urogenital system if used in pregnancy.

Science Advisory Board to the National Center for Toxicological Research

Date, time and place. April 22, 1 p.m., Bldg. 13, Conference Room, National Center Toxicological Research, Jefferson AR.

Type of meeting and contact person. Open public hearing, April 22, 1 p.m. to 2 p.m.; open committee discussion, 2 p.m. to 5 p.m.; Ronald F. Coene, National Center for Toxicological Research, Food and Drug Administration, 5600 Fishers Lane, Rm. 14-101, Rockville, MD 20857, 301-443-3155.

General function of the board. The board advises the Director, NCTR, in establishing and implementing a research program that will assist the Commissioner of Food and Drugs in fulfilling his regulatory responsibilities. The board provides the extra-agency review in ensuring that research programs at NCTR are scientifically sound and pertinent to its stated goals and objectives.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 1, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their comments.

Agenda—Open board discussion. The board will receive an update of the Center's progress on research programs in the areas of: biomarkers, modulators of toxicity and extrapolation/scaling factors, review of the progress and the future of Oak Ridge Associated Universities' programs at NCTR; and NCTR implementation plan for the Federal Technology Transfer Act of 1986. A final agenda will be available from the contact person on April 7.

FDA public advisory committee meetings may have as many as four separate portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who

does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: March 18, 1987.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–6419 Filed 3–24–87; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting:

Cincinnati District Office, chaired by James C. Simmons, District Director. The topic to be discussed is Proposed Labeling Regulations for Cholesterol.

DATE: Tuesday, April 7, 1987, 10:30 a.m.

ADDRESS: 85 Marconi Blvd., Rm. 446, Columbus, OH 43213.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, 216–522–4844.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: March 18, 1987.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87–6420 Filed 3–24–87; 8:45 am]

BILLING CODE 4160–01–M

Social Security Administration

Privacy Act of 1974; Report of New Routine Use and Minor Revisions

AGENCY: Social Security Administration (SSA), Department of Health and Human Services.

ACTION: New routine use and minor revisions.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), we are issuing public notice of our intent to establish a new routine use of information maintained in the system of records entitled "Black Lung Payment System, HHS/SSA/OSR, 09–60–0045." The proposed routine use will permit us to disclose information, as necessary, when utilizing a State worker's compensation (WC) agency or private WC carrier (or agents on their behalf) for the purpose of the efficient administration of the Black Lung (BL) benefits program. We invite public comments on this publication.

DATES: The proposed routine use will become effective as proposed without further notice on April 24, 1987, unless we receive comments on or before that date which would result in a contrary determination.

ADDRESSES: Interested individuals may comment on this proposal by writing to the SSA Privacy Officer, Room L1140 West Low Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at that address.

FOR FURTHER INFORMATION CONTACT: Ms. Joan Burgess, Chief, Disability Systems Branch, Office of Claims and Payment Requirements, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (Area code 301) 594–8818.

SUPPLEMENTARY INFORMATION:

I. Purpose and Background of the Proposed Routine Use

The Black Lung Payment System (BLPS) contains information pertaining to claims for BL benefits payable under provisions of the Black Lung Benefits Act (BLBA) which SSA is responsible for administering. This information is used primarily to determine the individual's eligibility for, and the amount of, BL benefits. In the administration of the BLBA, we find that it is not always administratively feasible or cost effective to do certain operations "in-house." In such instances, we may use the services of State WC agencies or private WC carriers (or agents on their behalf) pursuant to an agreement to assist in performing various agency functions.

The purpose of this publication is to announce our plans to establish a routine use which would permit us to disclose information to State WC agencies or private WC carriers (or agents on their behalf), as necessary, to assist in accomplishing agency functions relating to the BL program. For example, we may employ a WC agency or carrier to perform a matching operation which will compare identifying information in the WC agency or carrier records with identifying information in the BLPS for the purpose of determining an individual's eligibility for, or amount of, BL benefits. To perform this operation, it would be necessary to provide the WC agency or carrier a minimum of the beneficiary's name and Social Security number.

The proposed routine use provides for the following disclosure:

Information may be disclosed to State WC agencies or private WC carriers (or agents on their behalf) for the purpose of the efficient administration of the BL program. We contemplate disclosing information under this routine use only in situations in which SSA enters into a signed agreement with a State WC agency or private WC carrier to assist in accomplishing an agency function relating to the Black Lung Payment System.

II. Compatibility of the Proposed Routine Use

The Privacy Act (5 U.S.C. 552a(a)(7) and 5 U.S.C. 552a(b)(3)) and our disclosure regulation (20 CFR Part 401) both permit us to disclose information under a routine use for purposes which are compatible with the purpose for which we collect the information. Section 401.310 of the regulation permits us to disclose information under a routine use for the purpose of administering our programs or administering similar income-maintenance of health-maintenance programs of other agencies. We will disclose information under the proposed routine use only as necessary to assist in administering the BL benefits program. Thus, the routine use is appropriate and consistent with the criteria in the Privacy Act and the regulation.

III. Effect of the Proposed Routine Use on Individual Rights

A minimum amount of information will be disclosed to State WC agencies or private WC carriers under the proposed routine use, as necessary, to determine an individual's eligibility for, or amount of, BL benefits.

The information we will obtain will assist us in paying the correct amount of BL benefits to individuals who are entitled to the payments. Further, agreements with WC agencies or carriers will explain and delineate Privacy Act requirements and the agencies' or carriers' responsibilities with respect to information they receive from SSA. Consequently, we do not anticipate that disclosure under the proposed routine use would result in any unwarranted adverse effect on the rights of individuals.

IV. Minor Revisions to the Federal Register Notice of the BLPS

Since a notice of the BLPS last was published in the **Federal Register** at 51 FR 6040, February 1986, we have made the following minor revisions to the notice:

(1) After initially using the term "Black Lung benefits" in the "Categories of individuals covered by the system" section of the notice, we have inserted "BL benefits" in that and subsequent sections of the notice where reference was made to "Black Lung benefits"; and

(2) We have added language to the "Notification procedure" section of the notice which specifies the documentation an individual must furnish to establish identity when requesting notification of, or access to, his/her records.

Dated: March 3, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

09-60-0045

SYSTEM NAME:

Black Lung Payment System, HHS/SSA/OSR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration Office of System Operations, 6401 Security Boulevard, Baltimore, MD 21235

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Black Lung beneficiaries currently entitled to receive a Black Lung (BL) benefit and beneficiaries terminated because of a termination event as defined in the Black Lung Benefits Act (BLBA).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of two files, a Payment Master Record and a Benefit Master Record which are matched once a month

The Payment Master Record reflects the Social Security number (SSN) and the payment identification code under which BL benefits are awarded and payment data such as the monthly payment amount; the scheduled payment amount; offset information; the number of beneficiaries on the account as well as the number of beneficiaries in the payment; the month of accrual; the month of debit; credit information; future month of adjustment diary dates; cross-reference information; payee name and address information, direct deposit data, and statistical information.

The Benefit Master Record contains a benefit record for each beneficiary on the account and includes the SSN; the payment and benefit identification codes; the payment status; the monthly benefit amount; the beneficiary's name; type of benefit; date of birth; race; sex; offset information; credit information; date of filing; date of entitlement; representative payee information, and statistical information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 413 and 415 of the BLBA (30 U.S.C. 923 and 925).

PURPOSE(S):

The data in this system are used by Social Security employees for responding to inquiries; computer exception processing; conversion of benefits; end of the month reconciliations; statistical studies; to generate payment tapes for Treasury; and for exchange with Department of Labor to administering provisions of the BLBA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below:

1. To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

2. To the Department of Justice in the event of litigation where the defendant is:

(a) The Department of Health and Human Services (HHS), any component of HHS or any employee of HHS in his/her official capacity;

(b) The United States where HHS determines that the claim, if successful, is likely to directly affect the operations of HHS or any of its components; or

(c) Any HHS employee is his/her individual capacity where the Justice Department has agreed to represent such employee;

HHS may disclose such records as it deems desirable or necessary to Justice to enable that department or present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

3. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry from that individual or from a third party on his/her behalf.

4. Upon request, information on the identity and location of aliens may be disclosed to the Department of Justice (Criminal Division, Office of Special Investigations) for the purpose of detecting, investigating, and where appropriate, taking legal action against suspected Nazi war criminals in the United States.

5. To third party contacts (including private collection agencies under contract with the Social Security Administration (SSA)) for the purpose of their assisting SSA in recovering overpayments.

6. To the Department of the Treasury of issue BL checks.

7. To the Department of Labor for administering provisions of the BLBA.

8. Information may be disclosed to contractors and other Federal agencies as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under this routine use only in situations in which SSA may enter into a contractural or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

9. Nontax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration and the National Archives and Records Administration for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906, as amended by the National Archives and Records Administration Act of 1984.

10. Upon request, pursuant to 38 U.S.C. 3006 information may be disclosed to the Veterans Administration (VA) for the purpose of determining eligibility for or amount of VA benefits or verifying other information with respect to VA pension and Dependency and Indemnity Compensation benefit programs.

11. Information may be disclosed to State WC agencies or private WC carriers (or agents on their behalf) for the purpose of the effecient

administration of the BL program. We contemplate disclosing information under this routine use only in situations in which SSA enters into a signed agreement with a State WC agency or private WC carrier to assist in accomplishing an agency function relating to the Black Lung Payment System.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in magnetic media (e.g., magnetic tape), disc, microfiche, and in paper form.

RETRIEVABILITY:

Records in this system are retrieved by SSN.

SAFEGUARDS:

Safeguards for automated records have been established in accordance with the HHS Automated Data Processing (ADP) Manual, "Part 6, ADP System Security." This includes storing the records in secured areas with armed security guards. Anyone entering or leaving the areas must have a special badge issued only to authorized personnel. The records are available to employees only in the performance of their official duties. Paper records are maintained in areas with limited access and offices are locked after business hours.

All employees of SSA are periodically briefed on Privacy Act requirements and SSA confidentiality rules, including the criminal sanctions for unauthorized disclosure of or access to personnal records. (See 47 45671, October 13, 1982, Appendix J for additional information relating to safeguards SSA employs to protect personal information.)

RETENTION AND DISPOSAL:

Magnetic tape records are retained for up to 90 days after which they are erased and returned to stock. Paper records are destroyed by shredding after use or disposed of through contractual arrangements with trash collectors. Paper records needed for documentation of the claims folder are retained indefinitely in SSA facilities or in Federal Records Centers. All master records are retained on magnetic disc for on-line query purposes. The query files are updated daily. Microfiche records are disposed of by shredding or the application of heat after periodic replacement of a complete file.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Claims and Payment Requirements, Office of Systems Requirements, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record about him/her by contacting the system manager at the address shown above and providing his/her name, SSN, approximate date and place claim was filed, type of claim and return address. (Furnishing the SSN is voluntary, but it will make searching for an individual's record easier and avoid delay. These procedures are in accordance with HHS Regulations 45 CFR part 5b.

An Individual requesting notification of records in person need not furnish any special documents of identity. It is expected that documents he/she would normally carry on his/her person would be sufficient (e.g., credit cards, drivers license, or voter registration card). An individual requesting notification of records via mail or telephone must furnish his/her name, date of birth and address in order to establish identity, plus any additional information which is specified in this section or the Record access procedures section below.

RECORD ACCESS PROCEDURES:

Same as notification procedures above. Also, requesters should reasonably specify the record contents they are seeking. These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures above. Also, requesters should reasonably identify the record, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate or irrelevant. These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

RECORD SOURCE CATEGORIES:

Information in this system is prepared from Black Lung claims folders which are maintained in the system of records 09-60-0089—Claim Folders.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 87-6424 Filed 3-24-87; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Designated Tribal Agents for Services of Notice; Indian Child Welfare Act

March 9, 1987.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Notice.

SUMMARY: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

The regulations implementing the Indian Child Welfare Act provide that Indian tribes may designate an agent other than the tribal chairman for service of notice of proceedings under the Act, 25 CFR 23.12. The Secretary of the Interior shall publish in the **Federal Register** on an annual basis the names and addresses of the designated agents.

This is the fifth list of Designated Tribal Agents for service of notice, and includes the listing of designated tribal agents received by the Secretary of the Interior prior to the date of publication.

DATE: March 25, 1987.

ADDRESS: Bureau of Indian Affairs, Division of Social Services, Code 450 MS 310-S, 1951 Constitution Avenue, NW., Washington, DC 20245.

FOR FURTHER INFORMATION CONTACT: Larry R. Blair, Acting Chief, Division of Social Services, address given above, telephone (202) 343-6435.

Designated Tribal Agents

Absentee Shawnee, P.O. Box 1747, Shawnee, OK 74801, Dan Little Axe, Governor, (405) 275-4030

Bad River Band of Lake Superior Tribe of Chippewa Indians, P.O. Box 39, Odanah, Wisconsin 54861, Dale Wolf, Indian Child Welfare Coordinator, (715) 682-2721, Candy L. Jackson, Tribal Attorney, (715) 682-8310

Bay Mills Indian Community, Rural Route No. 1, Brimley, Michigan 49715, Gordon Newland, Tribal Social Worker, (906) 248-3241

Blackfeet Tribe, Enrollment Department Blackfeet Tribe of the Blackfeet Indian Reservation, P.O. Box 850, Browning, Montana 59417, (406) 338-7276

Bois Forte Reservation Business Committee, P.O. Box 16, Nett Lake, Minnesota 55772, Doris Isham, ICWA, Bois Forte Social Services, (218) 757-3261

Bristol Bay Native Association, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842-5257

Caddo Tribe of Oklahoma, P.O. Box 487, Binger, Oklahoma 73009, Hubert Halfmoon, Chairman, (405) 656-2344/2345

Cherokee Nation of Oklahoma, P.O. Box 948, Tahlequah, Oklahoma 74465, Wilma Mankiller, Principal Chief, (918) 456–0671

Cheyenne and Arapaho Tribe of Oklahoma, P.O. Box 38, Concho, Oklahoma 73022, Joann Birdshead, Social Services Director, (406) 262–0345

Cheyenne River Sioux Tribe, P.O. Box 612, Eagle Butte, South Dakota 57625, Dorothy M. Clark, Director, Indian Child Welfare Program, (605) 964–6460/6461

Chickasaw Nation of Oklahoma, P.O. Box 1548, Ada, Oklahoma 74820, Overton James, Governor, (405) 436–2603

Native Village of Chignik, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Native Village of Chignik Lagoon, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Native Village of Chignik Lake, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Choctaw Nation of Oklahoma, P.O. Box 1210, Durant, Oklahoma 74701, Hollis E. Roberts, Chief, (405) 924–8280

Citizen Band of Potawatomie Indians of Oklahoma, Route 5, Box 151, Shawnee, Oklahoma 74801, Francis Levier, Tribal Administrator, (405) 275–3121

Coeur d'Alene Tribe of Idaho, Joseph R. Garry Administrative Building, Tribal Headquarters, Plummer, Idaho 83851, Richard J. Mullen, Legislative/Enrollment Officer, (208) 274–3101

Cocopah Tribe of Arizona, P.O. Bin G, Somerton, Arizona 85350, Ms. Trivian DeVoe, (602) 627–2102

Commanche Tribe of Oklahoma, P.O. Box 908, Lawton Oklahoma 73502, Liz Woodard, Social Services Director, (405) 247–3444

Cow Creek Band of Umpqua Tribe of Indians, 1376 NE Walnut, Suite 1, Roseburg, Oregon 97470, Robert H. Rayno, Tribal Health Director, (503) 672–9696

Crow Creek Sioux Tribe, Box 616, Fort Thompson, South Dakota 57339, Leo O'Connor, Agency Superintendant, Letoy Fallis, Clerk of Courts, (605) 245–2221/2222

Crow Tribe, P.O. Box 489, Crow Agency, Montana 59022, Howard Shane, Juvenile Court Counselor, (406) 247–2448

Delware Tribe of Western Oklahoma, P.O. Box 825, Anadarko, Oklahoma 73005, Edgar French, President, (405) 247–2448

Dillingham Native Council, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Native Village of Egigik, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Native Village of Ekwok, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Fallon Business Council, P.O. Box 1650, Fallon, Nevada 89406, Richard Hicks, Chairman, (702) 423–6075

Forest Country Potawatomi Community, P.O. Box 346, Crandon, Wisconsin 54520, Elaine Sheppard, (715) 478–2903

Fort Belknap Tribe, P.O. Box 249, Harlem, Montana 59526, William Main, (406) 353–2205

Fort McDermitt Tribal Council, P.O. Box 457, McDermitt, Nevada 89421, Daniel Snapp, Chairman, (702) 532–8529

Fort Mojave Indian Tribe, 500 Merriman, Needles, California 92363, Alberta Stillman, (619) 326–3745

Fort Peck Tribe, P.O. Box 687, Polar, Montana 59255, Kenneth E. Ryan, Chairman, (406) 768–5311

Fort Sill Apache Tribe, Route 2, Box 121, Apache, Oklahoma 73006, Bob Cannon, (405) 588–2296

Grand Traverse Band of Ottawa and Chippewa Indians, Route 1, Box 135, Suttons Bay, Michigan 49682, Scott A. Schwander, Social Services Director, Allen J. John Sr., Indian Child Welfare Technician, (616) 271–3538

Native Village of Iliamna, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Iowa Tribe of Oklahoma Business Committee, P.O. Box 190, Perkins, Oklahoma 74059, Lawrence Murray, Chairman, (405) 547–2403

Native Village of Ivanof Bay, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Jamestown Klallam Tribe, 150 South Fifth, Suite 2, Sequim, Washington 98382, Joan Vance, M.S.W., Social Services Coordinator, (202) 683–1109

Jicarilla Apache Tribe of New Mexico, Chief Judge Carey Vicenti, Jicarilla Apache Tribal Court, P.O. Box 221, Camelia Montoya, Census Officer, Jicarilla Apache Tribe, P.O. box 507, Jicarilla Apache Police Department, P.O. Box 507, Dulce, New Mexico 87528, (505) 759–3366

Kaibab Paiute Tribe, Tribal Affairs Building, Fredonia, Arizona 86022, Dolores Savala, Chairperson, (602) 643–7245

Ketchikan Indian Corporation, 429 Deermount Avenue, Ketchikan, Alaska 99901, Raymond Fry, (907) 225–5158

Keweenaw Bay Indian Community, Keweenaw Bay Tribal Center, Baraga, Michigan 49908, Myrtle Tolonen, Chairperson, (906) 353–6623

Native Village of King Salmon, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Kiowa Tribe of Oklahoma, P.O. Box 361, Carnegie, Oklahoma 73015, Bess Yeahquo, Director of Social Services, (405) 654–2300

Native Village of Kokhanok, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Lac Courte Oreilles Tribe, Route 2, Box 2700, Hayward, Wisconsin 54843, Tribal Secretary/Treasurer, (715) 634–8934

Lac Du Flambeau Band of Lake Superior Chippewa Indians, P.O. Box 67, Lac Du Flambeau, Wisconsin 54538, Florence Allen, (715) 588–3303

Las Vegas Paiute Tribe, One Paiute Drive, Las Vegas, Nevada 90106, Max Patrick, Chairman, (702) 386–3926

Leech Lake Reservoir Business Committee, Route 2 RBC, Cass Lake, Minnesota 56633, Minnesota Chippewa Tribe, Human Services Division, (218) 335–2207 Ext. 290

Native Village of Levelock, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Lower Brule Sioux Tribe, Lower Brule, South Dakota 57548, Rose McCauley, Juvenile Probation Officer, Michael B. Jandreau, Chairman, (605) 473–5561

Makah Tribal Council, P.O. Box 115, Neah Bay, Washington 98357, Andy Pascua, Family Service Coordinator, (206) 645–2205

Menominee Indian Tribe of Wisconsin, P.O. Box 397, Keshena, Wisconsin 54135, Gordon Dickie, Sr., Chairman (715) 799–3341

Metlakatla Indian Community, P.O. Box 8, Metlakatla, Alaska 99926, Eleanor Booth, Social Worker, (907) 886–4021

Mille Lacs Band of Chippewa Indians, Non-Removable Mille Lacs Band of Chippewa Indians, Star Route, Box 194, Vineland, Minnesota 56359, Joseph Nayquonabe, Commissioner of Human Services, (612) 532–4181

Miami Tribe of Oklahoma, P.O. Box 636, Miami, Oklahoma 74355, Bill Dickey Allen, Chief, (918) 542–2455

Minnesota Chippewa Tribe, P.O. Box 217, Cass Lake, Minnesota 56633, Director of Human Services, (218) 335–2252

Moapa Band of Paiutes, P.O. Box 56, Moapa, Nevada 89025, Eugene Tom, Chairman, (707) 865–2787

Modoc Tribe of Oklahoma, P.O. Box 939, Miami, Oklahoma 74355, Bill G. Follis, Chief, (918) 542–1190

Native Village of Manokotak, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Muscogee (Creek) Nation of Oklahoma, P.O. Box 580, Okmulgee, Oklahoma 74447, Claude A. Cox, Principal Chief, (918) 756–8700

Native Village of Naknek, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Native Village of New Stuyahok, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Nisqually Indian Community Council, 4820 She-Nah-Num Drive SE, Olympia, Washington 98503, Jodie Kazemini, Marjorie Bracer, (206) 456–5221

Native Village of Nondalton, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Nooksack Indian Tribe, P.O. Box 157, Deming, Washington 98244, Sharon Eyer, Cindy Roberts, (206) 592–5176

Northern Cheyenne Tribe, Lame Deer, Montana 59043, Patricia Tall Bull, Director, Social Services Program, (406) 477–6248

Omaha Tribe of Nebraska, Omaha Tribal Council, P.O. Box 368, Macy, Nebraska 68039, Doran Morris, Omaha Tribal Chairman, (402) 837–5391

Oneida Tribe of Indians of Wisconsin, P.O. Box 365, Oneida, Wisconsin 54144–0365, Kathy King, (414) 869–1260

Osage Tribe of Oklahoma, Tribal Administration Building, Pawhuska, Oklahoma 74056, George E. Tallchief, Principal Chief, (918) 287–4622

Otoe-Missourai Tribal Council, P.O. Box 68, Red Rock, Oklahoma 74058, Douglas Whitecloud, Coordinator for Indian Child Welfare Program, (405) 723–4334

Ottawa Tribe of Oklahoma, P.O. Box 110, Miami, Oklahoma 74355, Lewis H. Barlow, Chief, (918) 540–1536

Pawnee Tribe of Oklahoma, Box 470, Pawnee, Oklahoma 74058, Henrietta Pratt, (918) 762–3624

Peoria Indian Tribe of Oklahoma, P.O. Box 1527, Miami, Oklahoma 74355, Rodney P. Arnette, Chief, (918) 540–2535

Native Village of Pilot Point, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Native Village of Port Heiden, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Native Village of Portage Creek, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Prairie Island Community Council, R.R. 2, Box 1000, Welch, Minnesota 55089, DeForrest White Eagle, (612) 388–8889

Pueblo of Isleta of New Mexico, P.O. Box 317, Isleta, New Mexico 87022, Patricia W. Abeita, Director, Isleta Social Services, (505) 869–2772/2930

Pueblo of Laguna of New Mexico, P.O. Box 1448, Laguna, New Mexico 87026, Director, Social Services Program, (505) 522–6654

Pueblo of Sandia of New Mexico, Box 6008, Bernalillo, New Mexico 87004, Archie Chavez, Lieutenant Governor, (505) 867–2876/5021

Pueblo of San Felipe of New Mexico, P.O. Box A, San Felipe Pueblo, New Mexico 87001, Doris Sandoval, Federal Project Officer, (505) 867–3381

Pueblo of Zuni, P.O. Box 339, Zuni, New Mexico 87327, Zuni Tribal Social Services Program, (505) 782–4481

Puyallup Tribe, Puyallup Tribal Health Authority, 2209 East 32nd Street, Tacoma, Washington 98404, Noreen Nacobs, Director, Children's Services, (206) 597–6202/6380

Pyramid Lake Tribal Council, P.O. Box 256, Nixon, Nevada 89424, Joe H. Ely, Chairman, (702) 574–0140

Quechan Tribe, P.O. Box 1352, Yuma, Arizona 85364, Gregory Yuma, (619) 572–0201

Quapaw Tribe of Oklahoma, Route 1, Quapaw, Oklahoma 74363, Harry Gilmore, Chairman, (918) 542–1853

Ramah Navajo Tribe, Ramah Navajo Chapter, Ramah, New Mexico 87321, Grace Begay, (505) 775–3235

Red Cliff Band of Lake Superior Chippewas, Red Cliff Tribal Council, P.O. Box 529, Bayfield, Wisconsin 54814, Kenneth C. Basina, Jr., (715) 779–5805

Red Lake Band of Chippewa Indians of Minnesota, Red Lake Court of Indian Offenses, Red Lake Minnesota 56671, Marvin Hanson, (218) 679–3303

Reno-Sparks Tribal Council, 98 Colony Road, Reno, Nevada 89502, Lawrence Astor, Chairman, (702) 329–2936

Rocky Boy's Tribe, Rocky Boy Route, Box 544 Box, Edler, Montana, 59521, Suzanne Billy, (406) 395–4476

Rosebud Sioux Tribe, Child & Family Services, P.O. Box 430, Rosebud, South Dakota 57570, Stephanie Picotte, (605) 747–2258

Saginaw Chippewa Indian Tribe, 7070 East Broadway, Mt. Pleasant, Michigan 48858, Carla Sineway, Social Services Caseworker, (517) 772–5700

Salish & Kootenai Tribes of the Flathead Reservation, Box 278, Pablo, Montana 59855, Donny Dupuis, Chief Judge Gloria Muller, Social Worker, (406) 675–4600

Santee Sioux Tribe of Nebraska, Santee Sioux Tribal Council, Rural Route 2, Niobrar, Nebraska 68760, Roger Trudell, Tribal Chairman, Daniel Red Owl, Tribal Secretary, (402) 857–3302

Sault Ste. Marie Tribe of Chippewa Indians, 206 Greenough Street, Sault Sainte Marie, Michigan 49783, Child Welfare Notifying Agent, (906) 635–0581/0582

Seneca-Cayuga Tribe of Oklahoma, P.O. Box 1283, Miami, Oklahoma 74355, James H. Allen, Chief, (918) 542–6609

Seminole Nation of Oklahoma, P.O. Box 1498, Wewoka, Oklahoma 74884, Edwin Tanyan, Principal Chief, (405) 257–6287

Confederated Tribes of Siletz Indians of Oregon, P.O. Box 549, Siletz, Oregon 97380, Phil Rilatos, Sr., General Manager, (503) 444–2532

Sioux Tribe, Lake Traverse, Reservation, P.O. Box 509, Agency Village, South Dakota 59262, Judge Lorraine Rousseau, (605) 698–7711

Sitka Community Association, P.O. Box 1450, Sitka, Alaska 99835, William M. Brady (907) 747–3207

Skokomish Indian Tribe, N. 80 Tribal Center Road, Shelton, Washington 98584, Ernest R. Cheeka, (206) 426–4232

Native Village of South Naknek, P.O. Box 189, Dilingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Southern Ute Indian Tribe, P.O. Box 737, Ignacio, Colorado 81137, Department of Social Services (303) 563–4525 Ext. 328

Stillaguamish Tribe, 3439 Stoluckquamish Lane, Arlington, Washington 98223, Doug Akers, Hank Balderrama, (206) 652–7362

Stockbridge-Munsee Child and Family Services, Route 1 Mohican Nation, Bowler, Wisconsin 54416, Leonard O.J. Miller, (715) 793–4111 Ext. 103

Native Village of Twin Hills, P.O. Box 189, Dillingham, Alaska 99576, Dirk R. Nelson, Indian Child Welfare Program Coordinator, Bristol Bay Native Association, (907) 842–5257

Tonkawa Tribe of Oklahoma, P.O. Box 86, Tonkawa, Oklahoma 74653, Kim Sober, (405) 628–2561

Walker River Tribal Council, P.O. Box 2209, Schurz, Nevada 89427, Elvin Willie, Jr., Chairman, (702) 773–2306

Washoe Tribal Council, 919 Highway 395 South, Garnerville, Nevada 89410, Vernon Wyatt, Chairman, (702) 883–1446, 885–5595, 265–4191

Wind River Tribes, Arapahoe Business Council, P.O. Box 396, Fort Washakie, Wyoming 82514, Wayne Felter, Chairman, (307) 255–8394, Shoshone Business Council, P.O. Box 538, Fort Washakie, Wyoming 82514, Alfred Ward, Chairman, (307) 255–8257

Winnebago Tribe of Nebraska, Box 626, Winnebago, Nebraska 68701, Norma Stealer, Director, (402) 878–2570

Wisconsin Winnebago Business Committee, Department of Health & Social Services, Wisconsin Winnebago Health Department, P.O. Box 663, Tomah, Wisconsin 54660, Naomi Russell, Indian Child Welfare Coordinator, (608) 372–5202

Wyandotte Tribe of Oklahoma, Wyandotte Tribal Office, P.O. Box 250, Wyandotte, Oklahoma 74370, Leaford Bearskin, Chief, (918) 678–2297

Upper Sioux Indian Reservation, P.O. Box 147, Granite Falls, Minnesota 56241, Dean Blue, Tribal Chairman, (612) 564–4504/4206

Yankton Sioux Tribe, Box 248, Marty South Dakota 57361, Vince Two Eagles, Program Director, Child Welfare Services, (605) 384–3804/5687

Yerington Paiute Tribal Council, 171 Campbell Lane, Yerington, Nevada 89447, Richard Reymers, Acting Chairman, (702) 883–3895, 463–3301

Yomba Tribal Council, Route 1, Box 24, Austin, Nevada 89310, Kenneth Smith, Chairman, (702) 964–2463, 423–6919

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

[FR Doc. 87–6400 Filed 3–24–87; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[OR–935–07–4322–09: GP7–099]

Availability of the Final Supplement to the Final Environment Impact Statement (FSEIS) for Noxious Weed Control in Five Northwestern States; Idaho, Montana, Oregon, Washington and Wyoming

AGENCY: U.S. Dept of Interior, Bureau of Land Management.

ACTION: Notice of availability of the Final Supplement to the Final Environmental Impact Statement for Noxious Weed Control in Five Northwestern States (FSEIS).

FOR FURTHER INFORMATION CONTACT: Philip Hamilton, Oregon State Office, Bureau of Land Management, 825 N.E. Multnomah, Portland, Oregon 97232, Telephone (503) 231–6256.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, BLM has prepared a final supplement to the final environmental impact statement for noxious weed control in the states of Idaho, Montana, Oregon, Washington and Wyoming.

A 60-day public review and comment period on the Draft SEIS ended on January 5, 1987. A total of 47 comment letters were received and have been included in the Final SEIS along with BLM's repsonses to those comments. Text changes in response to public and peer review comments have been incoporated into the Final SEIS.

The reference cited in the Final SEIS, "U.S. Environmental Protection Agency, 1987b", which is a February 4, 1987, letter to Guy Baier about inert ingredients, has been amended by a March 4, 1987 letter from EPA to Guy Baier on the same subject. A copy of the March 4 letter is available in BLM's Oregon State Office.

A limited number of individual copies of the Final SEIS may be obtained upon request to any BLM District or State Office in the five states. Reading copies are also available.

Dated: March 19, 1987.

Charles W. Luscher,

State Director.

[FR Doc. 87–6440 Filed 3–24–87; 8:45 am]

BILLING CODE 4310–33–M

[NV–930–07–4212–14; N–38938]

Battle Mountain District; Tonopah Resource Area

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Realty Action; Lease of Public Lands for Recreation and Public Purposes in Esmeralda County, NV.

SUMMARY: The following described public lands have been determined to be suitable and will be classified for lease only under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, et seq.):

Mount Diablo Meridian, Nevada

T. 2 S. R. 42 E.,

Section 26, E½SE¼SW¼SW¼, S½NW¼SE¼SW¼, SW¼SE¼SW¼;
Section 35, NE¼NE¼NW¼NW¼, N½NW¼NE¼NW¼.

The area described contains 27.5 acres.

The land will be leased for the purpose of developing a sewage treatment plant. Leasing is consistent with the Bureau's planning for this area and would be in the public interest. The lands described in this notice will not be offered for lease until the classification becomes effective.

The lease, when issued, will be subject to:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.
2. All valid existing rights documented on the official land records at the time of lease issuance.
3. Any other reservations the Authorized Officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this Notice in the **Federal Register** the above-described Federal lands will be segregated from all forms of appropriation under the public land laws, including locations under the mining laws, except as to applications under the mineral leasing laws and application under the Recreation and Public Purposes Act.

Comments: For a period of 45 days from the date of publication of this Notice in the **Federal Register,** interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1420, Battle Mountain, Nevada 89820. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register.**

Dated: February 19, 1987.

Michael C. Mitchel,

Acting District Manager, Battle Mountain, Nevada.

[FR Doc. 87–6403 Filed 3–24–87; 8:45 am]

BILLING CODE 4310–HC–M

[CA–940–07–4520–12; Group 747]

Plat of Survey

March 17, 1987.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Imperial County

T. 15 S., R. 22 E.

2. This plat representing the dependent resurvey of the south boundary, a portion of the east boundary, and a portion of the subdivisional lines, and the survey of a control line along the All American Canal and of certain U.S. fee rights-of-way, Township 15 South, Range 22 East, San Bernardino Meridian, California, under Group No. 747, California, was accepted March 6, 1987.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Indian Affairs, Phoenix Area Office.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87–6411 Filed 3–24–87; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12]

Plat of Survey

March 17, 1987.

1. This plat of the following described land will be immediately placed in the open files in the California State Office, Sacramento, California, and will be available to the public as a matter of information. Copies of this plat and related field notes may be furnished to the public upon payment of the appropriate fee. Public notice, as provided in 43 CFR 1813.1–2 (BLM Manual, Section 2097—Opening Orders) is required. The date selected for the filing shall be at least 45 days after the date the **Federal Register** Notice is signed:

Humboldt Meridian, Trinity County

T. 67 N., R. 6 E.

2. This plat representing the metes and bounds survey of Tract 63 and the corrective dependent resurvey of a portion of the Hawkins Bar Hydraulic Mine, Lot 39, Mineral Survey No. 1360, and a portion of Tract No. 63, Township 6 North, Range 6 East, Humboldt Meridian, California, under Group No. 920 California, was accepted December 1, 1986, and March 4, 1987, respectively.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Forest Service, Six Rivers National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 87–6412 Filed 3–24–87; 8:45 am]

BILLING CODE 4310–40–M

Fish and Wildlife Service

Receipt of Application for Permit

The public is invited to comment on the following applications for permits to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*, and the regulations governing marine mammals (50 CFR Part 18).

File No. PRT–716436

Applicant Name: Charles Monnett, University of Minnesota, Minneapolis, MN
Type of Permit: Scientific Research
Name of Animals: 320 Alaska sea otters (*Enhydra lutris*)
Summary of Activity to be Authorized: The applicant proposes to take these animals to determine factors that influence sex- and age-related patterns of behavior, natality and mortality among sea otters. Activities proposed include capture, drugging, tagging, blood sampling, and premolar extraction. One hundred twenty of the otters are to be surgically implanted with radio transmitters so their activities can be closely monitored.
Source of Marine Mammals for Research: Alaska-Prince William Sound and the Gulf of Alaska adjacent to the Cooper River Delta.
Period of Activity: June 1987 through December 1989.

File No. PRT–716387

Applicant Name: Sea World Research Institute, Hubbs Marine Research Center, San Diego, CA 92109
Type of Permit: Scientific Research
Name of Animals: 100 California sea otters (*Enhydra lutris*)
Summary of Activity to be Authorized: The applicant proposes to take (harass) these animals by subjecting them to acoustic stimuli to determine attractants (sea otter pup calls) and repellants (killer whale vocalizations) that could be used to control sea otter movements, in particular, around oil spills.
Source of Marine Mammals for Research: Vicinity of Cyucos Point, California coast.
Period of Activity: May 1987 through August 1987.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of these applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete applications, or requests for a public hearing on these applications should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connections with the above applications are available for review during normal business hours (7:45 am to 4:15 pm) in Room 601 N. Glebe Road, Arlington, Virginia.

Dated: March 20, 1987.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87–6437 Filed 3–24–87; 8:45 am]

BILLING CODE 4310–55–M

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–715930

Applicant: New York Zoological Society, Bronx, NY

The applicant requests a permit to import 7 male and 8 female flying fox fruit bats (*Pteropus rodricensis*) for the purposes of propagation and exhibition. The males are to be imported from captive-bred stock at the Jersey Wildlife Preservation Trust, Channel Islands; and the females are to be imported from the Government Aviaries, Black River, Mauritius, and also are captive-bred.

PRT–716609

Applicant: James C. Harris, Delta Junction, AK

The applicant requests a permit to import a trophy from a bontebok (*Damaliscus dorcas dorcas*) which was a member of a captive herd maintained by F.W.M. Bowker, Jr., of Grahamstown, Republic of South Africa. The herd is maintained for the purpose of sport-hunting. The applicant contends that permission to import this trophy will enhance the likelihood of the continued maintenance of this herd and thereby enhance the likelihood of the survival of the species.

PRT–715429

Applicant: Carl Webb, Jr., Kennedyville, MD

The applicant requests a permit to purchase 2 male nene geese (*Nesochen (=Branta) sandvicensis*) in interstate commerce from Arlan Vaughn, Pueblo, CO, for the purpose of propagation and survival of the species.

PRT–716635

Applicant: Sheldon V. Brooks, Key Largo, FL

The applicant requests a permit to import a trophy bontebok (*Damaliscus dorcas dorcas*) which was a member of a captive herd maintained by M.J. D'Alton, Bredasdrop, Republic of South Africa. The herd is maintained for the purpose of sport-hunting. The applicant contends that permission to import this trophy will enhance the likelihood of the continued maintenance of this herd and thereby enhance the likelihood of the survival of the species.

PRT–716642

Applicant: Chicago Zoo, Brookfield, IL 60513

The applicant requests a permit to import eight female Rodrigues fruit bats (*Pteropus rodricensis*) from the Jersey Wildlife Preservation Trust, Channel Islands, Great Britain, for captive breeding.

PRT–716643

Applicant: Chicago Zoo, Brookfield, IL 60513

The applicant requests a permit to import seven male Rodrigues fruit bats (*Pteropus rodricensis*) from the Conservator of Forests, Mauritius, for captive breeding.

PRT–716657

Applicant: William D. Backman, Jr., Aurora, IN

The applicant requests a permit to import a trophy bontebok (*Damaliscus dorcas dorcas*) which was member of a captive herd maintained by F. Bowker, Grahamstown, Republic of South Africa. The herd is maintained for the purpose of sport-hunting. The applicant contends that permission to import this trophy will enhance the likelihood of the continued maintenance of this herd and thereby enhance the likelihood of the survival of the species.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 a.m. to 4:15 p.m.) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service to the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director of the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: March 20, 1987.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-6506 Filed 3-24-87; 8:45 am]

BILLING CODE 4310-55-M

Klamath River Basin Fish and Wildlife Restoration Act Implementation; Designation of Klamath River Basin Conservation Area

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of intent to establish the Klamath River Basin Conservation Area pursuant to the Klamath River Basin Fish and Wildlife Restoration Act.

SUMMARY: The Director, U.S. Fish and Wildlife Service, acting for the Secretary of the Interior, proposes to designate all of the anadromous fish habitats and resources of the Klamath River Basin as the Klamath River Basin Conservation Area.

FOR FURTHER INFORMATION CONTACT: Gary Edwards, (202) 343-6394.

ADDRESSES: Gary Edwards, U.S. Fish and Wildlife Service, Room 3245, Interior Building, 18th and C Street NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: Section 2(a) of the Klamath River Basin Fish and Wildlife Restoration Act (Pub. L. 99-552, approved October 27, 1986) directs the Secretary of the Interior to ". . . designate the anadromous fish habitats and resources of the Klamath River Basin as the Klamath River Basin Conservation Area. . . ". The Area so designated will establish the geographic scope of the Klamath River Basin Conservation Area Restoration Program to be developed and implemented by the Secretary in accordance with section 2(b) of the Act.

Accordingly, it is proposed that all of the anadromous fish habitats and resources of the Klamath River Basin be designated as the Klamath River Basin Conservation Area.

Comments on this proposal should be submitted within 45 days of the date of this notice. After considerating all comments received, a subsequent **Federal Register** notice will designate the Klamath River Basin Conservation Area.

Dated: March 18, 1987.

Frank Dunkle,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 87-6422 Filed 3-24-87; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given the ODECO Oil & Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 3790, Block 136, 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 onshore bases located at Dulac and Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on March 17, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday though 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 section 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 § 250.34 of Title 30 of the CFR.

Dated: March 18, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-6402 Filed 3-24-87; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Appalachian National Scenic Trail Advisory Council; Meeting

Notice is hereby given accordance with the Federal Advisory Committee Act that a meeting of the Appalachian National Scenic Trail Advisory Council will be held in Harpers Ferry, West Virginia, on April 10, from 8:30 a.m. to 5:00 p.m. The agenda of the meeting will include a review of current Appalachian Trail protection and management issues.

The meeting will be open to the public, although space will be limited. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Harpers Ferry, West Virginia 25425, at Area Code (304) 535-2346.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address. Copies of the minutes will also be available from Room 3120, Interior Building, 18th and C Streets, NW., Washington, DC 20240, and at the headquarters of the Appalachian Trail Conference, Washington, Street, Harpers Ferry, West Virginia 25425.

Dated: March 18, 1987.

David A. Richie,

Project Manager.

[FR Doc. 87-6502 Filed 3-24-87; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-255]

Certain Garment Hangers; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Consent Order; Issuance of Consent Order

AGENCY: U.S. International Trade Commission

ACTION: Nonreview of an initial determination (ID) terminating the above-captioned investigation as to one respondent on the basis of a consent order.

SUMMARY: The Commission has determined not to review an ID (Order No. 17) terminating Hangers Unlimited, Inc. as a respondent in the investigation on the basis of a consent order.

FOR FURTHER INFORMATION CONTACT: Charles H. Nalls, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1626.

SUPPLEMENTARY INFORMATION: 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). On February 4, 1987, complainant Batts, Inc., respondent Hangers Unlimited, Inc., and the Commission investigative attorney jointly moved to terminate the investigation on the basis of a consent order (Motion No. 255–10). On February 13, 1987, the presiding administrative law judge issued an ID granting the joint motion to terminate the investigation with respect to respondent Hangers Unlimited on the basis of the consent order. The Commission has received no petitions for review of the ID nor any comments from other Government agencies or the public.

Termination of the investigation as to respondent Hangers Unlimited on the basis of the consent order furthers the public interest by conserving Commission resources and those of the parties involved.

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 persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–742–0002.

By order of the Commission.

Issued: March 20, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–6468 Filed 3–24–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–244]

Certain Insulated Security Chests; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: EP Industrial, 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 March 16, 1987.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, 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 than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: March 16, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–6469 Filed 3–24–87; 8:45 am]

BILLING CODE 7020–02–M

Stainless Steel Plate From Sweden; Request for comments Concerning the Institution of a Section 751(b) Review Investigation

AGENCY: United States International Trade Commission.

ACTION: Request for comments regarding the institution of a section 751(b) review investigation concerning the Commission's affirmative determination in investigation No. AA1921–114, Stainless Steel Plate from Sweden.

SUMMARY: The Commission invites comments from the public on whether changed circumstances exist sufficient to warrant the institution of an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) to review the Commission's affirmative determination in investigation No. AA1921–114 regarding stainless steel plate from Sweden. The purpose of the proposed 751(b) review investigation, if instituted, would be to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of stainless steel plate from Sweden if the antidumping order regarding such merchandise were to be modified or revoked. Stainless steel plate is provided for in items 607.76 and 607.90 of the Tariff Schedules of the United States.

FOR FURTHER INFORMATION CONTACT: Lawrence Rausch (202–523–0300), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION: On May 1, 1973, the Commission determined that an industry in the United States was injured within the meaning of the Antidumping Act of 1921 by reason of imports of stainless steel plate from Sweden which the Secretary of Treasury had determined to be sold or likely to be

sold at less than fair value (LTFV). On June 5, 1973, the Department of Treasury issued a finding of dumping and published a notice of such a finding in the **Federal Register** (38 FR 15079).

On July 8, 1985, the Commission received a request to review its affirmative determination in investigation No. AA1921–114. The request was filed pursuant to section 751(b) of the Tariff Act of 1930 by counsel on behalf of Avesta AB, the sole Swedish producer and exporter of stainless steel plate, and its affilated company, Avesta Stainless Inc., a U.S. producer of stainless steel plate. The Commission published a notice in the **Federal Register** requesting comments as to whether the alleged changed circumstances were sufficient to warrant institution of a review investigation. Comments were supplied by counsel on behalf of Allegheny Ludlum Steel Corp., Armco Inc., LTV Steel Co., Washington Steel Corp., and the United Steelworkers of America opposing the institution of a review investigation. After review of the petition and the responses to the notice inviting comments, the Commission determined that the petition did not show changed circumstances sufficient to warrant institution of a review investigation (50 FR 43613).

On February 24, 1987, the Commission received a second request, pursuant to section 751(b) of the Act, to review its affirmative determination in investigation No. AA1921–114. This request is again filed by counsel on behalf of Avesta AB, the sole producer and exporter of stainless steel plate, and its affiliated company, Avesta Stainless Inc., a U.S. producer of stainless steel plate.

Written Comments Requested: Pursuant to § 207.45(b)(2) of the Commission's Rules of Practice and Procedure (19 CFR 207.45(b)(2)), the Commission requests comments concerning whether the following alleged changed circumstances are sufficient to warrant institution of a review investigation: (1) The number of producers in Sweden has declined from four in 1972 to a single producer in 1987 and Sweden's capacity to produce stainless steel plate has declined; (2) Imports of hot-rolled stainless steel plate from Sweden have been and remain at *de minimis* levels; (3) Th *de minimis* levels of imports from Sweden result directly from the 1976 acquisition of a hot-rolling plate producing mill in the United States by a predecessor of the petitioner, thereby eliminating imports of hot-rolled plate from Sweden except for "special grades"; (4) In contrast to the early 1970s, the European Community (EC) represents a natural and growing market for Swedish plate, and Swedish plate enters the EC free of duty and without quantitative restrictions; (5) U.S. producers are highly protected due to the implementation on March 1, 1986, of voluntary restraint agreements (VRA's) negotiated with the U.S. industry's major foreign competitors; (6) Sweden is not a VRA-signatory country and, consequently, it is subject to antidumping and countervailing duty laws while imports from countries under the agreements are not; (7) Sweden supplies a limited U.S. demand for large-width (over 48 inches) continuous cold-rolled plate, which no U.S. firm is capable of producing; (8) New patented grades of hot-rolled stainless steel plate are now being imported from Sweden which did not exist in the 1970s and are not produced by any U.S. producer.

Written Submissions: In accordance with § 201.8 of the Commission's rules (19 CFR 201.8), the signed original and 14 copies of all written submissions must be filed with the Secretary to the Commission, 701 E Street NW., Washington, DC 20436. All comments must be filed no later than 30 days after the date of 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 business confidential treatment under § 201.6 of the Commission's rules (19 CFR 201.6). Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must be clearly marked at the top "Confidential Business Data." The Commission will either accept the submission in confidence or return it. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

Copies of the request for review of the injury determination and any other documents in this matter are available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission; telephone 202–523–0161.

By order of the Commission.

Issued: March 17, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–6470 Filed 3–24–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–283 (Final)]

Certain Acetylsalicylic Acid (Aspirin) From Turkey

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701–TA–283 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Turkey of acetylsalicylic acid,[1] provided for in item 410.72 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Turkey.

Pursuant to a request from petitioner under section 705(a)(1) of the Act (19 U.S.C. 1671d(a)(1)), commerce has extended the date for its final determination in this investigation to coincide with the date of its final determination in an ongoing antidumping investigation on bulk acetylsalicylic acid from Turkey. Accordingly, the Commission will not establish a schedule for the conduct of the countervailing duty investigation until Commerce makes a preliminary determination in the antidumping investigation (currently scheduled for April 9, 1987).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: March 3, 1987.

FOR FURTHER INFORMATION CONTACT: Lynn Featherstone (202–523–0242), Office of Investigations, U.S.

[1] The product covered by this investigation is acetylsalicylic acid (aspirin) imported in bulk, containing no additives other than inactive substances (such as starch, lactose, cellulose, or coloring material) and/or active substances in concentrations less than that specified for particular non-prescription drug combinations of aspirin and active substances as published in the *Handbook of Non-Prescription Drugs*, 8th edition, American Pharmaceutical Association, and not in tablet, capsule, or similar forms for direct human consumption.

International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the commission's TDD terminal on 202–724–0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–523–0161.

SUPPLEMENTARY INFORMATION:

Background—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Turkey of bulk acetylsalicylic acid. The investigation was requested in a petition filed on October 31, 1986, by Monsanto Company, St. Louis, MO. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 46942, December 29, 1986).

Participation in the investigation—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: March 19, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–6464 Filed 3–24–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–334 (Final)]

Certain Fresh Cut Flowers From Peru

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On March 6, 1987, the U.S. Department of Commerce published notice in the **Federal Register** of a negative final determination of sales at less than fair value in connection with the subject investigation. Accordingly, pursuant to § 207.20(b) of the Commission's Rules of Practice and Procedure (19 CFR 207.20(b)), the antidumping investigation concerning certain fresh cut flowers from Peru (investigation No. 731–TA–334 (Final)) is terminated.

EFFECTIVE DATE: March 16, 1987.

FOR FURTHER INFORMATION CONTACT: Dan Dwyer (202–523–4618), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Authority: This investigation is being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Issued: March 18, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–6467 Filed 3–24–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–242]

Commission Determination Not To Review Initial Determinations Terminating Four Respondents on the Basis of Two Separate License and Settlement Agreements; OKI Electric Industry Co. et al.

In the matter of Certain dynamic random access memories, components thereof, and products containing same.

AGENCY: U.S. International Trade Commission.

ACTION: Termination of respondents OKI Electric Industry Company, OKI America, Inc., Mitsubishi Electric Corporation, and Mitsubishi Electronics America, Inc. on the basis of two separate license and settlement agreements.

SUMMARY: The U.S. International trade Commission has determined not to review two initial determinations (IDs) (Orders Nos. 280 and 281) terminating respondents OKI Electric Industry Company and OKI America, Inc. (collectively OKI respondents) and Mitsubishi Electric Corporation and Mitsubishi Electronics America, Inc. (collectively Mitsubishi respondents) in the above-captioned investigation on the basis of two separate license and settlement agreements.

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 February 4, 1987, complainant Texas Instruments (TI) and the OKI responsdents filed a joint motion to terminate this investigation as to those respondents on the basis of a license and settlement agreement. On February 6, 1987, TI and the Mitsubishi respondents filed a joint motion to terminate this investigation as to those respondents on the basis of a license and settlement agreement. The Commission investigative attorney (IA) filed responses in support of both motions. The presiding administrative law judge issued two initial determinations (IDs) on February 17, 1987, terminating the OKI and Mitsubishi respondents on the basis of the settlement and license agreements. No petitions for review or comments from Government agencies or the public concerning the IDs were received.

The authority for the Commission's action is found in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.53 of the Commission's Rules of Practice and Procedure (19 CFR 210.53).

Copies of the nonconfidential versions of IDs 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: March 19, 1987

Kenneth R. Mason,

Secretary.

[FR Doc. 87–6466 Filed 3–24–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–242]

Commission Determination Not to Review Initial Determination Terminating Three Respondents on the Basis of a Settlement and License Agreement; Matsushita Electric Industrial Co. et al.

In the matter of certain dynamic random access memories, components thereof, and products containing same.

AGENCY: U.S. International Trade Commission.

ACTION: Termination of respondents Matsushita Electric Industrial Co., Ltd., Matsushita Electronic Corp., and Matsushita Electric Corporation of America on the basis of a settlement and license agreement.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 277) issued by the presiding administrative law judge (ALJ) terminating respondents Matsushita Electric Industrial Co., Ltd., Matsushita Electronics Corp., and Matsushita Electric Corporation of America (the Matsushita respondents) in the above-captioned investigation on the basis of a settlement and license agreement.

FOR FURTHER INFORMATION CONTACT: Kristian Anderson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0074.

SUPPLEMENATARY INFORMATION: On February 2, 1987, complainant Texas Instruments, Inc. (TI) and the Matsushita respondents filed a joint motion to terminate this investigation as to the Matsushita respondents on the basis of a license and settlement agreement. The Commission investigative attorney filed a response supporting the motion. The ALJ issued an ID on February 12, 1987, terminating the Matsushita respondents on the basis of the settlement and license agreement. No petitions for review or comments from Government agencies or the public concerning the ID were received.

The authority for the Commission's action is found in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.51).

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: March 19, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–6465 Filed 3–24–87; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30996]

KWT Railway, Inc.; Acquisition and Operation Exemption

KWT Railway, Inc. has filed a notice of exemption to acquire and operate certain properties of CSX Transportation, Inc. The properties consist of: (a) The line of railroad and appurtenant facilities between Murray, KY (milepost LNB 38.3) and Bruceton, TN (valuation station 4485+14), a distance of 51 miles; and (b) crossing trackage between valuation station 4020+20 east of Paris, TN and milepost 256.06 in Henry County, TN. Any comments must be filed with the Commission and served on Donald G. Avery, Slover & Loftus, 1224 Seventeeth Street NW., Washington, DC 20036.[1]

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 16, 1987.

By the Commission, Jane, F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–6431 Filed 3–24–87; 8:45 am]

BILLING CODE 7035–01–M

[1] The Railway Labor Executives' Association (RLEA) filed an unsupported request for labor protection claiming that this transaction is subject to the mandatory labor protection provisions of 49 U.S.C. 1347. Since this transaction involves an exemption from 49 U.S.C. 10901, only a showing of exceptional circumstances will justify the imposition of labor protective conditions. RLEA's request is denied, because the requisite showing has not been made. *See Class Exemption—Acq. & Oper. of R. LinesUnder 49 U.S.C. 10901,* 1 I.C.C.2d 810 (1985).

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; Petroleum Environmental Research Forum

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), the members of Petroleum Environmental Research Forum ("PERF") who are participating in Project No. 86–05 have filed a written notification simultaneously with the Attorney General and Federal Trade Commission disclosing (1) the identities of the parties to Project No. 86–05 and (2) the nature and objectives of the research program performed in accordance with said Project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties participating in Project No. 86–05 along with the nature and objectives of the research program are given below.

The parties to Project No. 86–05 are: Chevron Research Company; Exxon Research and Engineering Company; and Texaco Refining and Market Inc. The nature and objectives of the research program performed in accordance with Project No. 86–05 are to determine the feasibility of in situ biodegradative treatment of spilled petroleum products in soil. The program will include laboratory testing of three petroleum products in three types of soils followed by a field demonstration of the technology.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87–6471 Filed 3–24–87; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984; Petroleum Environmental Research Forum

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15

U.S.C. 4301, *et seq.*, the members of Petroleum Environmental Research Forum ("PERF") who are participating in Project No. 86–06, titled "Evaluation of Hazardous Waste Solidification Processes," have filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to this project and (2) the nature and objectives of this project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to this project and its general area of planned activity are given below.

The parties to this project are: Amoco Oil Company; Chevron Research Company; Murphy Oil U.S.A., Inc., Sun Refining and Marketing Company; Texaco Refining and Marketing Inc.; and Union Oil Company of California. The objective and area of planned activity in this project is to evaluate some existing commercial processes relating to environmentally acceptable stabilization of certain petroleum refinery hazardous wastes listed by regulatory agencies.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87–6472 Filed 3–24–87; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984; Petroleum Environmental Research Forum

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.*, ("the Act"), the members of Petroleum Environmental Research Forum ("PERF") who are participating in Project No. 86–09, titled "Microbiological Processing of Petroleum Oily Wastes: Assessment of Promising Approaches," have filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing: (1) The identitites of the parties to this project and (2) the nature and objectives of this project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to this project and its general area of planned activity are given below.

The parties to this project are: Amoco Oil Company; Atlantic Richfield Company; Chevron Research Company; Exxon Research and Engineering Company; The Standard Oil Company; Texaco Refining and Marketing Inc.; and Union Oil Company of California. The objectives of this project and its members and the area of planned activity in this project are four-fold: (1) Identify existing process research and development as it relates to the question of microbiological degradation of petroleum oily sludges; (ii) once the existing technology is defined, evaluation and ranking of this technology as to its applicability to the degradation of petroleum oily sludges; (iii) comparisons of the three most promising approaches; and (iv) recommendation of the most promising area for further research and development.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 87–6473 Filed 3–24–87; 8:45 am]

BILLING CODE 4410–01–M

Office of Justice Programs

Crime Victim Compensation Grants; Revised Program Guideline

AGENCY: Office of Justice Programs Justice.

ACTION: Final Guideline (Revised).

SUMMARY: The Office of Justice Programs is publishing guideline revisions for crime victim compensation grant provisions of the Victims of Crime Act of 1984.

EFFECTIVE DATE: March 25, 1987.

FOR FURTHER INFORMATION CONTACT: Charles M. Hollis (202) 724–5947.

SUPPLEMENTARY INFORMATION: On Wednesday, August 28, 1985, the Office of Justice Programs (OJP) published in the **Federal Register** the Program Guideline for Crime Victim Compensation Grants. The guideline implemented the crime victim compensation grant provisions of the Victims of Crime Act of 1984, Pub. L. 98–473, Title II, Chap. XIV, 42 U.S. Code 10601 et seq., which was signed into law by President Reagan on October 12, 1984.

The Act authorizes the Attorney General to make annual grants from a Crime Victims Fund in the United States Treasury. 49.5 percent of the amount in the Fund is allocated for grants to State crime victim compensation programs. Funds permitting, compensation programs will receive 35% of their prior year's victim compensation awards. The remainder of the Fund is allocated for grants to the states for crime victim assistance programs (45%), programs under the Children's Justice Act, Pub. L. 99–401 (4.5%), and up to 1% of the Fund can be expended for the purpose of providing training and technical assistance to eligible applicants and also for services to victims of Federal crimes.

This notification revises, in part, the FY 86 Final Program Guideline by describing the procedures by which states submit information to the Office for Victims of Crime, Office of Justice Programs. This information must demonstrate the states' eligibility under section 1403(b), codified at 42 U.S. Code 10602(b), that will enable them to apply for and receive a second year grant.

Guideline for Crime Victim Compensation Grants

I. Overview of the Statute

The Victims of Crime Act of 1984 has a major objective of providing additional financial assistance directly to victims of crime by enhancing the states' monetary awards to crime victims eligible as determined by the states' criteria.

The Act provides that, funds permitting, the Attorney General will make an annual grant to an eligible crime victim compensation program in an amount equal to 35% of the amount paid from State funds by the program as compensation to victims of crime (excluding amounts paid to compensate victims for property damage) during the preceding fiscal year. Section 1403(a)(1). If the amount of money in the Fund is insufficient to award each State 35% of its prior year compensation payouts, all States will be awarded the same percentage of their prior year payouts out of available funds. Section 1403(a)(2). For purposes of the victim compensation provisions of the Act, "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States. Section 1403(d)(4).

Section 1403 of the Act prescribes the conditions and eligibility criteria related to crime victim compensation grants. Section 1403(c), of the Act, however, is a "grandfather" clause that, in effect, permits each State with a compensation program that was awarding benefits in Federal fiscal year (FFY) 1984 to receive a grant during FY 1986 and, if applicable FY 1987, even if the program does not conform to the Act's criteria. The clause allows a State one regular legislative session after the date the first grant to

that State is made to conform its laws to the Act. States not in compliance with the Act at the time subsequent grants are made will be ineligible for those grants.

II. Programs Requirements for FY 1987 Grants

A. Application Requirements

In order to be eligible for awards under the Act in FY 1987 those programs applying for second year funding must meet the prescribed conditions and eligibility criteria described in section 1403(b), codified at 42 U.S.C. Code 10602(b), of the Act. The State Victim Compensation and Assistance Section, Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice is in the process of determining the eligibility of all active state crime victims compensation programs to receive subsequent year funding. To be eligible to receive a second grant award the states must respond to this office's request that they submit specific information as to statutory or other appropriate authority that demonstrates the state's victim compensation program is in compliance with the requirements of section 1403(c). This information must include a statute(s) certified by a duly authorized official or by affidavit signed by an appropriate official evidencing that the state progam in fact provides compensation in each area required by this section.

In addition to complying with the eligibility requirements set out in the Act, the program will also be required to submit the following information and assurance:

(1) A statement certified by the chief executive of the State of the total amount of money spent by the program for crime victim compensation award in the preceding Federal fiscal year (October 1, 1984—September 30, 1985);

(2) The amount of such compensation paid for "property damage";

(3) The total amount and each source of revenue for the program in FY 1985;

(4) A certified copy of the State statute or other legal authority establishing the program; and

(5) An assurance that funds received under the Act will not be used to supplant State funds otherwise available for crime victim compensation.

For the purpose of requirement (1), the amount to be certified is only the amount actually spent by the program to compensate victims of crime in Federal FY 1985. Amounts expended for administration of the program or other types of victim assistance are to be excluded, as are amounts appropriated or collected for the purpose of victim compensation which were not expended.

For the purpose of requirement (2), the term "property damage" is defined by the Act to exclude damage to prosthetic devices and dental devices. Therefore, States may include payments made for damage to those devices in the amount reported under requirement: (1) As compensation to victims of crime. Compensation paid to reimburse crime victims for damages to, or loss of, any other real of personal property must be reported under requirement (2).

For the purpose of requirement (4), certification may be effected by the chief executive, the State Attorney General, the Secretary of State, or the clerk of the State legislature.

With respect to requirement (5), the Act prohibits States from using the Federal funds made available under the Act to supplant State funds otherwise available for crime victim compensation payments. The nonsupplantation provision is fundamentally intended to assure that the States use the Federal funds provided under the Act to augment, not replace, otherwise available State funding for victim compensation. Federal funds should be used to enhance compensation benefits or expand program coverage, not simply substitute for previously available State moneys. The States may not decrease their financial commitment to crime victim compensation solely because they are receiving Federal funds for the same purposes. Section 1403(b)(3).

The requested information and assurance may be provided in a letter attached to Standard Form 424, "Application for Federal Assistance". Eligible programs must also provide the information and assurances explained in the Civil Rights and Financial sections of the Guideline below (See sections IV and V).

B. Date of Application

Section 1402(e) of the Act permits a State to obligate its grant funds fat any time during the Federal fiscal year (FFY) of award and the following FFY. Funds that are not obligated at the end of the following FFY must be returned to the general fund of the United States Treasury. Accordingly, grant funds awarded in FFY 1987, i.e., before October 1, 1987, must be obligated by the State by September 30, 1988. In deciding when to submit their applications, therefore, the States should balance their need for the grant funds as soon as possible against their need for a longer time to obligate the funds.

Applications for FY 1987 grants must be received by OJP no later than July 31, 1987.

III. Program Requirements: Current and Future Fiscal Year Grants

State crime victim compensation programs must meet the statutory criteria set forth below:

A crime victim compensation program is an eligible crime victim compensation program for the purposes of this section if—

(1) Such program is operated by a State and offers compensation to victims of crime and survivors of victims of crime for—

(A) Medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

(B) Loss of wages attributable to a physical injury resulting from a compensable crime; and

(C) Funeral expenses attributable to a death resulting from a compensable crime;

(2) Such program promotes victim cooperation with the reasonable requests of law enforcement authorities;

(3) Such State certifies that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation;

(4) Such program, as to compensable crimes occurring within the State, makes compensation awards to victims who are nonresidents of the State on the basis of the same criteria used to make awards to victims who are residents of such State;

(5) Such program provides compensation to victims of crimes occurring within such State that would be compensable crimes, but for the fact that such crimes are subject to Federal jurisdiction, on the same basis that such program provides compensation to victims of compensable crimes; and

(6) Such program provides such other information and assurances related to the purposes of this section as the Attorney General may reasonable require. Section 1403(b).

The Act defines certain terms used in section 1403(b) as follows:

(1) The term "property damage" does not include damage to prosthetic devices or dental devices;

(2) The term "medical expenses" includes, to the extent provided under the eligible crime victim compensation program, expenses for dental services and devices and prosthetic devices and for services rendered in accordance with a method of healing recognized by the law of the State;

(3) The term "compensable crime" means a crime the victims of which are eligible for compensation under the eligible crime victim comensation program; and

(4) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States. Section 1403(d).

A. Eligible Program Generally

The fundamental criterion of eligibility is an operational State victim compensation program. Although an authorized program that has not actually paid out compensation benefits would

be technically eligible under subsection 1403(b)(1), the program would not be entitled to any Federal funds because it had not awarded any benefits that the Federal government could match (up to 35%) under subsection 1403(a)(1). Federal funds may not be used as "start-up" funds for a new State program.

B. Compensation Criteria (Section 1403(b)(1))

The Act requires as a condition of eligibility that a crime victim compensation program offer compensation for crime-related medical expenses (including mental health counseling and care), lost wages, and funeral expenses. This criterion does not require the payment of all these expenses without limitation; rather, it requires that the State offer compensation in each area, subject to such limitations and conditions as the State deems appropriate.

"Mental health counseling and care" means the assessment, diagnosis, and treatment of an individual's mental and emotional functioning that is required to alleviate psychological trauma resulting from a compensable crime. Such intervention must be provided by a person who meets such standards as may be set by the State for victim mental health counseling and care.

C. Cooperation with Law Enforcement (Section 1403(b)(2))

This criterion requires that a State program promote victim cooperation with the reasonable requests of law enforcement authorities. The States may impose such reasonable requirements as they see fit, but must, at a minimum, require a victim to report the crime to the appropriate criminal justice agency and assist in the identification of the suspect. A State, if it wishes, may permit an uncooperative victim to receive benefits only if the victim can convincingly demonstrate that the failure to cooperate was due to a compelling health or safety reason.

D. Nonsupplantation (Section 1403(b)(3))

As noted under Section II above, this criterion requires the State to certify that the Federal funds received under the Act will not supplant State funds otherwise available for victim compensation.

E. Nondiscrimination Against Nonresidents (Section 1403(b)(4))

This provision is intended to assure that nonresidents of a State who are victimized in a State that has an eligible compensation program are provided the opportunity to apply for and receive the same compensation benefits that are available to residents of the State. The maintenance of reciprocal agreements with certain other State, or foreign compensation programs will not suffice to meet this criterion. Eligibility for Federal funding will require the program to extend its coverage to all nonresidents victimized in the State.

F. Coverage of Victims of Federal Crimes (Section 1403(b)(5))

This criterion will require States to compensate victims of crimes committed within their borders that are subject to exclusively Federal jurisdiction in the same manner as they would compensate victims of State crimes. For example, a woman was raped on a Federal reservation inside the State must be afforded the same benefits that would be available to her if the rape were committed elsewhere in the State.

G. Other Information and Assurances (Section 1403(b)(6))

Pursuant to this subsection, the Department of Justice may make reasonable requests for other information and assurances pertinent to the statute, eg., the civil rights, financial, and program information requested below. This criterion will not be used to impose substantive conditions or requirements on State compensation programs. The information and assurances requested under this provision will be only those needed to effectively administer the program or to prepare the statutorily-required report to Congress on the Act's effectiveness. See Section 1407(b).

IV. Financial Requirements

A. Payment of Grant Funds

1. *Annual Requirement Under $120,000.* Grantees whose annual fund requirement is less than $120,000 will receive Federal funds on a "Check Issued" basis. Upon receipt, review and approval of a REQUEST FOR ADVANCE OR REIBURSEMENT, H–3 Report (Form 7160/3) by the grantor agency, a voucher and a schedule for payment is prepared for the amount approved. This schedule is forwarded to the U.S. Treasury requesting issuance and mailing of the check directly to the grantee or its designated fiscal agent. A request must be limited to the grantee's immediate cash needs and submitted at least monthly.

2. *Annual Requirement Over $120,000.* Grantees whose annual fund requirement exceeds $120,000 generally receive Federal funds by utilizing the "Letter of Credit" procedures. This funding method is a cash management process prescribed by the U.S. Treasury for all major grant-in-aid receipients.

3. *Check Issuance.* All checks drawn for the payment of fund requests, either under the "Check Issued" or the "Letter of Credit" process, are prepared and disbursed by the U.S. Treasury and not by the grantor agency.

4. *Termination of Advance Funding.* If a grantee organization receiving cash advances by letter of credit or by direct Treasury check demonstrates an unwilingness or inability to establish procedures that will minimize the time elapsing between cash advances and disbursement, the grantor agency may terminate advance financing and require the grantee organization to finance its operations with its own working capital. Payments to the grantee will then be made by the direct Treasury check method to reimburse the grantee for actual cash disbursements. It is essential that grantee organizations maintain a minimal amount of cash on hand and that drawdowns of cash are made only when necessary for disbursement.

B. Cost Allowability.

The only costs allowable under crime victim compensation grants are compensation payments to victims of compensable crimes. These may include payments for medical expenes, including expenes for mental health counseling and care; lost wages; funeral expenses; loss of support; child care expenses; and any other cost payable as crime victims compensation under State law, except payments for property damage.

Amounts expended for administration of the program (including the performance of audits under Section IV C. below) are not allowable costs. Although under OMB Circular No. A–128, audit costs are generally allowable charges under Federal grants, the Victims of Crime Act expressly states that crime victim compensation grant funds may be used "only for awards of compensation." Section 1403(a)(1).

C. Financial Status Report.

A Financial Status Report (Form H–1) is required for all grants. This report shall be submitted by the grantee within 45 days after the end of the calendar quarter. Final reports are due 90 days after the end date of the grant. Failure to comply with this requirement may result in administrative action such as the withholding of payments, cancellation of a Letter of Credit, or noncertification of new grant awards. In lieu of using the standard H–1 Report, grantees may satisfy the financial reporting requirements by completing an H–1

turnaround document. This document is a facsimile of the H–1 extracted from the grantor agency's computer files and sent directly to each grantee. Pertinent information such as grantee name and address, grant number and the previously submitted financial information (if any) is printed on the form by the computer.

D. Audit Responsibilities.

Pursuant to Office of Management and Budget Circular A–128, "Audits of State and Local Governments", grantees, subgrantees and subrecipients have the responsibility to provide for an audit of their activities. These audits shall be made annually, unless the State or local government has, by January 1, 1987, a constitutional or statutory requirement for less frequent audits. Grantees, as well as their subgrantees, contractors or other organizations under cooperative agreements or puchase or service contracts are to arrange for examinations in the form of independent audits in conformance with OMB Circular A–128. These audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits.

The required audits are to be performed on an organization-wise basis as opposed to a grant-by-grant basis. The audit reports must include:

(1) The auditor's report on financial statements of the recipient organization, and a schedule of financial assistance, showing the total expenditures for each Federal assistance program;

(2) The auditor's report on compliance containing: (A) A statement of positive assurance with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements; (B) a negative assurance of those items not tested, and a summary of all instances of noncompliance; and (C) the auditor's report on the study and evaluation of internal control systems, which must identify the organization's significant internal accounting controls, and those controls designed to provide reasonable assurance that Federal programs are being managed in compliance with applicable laws and regulations. It must also identify the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of that evaluation.

(3) Applications from the State must include the date of the last audit of the State agency, the anticipated date of the next audit, and the date to be forwarded to the cognizant Federal agency.

E. Audit Objectives

Grants and other agreements are awarded subject to conditions of fiscal program and general administration to which the recipient expressly agrees. Accordingly, the audit objective is to review the recipient's administration of grant funds and required non-Federal contributions for the purpose of determining whether the recipient has:

(1) Financial statements of the government, department, agency, or establishment that present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) The organization has internal accounting and other control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

(3) The organization has complied with laws and regulations that may have material effect on its financial statements and on each Federal assistance program.

F. Audit Implementation.

Grantees are required to specify their arrangement for complying with the provision of OMB Circular A–128 and include in their grant application, to the extent possible, the following information:

(1) The identity of the organization that will conduct the audit;

(2) Approximate timing of when the audit will be performed;

(3) Audit coverage to be provided. Where the audit will not provide the coverage requirements as specified previously, the audit policy or procedure must describe the specific arrangements for obtaining audit services that will meet the requirements;

(4) An identification of the audit standards, if any, with which the grantees will not comply;

(5) Receipt and appropriate distribution of the resultant audit report; and

(6) Audit resolution policies and procedures to be followed in resolving the audit report.

G. Fund Suspension or Termination

If, after notice and opportunity for a hearing, OJP finds that a State has failed to substantially comply with the Victims of Crime Act or any implementing regulations or guidelines, OJP must suspend or terminate funding to the State, or take other appropriate action. Only States may request a hearing; subgrantees in the State may not.

H. Grant Application.

The "Application for Federal Assistance" (Standard Form 434, (4000/3)) should be used in the formal application for crime victim compensation projects. Only the face sheet of the application form need to be submitted. An original and two copies are required.

V. Civil Rights

A. General

The Act provides that no person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any activity receiving funds under the Act on the basis of race, color, religion, national origin, handicap, or sex. Section 1407(e). Recipients of funds under the Act are also subject to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d (prohibiting discrimination in Federally-funded programs on the basis of race, color, or national origin), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (prohibiting discrimination in such programs on the basis of handicap), the Age Discrimination Act of 1975, 42 U.S.C. 6101, et seq., and the Department of Justice Nondiscrimination Regulations, 28 CFR, Part 42, Subparts C, D, and G.

B. Required Assurances and Information

To be eligible for funding under the Act, a crime victim compensation program must submit the following assurances and information:

(1) An assurance that the program will comply with all applicable nondiscrimination requirements;

(2) An assurance that in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing, on the ground of race, religion, national origin, sex, or handicap against the program, the program will forward a copy of the finding to the OJP Office of Civil Rights Compliance (OCRC); and

(3) The name of a civil rights contact person who has lead responsibility in insuring that all applicable civil rights requirements are met and who shall act as liaison in civil rights matters with OCRC.

Recipient programs must also maintain information on victim claims, awards, and denials by race, sex, national origin, handicap and age.

VI. Reporting Requirements

A crime victim compensation program receiving funds under the Act will be required to submit semi-annual performance reports. These reports will be on a form prepared and distributed by OJP. The FY 1987 reports will be due May 1, 1987 (for the October 1, 1986–March 31, 1987 reporting period) and November 1, 1987 (for the April 1, 1987–September 30, 1987 reporting period).

Each program will be asked to provide the following information for the applicable period:

(1) Copies of any amendments to the State victim compensation statute and regulations indicating the changes made in the program since the receipt of funds under the Act, e.g., higher benefit limits, modified eligibility criteria;

(2) The amount and each source of revenue for the program;

(3) Claim statistics, e.g., the total number of claims, awards, denials, and pending claims, and the total amount of awards;

(4) Claim analysis, i.e., average awards; the number and total amount of awards; the number and amount of awards for Federal victims and non-resident victims; the number and amount of awards by type of crime; and the number and amount of awards by type of expenses, i.e., medical, mental health counseling, dental, funeral, etc.

(5) Analysis of mental health counseling awards by type of provider, e.g., psychiatrist, psychologist, rape crisis center, community mental health center; number and amount of awards; and duration of awards.

(6) Referral sources to the compensation program.

Richard B. Abell,

Acting Assistant Attorney General, Office of Justice Programs.

[FR Doc. 87-6504 Filed 3-24-87; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR REGULATORY COMMISSION

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Public Law 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 bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on March 12, 1987 (52 FR 7675) through March 16, 1987.

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, 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 April 24, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The

final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, 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 (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, 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.

Baltimore Gas and Electric Company, Docket No. 50–318, Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of amendment request: February 6, 1987.

Description of amendment request: The following proposed technical specification (TS) changes for Unit 2 reflect analyses performed in support of Unit 2 Cycle 8 operation. The proposed TS changes are: 1.(a) Modify TS Figure 2.2–1 to reduce the acceptable operation region between 70% and 100% rated thermal power (RTP), and (b) Increase the minimum required shutdown margin of TS Limiting Condition for Operation (LCO) 3.1.1.1 from 3.5 delta k/k to 4.5 delta k/k. 2. Modify TS LCO 3.1.1.4 by increasing the limit for moderator temperature coefficient (MTC) whenever thermal power is above 70% RTP from less positive than 0.2 E–4 delta k/k/°F to the linear equation where the limit for MTC is less positive than +[(.9+4(1–P))/3] E–4 delta k/k/°F where P is the fraction of RTP. Thus at 70% RTP, MTC must be less positive than +0.7 E–4 delta k/k/°F and at 100% RTP, MTC must be less positive than +0.3 E–4 delta k/k/°F.

Basis for proposed no significant hazards consideration determination: Change No. 1(a) proposes reducing the acceptable operation region of TS Figure 2.2–1 between 70% and 100% RTP. This figure is used to determine the axial flux offset reactor trip setpoint as required by TS 2.2, "Limiting Safety System Settings." The proposal to reduce the acceptable operation region would make the reactor trip setpoint for axial flux offset more restrictive.

Change No. 1(b) proposed increasing the minimum shutdown margin required in TS LCO 3.1.1.1 to 4.5 delta k/k in order to support a revised steam line rupture analysis. This increase is possible due to the additional scram worth available for low-leakage cores. This proposed shutdown margin limit is more restrictive than the current limit.

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.

The proposed changes 1(a) and 1(b) are consistent with two of the different examples that were provided: (ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement, and (iii) For a nuclear power reactor a change resulting from a nuclear reactor core loading, if no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question are involved. This assumes that no significant changes are made to the acceptance criteria for the technical specifications, that the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable.

Change No. 2 proposes to increase the limit for MTC to less positive than the linear equation +[(.9+4(1–P))/3] E–4 delta k/k/°F where P is the fraction of RTP. This would yield an MTC limit at 70% RTP of less positive than +0.7 E–4 delta k/k/°F and an MTC limit at 100% RTP of less positive than +0.3 E–4 delta k/k/°F. This change is being proposed to support the implementation of the 24-month cycle core design to eliminate startup delays, and to facilitate a more rapid power ascension.

The NRC staff has reviewed the licensee's proposed change and justifications against the standards in 10 CFR 50.92 and proposes to determine that the amendment would not:

(i) involve a significant increase in the probability or consequences of an accident previously evaluated...

The bounding accident previously evaluated that would be affected by this proposed change in MTC limit above 70% RTP is the feedline break (FLB) event. The licensee reanalyzed the safety analyses for all FLBs using the proposed MTC limit and also more realistic, plant-specific parameters. These analyses yielded consequences, both reactor coolant system (RCS) peak pressure and site boundary doses, that were less severe than those determined for the safety analyses of the FLB's with an MTC limit above 70% RTP of less positive than +0.2 E–4 delta k/k/°F. Hence, this proposed change would not increase the probability or

consequences of any previously evaluated accidents.

(ii) Create the possibility of a new or different type of accident from any accident previously evaluated . . .

This proposal would not change the design of any system. Reactor operation is affected only in the slight increase in the MTC that will be permitted for operation at thermal powers above 70% RTP. This proposed change in operation will not create the possibility of any new or different types of accidents from any previously evaluated as the design and operation of all systems is basically unaffected.

(iii) Involve a significant reduction in a margin of safety . . .

The following three margins of safety could be affected by this proposal: (a) Margin from peak RCS pressure to 110% of design RCS pressure during FLB events; (b) margin to the site boundary dose limits of 10 CFR Part 100 for FLB events; (c) margin of safety provided for anticipated transients without scram (ATWS) events. This proposal does not involve any significant reduction in these margins of safety.

The FLB safety analysis performed for this proposed MTC limit is bounded by the analysis performed for an MTC limit above 100% RTP of less positive than +0.2 E–4 delta k/k/°F. This is because more realistic, plant-specific parameters were utilized in the safety analysis than were previously used. This yielded a larger margin of safety with the proposed MTC limit change for both the peak RCS pressure and the site boundary dose limits of 10 CFR Part 100 in all FLB events.

Raising the TS MTC limit at 100% RTP to less positive than +0.3 delta k/k°F could reduce the current level of safety margin provided for ATWS. To ensure that this current level of margin is not significantly reduced BG&E committed in the October 27, 1986 submittal that the 100% power, equilibrium xenon MTC for Unit 1 Cycle 9 and Unit 2 Cycle 8 shall be negative. Additionally, prior to operating either unit at 100% RTP and equilibrium xenon with a zero or positive MTC, which is intended for Unit 1 Cycle 10 in the spring of 1988, BG&E committed to analyzing the effects of a zero or positive MTC upon the ATWS safety margin currently provided. Hence, the margin of safety provided for ATWS will not be significantly reduced by this proposed change.

Based upon the above, the NRC staff proposes to determine that the requested relaxation of the MTC limit of TS LCO 3.1.1.4 involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Ashok C. Thadani.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of application for amendments: February 18, 1987.

Description of amendments request: The amendments would revise the Technical Specifications to incorporate the addition of two radioactive liquid effluent monitoring instruments. These instruments will provide monitoring and control of potentially radioactive liquid effluent releases to avoid exceeding the limits of 10 CFR Part 20.

Basis for proposed no significant hazards consideration determination: The staff has evaluated these proposed amendments and determined that they involve no significant hazards considerations. 10 CFR 50.92(c) states that a proposed amendment will involve no significant hazards considerations if the proposed amendments do 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 amendment adds two radiation monitors to the Technical Specifications: one on the condensate cleanup (CP) system sump and one on the fire and oil sump. Upon detection of unacceptable levels of radioactivity in sump effluent, the monitors are designed to alarm and automatically terminate sump discharge. Monitor setpoints are conservatively placed to ensure that 10 CFR Part 20.106 limits are not exceeded.

The proposed changes do not involve significant hazards considerations because operation of Byron 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. Accidents previously evaluated involve an airborne release to the environment from the rupture of a spent resin storage tank or boron recycle holdup tank and; a liquid release to groundwater resulting from the rupture of the boron recycle holdup tank.

The probability of occurrence of these accidents is not affected by establishing a monitored effluent release path of potentially radioactive fluid from the CP sump or fire and oil sump.

The consequences of these previously evaluated accidents have been determined to be within 10 CFR Part 100 and 10 CFR Part 20 limits. Establishing a monitored effluent release path from the CP sump or fire and oil sump will not affect the consequences of these previously evaluated tank ruptures.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated. The additional effluent release paths and monitors do not interface with any safety related system or equipment. An evaluation of the expected activity from these two systems indicates that activity levels should be negligible. The addition of a radiation monitor in each release path assures that discharges are properly monitored and terminated if unacceptable levels of radioactivity are detected. This function assures that releases in excess of 10 CFR Part 20 limits do not occur via these pathways during normal or accident situations. The addition of these monitors will not create the possibility for a new or different kind of accident.

3. Involve a significant reduction in a margin of safety. The added radiation monitors do not interface with safety related equipment or instruments. Releases via the CP sump and the fire and oil sump are expected to be minimal and well below the limits of 10 CFR 20. Addition of the radiation monitors to detect and prevent any radioactive release provides an additional measure of control for release paths where activity levels are expected to be minimal. The changes therefore do not involve a significant reduction in a margin of safety.

Based on the above discussion, the staff concludes that the proposed amendments will involve no significant hazards considerations.

Local Public Document Room location: Rockford Public Library, 215 N Wyman Street, Rockford, Illinois 61103.

Attorney to licensee: Michael Miller, Isham, Lincoln and Beale, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

NRC Project Director: Steven A. Varga.

Commonwealth Edison Company, Docket No. 50–249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Date of amendment request: September 29, 1986.

Description of amendment request: The amendment would extend the operating life of Dresden Unit 3 to 40 years, i.e., from October 14, 2006 to January 12, 2011, an extension of nearly 4 years and 3 months.

The currently licensed operating life for Dresden Unit 3 is 40 years commencing from the issuance of the construction permit (October 14, 1966). Accounting for the time that was required for plant construction, this represents an effective operating life of 35 years and 9 months from the issuance of the operating license (January 12, 1971). The licensee's application requests a 40-year operating life for Dresden Unit 3.

The licensee's request for extension of the operating license is based primarily on the fact that a 40-year service life was considered during the design and construction of the plant. Although this does not mean that some components will not wear out during the plant lifetime, design features were incorporated which maximize the inspectability of structures, systems and equipment. Surveillance and maintenance practices which are implemented in accordance with the ASME code and the facility Technical Specifications provide assurance that any unexpected degradation in plant equipment will be identified and corrected.

The design of the reactor vessel and its internals considered the effects of 40 years of operation at full power with a plant capacity factor of 80% (32 effective full power years). Analyses have demonstrated that expected cumulative neutron fluences will not be a limiting consideration. In addition to these calculations, surveillance capsules placed inside the reactor vessel provide a means of monitoring the cumulative effects of power operation.

Aging analyses have been performed for all safety-related electrical equipment in accordance with 10 CFR 50.49, "Environmental qualification of electrical equipment important to safety for nuclear power plants", identifying qualified lifetimes for this equipment. These lifetimes will be incorporated into plant equipment maintenance and replacement practices to ensure that all safety-related electrical equipment remains qualified and available to perform its safety function regardless of the overall age of the plant.

Based upon the above, it is concluded that extension of the operating license for Dresden Unit 3 to allow a 40-year service life is consistent with the safety analysis in that all issues associated with plant aging have already been addressed. The proposed amendment involves no changes in the Technical Specification or safety analyses.

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 at the time a licensee requests an amendment, it must provide to the Commission its analyses, using standards in § 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:

Dresden Unit 3 will continue to be operated within its design limits. The existing inspection and surveillance programs and regulatory requirements applicable to Unit 3 will ensure that the plant systems and components will continue to perform their intended function. This results in the continued validity of the assumptions and results of the Dresden safety analysis.

In addition, the proposed license extension will result in a forty year operating life for Dresden Unit 3. Dresden Station was originally designed for a forty year operating life. Station monitoring of plant thermal cycles has demonstrated that cycles are being experienced at a rate that is consistent with that considered during Unit 3's design. Thus, Unit 3 has not been experiencing any unexpected duty that could result in accelerated aging.

The extension of Dresden Unit 3's operating life to forty years will also not affect any external phenomena such as the occurrence of an earthquake or a tornado. Thus, the above discussion indicates that the probability of a previously analyzed accident will be unaltered due to the license extension because the overall plant performance is not expected to be altered. Thus, the probability of any accident occurring is unaltered.

The consequences of any previously evaluated accident will be likewise unaffected. Since the plant's system and component operability will be preserved, the applicable safety functions will always be available. Thus, the consequences of a postulated accident will not be altered from the previous evaluations.

As discussed above, there will be no change in the operating conditions for Dresden Unit 3 as a result of the license extension. There are no new factors, parameters, or conditions that might affect Dresden 3. Since the plant operating conditions will not be altered, then the possibility for a new or different kind of accident could not be created.

All plant systems and components will continue to function as intended. This will be ensured by the existing inspection and surveillance programs and regulatory requirements (e.g. 10 CFR 50.49, 50.55a, 50.59, Appendix G, H, etc.) previously mentioned. This would include the maintenance of all pertinent plant safety functions. Since all safety functions will continue to be available and since safety system performance will not degrade, then the margin of safety will not be altered.

Therefore, since the application for amendment satisfies the criteria specified in 10 CFR 50.92, Commonwealth Edison has made a determination that the application involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination on the proposed increase to a 40-year operating life for Dresden Unit 3 and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Acting Project Director: Jack N. Donohew, Jr.

Commonwealth Edison Company, Docket Nos. 50–237/249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of amendment request: August 26, 1986.

Description of amendment request: The proposed amendment would delete certain diesel generator testing requirements, as recommended by the NRC in Generic Letter 84–15, to eliminate unnecessary and excessive testing. In addition, the licensee has incorporated a provision to allow a 1½ hour period of preventative maintenance on a diesel generator without requiring low pressure core cooling system surveillances.

In Generic Letter 84–15, the NRC recommended that the requirements for testing diesel generators while emergency core cooling equipment is inoperable be deleted from the Technical Specifications of the earlier licensed operating plants. This recommendation was a result of the concern expressed by industry related groups that frequent testing results in incremental degradation of diesel engines.

Dresden Units 2 and 3, both being earlier licensed plants, perform diesel generator surveillances when low pressure emergency core cooling equipment is inoperable. Dresden Station also maintains the position that these surveillances are excessive and probably cause incremental engine degradation. The preventive maintenance program at Dresden has allowed its diesel engines to achieve a high degree of reliability. The Unit 2, 2/3

and 3 diesel generators achieved a reliability of 97, 98 and 92 percent, respectively as reported in Generic Letter 84–15 for the 100 starts previous to September 5, 1984. The Unit 2, 2/3 and 3 diesel generator achieved a reliability of 100, 100 and 88.2 percent, respectively in 1983 and 1984 as reported by Dresden in response to the Nuclear Safety Analysis Center emergency diesel generator reliability survey. Eliminating diesel generator surveillance when low pressure emergency core cooling equipment is inoperable will create an approximate 10 to 30 percent reduction in the number of diesel engine surveillances using 1983 and 1985 data. Data for the years 1982 through 1984 indicate that an average of 78 diesel engine surveillances are run per year. The mentioned reduction would reduce the number of surveillance to an approximate 54 to 66 per year.

Dresden Station also desires to implement a Technical Specification addition which would allow a diesel engine to be taken out-of-service for a 1½ hour period of preventive maintenance. This period shall not be allowed unless two off-site lines are available and the alternate diesel generator has been proven operable. The Quad Cities Technical Specifications have this feature.

The addition of this specification would reduce the number of core spray, low pressure coolant injection and containment cooling service water surveillances which must be performed when a diesel engine is taken out-of-service for minor maintenance.

Commonwealth Edison, therefore, recommended that step 3.9.B.2.b be incorporated into the Technical Specifications to reduce the number of low pressure core cooling surveillances presently required by Specification 3.5/4.5F. This 1½ hour preventive maintenance period in the startup/hot standby and run modes would only be allowed after the alternate diesel generator is proven operable and when two off-site lines are available. This change would increase the reliability of low pressure core cooling equipment by minimizing the number of times this equipment is operated. This 1½ hour period of preventive maintenance is of relatively short duration.

Basis for proposed no significant hazards consideration determination: Commonwealth Edison has evaluated the proposed Technical Specification amendment described above and determined that it does not represent a significant hazards consideration. Based on the criteria established in 10 CFR 50.92(c), operation of Dresden Units 2 and 3 in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

(a) This change eliminates unnecessary diesel generator testing which could contribute to accelerated wear and potentially degrade diesel generator reliability. This change is intended to enhance diesel generator reliability. The remaining diesel generator surveillances required by the Technical Specifications will continue to assure availability of emergency power, thereby assuring that the probability and consequences of accidents are not affected.

(b) This change provides for the performance of minor maintenance on a diesel generator without unnecessarily challenging low pressure core cooling systems by requiring additional surveillances. The provisions that the other diesel generators, as well as off-site power be operable during the 1½ hour maintenance period will continue to assure the availability of AC power.

(2) Create the possibility of a new or different kind of accident from any previously evaluated because neither change allows new operating modes or new equipment which could initiate or affect the progression of an accident. The changes are intended to enhance system reliability and availability by reducing unnecessary duty on the affected systems.

(3) Involve a significant reduction in the margin of safety because:

(a) The remaining diesel generator surveillances still required by the Technical Specifications are more than adequate to assure high diesel generator reliability and availability. The elimination of excessive testing requirements is consistent with the NRC guidance in Generic Letter 84–15 and will serve to maintain and potentially improve the overall performance of the diesel generators.

(b) The provisions for minor maintenance on the diesels without requiring low pressure system testing will provide additional incentive to perform preventative maintenance while reducing unnecessary duty on low pressure systems. Existing surveillances to be retained will continue to assure system availability, thereby maintaining the margin of safety.

Based on the above, Commonwealth Edison believes the requested amendments do not represent a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination on the proposed changes to the diesel generator surveillance changes and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Acting Project Director: Rajender Auluck.

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Lake County, Illinois

Date of application for amendments: February 10, 1987.

Description of amendments request: These amendments would permit a one-time change that will extend the allowable outage time on the "O" diesel generator from 7 days to 21 days for the Spring, 1987 Unit 2 refueling outage. This extended outage period is required to complete required modifications to comply with Appendix R to 10 CFR Part 50 and perform an extensive refueling outage maintenance program.

"O" diesel generator supplies power both to Unit 1 and Unit 2 Emergency Safeguards Features (ESF) buses. As a result, the current Zion Technical Specifications would require a dual unit shutdown for any outage period in excess of 7 days for "O" diesel generator. This constraint limits Commonwealth Edison Company's ability to effectively maintain "O" diesel generator. Thus, this proposed amendment is intended to integrate the required Appendix R modifications with an extensive maintenance program intended to maintain "O" diesel generator's reliability.

This change is virtually identical to the previously approved Amendment Nos. 84/74 to the Zion Technical Specifications. The only deviation from the previously approved amendment request involves a reduction in the requested time period from 45 days to the 21 days contained in this request.

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; (3) involve a significant reduction in a margin of safety.

The licensee provided the following discussion regarding the above three criteria:

Criterion 1

This proposed amendment will result in the one-time 21 day outage period for "O" diesel generator during the Zion Unit 2 Spring 1987 refueling outage. This change is being requested to allow the completion of required Appendix R modifications and the performance of an extensive refueling outage maintenance program. Both of these activities will result in a diesel generator with increased reliability.

The effects of an extended outage for "O" diesel generator with one reactor operating and the other reactor in cold shutdown has been evaluated by the NRC staff. This evaluation was provided in support of the NRC's previous approval of a forty-five day outage period for "O" diesel generator.

The conclusion of that evaluation is given on page 4 of the Attachment to the SER. It states:

> By comparing these onsite AC power reliability estimates, which use consistent success criteria assumptions, the proposed configuration is seen to be as reliable, perhaps more so than the currently allowed configuration for the loss of offsite power sequences of concern. This is due primarily to the commitment not to perform maintenance on the other diesel while the swing diesel is out of service. The non-seal LOCA loss of offsite power sequences, are *not* affected by swing diesel considerations since the motor driven AFW pumps are powered of the A and B diesel generators. Actually, AFW reliability is increased for the time the swing diesel is out-of-service since the A and B diesels must be operable during this period.

Based upon the above discussion the AC power reliability of Zion Station during this 21 day period is calculated to increase or remain stable. Thus, this proposed amendment does not involve a significant increase in a probability or consequences of an accident previously evaluated.

Criterion 2

The flexibility to allow a one-time 21 day outage on "O" diesel generator has no effect on the reliability or integrity of any of Zion's systems. As discussed above, the reliability of the AC power system is characterized to be "as reliable, perhaps more so than the currently allowed configurations for the loss of offsite power sequences of concern".

This 21 day one-time outage period will not have any effect on any of Zion's systems nor on the generation of any external events such as a tornado or flood. This new requirement will not create the possibility of any additional system malfunctions or externally generated events.

Therefore, this proposed amendment cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

As discussed in Item 1, the onsite AC power reliability estimate will be as reliable or perhaps more so than the currently allowed configuration for the loss of offsite power sequences of concern. In addition, the maintenance and modifications performed on "O" diesel generator during this 21 day period will result in a diesel generator with increased reliability. These factors result in either an increased or constant margin of safety.

Thus, this change does not involve a reduction in the margin of safety.

Therefore, since the application for amendment satisfies the criteria specified in 10 CFR 50.92 and is similar to examples for which no significant hazards consideration exists, Commonwealth Edison Company has made a determination that the application involves no significant hazards consideration.

The 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 proposed changes to the Technical Specification involve no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney to licensee: P. Steptoe, Esq., Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Project Director: Steven A. Varga.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: March 9, 1986.

Description of amendment request: The proposed license amendment revises Technical Specification 4.12, High Energy Piping System, by expanding the augmented inservice inspection program to include break locations on steam lines to the auxiliary feedwater pumps. The new program will be consistent with the licensing requirements of the augmented inspection program previously approved in 1977.

Basis for proposed no significant hazards consideration determination: In accordance with 10 CFR 50.92, Connecticut Yankee Atomic Power Company (CYAPCO) has reviewed the proposed license amendment and has concluded that it does not involve significant hazards considerations. More specifically CYAPCO has concluded that the proposed license amendment does not:

(1) Increase the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report because the proposed change does not physically alter the auxiliary feedwater system, its logic, or flow capacity. The change adds surveillance requirements to specific locations in the steam supply lines to the steam driven auxiliary feedwater pumps. As such it reduces the probability of a break occurring in these locations.

(2) Create the possibility for an accident or malfunction of a different type than previously analyzed in the safety analysis report because the purpose of the augmented inservice inspection program is to reduce the probability of a break in specific auxiliary feedwater steam supply line locations. Breaks in these locations would decrease the effectiveness of the auxiliary feedwater system and might necessitate reliance on the feed-and-bleed method of cooling the primary system.

(3) Reduce the margin of safety as defined in the basis of any technical specification because the change will increase the availability of the auxiliary feedwater system and decrease the reliance on feed-and-bleed. Therefore, the change decreases the probability that the primary pressure boundary will undergo the stresses associated with feed-and-bleed. In summary, the change increases the margin of safety at potential high energy line break locations that could affect the plant's safe shutdown capability.

The staff has reviewed the CYAPCO determination that the proposed change does not involve significant hazards considerations and concurs with their assessment.

Further, the Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by

providing certain examples (March 6, 1986, 51 FR 7744) of amendments that are considered not likely to involve significant hazards considerations. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications, e.g., a more stringent surveillance requirement. In this case, the proposed change is similar to Example (ii) in that additional surveillance and inspection will be included in the technical specifications. The change increases the number of locations which are subject to augmented inservice inspection as specified in Technical Specification 4.12.

Therefore, the Commission proposes to determine that the proposed changes to the technical specifications involve no significant hazards considerations.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499.

NRC Project Director: Cecil O. Thomas.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: February 20, 1987.

Description of amendment request: The proposed amendment would add conditions to the operating license to permit the possession and use of certain by-product materials currently allowed by By-Product Material License No. 06–11682–01. If this amendment is approved, Connecticut Yankee Atomic Power Company (CYAPCO) will request termination of the special by-product material license identified above.

Basis for proposed no significant hazards consideration determination: By-Product Material License No. 06–11682–01 was issued May 13, 1966 to allow the possession and use of certain by-product materials prior to the issuance of the Haddam Neck Operating License. The attached proposed change will add conditions to the Operating License to permit the possession and use of certain by-product materials currently allowed by the by-product material license.

In support of the proposed amendment, CYAPCO has reviewed the proposed change pursuant to 10 CFR 50.92, and has concluded that it does not involve a significant hazards consideration in that this change does not:

1. Involve a significant increase in the probability or consequenses of an accident previously evaluated. This proposed change is administrative in nature and involves incorporating provisions of the existing by-product license into the operating license.

2. Create the possibility of a new or different kind of accident from those previously analyzed. The proposed change does not affect the operation of the plant, and thus does not affect the accident probabilities.

3. Involve a significant reduction in the margin of safety. This change has no effect on the design basis accident analysis, therefore, cannot reduce the margin of safety.

The staff has reviewed the licensee's determination that the proposed license amendment is administrative in nature and involves no significant hazards considerations. The staff concurs with this determination.

Accordingly, the staff proposes to determine that the proposed amendment does not involve significant hazards considerations.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103–3499.

NRC Project Director: Cecil O. Thomas.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: December 8, 1986.

Description of amendment request: The proposed Technical Specification changes would revise the surveillance requirement for testing the partial movement of all control rods at Indian Point Unit 2. The proposed change would specify control rod movement of at least 10 steps in any one direction, thus clarifying the minimum number of steps required to assure control rod freedom of movement. The proposed Technical Specification would provide for testing of control rod movement on a 31 day frequency. The current Technical Specifications require a nominal two week surveillance testing interval.

The proposed amendment also contains some administrative changes required to achieve consistency throughout the Technical Specifications. In Table 4.1–3 equipment test numbers 7, 11 and 12, which have been previously deleted, would be omitted from the table. This would renumber equipment tests 8, 9 and 10 to be 7, 8 and 9, respectively. Also in Table 4.1–3 the reference to "NA" in equipment test number 6 would be changed to "Not Applicable" thus omitting the "NA" footnote. Finally, appropriate titles for sections 4 and 4.1 which had previously been missing from page 4.1–1 due to copying errors would be added.

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 that possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in margin of safety.

With regard to control rod movement testing, the licensee provided the following discussion regarding the above three criteria:

> . . . the proposed change does not involve a significant hazards consideration because the operation of Indian Point Unit 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 change does not entail any physical changes in plant equipment. The proposed change remains conservative based on industry experience in using a 31 day surveillance frequency dictated by the STS and on our own operating experience in assuring control rod movement capabilities. The proposed revision also enhances the reliability of control rod movement by decreasing wear on rod drive mechanisms. Therefore, this change will not increase the probability or consequences of an accident.
>
> (2) Create the probability of a new or different kind of accident from any accident previously evaluated, since the proposed change would not alter the configuration or any of the plant's equipment and remains conservative in providing assurance of control rod movement capability.
>
> (3) Involve a significant reduction in a margin of safety, since the proposed change remains conservative for the surveillance of control rod movement.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. In addition the staff notes that the change in surveillance testing frequency is not likely to have a significant impact on plant safety from an overall risk assessment standpoint.

With regard to the administrative changes, the Commission has provided

guidance concerning the application of standards for a no significant hazards determination by providing certain examples (51 FR 7155). One of the examples (i) of actions not likely to involve a significant hazards consideration relates to a purely administrative change, for example, a change to achieve consistency throughout the technical specifications, corrections of an error, or a change in nomenclature. The administrative changes Consolidated Edison proposes are represented by the given example.

Based on the above, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no 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: Steven A. Varga.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: December 22, 1986.

Description of amendment request: The proposed change to the Technical Specifications for Big Rock Point would revise the station battery surveillance test time from the present 8-hour requirement to 2 hours.

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). The licensee has performed an evaluation using the criteria given in 10 CFR 50.92(c) and has applied them to the proposed Technical Specification changes. A summary of the licensee's evaluation is presented below.

This Technical Specification change is being requested to resolve a contradiction of station battery surveillance requirements and Systematic Evaluation Program (SEP) Topic acceptance criteria concerning the station battery design time interval. Amendment 10 (June 1976) to the Big Rock Point License added station battery service testing requirements to the Big Rock Point Technical Specifications. The initial station battery service test (conducted in August 1977) determined that the station battery had adequate capacity to supply and maintain in an operable status all of the emergency loads during a Loss of Coolant Accident coincident with a Loss of Offsite Power for 61 minutes. The Technical Specification change made as a result of Amendment 10 erroneously stated that the station battery could supply emergency loads for 8 hours. No basis was identified for the 8-hour design time interval which was added to the Technical Specifications and neither the licensee's change requesting Amendment 10 nor the NRC safety evaluation which issued Amendment 10 discussed a basis for this 8-hour requirement. The SEP acceptance criteria for battery service time also differed from the actual station battery service test results. The Technical Evaluation Report for SEP Topic VIII–3.A stated that the acceptance criteria for Big Rock Point was a 2-hour battery service test. In order to resolve the contradictions in station battery design time intervals, Consumers Power Company developed a new station battery load profile of 121 minutes (120 minutes without AC power plus 1 minute to restore breaker lineup). This 2-hour assumption meets current licensing guidance utilized in the SEP Topic VIII–3.A evaluation. The licensee has verified that the installed station battery is correctly sized to carry the loads required by the new load profile.

This proposed change corrects an error in the Technical Specifications and does not involve the modification of any equipment or methods for conducting required testing. Subsequent to the original battery analysis, several loads have been removed from the station battery, the battery has been replaced with a larger capacity battery (500 ampere-hour to 580 ampere-hour), and a second source of offsite AC power has been made available to the plant. Over 26 years of operation, Big Rock Point has not experienced a complete loss of AC which has lasted for longer than approximately 30 seconds (time it takes emergency diesel to start). These factors combined allows the loss of AC power assumption to be increased from 1 hour to 2 hours and the station battery load profile to be increased from 61 minutes to 121 minutes without significantly increasing the previously evaluated probability or consequences of an accident.

This proposed change increases the design time interval of the station battery from 1 to 2 hours, although it does not alter the functional requirements of the battery system and its relationship to other plant systems. Therefore, it does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Increasing the design time interval the plant can be maintained without AC power from 1 hour to 2 hours increases the margin of safety. Therefore this proposed change does not decrease the margin of safety.

The staff 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 amendment involves no significant hazards consideration.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Acting Project Director: Jack N. Donohew.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: February 17, 1987.

Description of amendment request: The proposed amendments would make several changes to the Technical Specifications (TS) of an administrative nature:

(1) The TS Index would be updated to achieve consistency with changes authorized by the Commission by prior amendments.

(2) Reference to Figure 3.1–2, which had been left blank pending NRC approval of three-loop operation, would be deleted from TS 3.1.3.1 and 3.1.3.6 for consistency with TS 3.4.1.1 which prohibits part-loop operation, and because (as noted during prior Amendments 65 and 46) no NRC approval of three-loop operation is pending.

(3) In the Table Notation for TS Table 4.3–1, Item (9), the term "Boron Dilution Alarm" would be changed to "High Flux at Shutdown Alarm". This is a change in nomenclature only, to provide for consistency with plant terminology.

(4) In Table 3.3–3, Item 7.e, the left-hand margin of the statement "See Item 1 above for all safety injection initiating functions and requirements" would be shifted to the right in order to clarify that the statement applies only to Item 7.e and not to the entire page on which it appears. This change would therefore correct an error in the location of the statement.

(5) The positions of Items 10.b and 10.c in TS Surveillance Table 4.3–2 would be exchanged for consistency

with their order in the corresponding LCO Tables 3.3–3 and 3.3–4.

(6) Under Item 18 "Reactor Vessel Level Instrumentation" of both TS Tables 3.3–10 and 4.3–7, the term "Wide Range" would be renamed "Dynamic Head (D/P) Range," and the term "Narrow Range" would be renamed "Lower Range." These are changes in nomenclature only, and provide for consistency with plant terminology. Also, two obsolete footnotes for Table 3.3–10 (which applied only until the end of the first refueling outage following 1/86 for each unit, or until the beginning of Cycle 4 for Unit 1 and Cycle 3 for Unit 2) would be deleted.

(7) Erroneous valve train designations in TS Table 3.6–2 resulting from typographical error (i.e., designations for valve CF–153 rather than Valve CF–135) associated with previous Amendments 63 and 44 would be corrected.

Other changes in the submittal will be handled separately.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards determination by providing certain examples (51 FR 7744). One of these examples (i) is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specification, correction of an error, or a change in nomenclature. Each of the proposed changes is noted above to achieve consistency, correct an error or change nomenclature, and therefore is directly related to this example.

Accordingly, the Commission proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC) Station, North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: B.J. Youngblood.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: November 12, 1986.

Description of amendment request: The proposed amendment would revise the Technical Specifications to change the snubber visual inspection surveillance requirements as follows:

(a) Define the types of snubbers. Increased inspection will be needed for snubber types that have experienced failure.

(b) Permit early inspection to be performed, thus allowing greater flexibility in scheduling.

(c) Revise the visual inspection acceptance criteria to comply with the staff's Standard Technical Specifications.

(d) Modify the inspection requirements for fluid levels of hydraulic snubbers.

(e) Permit definition of new inspection intervals for snubbers that are rendered inoperable by random events.

(f) Modify the additional functional testing equipment for large-bore snubbers on the reactor coolant system, allowing postponement of such additional tests if the failure that brings out the need for additional testing is non-generic in nature.

(g) Revise the snubber service life monitoring requirements to reflect the staff's Standard Technical Specifications.

Basis for proposed no significant hazards consideration determination: (1) The proposed changes do not remove any snubbers from safety related equipment or exempt any snubbers from surveillance requirements. All snubbers and related components will continue to be visually inspected and the functional test acceptance criteria will not be changed. The proposed changes will not affect the overall operability of snubbers and therefore will continue to maintain a constant level of snubber protection to systems; therefore, the changes do not increase the probability of occurrence or the consequences of an accident or malfunction of equipment of a type previously evaluated.

(2) The proposed changes do not modify any existing plant system, component or setpoint. The overall operability of snubbers on any plant system will not be reduced by the proposed changes; therefore, the changes do not create the probability of a new accident or malfunction of a different type than previously evaluated.

(3) Plant snubbers will continue to perform their intended function to ensure that the structural integrity of the reactor coolant system and all other safety-related systems is maintained during and following a seismic or other similar event initiating dynamic loads. Therefore, there is no decrease in margin of safety.

In conclusion, the staff proposes to determine this amendment request as involving no significant hazards considerations.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Lester S. Rubenstein.

Florida Power and Light Company, Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, FL

Date of amendment request: October 10, 1986, as supplemented January 9, 1987.

Description of amendment request: The proposed request would revise the St. Lucie Unit 1 Technical Specifications in an effort to promote uniformity between the Unit 1 Technical Specifications and the Unit 2 Technical Specifications. Specifically, Technical Specification (TS) 3.6.1.3 which deals with containment air locks, TS 4.6.1.3, the respective surveillance requirements, and Section 3/4.6.1.3 of the Bases would be revised, (except for plant specific information) to reflect the format of the Unit 2 Technical Specifications.

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 the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The air lock configuration or current method of testing is not being changed. Therefore, the FSAR analysis for accident probability, malfunction type, accident type, and consequences of failure has not been affected.

(2) Use of the modified specification would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will result in no changes to the plant's procedures, structures,

systems, mode of operation or components. No additional tests or experiments not described in the FSAR are necessary to implement the proposed change.

(3) Use of the modified specification would not involve a significant reduction in a margin of safety.

The margin of safety for Technical Specifications has not been reduced since acceptance criteria will remain unchanged.

Based on the above analysis, the licensee has concluded that the proposed revisions to St. Lucie Unit 1 Technical Specifications involve no significant hazards consideration. The NRC staff has reviewed the licensee's significant hazards consideration determination and agrees with the licensee's analysis.

The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, FL

Date of amendment request: February 24, 1987.

Description of amendment request: The Technical Specifications require each 8-inch containment purge supply and exhaust isolation valve with resilient material seals to be demonstrated operable by verifying that the measured leakage rate is less than or equal to 0.05 La when pressurized to Pa. The current Technical Specification frequency for this test is prior to entering mode 4 from cold shutdown if not tested within the previous 31 days. The licensee proposes to increase the testing frequency to at least once per 92 days.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance in the form of examples of amendments that are not considered likely to involve a significant hazards determination (51 FR 7751). Example (ii) states "a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement."

The licensee proposes an increase in testing frequency, and this represents a more stringent surveillance requirement. Therefore, this proposed change is similar to example (ii).

On the above basis, the staff proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–321, Edwin I. Hatch Nuclear Plant, Unit No. 1, Appling County, GA

Date of amendment request: February 6, 1987.

Description of amendment request: The amendment would modify the Technical Specifications (TS) to: (1) Reduce the limits on the Standby Liquid Control System (SLCS) sodium pentaborate solution concentration versus volume and concentration versus temperature to reflect the use of sodium pentaborate that has been enriched in Boron-10. The current TS is based on the use of unenriched sodium pentaborate. The licensee proposed to use enriched sodium pentaborate to increase the reactivity control of the SLCS in order to meet the Anticipated Transient Without Scram Rule requirements. (2) Reduce the minimum acceptable SLCS pump flow rate from 43 to 41.2 gallons per minute (gpm) in order to conform with the 41.2 gpm minimum acceptable flow rate for Hatch Unit 2. (3) Remove level and temperature alarm setpoint values from the concentration versus volume and the concentration versus temperature limit curves. These alarm values are not referred to in the TS and are only provided as information.

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 indicated that the reactivity insertion capacity at the revised (increased) Boron-10 concentration and at the revised (slightly reduced) flow rate (changes 1 and 2 as discussed above), together provide increased reactivity control capability. Change 1 also results in lower precipitation temperatures for the sodium pentaborate. The changes do not modify the method of operation of the SLCS or reduce its reliability but do shorten the time required to insert a given negative reactivity when required. The lower precipitation temperature reduces the likelihood of problems caused by precipitation. The function and basic method of operation of the SLCS is not changed, but the response and the performance of the SLCS are believed to be improved by these changes.

On the basis of the above, we conclude that the proposed changes do not (1) increase the probability or consequences of accidents previously evaluated, (2) create the possibility of a new or different kind of accident, or (3) involve a reduction in the margin of safety.

The Commission has also provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751). An example (i) of actions involving no significant hazards relates to a purely administrative change to the Technical Specifications. Change 3 as discussed above which removes information that is not a part of the Technical Specification requirements is an administrative change similar to example (i).

Therefore, the Commission 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

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Daniel R. Muller.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–321, Edwin I. Hatch Nuclear Plant, Unit No. 1, Appling County, GA

Date of amendment request: March 4, 1987.

Description of amendment request: The amendment would modify the Technical Specifications to: (1) Provide

footnotes excepting operability requirements for RCIC, HPCI, ADS, and S/RVs for the performance of a non-nuclear hydrostatic or pressure tests, (2) Provide a refinement to TS Figure 3.6–1 by providing separate pressure/temperature limit curves for different reactor pressure vessel neutron fluence values, and (3) Allow hydrostatic or pressure testing with all control rods inserted, at reactor coolant temperatures greater than 212°F, without requiring primary containment integrity.

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's March 4, 1987 submittal provided the following evaluation of the three proposed changes with respect to these three standards:

Basis for Proposed Change 1

These systems cannot be operable for performance of a hydrostatic or leak test because of test conditions. Since the hydrostatic or leak test is performed water-solid, with all rods inserted into the reactor core, at low decay heat values, and at or near cold shutdown conditions, the stored energy in the reactor core will be very small. The above high pressure Emergency Core Cooling and overpressurization protection functions are incapable of functioning because of test conditions which are NRC mandated. Thus, the above-requested changes are necessary and appropriate. It should be noted that Standard Technical Specifications, as currently written, do not require relief in the above areas for performance of the hydrostatic or pressure tests (because of Operational Condition applicabilities) as long as the reactor coolant temperature is below 212°F.

Accordingly, the implementation of this change to the Technical Specifications would not involve a significant hazards consideration, because:

1. The probability of the occurrence or the consequences of an accident or malfunction of equipment important to safety are not increased above those previously evaluated, because the test occurs with minimal primary system energy due to all control rods being inserted, low temperature, and low fuel decay heat values. Such testing is allowed under the provisions of BWR Standard Technical Specifications without the need for Technical Specification changes.

2. The possibility of a new or different kind of accident from any previously evaluated would not result from this change, because the change does not represent a change to plant design or configuration. This change only provides for performance of ASME Code required hydrostatic and pressure testing with all control rods inserted.

3. Margins of safety are not reduced because plant operation is not affected and analyzed margins of safety are unchanged.

Basis for Proposed Change 2

This essentially administrative change will allow performance of hydrostatic and pressure testing at lower temperatures, while still ensuring that minimum vessel temperature requirements are met.

Accordingly, the implementation of this change to the Technical Specifications would not involve a significant hazards consideration, because:

1. The probability of the occurrence or the consequences of an accident or malfunction of equipment important to safety are not increased above those previously evaluated, because the change only provides a refinement for the pressure/temperature limit curves used for performance of hydrostatic and leak testing. Plant operation is unaffected.

2. The possibility of a new or different kind of accident from any previously evaluated would not result from this change, because the change does not represent a change to plant design or configuration. This change only provides for flexibility in the performance of ASME Code required hydrostatic and pressure testing with all control rods inserted.

3. Margins of safety are not reduced because plant operation is not affected and anlayzed margins of safety are unchanged.

Basis for Proposed Change 3

This change will allow for flexibility and expediency in the performance of hydrostatic and pressure testing. TS 3.7.A.2.c requires establishment of containment integrity prior to pulling rods, or whenever the reactor is critical as well as whenever the reactor coolant temperature is above 212 °F. Primary containment is a pressure vessel designed to contain the amount of energy that would be released from the design basis accident. TS 3.7.A.2.c is intended to cover those situations where large amounts of stored energy are contained in the primary system. However, for the purpose of hydrostatic or leak testing, the amount of contained energy is very small. This is due to a non critical core (all control rods inserted), water solid conditions, low temperatures (maximum hydrostatic test temperature of 236 °F at 16 EFPY), and low fuel decay heat values (no critical operation for the length of the outage).

The consequences of testing above 212 °F are potential steam, rather than water leaks. There is no mechanism to impart fission products into the reactor coolant. Therefore, the amount of radioactivity contained in postulated steam leaks will be very small and well within the capabilities of secondary containment and the standby gas treatment system. The secondary containment is designed to handle the consequences of airborne radiation and steam leaks and will be operable, pursuant to TS 3.7.C.2, for the performance of hydrostatic or leak testing. Plant Hatch Unit 1 FSAR Section 14.4.5.1.3 provides a description of the Main Steam Line Break Outside Containment. A total of 20,000 pounds of high energy steam and 120,000 pounds of water are released to secondary containment in this postulated event. We believe the capability of secondary containment to contain any leakage or radiation which could escape in the hydrostatic or leak test is easily bounded by this evaluation.

Accordingly, the implementation of this change to the Technical Specifications would not involve a significant hazards consideration, because:

1. The probability of the occurence or the consequences of an accident or malfunction of equipment important to safety are not increased above those previously evaluated, because the test occurs with minimal primary system energy due to all control rods being inserted, low temperature, and low fuel decay heat values.

2. The possibility of a new or different kind of accident from any previously evaluated would not result from this change, because the change does not represent a change to plant design or operation. This change only provides for performance of ASME Code required hydrostatic and pressure testing with all control rods inserted.

3. Margins of safety are not reduced because plant operation is not affected and analyzed margins of safety are unchanged.

The staff has considered the proposed changes and agrees with the licensee's evaluation with respect to the three standards.

On this basis, the Commission has determined that the requested amendments 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.

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Daniel R. Muller.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: January 27, 1987.

Description of amendment request: The amendment would modify the Technical Specifications (TS) to add a

statement that "the provisions of TS 3.0.4 are not applicable" to TS 3.7.1.2 Action Statement a.4, which covers inoperability of the standby service water system. The standby service water system provides the normal source of cooling water to the 1B diesel generator, which is a shared diesel capable of providing emergency power to either Hatch unit. Under the provisions of TS 3.7.1.2 Action Statement a.4, power operation of Plant Hatch Unit 2 is allowed for a period of up to 60 days following a determination of inoperability of this system, provided that cooling for the 1B diesel generator is aligned to the Unit 1 plant service water system and operability of this cooling water source is verified per Unit 1 TS.

The provisions of TS 3.0.4 prevent entry into different Operational Conditions while under the provisions of TS Action Statements. The proposed change will allow entry into a different Operational Condition while under the provisions of TS 3.7.1.2 Action Statement a.4.

Basis for proposed no significant hazards consideration determination: The Commission has provided criteria 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's January 27, 1987 submittal provided an evaluation of the change with respect to each of these three criteria. The licensee stated:

> The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated, because the design basis of the plant, as described in the Final Safety Analysis Report, is preserved while under the provisions of the subject Action Statement. In addition, power operation in this condition is allowed for a period of 60 days. Changes of Operational Condition while under the provisions of this Action Statement do not represent a significant increase in the probability or consequences of analyzed accidents.
>
> This change does not create the possibility of a new or different kind of accident from any previously evaluated. The Technical Specifications currently allow up to 60 days power operation without operability of the standby service water system, and provisions are described in the FSAR for aligning the Unit 1 Plant Service Water System to the 1B diesel in the event of standby service water system inoperability, which preserves the design basis of the plant.
>
> This change does not involve a significant reduction in a margin of safety, because adequate margins are preserved when the standby service water system is unavailable and the requested change only provides an allowance for Operational Condition changes while the system is unavailable. No extension of the period of unavailability is requested.

The staff has considered the proposed amendment and agrees with the licensee's evaluation with respect to the three criteria.

On this basis, the Commission has determined that the requested amendments meet the three criteria 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.

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Daniel R. Muller.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment request: February 13, 1987.

Description of amendment request: The amendment would modify the Technical Specifications with the following changes:

Change 1 (applicable to Unit 1 and Unit 2) revises the Minimum Critical Power Ratio (MCPR) scram time parameters. One of these parameters $[tau]_B$ is the statistical scram speed limit which forms the basis for a reduction in Operating Limit MCPR (OLMCPR) due to increased scram speeds over the minimum speeds required by the Technical Specifications. The formula for determining $[tau]_B$ would be deleted in order to give Georgia Power Company the maximum flexibility to use BWR industry experience with respect to scram time testing. For consistency, the definitions for parameters [tau], $[tau]_{ave}$, and $[tau]_A$ would also be deleted, since the value of the OLMCPR depends upon all four variables.

Change 2 (applicable to Unit 1 only) will replace the current method of measuring control rod and scram times with an equivalent method in order to simplify plant operations and eliminate the difference between Unit 1 and 2 Technical Specifications in this respect. The new Technical Specifications scram times will be based upon measured notch position (e.g., 36 notches withdrawn) rather than percentage of rod inserted (e.g., 20 percent).

Change 3 (applicable to Unit 1 only) would revise the initial power assumed for certain transients from 2537 MWt to 2436 MWt to reflect the initial reactor power used in the GEMINI methodology in calculating CPR.

Change 4 (applicable to Unit 1 only) would reduce the Option A MCPR limit from 1.35 to 1.33 for all Hatch 1 8x8 fuel. This is being done to maximize the MCPR margin for all scram speeds.

Change 5 (applicable to Unit 1 only) would add an APLHGR limit curve to reflect the thermal-mechanical and Emergency Core Cooling System (ECCS) limits on four Lead Test Assemblies (LTAs) which are expected to be part of the Hatch 1 Reload 10 Fuel batch.

Change 6 (applicable to Unit 1 and Unit 2) would modify the APLHGR limits curve for P8DRB283 and BP8DRB283 80-mil fuel to include a previously omitted data point at 1.0 Gwd/t.

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, in its February 13, 1987 submittal, provided the following evaluations of the proposed changes with respect to these three standards:

> Change 1 does not involve a significant hazards consideration, because it would not:
>
> 1. Involve a significant increase in 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], $[tau]_A$, $[tau]_B$, $[tau]_{ave}$, 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 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 speed or a conservative assumption to scram speeds. Both of these methods have been previously approved by the NRC.

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 plant equipment operation will occur as a result of this change. In addition, rod scram speeds will meet a criterion equivalent to the current Technical Specifications. Thus, in the region important to transient phenomena, there will be no decrease in the rate of negative reactivity insertion due to control rod motion.

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 GEMINI methodology, including the change in initial reactor power, has been shown to conservatively predict thr results of actual transient phenomena at an operating BWR. The GEMINI methods have been reviewed and approved by the NRC.

Change 3 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 this change is being made to reflect changes consistent with the GEMINI methodology used for transient analyses.

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 GEMINI methodology, including the change in initial reactor power, has been shown to conservatively predict the results of actual transient phenomena at an operating BWR. The GEMINI methods have been reviewed and approved by the NRC.

Change 4 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 will still ensure that the initial operating value assumed in the LOCA analyses will be conservative for all operating conditions.

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 Operation "A" limit is consistent with the application of GEMINI. This method has been reviewed and approved by the NRC for use by BWR utilities.

Change 5 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 the operating limits for the LTAs were determined using approved methods which ensure that all acceptance criteria for accidents are met.

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 approved methods will be used to determine all operating limits of the new assemblies.

Change 6 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 the additional APLHGR limits data point was determined using approved methods, therefore ensuring that all acceptance criteria for accidents were met.

2. Create the possibility of a new or different kind of accident from any previously analyzed, because no change in plant equipment or operation will occur as a result of this change.

3. Involve a significant reduction in the margin of safety, because the addition of the proposed APLHGR limits data point is conservative relative to the current approved value.

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 amendments 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.

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: Daniel R. Muller.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan.

Date of amendment request: February 25, 1987.

Description of amendment request: The proposed amendment would revise the ice condenser lower inlet door surveillance requirements to allow testing in Modes 3 and 4.

Basis for proposed no significant hazards consideration determination: The current Technical Specifications require the inlet doors to be tested during shutdown as defined parenthetical as Modes 5 and 6. This parenthetical phrase was added by License Amendments 83 and 64 for Units 1 and 2, respectively, at the licensee's request to clarify the Modes during shutdown. The Standard Technical Specifications make no distinction about modes during shutdown for the test; the prohibition for occupational safety is related only to Modes 1 and 2 or the operating (versus shutdown) modes. By deleting reference to Modes 5 and 6, the licensee's proposal would be to allow testing in any mode other than Modes 1 and 2. The addition of the Modes 5 and 6 by license amendments 83 and 64 was considered an administrative change for the convenience of the licensee. The deletion of reference to Modes 5 and 6 is likewise an administrative change to return the surveillance test to the original and acceptable requirement.

The Commission has provided guidance concerning the application of the standards for making a no significant hazards determination by providing certain examples (51 FR 7744). One of these examples (i) is a purely administrative change to technical specifications. The licensee proposes to correct their error in Mode definition for this test which was allowed originally as an administrative change. The proposal returns the surveillance test to current, acceptable requirements and is likewise considered administrative. Therefore, the proposal is directly related to the example.

Based on the above, the staff proposes to determine that the requested 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, Esquire, Shaw, Pittman, Potts

and Trowbridge, 2300 M Street NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: October 31, 1986.

Description of amendment request: The proposed license amendment would revise the Duane Arnold Energy Center (DAEC) Technical Specifications (TS) to support the Cycle 9 operations. The proposed changes update the fuel thermal limits of TS Section 3.12, revise the Limiting Conditions for Operation and Surveillance Requirements for the Rod Sequence Control System (RSCS) and Rod Worth Minimizer (RWM) in Sections 3.3.B.3 and 4.3.B.3 and modify the Section 5.2 description of the control blades. In addition, various administrative changes are proposed, such as revising figure numbers, updating the Table of Contents, capitalizing defined terms, correcting references, revising Bases, and incorporating changes in nomenclature.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (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 an analysis of each of the above criteria for the amendment as follows:

(1) Revision of Fuel Thermal Limits for Cycle 9 Operation

The GE analyses of the Loss-of-Coolant Accident and abnormal operating transients, using previously NRC-approved models, demonstrate that Cycle 9 operation of the DAEC with the GE8B fuel and revised thermal limits for all the fuel types utilized in the core will neither increase the consequences of any previously-analyzed accident nor reduce the margin of safety. The new fuel design, while improved in its thermal-mechanical performance, is not sufficiently different in design to introduce the possibility of a new or different kind of accident as concluded in the NRC's Safety Evaluation Report (SER) to Amendment 10 to GE's Standard Application for Reactor Fuel, (GESTAR II: NEDO–24011–P–A).

Consequently, the utilization of the GE8B fuel with the revised thermal limits in Cycle 9 operation of the DAEC involves no significant hazards consideration.

(2) Revisions to RSCS and RWM Operability Requirements

(a) The BPWS [Banked Position Withdrawal System] for rod pattern control was developed to ensure, with very high confidence, that the consequences of a postulated CRDA [Control Rod Drop Accident] would not exceed the fuel dispersion enthalpy limit of 280 cal/gm. The revised operability requirements will allow the DAEC, which has a hard-wired Group Notch RSCS, to take advantage of the improved BPWS control rod withdrawal sequence. A BPWS-compatible sequence, the Reduced Notch Worth Procedure, is programmed into the RWM, which will reinforce the control rod withdrawal procedure in the range of highest control rod worth (100% to 50% control rod density). The existing Group Notch mode of RSCS will continue to reinforce the rod withdrawal procedure in the range from 50% rod density [where the Group Notch Mode automatically begins] to the [TS required] low power setpoint of [approximately] 30% rated power. By using the RWM to reinforce the BPWS-compatible rod pattern control during the period of highest control rod worth, instead of the present sequence mode of the RSCS, the probability of a CRDA which would exceed 280 cal/gm is reduced from that previously evaluated. Since the peak fuel enthalpy of a postulated CRDA will remain within the 280 cal/gm limit, the consequences of an accident previously analyzed are not increased by this change. Because no hardware modifications will be necessary to implement these changes and the systems' basic safety function is unchanged, the possibility of a new or different kind of accident is not created. The margin of safety will not be reduced, as the BPWS-compatible rod sequence results in lower rod worth than the existing Group Notch sequence during the most vulnerable period of rod movement, i.e., 100% to 50% control rod density.

Existing Specifications 3.3.A.2.d, 4.3.A.2.b and 3.3.B.3.f are being deleted. Specification 3.3.A.2.d, and its companion surveillance requirement 4.3.A.2.b, allow control rods with either failed "Full-in" or "Full-out" position switches to be bypassed in the RSCS, while 3.3.B.3.f allows individual rods to be bypassed in the RSCS for the purpose of scram time testing. These allowances are only needed during operation within the sequence mode of RSCS, i.e., the 100% to 50% control rod density range. As the sequence mode of RSCS is no longer required, per the above changes, these allowances are no longer necessary. The deletion of these specifications is considered to be an administrative change as they are necessary to achieve consistency within the technical specifications, given the above changes to the RSCS operability requirements.

(b) Current specification 3.3.B.3.b prohibits rod movement during shutdown in the interval following RSCS surveillance testing and the automatic reinstatement of rod pattern constraints at the RSCS low power setpoint. It also requires that alignment of rod groups be done prior to performing the RSCS surveillance tests. These items were included in the original technical specifications for the RSCS and were intended as operator guidance, rather than as an operational restriction for plant safety, in order to prevent unnecessary blocking of control rod movement upon automatic reinstatement of RSCS rod pattern constraints. In addition, this specification restricts rod movement above the RSCS low power setpoint, where it is not possible to generate control rod worths high enough to exceed the 280 cal/gm CRDA acceptance criteria. Therefore, it is no longer needed and it is being deleted. Consequently, the probability or consequences of a CRDA are not increased from those previously analyzed. Again, as no hardware modification will be made to implement this change and the system's basic safety function is unchanged, the possibility of a new or different kind of accident is not created. Lastly, as it has been shown analytically that rod worths capable of yielding a CRDA which exceeds the 280 cal/gm limit are not possible above the RSCS low power setpoint (ref. GESTAR II) deleting the prohibition of rod movement above the RSCS low power setpoint will not degrade the existing margin of safety.

(c) An existing LCO [Limiting Condition for Operation] (3.3.B.3.d), restricts rod withdrawal sequences to those that meet the CRDA peak fuel enthalpy acceptance criteria of 280 cal/gm. Compliance with this LCO cannot be demonstrated using in-plant instrumentation, but must be done by engineering analysis using complex computer models. The Group Notch sequence of the RSCS and the Reduced Notch Worth Procedure for the RWM have been shown analytically to meet this LCO requirement (ref. GESTAR II). Therefore, it is necessary and sufficient only to demonstrate that the RSCS and RWM are indeed enforcing their respective sequences. As this is required by other existing requirements, deletion of this LCO will not increase either the probability or consequences of a CRDA, introduce the possibility of a new or different kind of accident, or reduce the existing margin of safety.

(d) Current Specification 3.3.B.3.e requires that the plant be taken to a hot shotdown condition immediately, i.e., scrammed, if the operability requirements of either the RSCS or RWM are not met below the low power setpoint. The proposed change will revise this action statement to allow complete suspension of rod movement as an acceptable alternative to immediately shutting down the reactor. An allowance has been included to permit limited rod movement solely for the purpose of determining system operability. Such rod movement must be verified by a second reactor operator. Prohibiting sustained rod movement upon loss of rod pattern control will ensure that high worth control rod patterns cannot be generated, thereby fulfilling the intended safety function of the RSCS and RWM. Therefore, this change will not increase either the probability or consequences of a CRDA, introduce the possibility of a new or different kind of

accident, or reduce, in any way, the margin of safety.

(e) Surveillance Requirement 4.3.B 3.c requires that the physical presence of the second reactor operator in the control room be verified whenever the RWM is inoperable and control rod withdrawal is under way. Actual compliance with the RWM LCO is demonstrated by having the second reactor operator independently verify the rod movements and sign the rod movement instruction forms as the operator at the console moves the rods, as required by the plant operating procedures. Therefore, the surveillance requirement of 4.3.B.3.c is superfluous and nonfunctional, and its deletion will not increase either the probability of any new accident, or reduce the current margin of safety.

(f) The general operability requirement for the RSCS, Specification 3.3.B.3.a, contains an allowance that power may be increased above the RSCS low power setpoint (30% of rated power) by increasing core flow if the RSCS becomes inoperable during a power descent. It should be noted that this allowance is only applicable above [approximately] 20% of rated power, due to a feed-water interlock on the recirculation pumps. The proposed change will permit the same allowance during reactor startup. By increasing reactor power above the RSCS low power setpoint without moving the control rods, i.e., by increasing core flow, the worth of the control rods inserted in the core is reduced, thereby reducing the consequences of a potential CRDA. This is true regardless of whether the reactor is being started up or shutdown. In addition, since sustained rod movement is not permitted if RSCS is inoperable, the probability of a CRDA is not increased by this change. Again, no hardware changes are necessary to implement this change and the basic operation of the plant is not changed, i.e., increasing reactor power by increasing core flow is a normal plant operation, therefore, the possibility of a new or different accident is not created by this change. Lastly, as the proposed change will allow control rod worth to be reduced during startup, as well as shutdown, when the RSCS become inoperable, the margin of safety is not reduced.

Based on the above information, the proposed revisions to the current Technical Specification requirements for the RSCS and RWM are judged to involve a no significant hazards consideration.

(3) Hybrid Control Blades.

Several new control blades are being introduced into the DAEC for Cycle 9 operation to replace existing blades which are approaching their end-of-life. These new blades contain both boron carbide and hafnium as the neutron absorber material and utilize improved corrosion-resistant materials in the structural components of the control blades. The NRC has reviewed the design of these control blades and found them to be acceptable replacements for the existing control blades utilized in Boiling Water Reactors designed by GE (ref. NRC SER to NEDO–22290–A: Safety Evaluation of the General Electric Hybrid I Control Rod Assembly.) As the DAEC is a GE-designed BWR/4 the referenced report is applicable. Therefore, the use of the Hybrid control blades by the DAEC will not increase the probability or consequences of any previously-analyzed accident, introduce the possibility of any new accident, or reduce the margin of safety that currently exists.

Consequently, this proposed change involves no significant hazards consideration.

(4) Administrative Changes.

The proposed administrative changes will not increase the possibility or consequences or any previously-analyzed accident, introduce any new accident or reduce the existing margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analyses. Therefore, the staff has made a proposed determination that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street NW., Washington, DC 20036.

NRC Project Director: Daniel R. Muller.

Long Island Lighting Company, Docket No. 50–322, Shoreham Nuclear Power Station, Suffolk County, New York

Date of amendment request: January 12, 1987.

Description of amendment request: To change Technical Specification (TS) Section 5.5.1 to correctly locate the two meteorological towers in Figure 5.1.1–1 and 5.1.3–1. To change TS Section 6.3.1 to correct a TS internal inconsistency regarding the organization change, in Figure 6.2.2–1.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7744, March 6, 1986). The proposed changes to the TS fall within the scope of Example (i): "A purely administrative change to the Technical Specifications: For example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature." The proposed changes will not increase the likelihood of a malfunction of safety-related equipment, increase the consequences of an accident previously analyzed, or create the possibility of a malfunction different than previously evaluated. Based on the above, the staff proposes to determine that this request for changes to the TS involves no significant hazards consideration.

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.

Long Island Lighting Company, Docket No. 50–322, Shoreham Nuclear Power Station, Suffolk County, New York

Date of amendment request: February 4, 1987.

Description of amendment request: The purpose of the amendment is to request a change to the Shoreham Unit 1 Technical Specification 4.1.5 and Figure 3.1.5–2. The changes would modify the standby liquid control (SLC) system surveillance requirements by reducing the minimum temperature of the SLC pump suction piping from 75 °F to 65 °F, by reducing the minimum available net weight of sodium pentaborate from 4,290 pounds to 1,171 pounds and by increasing the minimum SLC pump discharge pressure from 1,190 psig to 1,220 psig. The licensee is proposing the change to allow the use of 85 atom percent boron-10 enriched sodium pentaborate in the Standby Liquid Control tank at a concentration range of 9.8—12.0 percent. Figure 3.1.5–2 would be revised to show the permitted region of sodium pentaborate solution net volume as a function of concentration. The BASES portion of the Technical Specifications would also be revised to reflect these changes.

Basis for proposed no significant hazards consideration determination: The licensee in his letter dated February 4, 1987, states that the proposed change does not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The probability of an accident previously evaluated in the Shoreham Updated Safety Analyses Report (USAR) will not be increased as the use of 85 atom percent boron-10 enriched sodium pentaborate is chemically the same as natural penta-borate and does not have any effect on these accident initiators. The consequences of any accident previously evaluated in the FSAR will not be increased, based on a review of the Chapter 15 and Chapter 3 analyses. The use of the Standby Liquid Control System as a diverse means to shutdown the reactor is discussed in USAR Section 15.1.27, "Anticipated Transients Without Scram." This section states that up to 10 minutes are available to initiate SLC system. As discussed in NEDO-10349, the offsite radiological dose consequences calculated for this event are within the 10 CFR Part 100 dose limits. The analysis

assumes the use of natural pentaborate (twenty atom percent B–10).

The use of 85 atom percent B–10 enriched sodium pentaborate at the minimum technical specification required flow rate of 41.2 gpm injection rate will reduce the time required to bring the reactor to hot shutdown by approximately a factor of four. This will allow increased time for operator action and result in a higher probability that the SLC system will be initiated in a timely manner. Additionally, the use of enriched pentaborate does not require substantial modification of the SLC system. Pump redundancy will be maintained. The SLC tank level instrumentation setpoints will be reset to accommodate the smaller liquid poison volume associated with the use of 85 percent enriched pentaborate. The new setpoints will account for instrument accuracy to ensure that the required quantity of pentaborate is injected into the vessel.

Although this request will also result in an increase in the pump discharge surveillance pressure of the system, it is still well below the system design pressure and the relief valve setpoint. The capability of the relief valve to prevent system overpressure and maintain system integrity remains intact. The margin between the relief valve setpoint and the proposed pump discharge surveillance pressure is sufficient to prevent flow diversion through the relief valves, which will be verified during the pump surveillance.

Additionally, the change in system pressure does not change the system classification. The system remains moderate energy due to the limited time the SLC discharge piping is pressurized. Since the moderate energy analysis still remains valid, a significant increase in the probability and consequences of pipe break accidents, as previously evaluated for Shoreham, is precluded. The proposed SLC pump surveillance pressure increase will ensure vessel injection at sufficient flow rates for anticipated ATWS conditions. Therefore, this change does not compromise the safety of the plant.

(2) Create the possibility of an accident that is different than any already evaluated in the USAR. The use of highly enriched pentaborate will not cause core power oscillations even with the assumption of no core flow during SLC injection. Based on the results of tests conducted in the Vallecitos Nuclear Center 1/6 Scale 3D Boron Mixing Test Facility as applied to the specific conditions of Shoreham, General Electric concluded that the dispersion of the boron following the restart of core flow is gradual enough that there is no danger of maldistribution of the boron in the water in the vessel.

The SLC system provides a diverse means of a reactor shutdown. It is an accident mitigator and the change in pump discharge pressure will not cause the SLC system to initiate any type of accident or malfunction not previously evaluated. The higher pressure will not cause any adverse conditions greater than those caused by the ATWS, nor will the surveillance itself cause any adverse conditions since a sufficient relief valve margin is maintained and the piping design pressure is not exceeded.

(3) Involve a significant reduction in the margin of safety as defined in the bases to Technical Specification 3/4.1.5. The present bases primarily discusses the technical issues associated with the shutdown requirement. The enriched pentaborate net tank volume and concentration ranges have been specified to adhere to the shutdown basis. The use of enriched pentaborate will increase the margin of safety associated with the injection rate. The ATWS Rule requires an injection rate equivalent in control capacity to 86 gpm of natural pentaborate based on a 251 inch internal diameter vessel. The proposed SNPS Technical Specification will ensure an injection capacity that is 200% of this requirement based on Shoreham's 218 inch internal diameter reactor pressure vessel.

The increased pump discharge surveillance pressure will still allow sufficient relief valve setpoint margin to ensure a minimum pentaborate injection rate of 41.2 gpm to the reactor under ATWS conditions. Since the relief valve setpoint will not be readjusted outside the present range of 1340 ± 60 psig, the system design pressure will not be exceeded. The proposed increase in the SLC pump discharge surveillance pressure maintains the margin of safety by requiring a technical specification flow rate verification at a pressure that is more representative of what the system could experience during an ATWS.

The NRC staff agrees with the licensee s evaluation and based on the above, proposes to find that the proposed changes to the Technical Specification 4.1.5 and Table 3.1.5–2 do not involve a significant hazards consideration.

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: February 23, 1987.

Description of amendment request: This change is requested to eliminate an unnecessary value in the Technical Specifications. Table 3.3–4 identifies trip values for the Emergency Feedwater (EFW) Control Valve Logic Lo Level. Two levels are given for this parameter; 36.3% wide range with a safety injection actuation signal (SIAS) or 30.0% without a SIAS signal. The operability for this system is required for Modes 1 through 3 as protection against design basis events such as a Small Break Loss of Coolant Accident (LOCA), Steam Generator Tube Rupture or a Steam Line or Feedwater Line Break. (The 36.3% setpoint is necessary only for the large Feedwater Line Break event.) In order to simplify the Technical Specifications, the requested change will redefine the 30.0% wide range setpoint to 36.3%, removing the dependence upon the SIAS.

Currently, under automatic control in the absence of SIAS, the EFW control valve positions are determined based on steam generator level and EFW flow (see FSAR Section 7.3.1.1.6). For instance, at the critical level, 55.0% wide range, one control valve opens to allow 200 gpm to the steam generators, and the other valve is controlled by the flowmeter to ensure that at least 175 gpm is delivered should the first valve fail to function properly. At the Lo Level, 45% wide range, the flow controller setpoint increases to 400 gpm. However, with a SIAS, the control valves are no longer controlled by flow, but rather by steam generator level only. In this level mode, when the steam generator level falls below 68% (and a SIAS is present), the EFW control valves are modulated to drive the level back to 68%. The rate at which the valves open and close is a function of the difference between the setpoint (68%) and the actual level, and the length of time that difference exists. For example, with SIAS present and steam generator level at the critical level, 55.0% wide range, the EFW control valves should be full open.

Currently, when the steam generator level drops to the "Lo-Lo" Level (30.0% without a SIAS, 36.3% with a SIAS), a priority open signal is sent to the valves which overrides all automatic or manual controls. Once the level raises above the applicable value, the control returns to its previous mode; either "automatic" as summarized above, or "manual" under operator control.

The proposed change will increase the 30.0% setpoint to 36.3% resulting in one Lo Level setpoint, thereby simplifying the Technical Specifications. Because the setpoint increase is in the conservative direction, additional safety margin will be provided for the design basis events of concern with the exception of the Large Feedwater Line Break, which will be unaffected by the change.

Basis for Proposed No Significant Hazards Considerations Determination: The NRC staff proposes to determine 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) Raising the EFW control valve logic Lo Level setpoint has no effect on the probability of occurrence of the initiating event itself. The setpoint comes into play only when an analyzed event progresses to the point of reducing the steam generator level to the setpoint value. By raising the setpoint, feedwater will be available earlier than previously analyzed for most events thus mitigating the consequences of the event.

(2) Raising the EFW trip setpoint in a conservative direction does not create any new failure or accident path. Therefore, the proposed change does not create the possibility of occurrence of any new or different kind of accident from any accident previously evaluated.

(3) By raising the EFW setpoint, feedwater flow will be provided earlier than assumed in the analysis for most events, resulting in an additional margin of safety for those events.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (51 CFR 7751) of amendments that are considered not likely to involve significant hazards considerations. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement.

In this case, the proposed change is similar to Example (ii) since the EFW setpoint increase provides a more conservative operating range.

The staff has reviewed the licensee's no significant hazards consideration analysis. Based on the review and the 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: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana.

Date of amendment request: February 23, 1987.

Description of amendment request: The proposed change would revise Technical Specifications 3.1.2.8b.1, "Borated Water Sources—Operating" and 3.5.4a, "Refueling Water Storage Pool". Currently, the Technical Specifications require that the Refueling Water Storage Pool (RWSP) contain a minimum water volume of 475,000 gallons. The technical specifications refer to 82% as being equal to the required volume; however, calculations have shown that, in order to maintain the required 475,000 gallons in the RWSP, the indicated level must be equal to 82.4%. The proposed change, would conservatively "round-up" the required level to 83% instead of "rounding-off" to 82%. This change is being proposed to correct a potential nonconservatism in the percent indicated level that corresponds to the minimum required volume that must be maintained.

Basis for Proposed No Significant Hazards Considerations Determination: The NRC staff proposes to determine 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 to these Technical Specifications is strictly administrative in nature and does not affect the manner in which the plant is operated. The change is being proposed to correct a potential nonconservatism in the percent indicated level that corresponds to the minimum required volume that must be maintained in the RWSP. The reason for maintaining a minimum volume of borated water in the RWSP is to ensure that the available supply of water to the Emergency Core Cooling System (ECCS) is consistent with the assumptions used in the large break loss of coolant accident (LOCA) presented in the FSAR. Since the proposed change increases the required level that must be maintained in the RWSP (and hence increases the required volume), there will be no affect on the LOCA analysis as described in Chapters 6 and 15 of the FSAR. Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident.

(2) The proposed change will ensure the indicated level of the RWSP is consistent with the volume requirement that was determined by the FSAR. There has been no physical change to plant systems, structures or components. The only change to plant procedures will be to require an increased RWSP level when performing routine surveillance tests. 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 these specifications is to ensure that a sufficient supply of borated water is available for injection by ECCS in the event of a LOCA. The minimum RWSP volume requirement ensures that sufficient water will be available inside the containment to permit recirculation through the safety injection pumps and back into the core. This minimum volume requirement also includes an allowance for water not usable because of RWSP discharge line location and other physical characteristics. Since the proposed change simply updates the RWSP level that corresponds to this minimum volume requirement, it 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 (51 FR 7751) of amendments that are considered not likely to involve significant hazards consideration. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, (e.g., a more stringent surveillance requirement).

In this case the proposed change is similar to Example (ii) in that it requires the RWSP to be maintained at an increased level.

The staff has reviewed the licensee's no significant hazard 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: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana.

Date of amendment request: February 23, 1987.

Description of Amendment Request: The proposed change would revise the note to Technical Specification 3.5.1, "Safety Injection Tanks". As presently written, the note is applicable in Modes 3 and 4 and currently allows the safety injection tank (SIT) level to be decreased to between 60% and 83.8% level when pressurizer pressure has been decreased to less than 1,750 psia and only three SITs are operable. This lower level of 60% corresponds to the minimum required water volume of 1,332 cubic feet that must be maintained in each of the three operable SITs; however, calculations have shown that, in order to maintain the required water volume of 1,332 cubic feet, the SIT level must be 60.23%. The proposed change, therefore, would conservatively "round-up" the required level to 61% instead of "round-off" to 60%.

Basis for Proposed No Significant Hazards Considerations 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 of a new or different kind of accident from 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 to this Technical Specification does not affect the manner in which the plant is operated. The change is being proposed to correct a potential non-conservatism in the percent level that corresponds to the minimum required volume that must be maintained in the SITs. The reason for maintaining a minimum volume is to ensure that, in the event of a large break loss-of-coolant accident (LOCA), the amount of water injected into the RCS from the SITs is consistent with the amount of water assumed in the large break LOCA analysis presented in the FSAR. Since the proposed change increases the required level that must be maintained in the SIT (and hence increases the required volume), there will be no effect on the LOCA analyses described in Chapters 6 and 15 of the FSAR. Therefore, the proposed change will not involve a significant increase in the probability of consequences of any accident.

(2) The proposed change will ensure that the level of the SITs is consistent with the volume requirement that was determined by the Safety Analysis. There has been no physical change to plant systems, structures or components. The only change to plant procedures will be to require an increased SIT level when performing routine surveillance tests. 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 these specifications is to ensure that a sufficient volume of borated water will be immediately forced into the reactor core through each of the four cold legs in the event that the RCS pressure falls below the pressure of the safety injection tanks. This initial surge of water into the core provides the initial cooling mechanism during the large break LOCA analsyis. The minimum SIT volume requirement ensures there is sufficient water in each of the SITs to perform the function assumed in the safety analysis. Since the proposed change simply updates the SIT level that corresponds to the minimum volume requirement, it 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 (51 FR 7751) of amendments that are considered not likely to involve significant hazards consideration. Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, (e.g. a more stringent surveillance requirement). In this case, the proposed change is similar to Example (ii) in that it requires the SITs to be maintained at an increased level.

The staff has reviewed the licensee's no significant hazards consideration analysis. Based on the review and the 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: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana.

Date of Amendment Request: February 23, 1987.

Description of Amendment Request: The proposed change would revise the note to Technical Specification 3.3–11, "Fire Detection Instruments" to:

1. Change the two Function A (early warning fire detection and notification only) smoke detectors in the CCW Pump "A" room (Zone RAB19) to Function B (actuation of fire suppression systems and early warning and notification) instruments, and

2. Implement certain name changes and correct typographical errors for the charcoal air filter units.

Presently, Technical Specification Table 3.3–11 indicates the presence of two smoke detectors in Fire Zone RAB19 which provide early warning fire detection and notification but do not actuate fire suppression systems. As part of the Associated Circuits Analysis modications implemented during the first refueling outage for Waterford 3, an existing pre-action sprinkler system was extended into RAB19. Local control panel modifications allowed the use of existing early warning notification smoke detectors to also provide suppression system actuation. The proposed change will revise the RAB19 smoke detector designation from Function A to Function B to reflect the additional detector capability.

The proposed changes to Table 3.3–11 for the charcoal air filter units will correct typographical errors in filter train identification numbers and revise room name descriptions to be consistent with Waterford 3 standard usage. These changes are purely administrative.

Basis for proposed no significant hazards considerations 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 change to RAB19 smoke detectors provides increased fire suppression capability. As such, the probability of damage to redundant safe shutdown components passing through RAB19 is decreased and the potential consequences of a fire in that area are reduced from that existing during Cycle 1. The administrative changes to the charcoal air filter unit designations have no physical effect on plant systems. Thus, the proposed changes will not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) The proposed changes will either enhance fire suppression capability or introduce no physical changes to the plant. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The RAB19 smoke detectors will provide an increased margin of safety over that available during Cycle 1 due to the additional suppression capability. The administrative changes to the charcoal filter units will introduce no plant changes and therefore will not affect safety margins.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (51 FR 7751) of amendments that are considered not likely to involve significant hazards consideration. Example (i) relates to a purely administrative change (e.g., a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature). Example (ii) relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, (e.g., a more stringent surveillance requirement).

In this case the proposed changes to the charcoal air filter units are similar to Example (i) in that numbering errors are being corrected and nomenclature changed to be consistent with Waterford 3 usage. The RAB19 proposed change is similar to Example (ii) in placing an additional restriction (suppression system actuation) on the smoke detectors.

The staff has reviewed the licensee's no significant hazards consideration analysis. Based on the review and above discussion, the staff proposes to determine that the proposed changes do not involve a signficant 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: George W. Knighton.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: February 23, 1987.

Description of amendment request: This change is requested to revise Technical Specification 4.3.3.7.1, "Chlorine Detection System," for Waterford Steam Electric Station, Unit 3 as a result of a modification to this system. The system originally installed that was to provide chlorine detection during the first cycle has proven to be unreliable. As a result, a station modification was implemented to install a new, more reliable chlorine detection system to replace the Cycle 1 system. The new system is a different design and therefore requires a different channel calibration procedure and frequency based on the manufacturer's recommendation and test experience.

The proposed change requires a channel calibration at least once per 31 days in contrast to the existing requirement for calibration every 18 months. The redundant requirement for a separate channel functional test every 31 days has been deleted because, by definition, Technical Specification 1.4 requires that the channel calibration must include a channel functional test.

Basis for proposed no significant hazards considerations determination: The NRC staff proposes to determine 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 calibration frequency requirement is based on the manufacturer's recommendations. This recommendation is made to achieve at least the same level of reliability and accuracy as that established for the old chlorine detection system. Therefore, there will be no increase in the probability or consequences of any accident previously evaluated.

(2) The proposed change in the channel calibration requirement is based on the manufacturer's recommendation and testing experience. The licensee has stated that the proposed change will achieve, as a minimum, the accuracy and reliability of the previously installed detection system; therefore, this change will not create any new failure or accident paths, and the possibility of a new or different kind of accident from any accident previously evaluated can not be created.

(3) The manufacturer's recommendations assure that a channel calibration frequency of 31 days establishes at least the same level of safety as that existing in the present Technical Specification. The licensee has stated that this calibration also establishes functionality of the system at least as often as the present Technical Specification does. Therefore, the operation of Waterford 3 in accordance with this proposed change will 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 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: George W. Knighton.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: February 24, 1987.

Description of amendment request: The proposed change would modify the Technical Specifications to reflect revised Loss of Coolant (LOCA) Limits.

These revised LOCA Limits were determined using a revised delta P injection penalty factor during the reflood phase of LOCA's and limiting axial power shapes. The revised delta P injection penalty factor and the method to select the limiting axial power shapes were proposed and justified in the Maine Yankee Atomic Power Company (MYAPCo) letter to NRC dated

November 10, 1986. These proposed revisions to the Emergency Core Cooling System (ECCS) Evaluation Model were reviewed and found acceptable in the NRC letter to MYAPCo dated January 6, 1987.

Basis for proposed no significant hazards consideration determination: MYAPCo has evaluated the proposed changes to the Technical Specifications against the standards of 10 CFR 50.92 and has determined they do not involve a significant hazards consideration.

Operation of the plant at the revised LOCA Limit does not increase the probability of a LOCA. MYAPCo has also evaluated operation of the plant during Cycle 10 for Non-LOCA events and has established Non-LOCA Limits independent of LOCA Limits. The imposition of a LOCA Limit further restricts operation and does not increase the probability of Non-LOCA events. Therefore, the proposed changes do not increase the probability of an accident previously evaluated.

The revised LOCA Limits were determined using methods found to be in compliance with 10 CFR 50.46 and 10 CFR Part 50 Appendix K. These regulations establish the criteria which assure that the consequences of LOCA's are acceptable. Therefore, operation of the plant at the revised LOCA Limit does not significantly increase the consequences of LOCA's. Furthermore, operation with the revised limits does not increase the consequences of Non-LOCA events for the reason stated in the previous paragraph. Therefore, the proposed changes do not increase the consequences of an accident previously evaluated.

The proposed changes establish the Peak Linear Heat Generation Rate (PLHGR) limits for LOCA's. Operation with the revised LOCA Limits for Non-LOCA events does not create the possibility of a new or different kind of accident for the reason as stated above. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The revised LOCA Limits were determined using methods found to be in compliance with 10 CFR 50.46 and 10 CFR Part 50 Appendix K. These regulations establish the criteria which assure that adequate margin of safety exists for LOCA's. Operation with the revised limits does not reduce a margin of safety for Non-LOCA events for the reasons as stated above. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Based on the above discussion, the staff agrees with the licensee's evaluation and proposes to determine that the proposed amendment would involve no significant hazards considerations.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Attorney for licensee: J.A. Ritscher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Project Director: Ashok C. Thadani.

Northeast Nuclear Energy Company, Docket No. 50–423, Millstone Nuclear Power Station Unit 3 New London County, Connecticut

Date of amendment request: January 5, 1987.

Description of amendment request: The amendment would revise Millstone Unit No. 3 Technical Specification Section 3.4.1.3 and Bases Section 3/4.4.1 to change the Limiting Condition for Operation (LCO) regarding the number of reactor coolant loops in operation during hot shutdown conditions. Section 3.4.1.3 would be revised to incorporate the requirement to have two reactor coolant pumps operating in Mode 4 when the reactor trip breakers are closed. The change will ensure consistency between the accident analysis and the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided examples (March 6, 1986, 51 FR 7751) of amendments that are considered not likely to involve significant hazards considerations. Example (ii) of this guidance states that a change that constitutes an additional limitation, restriction or control not presently included in the technical specifications would not likely constitute a significant hazard. The staff has reviewed the licensee's submittal and agrees with its determination that the change falls within the envelope of Example (ii) since the change would revise Technical Specification Section 3.4.1.3 to require two reactor coolant pumps to be in operation when the Reactor Trip System Breakers are closed. Accordingly, the staff agrees with the licensee's determination that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry, and Howard, City Place, Hartford, Connecticut 06103–3499.

NRC Project Director: Vincent S. Noonan.

Northeast Nuclear Energy Company, Docket No. 50–423, Millstone Nuclear Power Station Unit No. 3, New London County, Connecticut

Date of application for amendment: February 26, 1987.

Brief Description of amendment request: The amendment would revise the Millstone Unit No. 3 Technical Specifications by deleting the functional unit 21 (Reactor Trip Bypass Breakers) of Tables 3.3–1 and 3.2–2. This change will ensure consistency between Generic Letter 85–09 and the Millstone Unit No. 3 Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (March 6, 1986 51 FR 7751) of amendments that are considered not likely to involve significant hazards consideration. The proposed change is enveloped by example (i), a purely administrative change to the Technical Specifications. The proposed amendment would delete functional unit 21 (Reactor Trip Bypass Breakers) of Tables 3.3–1 and 3.3–2. Functional unit 21 contains action statements 10 and 11 calling for bypassing the channel for surveillance testing and opening of the trip breakers. These action statements are appropriate for the reactor trip breakers, but not for the reactor trip bypass breakers. Therefore the Technical Specification Table 3.3–1 and 3.3–2 will be revised to be consistent with Generic Letter 85–09 and the Westinghouse Standard Technical Specifications. The staff has reviewed the licensee's submittal and agrees with its conclusion that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry, and Howard, City Place, Hartford, Connecticut 06103–3499.

NRC Project Director: Vincent S. Noonan.

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: January 12, 1987.

Description of amendment request: The proposed amendments revise the Peach Bottom Atomic Power Station, Units 2 and 3, Technical Specifications (TS) relating to (I) reactor core thermal hydraulic stability and (II) operation with jet pump flow indication failures and jet pump operability surveillance requirements. An operating restriction concerning a limiting Safety System Setting on Unit 2 is also proposed to be removed since it is no longer necessary.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (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 an analysis of each of the above criteria for the amendment request as follows:

I. Thermal Hydraulic Stability

It has been determined, ..., that operation of Peach Bottom Atomic Power Station Units 2 and 3, in accordance with these proposed revisions to the Technical Specifications, does not involve a significant hazards consideration for the following reasons:

(i) The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated because the revisions are consistent with the NRC-approved stability criteria and the monitoring requirements are sufficient to prevent thermal hydraulic instability. Stability monitoring provisions decrease the probability of fuel damage by avoiding limit cycle neutron flux oscillations. The more restrictive action statements decrease the possibility for instability.

(ii) The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated because the monitoring requirements and revised action statements do not change reactor operating procedures or characteristics. They merely serve to prevent operation in regions of potential instability.

(iii) The proposed revisions do not involve a significant reduction in a margin of safety because these monitoring requirements will ensure that limit cycle neutron flux oscillations are avoided, thereby reducing the potential for a reactor power transient.

II. Jet Pump Flow Indication Failures and Jet Pump Operability

It has been determined, ..., that operation of Peach Bottom Atomic Power Station Units 2 and 3, in accordance with these proposed revisions to the Technical Specifications does not involve a significant hazards consideration for the following reasons:

(i) The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated. The change to LCO [Limiting Condition for Operation] 3.6.E.3 does not change the intent of the Specification; it simply makes it more understandable, which increases the probability of conformance to the LCO. The revisions to the surveillance requirements merely provide clarification by addressing single loop operation and two-loop operation specifically. The addition of LCO 3.6.E.4 prevents continued operation of the reactor in an unanalyzed condition, thereby decreasing the probability of an accident, without affecting the consequences of an accident. These changes are, therefore, conservative.

(ii) The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated because the revisions do not adversely change allowable reactor operations. In effect, the revisions of LCO 3.6.E.3 and revisions to the surveillance requirements do not change reactor operation. The addition of LCO 3.6.E.4 does not create any new mode of operation; rather; it prohibits an unanalyzed operation which the Technical Specifications previously did not address.

(iii) The proposed revisions do not involve a significant reduction in a margin of safety because the revisions clarify the specifications and reduce the possibility of reactor operation in an unanalyzed condition which clearly increases the margin of safety.

The Plant Operating Review Committee and the Nuclear Review Board have reviewed these proposed changes to the Technical Specifications and have concluded that they do not involve an unreviewed safety question or a significant hazards consideration and will not endanger the health and safety of the public.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff has made a proposed determination that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue NW., Washington, DC 20006.

NRC Project Director: Daniel R. Muller.

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: January 20, 1987.

Description of amendment request: The proposed amendments would make the following revisions to the Technical Specifications (TS):

a. Technical Specification 4.6.B.1

The proposed revision would require the performance of an isotopic analysis on all additional primary coolant samples required by Specification 4.6.B.1, thereby replacing the less accurate, gross measurements presently required. This revision is more conservative than the current requirement and is consistent with Specification 4.4.5 of Standard Technical Specifications for General Electric Boiling Water Reactors, NUREG–0123, Revision 3.

The proposed revision would also delete the requirement to perform an isotopic analysis to determine dose equivalent Iodine–131 if the gross measurement exceeds 0.2 uc/gm since an isotopic analysis would now be performed on all samples.

b. Technical Specification 1.0, Definitions

The proposed change would revise the definition of surveillance frequency on page 8 of the TS by the addition of a paragraph which addresses testing of the diesel-generators. The diesel-generators are common equipment to both Units 2 and 3. The TS for each unit presently require that surveillance testing be performed once per operating cycle. This testing is conducted during refueling or other extended outages and simulates the conditions under which the diesel-generators would be required.

The proposed change would permit deferral of a surveillance test of the diesel generators for one unit, if they had been similarly tested in accordance with the TS for the other unit. There are separate TSs for Peach Bottom Units 2 and 3, although the requirements in each are almost identical. The present TSs for each unit require testinq the diesel-generators once per operating cycle but do not give recognition to the fact that a test of this common equipment for one unit is at the same time testing the equipment for the other unit.

The proposed change would reduce the need for back-to-back testing or a possible shutdown to satisfy the TS for

both units and would establish uniform intervals between tests.

c. Technical Specifications 3.9.A.1, 3.9.B.1, and 3.9.B.2

The proposed revisions would change TS 3.9.A.1, 3.9.B.1, and 3.9.B.2 pertaining to auxiliary electrical systems to reflect recent installation of a new 230–13 Kv transformer. This transformer supplies voltage comparable to the existing startup transformers and is a qualified alternate for the existing Unit 3 startup source. The redundancy in offsite power supply offered by the additional transformer enhances plant reliability and safety. The revised Technical Specifications merely account for the existence of the additional transformer without changing the intent of any of the requirements.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendments involves no significant hazards considerations. To make this determination the staff must establish that operation 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.

a. Technical Specification 4.6.B.1

The proposed revision does not involve a significant hazards consideration for the following reasons:

1. The proposed revision does not involve a significant increase in the probability or consequences of an accident previously evaluated because the effect of the revision is only to improve the accuracy of analysis of primary coolant samples. Isotopic analyses, which are more accurate than gross measurements, would be used to determine dose equivalent Iodine–131, and would be performed on all additional samples.

2. The proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated because improving the accuracy of analysis of primary coolant samples cannot create the possibility of a new accident.

3. The proposed revision does not involve a significant reduction in a margin of safety because the accuracy of the measurements will be increased without affecting the method of acquiring samples, and limiting the TS to one method of analysis improves the understandability of, and the likelihood of conformance with, the TS.

b. Technical Specification 1.0, Definitions

The proposed change does not involve a significant hazards consideration for the following reasons:

1. The proposed revision does not involve a significant increase in the probability or consequences of an accident previously evaluated because the nature and frequency of the surveillance program for the diesel-generators will ensure the same level of equipment reliability.

2. The proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated because the change deals solely with the scheduling of a surveillance test and does not impact the methods employed or quality of the surveillance program.

3. The proposed revision does not involve a significant reduction in a margin of safety because the proposed change reduces the potential for a surveillance required outage and the associated reactor vessel cyclic stresses, while retaining a level of surveillance monitoring that ensures acceptable reliability of the diesel generators.

c. Technical Specifications 3.9.A.1, 3.9.B.1, 3.9.B.2

The proposed changes do not involve a significant hazards consideration for the following reasons:

1. The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated because the two Unit 3 startup transformers are available to support the required loads of the engineered safeguards equipment in the event that one fails, thus increasing off-site power supply reliability and reducing the probability and consequences of an accident. The new Unit 3 startup transformer was chosen and installed to provide voltages in the plant comparable or superior to that of the original transformer.

2. The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated because the electrical power system of the plant and the recent transformer installation were designed so that any failure affecting one source does not propagate to the alternate source. In addition, each off-site source alone is sufficient for safe shutdown by supplying each of the 4 Kv emergency buses, and loss of all off-site power has been provided for in the station design. The diesel generators provide sufficient power to support engineered safeguards equipment for one unit and the shutdown of the other, assuming loss of all off-site power and failure of one diesel generator.

3. The proposed revisions do not involve a significant reduction in a margin of safety because the recently installed transformer is a qualified alternate for the existing Unit 3 startup transformer, and provides additional redundancy in off-site power supply for the engineered safeguards systems.

Since the application for amendments involves proposed changes that are encompassed by the criteria for which no significant hazards considerations exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue NW., Washington, DC 20006.

NRC Project Director: Daniel R. Muller.

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: January 22, 1987.

Description of amendment request: The proposed amendments revise the Peach Bottom Atomic Power Station, Units 2 and 3, Technical Specifications (TS) to reflect proposed modifications to the Standby Liquid Control System and to achieve more consistency with the Standard TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards (10 CFR 50.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (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 an analysis of each of the above criteria for the amendment request as follows:

. . . . [I]t has been determined that operation of Peach Bottom Atomic Power Station Units 2 and 3 in accordance with these proposed revisions to the Technical Specifications does not involve a significant hazards consideration for the following reasons:

(i) The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated because the SLCS's capability to insert negative reactivity is enhanced by operating it with the new enriched solution. The revised Technical Specifications will ensure a level of SLCS reliability comparable to or superior to that of the existing requirements. The proposed action statements provide time restrictions for shutdown similar in effect to the existing requirements and removal of the accelerated testing requirement is an enhancement to safety.

(ii) The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated because operating the SLCS in accordance with the revised Technical Specifications does not adversely impact any previous accident analyses. The enrichment of the SLCS solution and corresponding Technical Specification revisions do not adversely affect any other safety-related systems or the primary coolant system boundary and, therefore, cannot create a different kind of accident.

(iii) The proposed revisions do not involve a significant reduction in a margin of safety because the revised Technical Specifications provide the LCOs and Surveillance Requirements necessary to ensure that the SLCS with the new solution will perform its objective with the same or superior level of reliability. In addition, the new solution will shutdown the reactor approximately twice as quickly as the existing solution, consequently enhancing the plant's capability of responding to an ATWS event. Removal of the accelerated testing requirement is an enhancement to safety.

The Plant Operating Review Committee and the Nuclear Review Board have reviewed these proposed changes to the Technical Specifications and have concluded that they do not involve an unreviewed safety question or a significant hazards consideration and will not endanger the health and safety of the public.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff has made a proposed determination that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: Daniel R. Muller.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Unit No. 3, Westchester County, New York

Date of amendment request: February 6, 1987.

Description of amendment request: The licensee provided the following description:

This application seeks to amend Section 3.3.G of the Indian Point 3 Technical Specifications in order to clarify the containment hydrogen monitoring technical specifications.

On October 4, 1985, the licensee submitted proposed changes to the Indian Point 3 Technical Specifications for various NUREG–0737 items. These Technical Specifications were approved by the NRC in Amendment No. 65, dated April 18, 1986. Included in the above were the technical specifications for NUREG–0737 item II.F.1.6, Containment Hydrogen Monitors.

The containment atmosphere sampling system referred to in Section 3.3.G of the Indian Point 3 Technical Specifications was replaced with the Containment Hydrogen Monitoring System required by NUREG–0737. The licensee's letter of December 30, 1980 (IPN–80–117) provided the NRC details of the NUREG–0737 Containment Hydrogen Monitoring System. This monitoring system consists of two safety related hydrogen concentration measurement cabinets with sample lines which pass through the containment penetrations to each containment fan cooler unit plenum. Two of the five sampling lines (from containment fan cooler units nos. 32 and 35) are routed to a common source line and then to a hydrogen monitor. The other three sample lines (from containment fan cooler units nos. 31, 33, and 34) are likewise headered and routed to the other hydrogen monitor. Therefore, the Technical Specifications with regard to the containment atmosphere sampling system (Sections 3.3.G lb, 3.3.G 2b and 3.3.G 2c) no longer apply and should be deleted.

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 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 following analysis was provided by the licensee:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response

The proposed amendment is an administrative change which does not impact plant power operation. The purpose of the proposed amendment is to remove Technical Specifications for a system which no longer exists at Indian Point 3. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

This proposed amendment will not vary or affect any plant operating condition or parameter. Hence, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed amendment is an administrative change which removes Technical Specifications for a system that no longer exists at Indian Point 3. Technical Specifications for the NUREG–0737 containment hydrogen monitoring which replaced the original sampling system were approved in Amendment No. 65, dated April 18, 1986. Therefore, this proposed amendment does not involve a significant reduction in a margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Steven A. Varga.

Public Service Company of Colorado, Docket No. 50–267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: December 19, 1986.

Description of amendment request: The proposed amendment would change Section 4.10.7, Table 4.10.7, of the Fort St. Vrain Technical Specifications to reflect the actual elevation for Hose Station Number TH12–G4 as elevation 4904.

Basis for proposed no significant hazards consideration determination: The proposed change to Section 4.10.7 (Table 4.10.7) of the Fort St. Vrain Technical Specifications is administrative and is being made to properly reflect the actual configuration of the plant. Changing the Technical Specifications to reflect this will not create any significant safety hazard.

Based on the above evaluation, it is the staff's initial determination that operation of Fort St. Vrain in accordance with the proposed Technical Specifications change will 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 any margin of safety. Hence, the staff proposes to determine that this proposed change would involve no significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Attorney for licensee: Bryant O'Donnell, Public Service Company of Colorado, P.O. Box 840, Denver, Colorado 80201–0840.

NRC Project Director: Herbert N. Berkow.

Public Service Electric and Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Dates of amendment request: June 4, November 21, December 18, 1986, and February 20, 1987.

Description of amendment request: The Mark I containment at Hope Creek consists of two connected volumes—the drywell and the suppression chamber. For the purposes of inerting, deinerting, prepurge cleanup, and pressure control, the drywell and suppression chamber are equipped with purge supply and exhaust valves. The drywell is constructed with two 26-inch purge supply valves in series and two 26-inch purge exhaust valves in series. The suppression chamber is constructed with two 24-inch purge supply valves in series and two 24-inch purge exhaust valves in series. A single 6-inch nitrogen supply line, with a 6-inch valve, branches to become two 6-inch nitrogen supply lines with one of these lines penetrating the drywell purge supply line between the two drywell purge supply valves, and the other line penetrating the suppression chamber purge supply line between the two suppression chamber purge supply valves. The 6-inch nitrogen supply lines provide nitrogen gas for containment inerting.

Technical Specification (TS) 3/4.6.1.8 currently requires that the 26-inch drywell purge supply and exhaust valves, the 24-inch suppression chamber purge supply and exhaust valves, and the 6-inch nitrogen supply valve be sealed closed during Operational Conditions 1, 2, and 3. Accordingly, operations reguiring the use of these valves, such as prepurge cleanup, inerting and deinerting, can be conducted only if the plant is in Operational Condition 4 or 5. The proposed amendment would revise this technical specification to permit the operation of the valves in one purge supply line, one purge exhaust line, and the 6-inch nitrogen supply valve for up to 120 hours per 365 days, thereby permitting prepurge cleanup, inerting and deinerting, for a limited amount of time, while in Operational Conditions 1, 2, and 3. For example, under the proposed technical specification, deinerting could be commenced and could be performed in parallel to power descension, thereby saving a significant amount of time.

To justify such operation, the licensee proposes to install blowout panels in the purge supply/exhaust ductwork to protect against overpressurization should a loss-of-coolant accident (LOCA) occur while the valves are open. In its February 20, 1987 letter, the licensee committed to install these panels prior to implementation of the proposed Technical Specification amendment. The proposed TS amendment also revises TS Table 3.6.3–1, decreasing the maximum isolation time for these valves from 15 seconds to 5 seconds. The corresponding Bases would also be revised.

To support the proposed license amendment, the licensee provided a report entitled "26-Inch Butterfly Valve and Air Operator Test Report for Public Service Electric & Gas Company," prepared by Wyle Laboratories. This report, Attachment 3 to the licensee's June 4, 1986 amendment request, demonstrates the capability of the 26-inch valve, with its pneumatic operator, to close against LOCA flows. The 24-inch valves and the 6-inch valve are qualified by similarity. Additionally, the licensee provided its radiological assessment of the proposed license amendment in its letters dated November 21, and December 18, 1986.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no 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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant increase in the probability of an accident previously evaluated because the proposed change concerns equipment which cannot initiate an accident but, instead, is used in the mitigation of an accident. The proposed changes do not involve a significant increase in the consequences of an accident previously evaluated for the following reasons. The containment vent/purge isolation valves were analyzed based on the short-term containment pressure response following a recirculation line break LOCA which, if the valves were open, could have caused excessive pressurization of the safety-related Filtration, Recirculation, and Ventilation System (FRVS). To offset this pressurization, the licensee proposes adding blow-out panels (exhausting to adjoining rooms), set to open at a ductwork-to-room pressure of 1 psi, upstream of the purge supply valves and downstream of the purge exhaust valves. These panels will lower the pressure experienced by the FRVS to within acceptable limits. The licensee proposes additional plant modifications to assure that the FRVS will perform its intended function following a LOCA. Additionally, the greater FRVS ductwork sizing will attenuate pressure pulses resulting from a LOCA. All releases from the reactor building, including blowdown through the blow-out panels and blowdown through the purge supply and exhaust lines prior to valve closure, are filtered before release.

The licensee's analysis also included the results of a radiological dose assessment of the proposed facility modifications. The licensee estimated that the resultant doses from a LOCA while the valves are open remain well below the guidelines of 10 CFR Part 100 and General Design Criterion (GDC) 19 dose requirements. As stated earlier, the current Technical Specifications require

that the containment purge/vent valves, and the nitrogen supply valve be closed during Operational Conditions 1, 2, and 3. This is due to the fact that at the time of licensing, the capability of the containment purge/vent valves and the nitrogen supply valve to close against LOCA flows could not be demonstrated. In the staff's review of the radiological dose consequence from a design basis accident LOCA (documented in Section 15.6.5 and Table 15.1 of the Hope Creek Safety Evaluation Report (SER), NUREG–1048 and SER Supplement No. 1), these valves were assumed to be closed. The licensee has redone the LOCA analysis assuming the valves in one purge supply line and the valves in one purge exhaust line are open for the first 5 seconds of the LOCA. The licensee's analysis indicates that the incremental dose increase due to vent pathways offered by the open lines is not significant. For example, as documented in SER Supplement No. 1, Table 15.1, the staff estimated the 2-hour thyroid dose at the exclusion area boundary (EAB) to be 124 rem. The licensee has calculated the incremental 2-hour thyroid dose at the EAB if the valves in one purge supply line and the valves in one purge exhaust line are open to be 0.3 rem. This increase is not considered significant and the resultant offsite doses remain well within the guidelines of 10 CFR Part 100. Similarly, control room doses remain well within GDC–19 requirements.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The LOCA is still the most severe design basis accident with or without the purge valves open. As stated earlier, the proposed amendment concerns equipment which cannot initiate accidents, but, instead, is used in their mitigation. Although the licensee's proposed amendment permits certain qualified vent/purge valves to be open during operation, analysis shows that should a LOCA occur while operating in the proposed configuration, the valves will close within 5 seconds resulting in doses below the 10 CFR Part 100 and GDC 19 limits.

The proposed changes do not involve a significant reduction in the margin of safety as demonstrated in the licensee's safety analysis regarding overpressurization and the licensee's radiological dose assessment described above.

Accordingly, the Commission proposes to determine that the requested amendment to the Hope Creek Operating License involves no significant hazards considerations.

Local Public Document Room location: Pennsville Public Library, 190 South Broadway, Pennsville, New Jersey 08070.

Attorney for the licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue NW., Washington, DC 20006.

NRC Project Director: Elinor G. Adensam.

Public Service Electric and Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: February 17, 1987.

Description of amendment request: The licensee in its February 17, 1987 letter, requested changes to a footnote of Hope Creek Technical Specification (TS) Table 3.3.3–2 to revise the description of the 4.16 KV Emergency Bus Under voltage Relays. Specifically, the amendment would revise the double-asterisk footnote in TS Table 3.3.3–2 to indicate that 1.) the Emergency Bus Undervoltage Relays are solid-state relays (instead of inverse time relays), and 2.) the voltages shown are the minimum values (not the maximum values).

The licensee stated that the inverse time delay voltage relays currently in use are prone to setpoint drift. To compensate for this recurring setpoint drift, the licensee has increased the surveillance frequency of these relays. The solid-state relays the licensee proposes to install are more reliable and are less prone to setpoint drift.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether no significant hazards considerations exist (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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the inverse time delay voltage relays currently in place will be replaced with single phase solid-state voltage relays which are less prone to setpoint drift and will operate within the TS parameters, thereby increasing the reliability of the emergency bus undervoltage trip system. Consequences of an accident are neither significantly increased nor decreased. Should an accident occur, its consequences are not determined by the type of relays used as undervoltage relays.

The proposed amendment does not create the possibility of a new or different kind of accident from an accident previously evaluated because the solid-state relays will perform exactly the same function as the inverse time delay voltage relays currently installed.

The proposed amendment does not involve a significant reduction in a margin of safety because the same TS requirements imposed on the inverse time delay voltage relays will also be imposed on the solid-state relays. Additionally, the licensee has stated that the solid-state relays will make the emergency bus undervoltage trip system more reliable. The margin of safety is maintained, if not increased.

Based on the above discussion, the staff proposes to determine that the requested amendment involves a no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 South Broadway, Pennsville, New Jersey 08070.

Attorney for the licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue NW., Washington, DC 20006.

NRC Project Director: E. Adensam.

Wolf Creek Nuclear Operating Corporation, Kansas Gas and Electric Company, Kansas City Power & Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 2, 1987.

Description of amendment request: The proposed amendment request deletes Technical Specifications 3/4.3.3.8, 3/4.7.10.1, 3/4.7.10.2, 3/4.7.10.3, 3/4.7.10.4, 3/4.7.11, 6.2.2.e, and the corresponding section 3/4 Bases, and revises Technical Specifications 6.5.1.6, 6.5.1.7, and 6.8.1 and license conditions 2.C.(5) (a), (b) and (c).

1. Technical Specification 3/4.3.3.8, Fire Detection Instrumentation, is deleted. The requirements of this specification have been moved in their entirety to plant operating procedures. This change is administrative in nature in that no requirements are being altered. Provisions for review of future

changes to the requirements are dictated by the changes to Technical Specifications 6.5.1.6, 6.5.1.7, and 6.8.1 as described below.

2. Technical Specification 3/4.7.10.1, Fire Suppression Water System, is deleted. All of the requirements of this specification, with the sole exception of the plant shutdown and mode change restriction requirements upon determination of inoperability of the system dictated by action b, have been moved to plant operating procedures. With the above exception, the changes are purely administrative in nature since no requirements are being altered.

3. Technical Specifications 3/4.7.10.2, Spray and/or Sprinkler Systems, 3/4.7.10.3, Halon Systems, 3/4.7.10.4, Fire Hose Stations and 3/4.7.11, Fire Barrier Penetrations, are deleted. The requirements of these specifications have been moved in their entirety to plant operating procedures.

4. Technical Specifications 6.2.2.e, Site Fire Brigade Requirements, is deleted. The requirement of this specification has been moved in its entirety to plant operating procedures.

5. Technical Specification 6.5.1.6, Plant Safety Review Committee (PSRC) Responsibilities, is being revised to provide specific reference to the requirement to review the plant Fire Protection Program and its revisions. This change reinforces the importance of the Fire Protection Program on plant safety and assures a multi-discipline review by the PSRC of proposed changes to those requirements that are removed from the Technical Specifications.

6. Technical Specification 6.8.1, Written Procedure Requirements, is revised to include the Fire Protection Program implementation. This change reinforces the importance of the Fire Protection Program on plant safety and is consistent with the requirements established for similar programs, such as the security plan.

7. License conditions 2.C.(5)(a), (b), and (c) dealing with changes to the Fire Protection Program,. are revised in accordance with the guidance provided in section F of Generic Letter 86–10, Implementation of Fire Protection Requirements. The changes provided in Generic Letter 86–10 establish requirements for control of the Fire Protection Program.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

1. Technical Specification 3/4.3.3.8, Fire Detection Instrumentation is deleted, and the requirements contained therein have been transferred to the FSAR and plant operatinog procedures.

(a) This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. No changes to the requirements have been made. This change simply removes the fire detection instrumentation requirements from the Technical Specifications and places them into plant procedures and the FSAR without altering them. Review of the Fire Protection Program and its revisions will be the responsibility of the Plant Safety Review Committee (PSRC) just as it has always been the responsibility of this group to review changes to fire protection requirements when they were part of the Technical Specifications.

(b) This change does not create the possibility of a new or different kind of accident from any previously evaluated. The proposed change does not alter the requirements; it just moves them from the Technical Specifications to the FSAR. Plant procedures will continue to provide the specific instructions for implementing the LCO, action, and surveillance requirements. There has been no reduction in commitments and, as incorporated into the plant procedures, this chanoe meets the requirements of the existing Technical Specifications.

(c) This change does not involve a significant reduction in the margin of safety. No change is being proposed for the requirements themselves. Technical Specification 3/4.3.3.8 is being deleted, and the requirements contained therein are being incorporated into the FSAR. Plant procedures will continue to provide the specific instructions necessary for the implementation of the requirements, just as when the requirements resided in the Technical Specifications. Fire Protection Program commitments, reporting requirements, and amendments will by this process be transferred from the jurisdiction of 10 CFR 50.73 and 10 CFR 50.90 to 10 CFR 50.59 and 10 CFR 50.71(e).

2. Technical Specification 3/4.7.10.1, Fire Suppression Water System is deleted. All of the requirements contained therein, with the exception of the plant shutdown and mode change restriction requirements dictated by action b, have been transferred to the FSAR and plant operating procedures.

(a) This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. In the accident analysis it is assumed that a design basis accident does not occur simultaneously with a fire, and the fire hazards analysis does not rely solely on automatic fire suppression systems. In addition, backup manual fire suppression capabilities are available. Other than the deletion of the plant shutdown and mode change restrictions dictated by action b, no changes to requirements have been made. This change for the most part simply removes the fire suppression water system requirements from the Technical Specifications and places them into the plant procedures and the FSAR without altering them. Review of the Fire Protection Program and its revisions will be the responsibility of the PSRC just as it has always been the responsibility of this group to review changes to fire protection requirements when they were part of the Technical Specifications.

(b) This change does not create the possibility of a new or different kind of accident from any previously evaluated since, in the accident analysis, it is not assumed that a design basis accident occurs simultaneously with a fire and the fire hazards analysis does not rely solely on automatic fire suppression systems.

Plant procedures will require establishment of a backup fire suppression system within 24 hours. In order to ensure that actions are taken if the backup fire suppression water system is not available, plant procedures will require actions designed to minimize the risk of fire. Provisions for the review of future changes to the requirements are dictated by the changes to Technical Specifications 6.5.1.6, 6.5.1.7, and 6.8.1 as described below.

The inoperability of the fire suppression water system will effectively cause loss of operability of spray and sprinkler systems and fire hose stations. The critical spray and sprinkler systems and fire hose stations have their own action requirements to ensure that fire protection is maintained. These actions consist of establishing a fire watch for early detection and the use of portable extinguishers and a fire brigade as a backup fire suppression system. These action requirements will be maintained in the plant procedures. The loss of the fire suppression water system will cause the inoperability of only the spray and sprinkler systems and fire hose stations, and therefore their required actions, in addition to those actions retained in the plant procedures from Specification 3/4.7.10.1, which includes all the Technical Specification actions except the plant shutdown and mode change restrictions, should be sufficient.

(c) This change does not involve a significant reduction in the margin of safety since fires are not assumed to occur simultaneously with a design basis accident. In addition, several means of fire detection and fire protection are still operable, since they are not affected by the loss of water suppression system. Fire detection instrumentation is available allowing detection of a fire and response by plant personnel using operable fire fighting capabilities. Plant fire barriers providing fire isolation of safety-related equipment from non-safety-related equipment and between trains of safety-related equipment are still operable. Also, halon fire suppression systems protect certain vital electrical equipment.

Plant procedures will continue to provide the specific instructions necessary for the implementation of all of the requirements from Specification 3/4.7.10.1, with the exception of action b, plant shutdown and mode change restrictions upon complete loss of fire suppression system capability, which will be compensated for by actions designed to minimize the risk of fire.

Fire Protection Program commitments, reporting requirements, and amendments will by this process be transferred from the jurisdiction of 10 CFR 50.73 and 10 CFR 50.90 to 10 CFR 50.59 and 10 CFR 50.71(e).

In summary, loss of the normal fire suppression water system does not affect the probability of having an accident. If the backup suppression system is not available, additional compensatory actions will be taken as discussed above and, therefore, shutdown of the unit is not warranted. Additionally, unit power level or changes in operating mode will not affect the remaining suppression or backup suppression capability to handle a fire, therefore; the application of Technical Specification 3.0.4 is not warranted.

3. Technical Specifications 3/4.7.10.2, Spray and/or Sprinkler Systems, 3/4.7.10.3, Halon Systems, 3/4.7.10.4, Fire Hose Stations, and 3/4.7.11, Fire Barrier Penetrations, are deleted, and the requirements contained therein have been transferred to the plant operating procedures.

(a) This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. No changes to the requirements have been made. This change simply removes the spray and/or sprinkler system, halon system, fire hose station, and fire barrier penetration requirements from the Technical Specifications and places them into plant procedures and the FSAR without altering them. Review of the Fire Protection Program and its revisions will be the responsibility of the Plant Safety Review Committee just as it has always been the responsibility of this group to review changes to fire protection requirements when they were part of the Technical Specifications.

(b) This change does not create the possibility of a new or different kind of accident from any previously evaluated. The proposed change does not alter the requirements; it just moves them from the Technical Specifications to the FSAR. Plant procedures will continue to provide the specific instructions for implementing the LCO, action, and surveillance requirements. There has been no reduction in commitments and, as incorporated into the plant procedures, this change meets the requirements of the existing Technical Specifications.

(c) This change does not involve a significant reduction in the margin of safety. No change is being proposed for the requirements themselves. Technical Specifications 3/4.7.10.2, 3/4.7.10.3, 3/4.7.10.4, and 3/4.7.11 are being deleted and the requirements contained therein are being incorporated into the FSAR. Plant procedures will continue to provide the specific instructions necessary for the implementation of the requirements, just as when the requirements resided in the Technical Specifications. Fire Protection Program commitments, reporting requirements, and amendments will by this process be transferred from the jurisdiction of 10 CFR 50.73 and 10 CFR 50.90 to 10 CFR 50.59 and 10 CFR 50.71(e).

4. Technical Specification 6.2.2.e, Site Fire Brigade Requirements, is deleted, and the requirements contained therein have been transferred to the plant operating procedures.

(a) This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. No changes to the requirements have been made. This change simply removes the site fire brigade requirements from the Technical Specifications and places them into plant procedures and the FSAR without altering them. Review of the Fire Protection Program and its revisions will be the responsibility of the Plant Safety Review Committee just as it has always been the responsibility of this group to review changes to fire protection requirements when they were part of the Technical Specifications.

(b) This change does not create the possibility of a new or different kind of accident from any previously evaluated. The proposed change does not alter the requirements; it just moves them from the Technical Specifications to the FSAR. Plant procedures will continue to provide the specific instructions for implementing the Technical Specifications administrative requirements. There has been no reduction in commitments and, as incorporated into the plant procedures, this change meets the requirements of the existing Technical Specifications.

(c) This change does not involve a significant reduction in the margin of safety. No change is being proposed for the requirements themselves. Technical Specification 6.2.2.e is being deleted, and the requirements contained therein are being incorporated into the FSAR or plant procedures. Plant procedures will continue to provide the specific instructions necessary for the implementation of the requirements, just as when the requirements resided in the Technical Specifications. Fire Protection Program commitments, reporting requirements, and amendments will by this process be transferred from the jurisdiction of 10 CFR 50.73 and 10 CFR 50.90 to 10 CFR 50.59 and 10 CFR 50.71(e).

5. Technical Specification 6.5.1.6, Plant Safety Review Committee Responsibilities, is being revised to provide specific reference to the PSRC requirements to review the plant Fire Protection Program and its revisions.

(a) This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change does not involve a reduction in requirements. The PSRC has always been responsible for reviewing proposed changes to the Technical Specifications and is now responsible for reviewing changes to the Fire Protection Program, which has been created from the former Technical Specifications and other requirements.

(b) This change does not create the possibility of a new or different kind of accident from any previously evaluated. There has been no change in requirements as a result of this Technical Specification revision. In fact, the addition to Specification 6.5.1.6 is an addition to the previously identified PSRC responsibilities in that previously the PSRC did not have a specific Technical Specification requirement to review the Fire Protection Program.

(c) This change does not involve a significant reduction in the margin of safety. The change to PSRC responsibilities as delineated in section 6.5.1.6 involves an increase in requirements. The former Technical Specifications are a subset of the entire Fire Protection Program, and the PSRC is now responsible for reviewing the entire program, whereas formerly the PSRC responsibilities for review in this area included only the Technical Specifications. Their responsibility for procedural review remains unchanged.

6. Technical Specification 6.8.1, Written Procedure Requirements, is revised to include the Fire Protection Program implementation.

(a) This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The addition of the Fire Protection Program to the list of required written procedures constitutes an additional control not presently included in the Technical Specifications.

(b) This change does not create the possibility of a new or different kind of accident from any previously evaluated. No requirements have been reduced by the addition of Specification 6.8.1.i; instead, the change creates an additional requirement.

(c) This change does not involve a significant reduction in the margin of safety. The addition of the Fire Protection Program to the list of required written procedures constitutes an additional control not presently included in the Technical Specifications.

7. License conditions 2.C.(5) (a), (b), and (c) dealing with changes to the Fire Protection Program, are revised in accordance with the guidance provided in section F of Generic Letter 86-10, Implementation of Fire Protection Requirements.

(a) This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The change in license conditions from those previously incorporated into the license to the one presented in Generic Letter 86-10 does not result in any loss of control of the change process.

Previously, changes to the Fire Protection Program that decreased the level of fire protection in the plant could only be made with prior Commission approval utilizing the license amendment process (10 CFR 50.90). The new license condition also requires prior Commission approval but utilizes the 10 CFR 50.59 process.

The old license condition also required that the licensee maintain an auditable record of all changes made to the Fire Protection Program that do not require prior Commission approval. The new license condition does not specifically levy this requirement; but, since the Fire Protection Program and the former Tech Specs are now incorporated into the FSAR, their changes fall under 10 CFR 50.59, and Section 10 CFR 50.59(b) contains the same recordkeeping requirement.

Finally, the old license condition required an annual report to the Commission on all changes to the Fire Protection Progam made without prior approval. The same annual

reporting requirement is levied by 10 CFR 50.59(b) and 10 CFR 50.71(e).

(b) This change does not create the possibility of a new or different kind of accident from any previously evaluated. The proposed license condition does not involve any significant change in requirements and was recommended by the NRC in Generic Letter 86–10.

(c) This change does not involve a significant reduction in the margin of safety. The proposed license condition does not involve any significant change in requirements and was recommended by the NRC in Generic Letter 86–10.

Fire Protection Program commitments, reporting requirements, and amendments will by this process be transferred from the jurisdiction of 10 CFR 50.73 and 10 CFR 50.90 to 10 CFR 50.59 and 10 CFR 50.71(e).

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; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

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 bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Florida Power and Light Company, Docket No. 50–251, Turkey Point Plant Unit 4, Dade County, Florida

Date of amendment request: February 20, 1987.

Brief Description of amendment request: The proposed amendment would add License Condition 3.J regarding implementation of the International Atomic Energy Agency (IAEA) Safeguards at the Turkey Point Plant, Unit 4.

Date of publication of individual notice in **Federal Register:** March 10, 1987 (52 FR 7346).

Expiration date of individual notice: April 9, 1987.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly 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 Licensing.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: February 27, 1986, as corrected October 20, 1986.

Brief description of amendment: The amendment changes the technical specification requirements for certain instrument channel test and calibration frequencies to once per operating cycle during refueling outages. These changes are associated with the installation of an electronic analog trip system. This amendment also requires an associated instrument check daily to verify transmitter output.

Date of issuance: March 3, 1987.

Effective date: 30 days after date of issuance.

Amendment No.: 99.

Facility Operating License No. DPR–35. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 9, 1986 (51 FR 12224). The October 20, 1986 letter provided clarifying information which did not significantly change the initial application. Therefore, renoticing was not warranted.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 3, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

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 application for amendment: January 23, 1987, as supplemented on March 3, 1987.

Brief description of amendment: This amendment adds a new paragraph 2.B(7) to the license conditions which authorizes sale and leaseback transactions by Ohio Edison Company relating to its 30 percent ownership interest in Perry Unit 1 and common facilities.

Date of issuance: March 16, 1987.

Effective date: March 16, 1987.

Amendment No. 2.

Facility Operating License No. NPF-58: This amendment revised the License.

Date of initial notice in **Federal Register:** February 11, 1987 [52 FR 4432].

By letter dated March 3, 1987, the licensees submitted information identifying potential equity investors who might participate in the proposed sale and leaseback transactions. This submittal did not change the initial application or result in changing the initial no significant hazards determination. Therefore, no renotice of the application was warranted.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 16, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Commonwealth Edison Company, Docket No. 50–373, La Salle County Station, Unit 1, La Salle County, Illinois

Date of application for amendment: December 15, 1986.

Brief description of amendment: This amendment revises the La Salle Unit 1 Technical Specifications to allow a special definition of the fully withdrawn position for Control Rod Drive (CRD) 10–47 for the remainder of Cycle 2. In addition, the Technical Specifications were changed to place instructions on this CRD 10–47 below 20% of rated power. The licensee requested this modification because this CRD 10–47 became uncoupled; and, as required by Technical Specifications, this CRD was fully inserted (along with its three symmetric drives). The licensee evaluated correcting this problem; but the only solution was to remove the reactor head and remove the CRD from above, which is a very time consuming process. In addition, with this neutronic configuration in the core, the refueling process would be affected if these CRDs were held in the core for the rest of the cycle.

The licensee submitted Technical Specification changes for operation with rod 10–47 fully withdrawn which consists of footnotes added to several specifications. These footnotes are applicable only for Cycle 2.

Date of Issuance: February 3, 1987.

Effective Date: February 3, 1987.

Amendment No.: 48.

Facility Operating License No. NPF-11: Amendment revises the Technical Specifications.

Date of Initial Notice in **Federal Register:** December 30, 1986 (51 FR 47074).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 3, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Commonwealth Edison Company, Docket No. 50–373, La Salle County Station, Unit 1, La Salle County, Illinois

Date of amendment request: October 14, 1986, as supplement on January 13, 1987.

Brief description of amendment: This amendment grants a one-time change to the requirements of the Technical Specifications, during the first refueling outage for La Salle Unit 2, by extending the present ten-day period to thirty days during which only three diesel generators would be required for Unit 1. This one time change will permit the installation of the diesel generator lube oil modification for the diesel generator "2A" required by a license condition on Unit 2, prior to startup after the first refueling outage. Because the "2A" diesel generator is shared between the two Units and the existing Technical Specification 3.8.1.1 requires this diesel generator be operable whenever either unit is in operation, the licensee is unable to perform the required modification without bringing both Units to shutdown.

We have reviewed the licensee's analyses on this action with respect to the health and safety of the public and agree with the licensee's conclusion that the margin of safety is not decreased.

Date of issuance: February 11, 1987.

Effective date: As of the date of issuance.

Amendment No: 49.

Facility Operating License No. NPF-18: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** November 5, 1986 (51 FR 40276).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 11, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Benton County, Illinois

Date of application for amendments: October 10, 1986.

Brief description of amendments: These amendments would correct an error in the existing Technical Specifications involving the calculated value for K(z) at the twelve foot level.

Date of issuance: February 26, 1987.

Effective date: February 26, 1987.

Amendment Nos.: 100 and 90.

Facility Operating License Nos. DPR-39 and DPR-48: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1986 (51 FR 47075).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 26, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: December 24, 1986.

Brief description of amendment: This license amendment revises the second note of clarification to the definition of Containment Integrity, Technical Specification Section 1.8.2.b, by including two additional valves (CC–V–884 and SS–V–999A). Also, this note has been revised to allow these manual containment isolation valves to be opened to: (1) Perform periodic surveillance, (2) ensure that technical specifications limits are maintained, or (3) ensure that system operability is maintained. The previous version of this note allowed SA–V–413 to be opened in support of maintenance activities.

Date of issuance: March 11, 1987.

Effective date: March 11, 1987.

Amendment No. 90.

Facility Operating License No. DPR-61: Amendment revised the technical specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2878).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 11, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Detroit Edison Company, Docket No. 50–341, Fermi–2, Monroe County, Michigan

Date of application for amendment: June 27, 1986.

Brief description of amendment: This amendment revises the Fermi-2 Technical Specification 3.4.5 Limiting Condition for Operation action statements and Technical Specification 6.9.1.5, Annual Reports. This change deletes those requirements deemed unnecessarily restrictive by the Commission in Generic Letter 85–19 (September 27, 1985), entitled "Reporting Requirements for Primary Coolant Iodine Spikes," for reporting exceedances in primary reactor system coolant activity limits (e.g., Iodine-131 activity limits).

Date of Issuance: February 20, 1987.

Amendment No.: 6.

Effective date: February 20, 1987.

Facility Operating License No. NPF–43: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** December 17, 1986 (51 FR 45198).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 20, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application of amendment: November 7, 1986.

Brief description of amendment: This amendment discontinues the use of nuclear flux peaking augmentation factors.

Date of Issuance: March 5, 1987.

Effective Date: March 5, 1987.

Amendment No.: 17.

Facility Operating License No. NPF–16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 17, 1986 (51 FR 45191 at 45200).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 5, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application of amendment: June 17, 1983.

Brief description of amendment: This amendment revised the pressure/temperature limits for the steam generators and made several administrative/editorial changes.

Date of Issuance: March 11, 1987.

Effective Date: March 11, 1987.

Amendment No.: 18.

Facility Operating License No. NPF–16: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 21, 1983 (48 FR 43111).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 11, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

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: August. 20, 1985, as supplemented on May 13, 1986.

Brief description of amendments: These amendments revise Turkey Point Plant Units 3 and 4 Technical Specifications in two areas. The first change revises the immediate notification requirements and the Licensee Event Reporting System per guidance provided in the Nuclear Regulatory Commission (NRC) staff's Generic Letter 83–43 to assure compliance with the revised § 50.72 and the new § 50.73 of Title 10 of the Code of Federal Regulations. The second change revises the Off-Site Organization for Facility Management and Technical Support and the Plant Organization Chart to reflect the current structure and position titles. The bases section is updated for the steam generator inspection results to support the existing Technical Specifications and reflect the changes in reporting requirements.

In addition to the two areas discussed, areas dealing with communications between the licensee and NRC which contain conflicting submittal directions have been corrected to be in accordance with the Final Rule, "Communications Procedures Amendments, 10 CFR Part 50" that was published in the **Federal Register** on November 6, 1986, and became effective 60 days after the publication.

Date of issuance: March 6, 1987.

Effective date: March 6, 1987.

Amendment Nos. 123 and 116.

Facility Operating Licenses Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 9, 1985 (50 FR 41248) and renoticed December 3, 1986 (51 FR 43679).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 6, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

GPU Nuclear Corporation, et al., Docket No. 50–289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: January 23, 1987.

Brief description of amendment: The amendment provided revised operability and surveillance requirements for the Emergency Feedwater System at TMI–1. This included installation of a new control system titled the Heat Sink Protection System. Portions of the amendment request have been denied and are the subject of a separate Notice of Denial.

Date of issuance: March 9, 1987.

Effective date: March 9, 1987.

Amendment No. 124.

Facility Operating License No. DPR–50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 4, 1987 (52 FR 3515).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 9, 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: November 3, 1986, as supplemented November 19, 1986.

Brief description of amendment: Technical Specification 3.4.1.2 was changed to permit plant operation with a minimum of two operable Main Steam Safety Valves per steam generator, but only when the reactor has been subcritical for at least one hour and reactor coolant temperatures are between 250 °F and Hot Shutdown conditions (i.e., greater than 525 °F and reactor subcritical).

Date of issuance: March 9, 1987.

Effective date: March 9, 1987.

Amendment No. 125.

Facility Operating License No. DPR–50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2882).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 9, 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.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Dates of applications for amendment: August 20 and October 1, 1986.

Brief description of amendment: The amendment revised the Technical Specifications by revising the reporting requirements for the release of liquid radioactive effluents to unrestricted areas; revising the action to be taken in the event that the liquid radioactive effluent monitoring instrumenation is inoperable, and revising the action to be taken in the event that the gaseous radioactive effluent monitoring instrumentation is inoperable, and revising the action to be taken in the event that the gaseous radioactive effluent monitoring instrumentation is inoperable.

Date of issuance: March 4, 1987.

Effective date: March 4, 1987.

Amendment No.: 17.

Facility Operating License No. NPF–38: Amendment revised the Technical Specifications.

Dates of initial notices in **Federal Register:** September 10, 1986 (51 FR 32273), November 19, 1986 (51 FR 41862), and December 17, 1986 (51 FR 45209).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 4, 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.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: February 3, 1986 and December 8, 1986.

Brief description of amendment: This amendment (1) added administrative controls to limit overtime of staff personnel so that the Commission's policy concerning staff overtime limits at nuclear plants is implemented, and (2) allowed for the use of the dual role of Senior Reactor Operator and a Shift Technical Advisor by including provisions that would allow two options of the Commission Policy Statement on Engineering Expertise on shift.

Date of issuance: March 4, 1987.

Effective Date: March 4, 1987.

Amendment No.: 93.

Facility Operating License No. DPR–36: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1986 (51 FR 47072 at 47081).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 4, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

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: October 7, 1986 as revised December 5, 1986.

Brief description of amendment: This amendment changes (1) the Technical Specifications for the rod pattern control system to allow bypassing of the rod controller function to properly position out-of-sequence control rods and (2) the Technical Specifications for reactor coolant iodine spikes by increasing the reporting interval, by eliminating the requirement to shutdown the plant if coolant iodine activity limits are exceeded for 800 hours in a 12-month interval and by clarifying iodine sampling requirements.

Date of issuance: March 5, 1987.

Effective date: March 5, 1987.

Amendment No. 28.

Facility Operating License No. NPF–29. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1986 (51 FR 47082).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 5, 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, Docket No. 50–245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: July 9, 1985; October 7 and 16, 1985; January 10, 1986; January 28, 1986; and February 27, 1986.

Brief description of amendment: This amendment does the following:

(1) Adds new reporting requirements consistent with 10 CFR 50.72 and 10 CFR 50.73;

(2) Consolidates Specifications 3.5.F.7 and 3.5.F.8, concerning conditions for work on control rod drive mechanisms and fuel movement and replacement during the refuel condition, into Specification 3.5.F.7 to eliminate redundancy;

(3) Substitutes, in place of Specifications 3.5.F.7.d and 3.5.F.8.b, a single reworded technical specification, Specification 3.5.F.7.d that requires a 33-foot depth of water in the refueling cavity during refueling, equal to, but in place of, the 383,000 gallons formerly specified. This is a technical specification simplification;

(4) Modifies low pressure coolant injection and core spray requirements to allow the operator to rack out pump breakers to prevent an inadvertent injection and possible drywell or refuel floor flooding with the reactor in the refuel mode;

(5) Defines the REFUEL CONDITION, Specification NN, and clarifies operability requirements of various systems during REFUEL AND SHUTDOWN CONDITIONS;

(6) Adds new sections (3.6.J.3 and 4.6.J.3) to designate the salt-splitting capacity for replacement condensate demineralizer resin. Other word changes are for clarification and consistency with these sections;

(7) Deletes the requirement for isolation condenser operability during continued power operation whenever offsite 345 kv power is not available;

(8) Changes the word "operating" to "operable" in technical specification section 3.9.B.2;

(9) Renumbers 3.9.B.3 and 3.9.B.4 to 3.9.B.4 and 3.9.B.5;

(10) Establishes new additional limiting conditions of operation for section 3.9.B.3;

(11) Adds a new paragraph to Basis 3.9.B relating to availability of power from the Reserve Station Service Transformer (RSST); and

(12) Clarifies functional testing requirements for the safety/relief valve (SRV) positive indication system by revising technical specifications 4.6.E.4 and 4.6.E.5.

Date of issuance: January 29, 1987.

Effective date: January 29, 1987.

Amendment No. 1.

Facility Operating License No. DPR-21. This amendment revised the technical specifications.

Dates of initial notices in **Federal Register:** November 20, 1985 (50 FR 47865/47866); March 12, 1986 (51 FR 8598); April 23, 1986 (51 FR 15404/15405). The Commission's related Safety Evaluations for this amendment are dated January 29, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1. Washington County, Nebraska

Date of application for amendment: January 8, 1987.

Brief description of amendment: The amendment modified the refueling boron concentration from at least 1700 parts per million (ppm) to at least 1800 ppm.

Date of issuance: March 9, 1987.

Effective date: March 9, 1987.

Amendment No.: 103.

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 28, 1987 (52 FR 2870 at 2885)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 9, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Pennsylvania Power and Light Company Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Dates of application for amendments: February 10, 1986, as supplemented on March 4, June 24, and August 29, 1986.

Brief description of amendments: The requested modifications to Technical Specifications (TS) 3.3.7.9, 3.7.6.2, 3.7.6.5, 3.8.1.1, 3.8.1.2, 3.8.2.1, 3.8.2.2, 3.8.3.1, 3.8.3.2, and 3.8.4.2 have been granted. All of the above TS modifications were approved in order to provide operational control for the newly installed fifth diesel generator. This fifth diesel functions as a manual swing spare capable of replacing any one of the four existing diesels.

Technical Specifications 3.3.7.9, 3.7.6.2, and 3.7.6.5 have all been modified to incorporate the appropriate fire protection requirements for the new diesel generator housed in its own separate newly constructed building. These fire protection controls are commensurate with those found acceptable for the four existing diesels. Technical Specification 3.8.1.1 was modified to include (1) operational controls for the fifth diesel when being aligned, and (2) surveillance controls for the fifth diesel at all times in order to maintain diesel reliability. Technical Specifications 3.8.1.2, 3.8.2.1, 3.8.2.2, 3.8.3.1, 3.8.3.2, and 3.8.4.2 have all been changed to include operation control for all support systems necessary for the reliable functioning of the fifth diesel. All of the support systems included for the fifth diesel are the same as those previously included for each of the four existing diesels.

Date of issuance: March 16, 1987.

Effective date: Upon removal of the boundary tags on the diesel generator E Emergency Service Water valves.

Amendment Nos.: 61 and 32.

Facility Operating License Nos. NPF-14 and NPF-22: Amendments revised the Technical Specifications.

Dates of initial notices in **Federal Register:** (51 FR 33956) September 24, 1986 and (52 FR 4416) February 11, 1987.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 16, 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, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon.

Date of application for amendment: September 3, 1985, as supplemented March 5, and December 12, 1986.

Brief description of amendment: The amendment revises Technical Specification Section 4.7.3.1.c to reflect the change in actuation logic for the component cooling water to reactor coolant pump supply and return valves.

Date of issuance: March 6, 1987.

Effective date: March 6, 1987.

Amendment No.: 124.

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 4, 1985 (50 FR 49788).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 6, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon. 97205.

Public Service Company of Colorado, Docket No. 50-267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of application for amendment: September 4, 1986.

Brief description of amendment: The amendment changes the Technical Specifications to comprise Phase II of Public Service Company of Colorado's Inservice Inspection and Testing Program.

Date of issuance: March 9, 1987.

Effective date: March 9, 1987.

Amendment No.: 51.

Facility Operating License No. DPR-34. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1986 at 51 FR 47084.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 9, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: January 16, 1986, as supplemented

March 18, May 18, and July 22, 1986, and as clarified December 4, 1986.

Brief description of amendment: The amendment allows the repair of steam generator tubes using leak tight sleeves.

Date of issuance: March 10, 1987.

Effective date: March 10, 1987.

Amendment No. 59.

Facility Operating License No. NPF-12: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 26, 1986 (51 FR 10470). Renoticed January 28, 1987 (52 FR 2891).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 10, 1987, and an Environmental Assessment dated August 20, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Southern California Edison Company et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: November 7, 1985 and April 7, 1986.

Brief description of amendment: The amendment revises requirements on primary coolant iodine spiking in accordance with Generic Letter 85-19 guidance and deletes the requirement for primary coolant activity sampling in Modes 5 and 6 (cold shutdown and refueling).

Date of issuance: March 5, 1987.

Effective date: March 5, 1987.

Amendment No.: 96

Facility Operating License No. DPR-13. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 23, 1986 (51 FR 15407) and January 28, 1987 (52 FR 2891).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 5, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main, Library, University of California, P.O. Box 19557, Irvine, California 92713.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: January 21, 1987.

Brief description of amendment: The amendment revised the surveillance requirements to demonstrate operability of the D.C. distribution system, including batteries and battery chargers, and changes certain nomenclature to the specific equipment designations used at the facility.

Date of issuance: March 12, 1987.

Effective date: March 12, 1987.

Amendment No. 100.

Facility Operating License No. NPF-3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 2, 1987 (52 FR 3182); corrected February 11, 1987 (52 FR 4436).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 12, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: September 29, 1986, as supplemented February 26, 1987.

Brief description of amendment: The amendment modifies the Technical Specifications pertaining to the main steam isolation valves and the main feedwater isolation valves.

Date of issuance: March 10, 1987.

Effective date: March 10, 1987.

Amendment No.: 18.

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 17, 1986 (51 FR 45215).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 10, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Virginia Electric and Power Company, et al., Docket No. 50-338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of application for amendment: February 6, 1986.

Brief description of amendment: The amendment revises the NA-1 TS, Table 3.6.1, "Containment Isolation Valves," to reflect the installation of a new containment isolation valve in the letdown line for NA-1.

Date of issuance: March 10, 1987.

Effective date: Prior to restart after the forthcoming cycle 6 refueling outage.

Amendment No.: 90.

Facility Operating License No. NPF-4: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 6, 1986 (51 FR 7863).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 10, 1987.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of application for amendments: December 11, 1985, as supplemented May 13, 1986.

Brief description of amendments: These amendments revise the Technical Specifications to allow the movement of the transfer canal door over the spent fuel pool if necessary.

Date of issuance: March 10, 1987.

Effective date: March 10, 1987.

Amendment Nos. 113 and 113.

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 14, 1987 (52 FR 1558).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 10, 1987.

No significant hazards consideration comments received: No.

Local Public Room location: Swem Library, College of William and Mary, Williamsburg, Virginia. 23185.

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, 1986.

Brief description of amendments: The amendments revise the surveillance requirements for main steam stop valves, main steam safety valves and pressurizer safety valves. The surveillance interval for main steam safety valves and pressurizer safety valves has been change from once each refueling to once every 5 years and the test conditions for main steam stop

valves have been changed from "no-flow" to "low-flow" conditions.

Date of issuance: March 3, 1987.

Effective date: 20 days from the date of issuance.

Amendment Nos.: 106 and 109.

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 8, 1986 (51 FR 36081-36108).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 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 bi-weekly 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 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 Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By April 24, 1987, 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 (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, 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 designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

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 Application for amendment: February 20, 1987, as amended on February 24, 1987.

Brief description of amendment: The amendment changes the Technical Specifications to permit the reactor core isolation cooling (RCIC) system to be operable with the following exception: (1) The RCIC injection valve shall not be capable of automatic opening; and (2) the RCIC inboard containment isolation valve is not required to be operable. These exceptions are in effect during startup Condition 1 and expire on March 26, 1987. During this period, the provisions of Technical Specification 3.0.4 are not applicable.

Date of Issuance: March 5, 1987.

Effective Date: February 24, 1987.

Amendment No.: 1.

Facility Operating License No. NPF–58: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, consultation with the State of Ohio, and final no significant hazards considerations determination are contained in a Safety Evaluation dated March 5, 1987.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street NW., Washington, DC 20037.

Local Public Document Room Location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

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 application for amendment: February 12, 1987.

Brief description of amendment: The amendment revised Technical Specification 3.1.1.3, "Moderator Temperature Coefficient", so that Technical Specification 3.10.2 Special Test Exception on moderator temperature coefficient, group height, insertion, and power distribution limits would apply in Mode 1.

Date of issuance: March 3, 1987.

Effective date: February 13, 1987.

Amendment No.: 16.

Facility Operating License No.: NPF–38: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards determination: No.

Comments received: No.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 3, 1987.

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Dated at Bethesda, Maryland, this 19th day of March 1987.

For the Nuclear Regulatory Commission.

R. Wayne Houston,

Acting Director, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 87–6382 Filed 3–24–87; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–289]

General Public Utilities Nuclear Corporation, et al.; Three Mile Island Nuclear Station, Unit No. 1; Exemption

I

General Public Utilities Nuclear (GPUN) Corporation (the licensee) and three co-owners hold Facility Operating License No. DPR–50, which authorizes operation of the Three Mile Island Nuclear Station, Unit No. 1 (TMI–1) (the facility) at power levels not in excess of 2535 megawatts thermal. This license provides, among other things, that the facility is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission or the staff) now or hereafter in effect.

The facility is a pressurized water reactor located at the licensee's site in Dauphin County, Pennsylvania.

II

10 CFR 50.48, "Fire Protection," and Appendix P to 10 CFR Part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979" set forth certain fire protection features required to satisfy the General Design Criterion related to fire protection (Criterion 3, Appendix A to 10 CFR Part 50).

Section III.G of Appendix P requires fire protection for equipment important to safe shutdown. Such fire protection is achieved by various combinations of fire barriers, fire suppression systems, fire

detectors, and separation of safety trains (III.G.2) or alternate safe shutdown equipment free of the fire area (III.G.3). The objective of this protection is to assure that one train of equipment needed for hot shutdown would be undamaged by fire, and that systems needed for cold shutdown could be repaired within 72 hours (III.G.1).

III

By letters dated February 2, 1987, February 11, 1987, February 28, 1987, and March 10, 1987, the licensee requested approval of a number of exemptions from the technical requirements of section III.G of Appendix R to 10 CFR 50. Additional information concerning some exemptions requested was provided in a letter dated February 10, 1987. A description of the exemption requests and a summary of the Commission's evaluation follow.

1. III.G.2; exemption requested to allow manual operation of certain valves and pumps and in some instances providing a roving fire partol in lieu of providing fire protection. The pumps and valves to be manually operated include MU–V–18 (normal makeup flow), MU–V–8 (letdown flow alignment to Makeup Tank or the Reactor Coolant Bleed Tanks), MS–V–2B (main steam block valve for atmospheric steam dump), EF–V–30 A, B, C and D (Emergency Feedwater Flow Control Valves), Nuclear River Cooling Water Dump NR–P–1c, IC–V–2, 3, 4 (Intermediate Cooling Valves), MU–V–37 (Makeup Valve), MU–V–1A, 1B, 2A, 2B, 3, 6A and 6B (Letdown Valves), WDL–V–1 and 2 (Letdown Valves), IC–V–1A and 1B (Intermediate Cooling Valves), and NR–V–15A and B (Nuclear River Valves). The specific components are as described in letters from the licensee dated February 2, 1987 and March 10, 1987.

The licensee states that if a fire damages cables associated with these components, sufficient time exists to manually align the valves and to manually control the pumps so as to achieve and maintain safe shutdown conditions. The time periods within which the licensee must accomplish these actions vary from 20 minutes for certain emergency feedwater system valves to 240 minutes for certain valves in the makeup system. The minimum time frame to establish local control of the intermediate cooling water pumps and the nuclear river cooling water pumps is 30 minutes.

The technical requirements of Appendix R are not met in the subject areas because cables and components for certain shutdown-related valves and pumps are not provided with fire protection in accordance with the options identified in section III.G.

The staff has several concerns regarding the reliance on manual actions in lieu of physical protection of shutdown systems. The first is that plant operators may have to enter the fire area before it is reasonable to expect that habitable conditions may be restored after the fire. The licensee, in the February 2, 1987 submittal, identified a number of locations where safe shutdown can only be achieved by reentering the fire area to assure proper valve alignment. However, in no instance is it necessary to enter these areas before two hours after fire damage occurs. Although it is not possible to predict the nature and duration of a fire in any location, the staff expects that within one hour a fire would have been detected and controlled and near ambient conditions restored. This conclusion is based on the description of plant hazards and available protection as provided by the licensee in Revision 7 of the Fire Hazards Analysis Report (FHAR) and staff observations made during the Appendix R inspection held in December 1986. The licensee's analyses indicated that an additional hour exists beyond the staff's assumptions. This results in a sufficient margin of safety and provides reasonable assurance that manual actions within the fire area can be achieved.

The staff was also concerned that fire damage to valve operators would prevent manual valve alignment. However, the licensee responded to this concern by stating that fire damage to valve operators will not prevent the valve operators from being manually turned.

A further staff concern is that because not all fire areas are physically separated from adjoining locations by continuous fire-rated construction, fire propagation through non-rated boundaries might prevent operators from performing manual operations. However, where fire area boundaries are not completely fire-rated, the licensee indicates that: (1) The areas on one or both sides of the boundary are protected by an automatic fire suppression system, or (2) the boundary wall or floor/ceiling forms a continuous non-combustible barrier to the propagation of fire, or (3) the adjoining area into which fire may spread is not relied upon for safe shutdown.

An additional concern is that the post-fire shutdown procedures and available personnel are adequate for the tasks to be performed. The licensee responded that procedures will be prepared in conformance with staff fire protection guidance as provided in Generic Letters 81–12 and 86–10. The staff considers this response acceptable. However, the adequacy of these procedures will be confirmed during the NRC staff's review of the safe shutdown and alternate shutdown capabilities.

The staff's remaining concern is that the manual actions required in locations outside the fire area could actually be accomplished within the maximum available time period stipulated by the licensee while a plant fire is underway. As previously stated, these time limits range from 20 minutes to 240 minutes. It is not possible to predict the nature of a fire event or the actions of plant operators during an emergency. However, the staff expects that a degree of uncertainty and confusion will exist and that time delays will occur in the implementation of manual actions. To mitigate this potential problem, the licensee committed in a letter dated February 10, 1987 to revise the post-fire safe shutdown procedures. Upon confirmation of a fire in a fire area/zone where manual actions are required within 30 minutes, an operator will be immediately dispatched to the remote shutdown panels and stand by to begin implementing the required manual actions when directed. It is the staff's judgment that dispatching an operator(s) to these areas before loss of redundant capability occurs will provide significant additional time margin to assure that the required actions will be accomplished before an unrecoverable plant condition occurs. However, by letter dated March 10, 1987, the licensee notified the staff that under certain circumstances involving a fire in fire areas/zones CB–FA–2d or 2f that manual action must be taken to restore reactor coolant pump (RCP) seal cooling or trip the RCPs in less than ten minutes. The licensee still proposes that upon confirmation of a fire in these fire areas/zones that an operator be sent immediately to the remote shutdown area and stand by to take appropriate action if RCP seal cooling is lost. But the licensee is also proposing a roving fire watch for fire areas/zones CB–FA–2d and 2f. For reasons as discussed under exemption 2 (ventilation systems), the staff concurs that the roving fire watch will detect fires early in their formative stages allowing time to extinguish the fire and/or take appropriate manual actions. Therefore, the combination of a roving fire patrol watch and dispatching personnel to stand by at the remote shutdown area upon confirmation of a fire in fire areas/zones CB–FA–2d and 2f is acceptable to the Commission. For

those actions which must be taken beyond 30 minutes, the staff concludes that a sufficient time margin exists which provides reasonable assurance that these actions can be achieved in the time required.

On this basis, the Commission concludes that the licensee's alternate fire protection configuration provides an equivalent level of safety to that achieved by compliance with section III.G of Appendix R.

The special circumstances of 10 CFR 50.12 apply in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of the rule is to accomplish safe shutdown in the event of a single fire and maintain the plant in a safe condition. The rule requires fire protection for circuits and components associated with shutdown-related valves and pumps. However, certain valve and pump components can withstand the effect of a fire and still be manually operated. Sufficient time exists to allow this manual operation and maintain the plant in a safe shutdown condition. Thus, the underlying purpose of the role is satisfied allowing manual operation of these components. Additionally, the licensee argues that providing additional protection features, as required by the regulations, would not result in a significant increase in the level of protection provided and would result in undue hardship and costs significantly in excess of those incurred by others similarly situated. These costs consist of additional engineering, procurement of materials, fabrication, and installation costs.

2. III.G.2; exemption requested from providing fire protection for the heating, ventilation, and air conditioning (HVAC) system components located in or associated with the emergency feedwater pump room, diesel generator building, control building, screen water pumphouse, and decay heat removal and nuclear service closed cycle cooling pump room.

In Revision 7 to the FHAR and in letters to the staff dated July 22, 1986, February 11 and 28, 1987, the licensee identified a number of locations where redundant circuits for the above referenced systems are not protected per the fire protection options identified in section III.G. The licensee has stated that if a fire were to damage the HVAC systems serving the above locations, sufficient time exists to take certain actions to prevent room temperatures from reaching critical levels. In some areas, such as the intake screen and pumphouse (ISPH), the licensee had proposed to rely upon portable fans to maintain acceptable room temperatures. In other locations, such as the control building, the licensee had proposed to shed non-essential loads to reduce the temperature rise. However, by letter dated February 28, 1987, the licensee identified another approach to assure that required ventilation systems were maintained free of fire damage. For every area which contains cables/components whose damage could result in the loss of HVAC, except the ISPH, the licensee proposes to implement a fire watch patrol. The patrol will be arranged such that no area will be left unattended for more than 20 minutes. In the instrument shop, control room and HP chemistry lab, the fire watch function will be performed by the personnel who normally occupy those areas on a continuous basis. In the ISPH, the licensee will utilize portable ventilation equipment to compensate for damaged HVAC components immediately upon loss of ventilation flow.

The staff's principal concern was that a fire of significant magnitude would damage HVAC system components, resulting in the loss of adequate ventilation in these locations. In those areas which are continuously attended or where a fire watch patrol is provided, there is reasonable assurance that a fire, if one should occur, would be discovered in its formative stages, before significant temperature rise or smoke propagation occurred. The personnel would then notify the control room that a fire was in progress, which would result in the dispatch of the plant fire brigade to the scene. Pending arrival of the fire brigade, these same personnel who are trained to use the available portable fire extinguishers, will attempt to control the fire. The expected quick response to such a postulated fire is sufficient to assure that one division of required ventilation systems would remain free of fire damage.

The licensee has stated that upon loss of ventilation in the ISPH, at least four hours is available before critical room temperatures are reached. The licensee has committed to immediately dispatch plant personnel to restore ventilation using portable equipment upon loss of normal HVAC systems. It is the staff's judgment that sufficient time exists, with a conservative margin of safety, to restore adequate ventilation flow rates. On the basis that portable fans taking suction from outside areas can provide sufficient ventilation and that the licensee's procedures will assure that these actions are completed on time, the staff concludes that the licensee's proposal is acceptable.

Based on the above evaluation, the staff concludes that the licensee's alternate fire protection configuration provides an equivalent level of safety to that achieved by compliance with section III.G of Appendix R.

The underlying purpose of the rule is to ensure that safe shutdown capability exists during and after any postulated fire in the plant. Protection of supporting systems, their components and circuits is required if the support is essential for the operability of a safe shutdown system. For the ISPH, sufficient time exists to allow corrective manual actions to be taken. For the other HVAC systems, protection can be provided by detecting fires early in their formative stage and extinguishing them before they become large enough to damage both trains of important equipment in a given fire area/zone. Fire watches, either in the form of a continuous fire watch (either by a person physically in the area or via remote monitoring) or a roving patrol which is present in a fire zone/area at least once every 20 minutes, provide adequate assurance that fires in these areas will be detected early in their formative stage. The fires can be extinguished before they damage equipment necessary for the safe shutdown of the plant. Therefore, the exemption requested meets the special circumstances delineated in 10 CFR 50.12(a)(2)(ii), in that application of the regulation in this particular circumstance is not necessary to achieve the underlying purpose of the rule. In addition, the licensee claims that the special circumstances of 10 CFR 50.12(a)(2)(iii) apply in that providing additional protection features, required by the regulations, would not result in a significant increase in the level of protection provided and would result in undue hardship and cost significantly in excess of those incurred by others similarly situated. These costs consist of engineering, procurement of materials, fabrication and installation costs.

3. III.G.2; exemption requested from Appendix R to the extent that it requires that steel which is framed into or supports a fire barrier be protected to the same degree as the barrier itself.

In its Safety Evaluation Report (SER) of December 30, 1986, the staff described the locations in which fire-rated cable and/or fire-rated cable wraps will be used to protect one division of shutdown-related cables. In the following four areas, the licensee has not protected the supports for open raceways carrying the fire-related cable or supports for the cables, conduits or trays protected by the cable wraps:

AB–FZ–4

ISPH–FZ–1
ISPH–FZ–2
FH–FZ–1

The staff's principal concern is that a fire of significant magnitude would cause room temperatures to rise to a level which would cause the steel supports to lose their structural integrity. The resulting collapse of the conduit or cable tray could damage the circuits which must remain functional to achieve and maintain safe shutdown conditions.

However, each of these areas is equipped with automatic fire detection and suppression systems. If a fire occurs, the Commission's staff expects the detection systems to actuate and transmit an alarm to the control room. Upon confirmation of a fire, the fire brigade would be dispatched to the area and would suppress the fire using available portable equipment. If rapid temperature rise occurred before the arrival of the brigade, the automatic fire suppression system would actuate to control the fire and to reduce room temperatures. This would occur well before the support steel would reach a temperature at which structural failure could be expected. Therefore, the absence of protection for this steel has no safety significance.

Based on the above evaluation, the staff concludes that the licensee's alternate fire protection configuration provides an equivalent level of safety to that achieved by compliance with section III.G.2 of Appendix R.

The underlying purpose of the rule is to provide protection against fire damage to the structural steel supports associated with Appendix R safe shutdown cables, equipment, and associated non-safety circuits. This protection is being accomplished by ensuring that the temperatures within the expected zones will not rise to levels which could affect the structural steel integrity. Therefore, the exemption being requested meets the special circumstances delineated in 10 CFR 50.12(a)(2)(ii), in that application of the regulations in this particular circumstance is not necessary to achieve the underlying purpose of the rule.

4. III.G.2; exemption requested for the chiller room in the fuel handling building (area FH–FZ–6) from the requirement that an automatic fire suppression system be installed in an area where one division of shutdown systems is protected by a one-hour fire barrier and a fire detection system.

Contained in this fire area are redundant power cables (LS5A and LS5B) for control center IC–ESV. These redundant power cables are protected with one-hour fire rated barriers. The area is protected by an automatic fire detection system and manual fire fighting equipment. As described in the licensee's FHAR, the fire loading in this area is minimal.

The staff's principal concern in this area was that a fire of significant magnitude could damage the above-referenced power cables for control center IC–FSV. However, the fire loading in the area is minimal, with combustible material dispersed throughout the area. Because of the fire detection system, the staff expects that a fire, if one should start, would be detected in its incipient stages before a significant room temperature rise occurred. An alarm would be automatically transmitted to the control room. The fire brigade would subsequently be dispatched, and the fire suppressed using manual fire fighting equipment. Pending arrival of the brigade, the one-hour fire-rated barrier which protects these cables will provide reasonable assurance that they would remain undamaged. Therefore, the absence of an automatic fire suppression system has no safety significance.

Based on the above evaluation, the staff concludes that the licensee's alternate fire protection configuration provides an equivalent level of safety to that achieved by compliance with section III.G of Appendix R.

The basic purpose of the rule is to ensure that equipment important to the safe shutdown of the plant is available in the event of a fire. The minimum fire loading in the area, coupled with a fire detection system and a one-hour fire-rated barrier, all insure that at least one of the two cables will remain undamaged in the event of a fire. The fire should be detected and extinguished early. Therefore, the exemption being requested meets the special circumstance delineated in 10 CFR 50.12(a)(2)(ii), in that application of the regulations in this particular circumstances is not necessary to achieve the underlying purpose of the rule.

5. III.G.2; exemption requested from the requirement that redundant shutdown divisions be separated by a three-hour fire-rated barrier. Specifically, the fire-rated barrier which forms the perimeter of intermediate building area IB–FZ–8 contains two steel plate doors which are not fire-rated, as determined by an independent testing authority. Each door is used for flood protection and is bolted in place. One door is located in a portion of the wall which is common to auxiliary building area AB–FZ–4. The other is located in a wall common to fuel handling building area FH–FZ–1.

The fire loading in IB–FZ–8 is low, as described in FHAR. Each of the adjacent areas is protected by an area-wide automatic sprinkler system. The three areas are also provided with automatic fire detection systems and manual fire fighting equipment as described by the licensee in the FHAR.

The staff was originally concerned that a fire of significant magnitude would cause these doors to fail, allowing fire to propagate and damage redundant shutdown-related systems. However, because of the protection provided by the automatic sprinkler systems in areas AB–FZ–4 and FH–FZ–1, the staff concludes that room temperatures resulting from a fire in these locations would not reach critical levels such as to cause the doors to fail. Because of the substantial nature of the doors (as confirmed by observation during the Appendix R audit) and their being bolted in place, the staff concludes that smoke and hot gases would be confined to the area of fire origin until the fire was suppressed.

Similarly, the nature and quantities of combustibles in IB–FZ–8 are such as to not produce a fire of intense magnitude or duration. The heat produced from a fire in this location would rise to the ceiling and stratify above and away from the doors. By the time the stratified hot gas layer would begin to envelope the doors, the plant fire brigade would have arrived to begin active fire suppression activities. If, under the most conservative fire scenario, fire spread through the doorways, the existing automatic sprinkler systems on the other side would actuate to protect safe-shutdown systems in the adjoining locations from fire damage.

Based on the above evaluation, the staff concludes that the licensee's alternate fire protection configuration provides an equivalent level of safety to that achieved by compliance with section III.G.2 of Appendix R.

The underlying purpose of the rule is to provide assurance that one of the redundant trains of safe shutdown equipment is free of fire damage through adequate separation and protection, in order to ensure safe shutdown capability during and after any postulated fire in the plant. This assurance is being accomplished by providing area-wide automatic sprinkler coverage in fire zones AB–FZ–4 and FH–FZ–1 which adjoin IB–FZ–8, by providing adequate separation between the steel doors and by the low combustible loading in IB–FZ–8. Therefore, the exemption being

requested meets the special circumstances delineated in 10 CFR 50.12(a)(ii), in that application of the regulation in this particular circumstance is not necessary to achieve the underlying purpose of the rule. In addition, the special circustances of 10 CFR 50.12(a)(iii) apply in that providing additional protection features, required by the regulations, would not result in a significant increase in the level of protection provided and would result in undue hardship and cost significantly in excess of those incurred by others similary situated. These costs consist of additional engineering, procurement of materials, fabrication and installation costs.

The Commission had previously granted exemptions to Appendix B in an Exemption dated December 30, 1986. One exemption granted concerned the lack of a fire detection system in fuel handling building area FH–FZ–2. By letter dated February 2, 1987, the licensee clarified this exemption request to include th fact that the existing automatic sprinkler sytem does not extend throughout the area. The partial sprinkler system was acknowledged in the staff's evaluation and, therefore, this clarification does not alter the staff's conclusion that the exemption should have been granted. This condition conforms with the guidance issued on partial fire detection and suppression systems in Generic Letter 86–10. No specific exemption for the partial sprinkler system in this area is therefore necessary.

In its December 30, 1986 Exemption, the staff granted an exemption from the requirement to protect certain shutdown-related circuits where the licensee has stated that sufficient time exists (in excess of 30 minutes) to take manual actions to compensate for the loss of those circuits. By letter dated February 2, 1987, the licensee has again changed the approach to safe shutdown in a number of locations. Certain valve alignments are no longer required; other valve alignments are now considered necesary; and certain required manual actions which had not been previously included in docketed submittals are now identified. The licensee states that these changes are within the scope of the staff's previous evaluation. On this basis, the clarifications regarding manual valve alignments, as identified in the licensee's February 2, 1987 letter, are acceptable and should be considered to be encompassed by the previous exemption.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, these exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption; namely, that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Specifics are discussed in each exemption request; but in general, the underlying purpose of the rule is to accomplish safe shutdown in the event of a single fire and maintain the plant in a safe shutdown condition. This is accomplished by assuring that sufficient undamaged equipment is available to support safe shutdown assuming a fire within the area of concern. In the areas for which an exemption is being requested, passive as well as active fire protection features assure that any single fire will not result in the loss of safe shutdown capability. These features include manual actions, automatic suppression, and early detection of fires in their incipient stages. The fire protection features, in conjunction with low combustible loadings, provide a high degree of assurance that a single fire will not result in loss of safe shutdown capability. In addition, the special circumstances of 10 CFR 50.12 (a)(2)(iii) apply in that compliance would result in costs that are significantly in excess of those contemplated when the regulation was adopted. Providing additional protection features, as would be required to meet the regulations, would not result in a significant increase in the level of protection and would result in undue costs for additional engineering, procurement of materials, fabrication, and installation. Accordingly, the Commission hereby grants the exemptions listed in Section III above from the requirements of 10 CFR Part 50, Appendix B.

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 8389).

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 19th of March 1987.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Director Division of PWR Licensing-B.

[FR Doc. 87–6463 Filed 3–24–87; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22–16539]

Application and Opportunity for Hearing; American Southwest Financial Corp.

March 19, 1987.

Notice is hereby given that American Southwest Financial Corporation (the "Company") has filed an application, ("Application"), pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (hereinafter sometimes referred to as the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of the Valley National Bank of Arizona (the "Bank") under an indenture dated as of October 1, 1984, as amended (the "Indenture"), providing for the issuance of bonds ("Bonds") in series ("Series"), which was heretofore qualified under the Act, and indenture supplements thereto with respect to each such Series of Bonds ("Indenture Supplements"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under the aforementioned indenture and Indenture Supplements.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of that section provides, with certain exception stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor, the Company alleges that:

1. Each Series of Bonds is secured by the pledge of collateral by the Company to the Bank under the Indenture and Indenture Supplements. A default under the Indenture or Indenture Supplements for any Series of Bonds does not cause a default under the Indenture or Indenture Supplements for any other Bonds.

2. Each Series of Bonds is secured by collateral which includes, inter alia, various mortgage-backed certificates, mortgage participation certificates, conventional mortgage loans and other mortgage loans secured by mortgages or deeds of trust on single-family residences ("Pledged Loans"). The Application relates only to the trusteeship under the Indenture and

Indenture Supplements with respect to Series of Bonds secured by mortgage collateral consisting in whole or in part of Pledged Loans.

3. The Company intends to purchase certain general coverage insurance policies or performance bonds (such as pool insurance policies, special hazard insurance policies, mortgagor bankruptcy bonds, repurchase bonds, and prepayment interest bonds, hereinafter "General Coverage Policies") providing coverage for more than one Series of Bonds in the circumstance where the Indenture and Indenture Supplements with respect to each Series of Bonds would be under the trusteeship of the Bank, subject to the requirement that any such utilization not result in a downgrading of the rating of the Bonds of any such Series by any rating agency rating such bonds.

4. With respect to the five types of General Coverage Policies, the Bank is primarily responsible for the presentment of claims only under two of such General Coverage Policies. A master service rather than the Bank is required to present, or cause to be presented, claims to the respective issuers of the pool insurance policy, the special hazard insurance policy and the mortgagor bankruptcy bond. The Bank's only relationship with the pool insurance policy, the special hazard insurance policy and the mortgagor bankruptcy bond is limited to (i) physical custody of such insurance policies or performance bonds because they constitute part of the Trust Estate and (ii) the succession to the rights and powers of the master servicer in the event of the termination of the master servicer pursuant to the terms of the Master Servicing Agreement until a new master servicer is appointed. The Bank is primarily responsible for the presentment of claims under any repurchase bond or prepayment interest bond. However, the coverage provided under either the repurchase bond or the prepayment interest bond will be drawn upon only upon the successive occurrence of a number of unlikely events.

5. In the event that General Coverage Policies are utilized to provide for more than one Series of Bonds, the bondholders of each such Series of Bonds would rank pari passu. The Bank, or the master servicer, as applicable, would be required either to pay such claim from amounts held or present such claim to the issuer of the policy for payment in the order in which such claim was received and under a mandatory tie-breaker system with respect to the receipt of more than one claim on the same day any one of which claims would exhaust the coverage under such General Coverage Policy.

6. The administrative effort and expense, and the premium costs, of providing separate General Coverage Policies for each Series of Bonds is enormous and unduly burdensome both on the part of the Applicant and the issuers of such General Coverage Policies and it has become difficult to obtain General Coverage Policies for single Series of Bonds. To the extent that an issuer is willing to issue a General Coverage Policy, such issuers have expressed a strong desire that any such General Coverage Policy be utilized to provide coverage for more than one Series of Bonds. To the extent that an issuer is unwilling to issue a General Coverage Policy for a Series of Bonds, the Applicant is required to make substantial cash or cash equivalent deposits partially or entirely in lieu therefor into an account or fund in order to satisfy the rating agency requirements for such Series of Bonds.

7. The public interest is not well served by a requirement that results in the procurement of separate General Coverage Policies for each Series of Bonds since it is costly, economically inefficient and unduly burdensome to both the Applicant and the issuers of such General Coverage Policies and, ultimately, the purchasers of the Bonds. Additionally, the requirement of separate General Coverage Policies for each Series of Bonds is unnecessary for the protection of investors in that: (i) The Indenture and Indenture Supplements will be structured to prevent the Trustee from being in a conflict situation as between different Series of Bonds, (ii) the Statutory conflict-of-interest provisions will remain in full force in the Indenture in the event that a conflict situation ever arises, (iii) the Trust Estate with respect to each Series of Bonds structured as contemplated by the Application will initially have access to an amount of coverage under the General Coverage Policies at least equal to, or in most cases greater than, the coverage that would have been provided had separate General Coverage Policies been issued, and (iv) the rating agencies have revised their standards to allow the use of General Coverage Policies as contemplated by the Application while continuing to assign such Series of Bonds their highest credit rating.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said Application as amended, which is on file in the offices of the Commission's Public Reference Section, File Number 22-16539, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than April 8, 1987 request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission. For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6496 Filed 3-24-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15633; 812-6576]

Keystone America Equity Income Fund, et al.; Notice of Application

March 19, 1987.

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

ACTION: Notice of Application for Exemption and Approval under the Investment Company Act of 1940 ("1940 Act").

Applicants: Keystone America Equity Income Fund, Keystone America Government Securities Fund, Keystone America Investment Grade Bond Fund, Keystone America High Yield Bond Fund, Keystone America Money Market Fund, Keystone America Tax Free Income Fund and Keystone America Tax Free Money Market Fund ("Keystone America Funds," or "Applicants").

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from sections 2(a)(32), 2(a)(35), 22(c) and 22(d), and Rule 22c-1; approval requested under section 11(a).

Summary of Application: Applicants seek an order to permit the imposition and waiver of a contingent deferred sales load on certain redemptions of their shares, and to approve certain exchanges of their shares. Applicants also seek exemptive relief on behalf of such other Keystone America Funds as may be organized in the future, which have arranged for the distribution of their shares under agreements in all materials respects identical to those entered into by Applicants.

Filing Dates: The application was filed on December 29, 1986, and amended on March 2, 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 requests must be received by the SEC by 5:30, on April 10, 1987. Request a hearing in writing, giving the nature of your interest, the reason, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, Washington, DC 20549. Applicants, c/o Alan C. Porter, Esq., Sullivan & Worcester, 1025 Connecticut Avenue NW, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Carson G. Frailey (202) 272–3015, or Special Counsel Karen L. Skidmore (202) 272–3023, 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, which can be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations:

1. Applicants are open-end, diversified management investment companies that were organized as business trusts with transferable shares under the laws of Massachusetts on October 24, 1986. Each Applicant has filed with the SEC a Registration Statement on Form N–1A under the 1940 Act and the Securities Act of 1933, as amended, which has not become effective.

2. Keystone Custodian Funds, Inc. ("Keystone") will serve as investment adviser and manager of each Applicant. Keystone Massachusetts Distributors, Inc. ("KMDI") will serve as principal underwriter for the shares of each Applicant. KMDI is a wholly-owned subsidiary of Keystone. Applicants propose to adopt distribution plans pursuant to Rule 12b–1 under the 1940 Act ("Distribution Plan"). Under its Distribution Plan, each Applicant will be authorized to expend daily amounts at an annual rate of 0.75% of its average daily net asset value. It is anticipated that, in so doing, each Applicant will pay KMDI amounts sufficient for KMDI itself to pay selling dealers, or others, a maintenance fee of 0.25% per annum of the average daily asset value of the shares sold by such others and remaining outstanding on the books of the Applicant for specified periods. It is also anticipated that each Applicant will under its Distribution Plan, pay KMDI additional amounts of up to 0.50% per annum of its average daily net asset value to recompense KMDI for its efforts in respect to sales of the Applicant's shares. The board of trustee of each Applicant will, in its periodic review of the Applicant's Distribution Plan, consider, among other things, the amount of the revenues received by KMDI as a result of imposition of the contingent deferred sales charge.

3. KMDI will, as agent, obtain subscriptions for and sell shares of an Applicant to the public. It is anticipated that shares of each Applicant will be offered for sale at an offering price which is the net asset per share, plus an initial sales charge described in the current prospectus of 2% (2.04% of the net amount invested). The initial sales charge will be paid to KMDI. In addition, Applicants propose to impose a deferred sales charge of 2% at the time of redemption of certain shares within four calendar years after their purchase. Such contingent deferred sales charge will be imposed as a percentage of the lesser of: (i) The net asset value of the shares being redeemed, or (ii) the net cost of such shares, and will be retained by KMDI to defray expenses incurred by it in offering shares of Applicants for sale to the public. No contingent deferred sales charge will be imposed when a shareholder redeems amounts derived from: (i) Increases in the value of his account above the net cost of such shares due to increases in the net asset value per share, or (ii) certain shares with respect to which a commission was not paid on issuance, including shares acquired through reinvestment of dividend income and capital gains distributions, or (iii) shares held in all or part of more than four consecutive calendar years. In no event will any combination of the initial sales charge and the contingent deferred sales charge exceed applicable limitations imposed by the National Association of Securities Dealers, Inc. Assets represented by redeemed shares will be removed from the asset base on which the percentage charge paid under the Distribution Plan will be calculated.

4. Applicants propose to sell their shares at net value without imposition of an initial sales charge, or a contingent deferred sales charge, to officers, directors, full-time employees and sales representatives of certain affiliated companies, as well as to employee benefit plans established for such personnel, provided that all such sales are made upon the written assurance of the purchaser that the purchase is being made for investment purposes, and that the securities will not be resold except through redemption by the Applicant. Applicants further propose to sell their shares at net asset value without imposition of an initial sales charge or a contingent deferred sales charge to those "eligible benefit plans" constituting arrangements whereby the employees of a single employer, or two or more affiliated employers, having not less than 10,000 employees at the plan's inception, or such an employer on behalf of employees of a trust or plan for such employees, purchase shares of an Applicant for the accounts of such employees, their spouses and their children under the age of 21, or a trust or plan for such employees, by means of periodic payroll deductions or otherwise. It would be required that there be at least 100 initial participants with accounts investing or reinvesting in shares of an Applicant, or any of the funds for which Keystone acts as trustee or investment adviser, under such arrangement. The initial purchase by the eligible benefit plan, and prior purchases by or for the benefit of the initial participants of the plan, would have to aggregate not less than $25,000, and subsequent purchases would have to amount to at least $10 per account and must aggregate at least $250. Lastly, Applicants propose to sell their shares at net asset value without imposition of an initial sales charge, or a contingent deferred sales charge, to a bank or trust company in a single account in the name of such bank or trust company as trustee, provided that the initial investment in the shares of the Applicant, or of any fund managed by Keystone, or for which Keystone serves as trustee, is at least $500,000, and any commission paid is not more than 1% of the amount invested. Applicants believe that it is appropriate to waive sales loads, both front-end and deferred, in the case of sales to the personnel of affiliated entities, to eligible employee

benefit plans, and to eligible banks, because such sales are accomplished with little or no selling expense.

5. Applicants further propose to offer an exchange privilege pursuant to which shareholders of an Applicant may exchange their shares, for shares of another Applicant, at their relative net asset values. These exchanges would be subject to the minimum initial purchase requirements of the Applicant the shares of which are being acquired. A $5.00 service charge will be imposed with respect to each such exchange.

6. In determining whether a deferred sales charge is payable it will be assumed that shares held the longest are the first to be redeemed. There will be no deferred sales charges on exchanges of shares between Applicants. Moreover, when shares of one Applicant have been exchanged for shares of another Applicant, the calendar year of purchase for the Applicant exchanged into, for purposes of any future contingent deferred sales charge, will be deemed to be the year the shares were originally purchased.

7. Applicants further propose to waive the contingent deferred sales charge on the redemption of shares of an Applicant in the event of: (1) Death or disability of the shareholder; (2) a lump-sum distribution from an employee benefit plan qualified under the Employment Retirement Income Security Act of 1974 ("ERISA"); (3) systematic withdrawals from ERISA plans if the shareholder is at least 59½ years old; (4) involuntary redemptions of accounts having an aggregate net asset value of less than $1,000; or (5) systematic withdrawals under a systematic withdrawal plan from accounts having a net asset value of at least $10,000, of up to 1½% per month of the shareholder's net investment (an investor would not be permitted to arrange for systematic withdrawals while he is making regular purchase payments, because the Applicant would be paying distribution expenses on the shares being purchased at the same time it was redeeming shares at net asset value).

8. Applicants also propose to institute a one-time only reinvestment privilege under which a shareholder may elect to make a reinvestment purchase with any part of the proceeds of a total or partial redemption of shares of an Applicant, and the Applicant will re-credit the dollar amount of the deferred sales charge previously deducted and waive the initial sales charge on the subsequent purchase. The calendar year of the purchase of such shares acquired by reinvestment, for purposes of any future contingent sales charge, will be assumed to be the year such shares were originally purchased. Such an election must be made within 30 days of the date of such redemption and the purchase must be of shares of the Applicant.

9. Applicants believe that their proposals are fair and in the best interests of investors and are fully consistent with the exemptive standards of Section 6(c) of the 1940 Act, and with the policies and purposes of Section 11(a) of the 1940 Act. Applicants also submit that the requested order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. It is asserted that the operation of the contingent deferred sales charge will enable Applicants' shareholders to have the advantages of greater investment dollars working for them from the time of their purchase of Applicants' shares than they would if those shares were sold subject initially to the entire charge. Applicants further contend that the proposed waivers of the contingent deferred sales charge are justified on considerations of basic fairness to shareholders. In addition, it is submitted that, like the proposed waiver of the contingent deferred sales charge, the proposed one-time only credit of all or a portion of the deferred sales charge applicable to a shareholder who redeems shares subject to the charge, and reinvests the proceeds of the redemption within 30 days of the redemption is in the interests of shareholders. Applicants also note that the crediting procedure involved in this proposal will afford a shareholder the opportunity to determine without fear of being subjected to the deferred sales charge whether the redemption was the best means of satisfying his current financial needs. Applicants submit, finally, that the imposition of a $5.00 service charge for each exchange of Applicants' shares is fair and will not harm or discriminate among shareholders. The service charge is intended to compensate for the administrative costs incurred in effecting such exchanges.

Applicants' Proposed Conditions: If the requested order is granted, Applicants agree to the following conditions:

1. Applicants will comply with the provisions of Rule 22d-1 under the 1940 Act.

2. Applicants will comply with the provisions of the proposed Rule 11a-3 under the 1940 Act, when and if it is adopted by the Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6497 Filed 3-24-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-24351]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

March 19, 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 April 13, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proofs 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.

Columbus & Southern Ohio Electric Company, et al. (70-7257)

Columbus & Southern Ohio Electric Company (C&SOE), a public utility subsidiary of American Electric Power Company, Inc., a registered holding company, and its wholly owned subsidiary, Conesville Coal Preparation Company ("CCPC"), both located at 215 North Front Street, Columbus, Ohio 43215, have filed a post effective amendment to their amended application-declaration pursuant to sections 12(c) and 13(b) of the Act and Rules 46, 90 and 91 promulgated thereunder.

By order dated June 25, 1986 (HCAR No. 24134), C&SOE was authorized to transfer its Conesville Coal Preparation Plant ("Plant") to CCPC. The consideration paid by CCPC to C&SOE for the Plant was in the form of a long-term promissory note and in cash. The cash portion of the proceeds was offset by an equivalent capital contribution made by C&SOE to CCPC.

On December 30, 1986, CCPC sold a substantial portion of the assets of the Conesville Plant for $35 million and, pursuant to a net Facility Lease, simultaneously leased the Conesville Plant back for a basic term of fifteen years, subject to renewal options. The proceeds of such sale, after payment of taxes and certain other debt obligations, are being held by CCPC. It is stated that CCPC has sufficient cash available for a distribution of capital surplus and that the amount of paid-in capital previously contributed by C&SOE substantially exceeds CCPC's working capital requirements.

CCPC thus request authorization to pay to C&SOE, its sole shareholder, a distribution upon its common stock of up to $12,450,000 out of its paid-in capital surplus. CCPC and C&SOE also propose to amend the previously authorized rate of return on C&SOE's investment in CCPC, pursuant to a proposed amendment to the previously authorized Amended Coal Washing Agreement ("Agreement"). The proposed amendment to the Agreement provides for an adjustment, effective January 1, 1987 to the rate of return on equity earned by C&SOE on its investment in CCPC so that such return with respect to the excess capital actually distributed to C&SOE will equal CCPC's investment income on such excess capital. The effect of such adjustment will be to remove from the cost of coal washing services the cost associated with such excess capital. It is stated that the adjustment will also benefit customers of C&SOE because the reduction in coal washing costs reduces the cost of fuel which is a direct component of the rates charged for electric service.

Northeast Utilities, et al. (70–7353)

Northeast Utilities ("NU"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, and its wholly owned service company subsidiary, Northeast Utilities Service Company ("NUSCO"), Selden Street, Berlin, Connecticut 06037, have filed an application subject to Sections 9(a)(1) and 10 of the Act.

NU proposes to invest up to $10,001,000 in securities of Executive Risk Incorporated ("ERI"), a nonassociated Delaware corporation, in order for NUSCO to obtain directors' and officers' ("D & O") insurance for NU and the NU subsidiary companies. ERI is a company organized to own Executive Risk Insurance Company ("ERIC"), a company dedicated to reinsuring The Aetna Casualty and Surety Company ("Aetna") for D & O coverage to be written through Executive Risk Management Associates ("ERMA"), an underwriting manager to be formed as a Connecticut general partnership among ERI, Aetna and London United Investments Plc or wholly owned subsidiaries thereof. NU is required to invest in ERI to assist in the expansion of ERIC's underwriting capacity. The investment will enable NUSCO to obtain $15 million of primary layer D & O coverage from ERMA at an annual premium cost of $1,235,953 for at least three years, absent adverse claims experience from the NU system.

Specifically, NU proposes to acquire 150,000 shares of the Class A Common Stock of ERI for an aggregate purchase price of $1.5 million, 85,000 shares of the 7½% Cumulative Convertible Preferred Stock of ERI for an aggregate purchase price of $8.5 million and 100,000 warrants to purchase up to 100,000 shares of common stock at an exercise price of $10 per share, for an aggregate purchase price of $1,000.

NUSCO states that it has had difficulty in obtaining D & O coverage for NU and the subsidiary companies of the NU system on reasonable terms. NUSCO believes that the ERMA quotation, when compared with its present primary layer coverage cost of $7,254,400, would be highly favorable and would reduce costs to the ratepayers served by the NU public-utility subsidiaries. NU's liability as a participant in ERI would be limited to NU's capital investment in ERI in the event that ERIC incurs underwriting losses in excess of accumulated capital and surplus. Initially, NU would hold 9.68% of the outstanding common stock, 8.54% of the outstanding preferred stock and 9.1% of the warrants (excluding shares of common stock and warrants offered to ERI management).

Connecticut Light and Power Company (70–7376)

Connecticut Light & Power Company ("CL&P"), 107 Selden Street, Berlin, Connecticut 06037, a wholly owned subsidiary of Northeast Utilities, a registered holding company, has filed an application-declaration pursuant to Sections 6(b), and 12(c) of the Act, and Rules 42 and 50 promulgated thereunder.

CL&P proposes to issue and sell pursuant to competitive bidding up to 8,000,000 shares ($200,000,000 aggregate par value) of Class A preferred stock ($25 par value per share) in one or more series through December 31, 1988, with either a fixed dividend rate or an adjustable dividend rate, depending upon prevailing market conditions. CL&P may amend this application-declaration to seek an exception from Rule 50 so that it may offer the preferred stock through a negotiated public offering.

CL&P proposes to use in part the net proceeds from the issue and sale of the preferred stock to redeem outstanding CL&P preferred stock having a relatively high dividend rate. CL&P also proposes to refund outstanding high dividend preferred stock by means other than redemption, such as open market purchases or privately negotiated purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–6498 Filed 3–24–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–24228; File No. SR-Amex-87-4]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change

On January 13, 1987, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to extend for an additional year a pilot program which permits the implementation of emergency procedures for the execution of certain options orders during unusual market conditions. In addition, the Exchange proposes to make certain changes to the original terms of the pilot.

The proposed rule change was noticed in the Securities Exchange Act Release No. 24041 (January 30, 1987), 52 FR 4069 (February 9, 1987). No comments were received on the proposed rule change.

In November, 1985, the Amex implemented a pilot program to be used during periods of extremely high order flow, for the execution of options orders automatically routed to the Exchange through the Amex's routing system,

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1985).

AUTOAMOS.[3] Under the pilot program, the implementation of emergency procedures could be authorized by the concurrence of two floor governors when, in their opinion, the Exchange received an extremely large influx of both system and non-system orders, such that the effected specialist(s) could not expose each AUTOAMOS order to the trading crowd. Under these circumstances, the specialist in the effected option was permitted to execute incoming AUTOAMOS orders either as agent against the book or as principal, without exposing them to the crowd.

During the course of the pilot, these procedures were used twice, both times in the Amex Major Market Index ("XMI") option. According to the Amex, the use of these procedures in XMI became unnecessary after the development of the Exchange's AUTO-EX system, which guarantees automatic execution of public customer XMI market and marketable limits orders up to 10 contracts, at the best bid or offer displayed by the Exchange at the time the order is entered into the system.[4] Unlike the emergency procedures, the AUTO-EX system enhanced execution and operational efficiencies in the XMI market, without sacrificing protection of public customer orders on the limit order book.[5]

The Exchange now has the capability to utilize AUTO-EX for short emergency periods in equity options. Consequently, the Amex proposes to expand the current AUTOAMOS pilot by providing that the AUTO-EX system could be used in equity options when an emergency situation has been declared by two Amex floor governors.[6]

The Commission believes the proposed rule change will benefit public customers, member firms and Amex floor brokers by ensuring that orders routed to the Exchange through AUTOAMOS will be handled efficiently during periods of peak volume. By utilizing the AUTO-EX system during these periods, Amex ROTs who elect to participate in the pilot will be able to participate more fully in trading during fast markets. In addition, the proposed procedures should allow Amex specialists more time to handle non-system orders during these periods.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6[7] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Dated: March 18, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6490 Filed 3-24-87; 8:45 am]

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[3] This pilot was approved by the Commission in Securities Exchange Act Release No. 22447 (September 24, 1985).

[4] The Commission approved the use of AUTO-EX for XMI options on a permanent basis in August 1986. *See* Securities Exchange Act Release No. 23544 (August 20, 1986), 51 FR 30601 (August 27, 1986).

[5] Under the AUTO-EX system, if the best bid or offer is on the specialist's book, the incoming order is routed to the specialist's post and executed against the book order. If the best bid or offer is not on the book, the contra side of the trade is assigned to an Amex Registered Options Trader ("ROT") who has elected to participate in the system, or the specialist.

[6] In the event that an emergency situation is declared, AUTO-EX will operate in the effected option class in the same manner as it currently operates for XMI, *i.e.*, the contra side of the trade may be taken by the book or by a participating ROT or the specialist.

[7] 15 U.S.C. 78f (1982).

[8] 15 U.S.C. 78s(b)(2) (1982).

[9] 17 CFR 200.30-3(a)(12) (1985).

[Rel. No. 34-24237; File No. SR-PCC-87-03]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Clearing Corporation Amending Its Record Retention Policy

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 2, 1987 the Pacific Clearing Corporation ("PCC") filed with the Commission the proposed rule change described below. The Commission is publishing this notice to solicit comments on the proposed rule change.

PCC's current record retention policy is to hold all report documents (*e.g.*, transaction blotters, net sheets, etc.) on an ongoing basis, housing a limited quantity onsite and older reports offsite. Under the proposed rule change, PCC will retain most report documents for only six years. PCC, however, will retain those report documents concerning property (securities or funds) that may be subject to escheat for seven years.

The proposed rule change is intended to reduce the burgeoning costs and massive physical handling associated with PCC's current policy. Furthermore, PCC's proposed rule change is consistent with section 17A(b)(3)(F) of the Act in that the proposal promotes the prompt and accurate clearance and settlement of securities transactions.

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the change if it appears to the Commission that it is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.

Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing also will be available for inspection and copying at the principal office of PCC. All submissions should refer to File No. SR-PCC-87-03 and should be submitted by April 15, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 19, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6495 Filed 3-24-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-24236; File No. SR-PSDTC-87-03]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Pacific Securities Depository Trust Company Amending Its Record Retention Policy

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 2, 1987, the Pacific Securities Depository Trust Company ("PSDTC") filed with the Commission the proposed rule change described below. The Commission is publishing this notice to solicit comments on the proposed rule change.

PSDTC's current record retention policy is to hold all report documents (e.g., transaction blotters, net sheets, etc.) on an ongoing basis, housing a limited quantity onsite and older reports offsite. Under the proposed rule change, PSDTC will retain most report documents for only six years. PSDTC, however, will retain those report documents concerning property (securities or funds) that may be subject to escheat for seven years.

The proposed rule change is intended to reduce the burgeoning costs and massive physical handling associated with PSDTC's current policy. Furthermore, PSDTC's proposed rule change is consistent with section 17A(b)(3)(F) of the Act in that the proposal promotes the prompt and accurate clearance and settlement of securities transactions.

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of the Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the change if it appears to the Commission that it is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the proposal. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing also will be available for inspection and copying at the principal office of PSDTC. All submissions should refer to File No. SR–PSDTC–87–03 and should be submitted by April 15, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 19, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–6491 Filed 3–24–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–24227; File No. SR–NSCC–86–14]

Self-Regulatory Organizations; Order Approving Proposed Rule Change of the National Securities Clearing Corporation

On October 17, 1986, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change under section 19(b) of the Securities Exchange Act of 1934 ("Act") that would establish new financial standards for broker-dealer applicants to NSCC's Mutual Fund Settlement, Entry and Registration Verification Service ("Fund/Serv") who distribute mutual fund shares on an agency basis. Notice of the proposal appeared in the **Federal Register** on January 16, 1987.[1] No comments were received. As discussed below, the Commission has determined to approve the proposed rule change.

I. Introduction

On February 5, 1986, the Commission approved the Fund/Serv System as one year pilot.[2] Before the pilot program, there were no centralized facilities or systems for processing mutual fund securities transactions. Each broker-dealer developed its own clearance and settlement arrangements. Increased volume in the 1980's strained those decentralized processing arrangements and, in 1985, at the request of the Investment Company Institute and the National Association of Securities Dealers, NSCC developed an automated clearance and settlement system for mutual fund transactions called Fund/Serv.

Because of NSCC's limited experience with mutual fund transaction processing, NSCC has committed to refining operational and financial standards for applicants and members of Fund/Serv as it gains more experience. NSCC also has agreed to design new standards to accommodate new categories of members that NSCC deems operationally and financially capable to participate in Fund/Serv.[3] The proposal creates a new category of Fund/Serv membership by adopting alternate financial standards for broker-dealer applicants who distribute mutual fund shares on an agency basis ("fund brokers").

[1] Securities Exchange Act Release No. 23975 (January 9, 1987), 52 FR 1998.

[2] Securities Exchange Act Release No. 22928 (February 20, 1986), 51 FR 6954 (February 27, 1986).

[3] *See* Securities Exchange Act Release No. 24088 (February 10, 1987) at note 7.

II. Description

NSCC seeks to modify its Standards of Financial Responsibility and Operational Capability For Fund/Serv Members ("Standards"), the Fund/Serv Member's agreement and Rule 51 with regard to Fund/Serv membership requirements for fund brokers. Under the proposal, a fund broker may join Fund/Serv if at least 80% of the assets under management are in funds of at least $50 million.

Under the proposal, NSCC will hold a fund broker liable only for such amount as the broker-dealer can recover from the investment company whose shares it distributes. Accordingly, the proposal will modify the Fund/Serv Membership agreement to require such broker-dealer to subrogate to NSCC its rights against the investment company whose shares it distributes.

III. NSCC's Rationale

NSCC believes the proposal is consistent with the Act because it facilitates the prompt and accurate clearance and settlement of mutual fund transactions. Specifically, the proposal will allow a greater universe of mutual funds to enjoy the benefits of Fund/Serv, by recognizing that some mutual funds desire indirect access to this service through broker-dealers who distribute fund shares on an agency basis.

NSCC believes that the alternate financial requirement for fund broker applicants is appropriate and reasonable. The alternate financial requirement is only one factor in determining admission. A fund broker applicant must still meet the other financial and operational standards for admission to the Fund/Serv system.[4] In addition, NSCC believes that requiring fund broker applicants to have a minimum $1 million in assets is overly burdensome to fund brokers. Furthermore, requiring a fund broker to be principally liable to NSCC for its settlement obligations under Fund/Serv may adversely affect its net capital requirements.[5]

[4] A Fund/Serv applicant must have previous, relevant business history, capable personnel and sufficient financial ability to meet its obligations to NSCC. In addition, NSCC requires a Fund/Serv applicant to complete a questionnaire designed to provide NSCC with certain information needed to ensure compliance with NSCC's operational and financial standards.

[5] Such a financial commitment would increase the broker-dealer's aggregate indebtedness and, as a result, may increase the broker-dealer's net capital requirement. *See* 17 CFR 240.15c3–1.

Because of certain safeguards designed to minimize NSCC's risk, NSCC believes that the proposal will not impose any substantial increased financial exposure to NSCC. NSSCC does not guarantee transactions submitted through Fund/Serv. In addition, NSCC has the capability to withhold payment to a Fund/Serv participant for monies not yet received.[6] If a loss, nevertheless occurs as a result of the broker-dealer's failure to meet its settlement obligations, NSCC will look to the fund broker and its investment company client to satisfy that loss.

IV. Discussion

The Commission believes that NSCC's proposal is consistent with the Act and will promote the prompt, accurate and safe clearance and settlement of securities transactions. Specifically, the alternate standards will allow as wide a spectrum of the investment company community in Fund/Serv as it financially and operationally prudent. In addition, the proposal will allow NSCC to bring more participants into the automated environment of Fund/Serv without adversely affecting their net capital requirements.

The Commission believes that NSCC's decision to limit, in some respects, fund broker liability for their clients' transactions reflects an appropriate balance between expanding NSCC's service base and protecting NSCC and its members from undue risk. NSCC relies primarily on its operational safeguards to minimize its's risks. Because transactions submitted through Fund-Serv are not guaranteed, NSCC can withhold payments to participants for monies not yet received or, if payment has been made, require the participant to return to NSCC any funds received through Fund/Serv.

NSCC's membership standards and compliance monitoring also are designed to reduce NSCC's risk. Except for the alternate financial requirement, a fund broker applicant must meet the same operational and financial requirements as any other applicant. NSCC also monitors Fund/Serv members for compliance with its Standards and requires members periodically to provide information needed to ensure compliance with those Standards. If NSCC believes that a member's financial or operational condition could potentially increase NSCC's financial exposure, NSCC can place a member on surveillance status. Furthermore, NSCC will require a fund broker, in its membership agreement, to subrogate to NSCC its rights against the investment company whose shares it distributes.

The Commission expects that, as with any new member, NSCC will closely monitor members joining Fund/Serv under the alternate financial requirement and take appropriate actions to minimize any potential financial exposure. Fund/Serv has been operational on a pilot basis for over one year. NSCC has gained much experience in operating Fund/Serv over the past year and has expanded Fund/Serv in a careful and prudent manner. In light of the significant safeguards in the Fund/Serv system and the potential burden of requiring a fund broker to meet the present eligibility standards for Fund/Serv membership, the Commission agrees with NSCC the alternate capital and liability standards for fund brokers appear reasonable.

V. Conclusion

The Commission agrees with NSCC that the proposal is consistent with section 17A of the Act. The proposal will allow NSCC to continue expanding Fund/Serv and make it available to more members of the investment company community. The Commission therefore finds that the proposal is consistent with the Act and, in particular, with section 17A of the Act.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed change (SR–NSCC–86–14) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: March 17, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–6494 Filed 3–24–87; 8:45 am]

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[6] NSCC requires Fund/Serv members to make payment of net debit balances sufficiently early in the day to allow NSCC, in the event of non-payment of such debit balance, to prevent crediting broker-dealer participants in the afternoon settlement cycle for monies not received from Fund/Serv members.

[Rel. No. 34-24226; File No. SR-MSE-87-3]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Incorporated Relating to the Use of the Uniform Application for Securities Industry Registration or Transfer

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 26, 1987 the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Midwest Stock Exchange, Incorporated (MSE) proposes as a rule change the use of the Uniform Application for Securities Industry Registration or Transfer (Form U–4).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to state the MSE's current use and commitment to future use pursuant to Article VI, Rule 3 of MSE's Rules of Form U–4 as part of its registration and oversight of new sales personnel and member nominees.

The proposed rule change is consistent with Section 6 of the Securities Exchange Act of 1934 in that it is designed to promote just and equitable principles of trade by providing an efficient method for the oversight of members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Midwest Stock Exchange. All submissions should refer to the file SR–MSE–87–3 and should be submitted by April 15, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: March 17, 1987.

Jonathan Katz,

Secretary.

[FR Doc. 87–6492 Filed 3–24–87; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–24225; File No. SR–MSRB–87–2]

Self-Regulatory Organizations; Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to Fair Dealing; Notice of Filing and Immediate Effectiveness

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 6, 1987, the Municipal Securities Rulemaking Board ("Board") filed with the Securities and Exchange Commission a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board ("Board") is filing an interpretation of Board rule G–17 (hereafter referred to the "proposed rule change") concerning the conduct of municipal securities business. The text of the proposed rule change is as follows:

The Board believes that is it a violation of rule G–17, on fair dealing, for a broker, dealer or municipal securities dealer or its associated persons to fail to submit to arbitration as required by rule G–35, or to fail to comply with the procedures therein, including the production of documents, or to fail to honor an award of arbitrators unless a timely motion to vacate the award has been made according to applicable law.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Section 2 of the Board's Arbitration Code, rule G–35, requires all dealers to submit to arbitration at the instance of a customer or another dealer. From time to time, a dealer will refuse to submit to arbitration or will delay considerably or even refuse to make payment of an award. Such acts constitute violations of rule G–35. The NASD has interpreted its fair dealing rule, Article III, Section 1 of the NASD Rules of Fair Practice, to prohibit a member or person associated with a member to fail to submit to arbitration, cooperate in the proceedings or honor an award. The Board has interpreted its fair dealing rule, rule G–17, also to require dealers to cooperate in arbitration proceedings. The Board believes that the proposed rule change will foster compliance with rule G–35 by emphasizing that that rule has substantive as well as procedural requirements.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) and 15B(b)(2)(D) of the Securities Exchange Act of 1934. Section 15B(b)(2)(C) directs the Board to propose and adopt rules which are:

Designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest. . . .

Section 15B(b)(2)(D) states that the Board shall, if it deems appropriate:

Provide for the arbitration of claims, disputes, and controversies relating to transactions in municipal securities. . . .

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule change will not have any impact on competition since it applies equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed

rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 15, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 17, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-6493 Filed 3-24-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB on March 20, 1987

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on March 20, 1987, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annettee Wilson, or Cordelia Shepherd, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366-4735, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publications are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on March 20, 1987.

DOT No: 2869
OMB No: 2120-0020
Administration: Federal Aviation Administration
Title: Maintenance, Preventive Maintenance, Rebuilding and Alteration—FAR 43
Need for Information: The information collected on maintenance, rebuilding and alteration of aircraft and aircraft components is unnecessary to ensure that the work is performed by qualified persons and at proper intervals.
Proposed Use of Information: The information is used to ensure compliance with FAR 43.
Frequency: On occasion
Burden Estimate: 4,491,597 hours
Respondents: Maintenance personnel, aircraft owners and operators
Form(s): FAA Form 337

DOT No: 2870
OMB No: New
Administration: National Highway Traffic Safety Adm.
Title: Factors associated with the comfort and convenience features of the automatic belt system in all of the cars being tested.
Need for Information: To evaluate the comfort and convenience features of the automatic belt system in all of the cars being tested.
Proposed Use of Information: Identify comfort and convenience problems of automatic safety belt systems in 1987 model years cars in order to provide a basis for improving these systems so as to promote greater utilization.
Frequency: One time only
Burden Estimate: 480 hours
Respondents: 120 hours
Form(s): None

DOT No: 2871
OMB No: 2127-053
Administration: National Highway Traffic Safety Adm.
Title: Consolidated Labeling Requirements for Motor Vehicle Tires and Rims (FMVSS 571.109, 110, 117, 119, 120) (Regulations Parts 569 and 574)
Need for Information: To identify the tires and rims for safety operation of the vehicle.
Proposed Use of Information: All persons driving or riding in a motor vehicle need to have proper labeling on the tires and rims provided with the vehicle for safety operation.
Frequency: On occasion
Burden Estimate: 264,669 hours
Respondents: 6,673
Form(s): None

DOT No: 2872
OMB No: 2127-0521
Administration: National Highway Traffic Safety Adm.
49 CFR 571.116, Motor Vehicle Brake Fluids
Need for Information: To furnish buyers of brake fluids certain information on the types of fluids used to match the vehicle brake system.
Proposed Use of Information: This standard requires manufacturers and packagers of brake fluids to furnish certain information along with the brake fluids.
Frequency: On occasion
Burden Estimate: 140,000
Respondents: 200
Form(s): None

DOT No: 2873
OMB No: 2127-0050
Administration: National Highway Traffic Safety Adm.
Title: 49 CFR Part 574, Tire Identification and Recordkeeping
Need for Information: Manufacturers can directly notify first purchasers of new tires in case of tire recall.
Proposed Use of Information: This regulation requires the tire manufacturers to collect and record the names and addresses of the first purchasers of new tires, so that the manufacturers can directly notify those persons if the tires are recalled.
Frequency: On occasion

Burden Estimate: 747,000 hours
Respondents: Businesses and small businesses
Form(s): None

DOT No: 2874
OMB No: 2115–0143
By: United States Coast Guard
Title: Evidence of U.S. Citizenship or Lawful Alien Status for Workers on the Outer Continental Shelf (OCS)
Need for Information: This information collection is needed to ensure compliance with the Congressional mandate to man or crew outer continental Shelf (OCS) facilities with U.S. citizens or resident aliens.
Proposed Use of Information: Coast Guard uses this information to ascertain the citizenship status of personnel employed on the OCS. This requirement is used in conjunction with the commercial vessel safety program.
Frequency: On occasion for reporting; recordkeeping retention period is 3 years.
Burden Estimate: 1,700 hours
Respondents: Employers of personnel and the employees engaged in oil and gas extraction on the Outer Continental Shelf.
Form(s): N/A

DOT No: 2875
OMB No: 2115–0022
By: United States Coast Guard
Title: Application for Registration as Registered Pilot
Need for Information: Certain vessels are required to be under the direction of registered pilots while navigating certain waters of the Great Lakes. This information collection requirement is needed to ensure that the terms, qualifications and conditions for registration of individuals as such are adhered to. The statutory authority is 46 USC 9302.
Proposed Use of Information: The Coast Guard uses the information to determine if an individual meets the requirements to be a registered pilot, including physical competency.
Frequency: On occasion
Burden Estimate: 105 hours
Respondents: Applicants for Registered Pilots License
Form(s): CG–4509

DOT No: 2876
OMB No: 2115–0101
Administration: U.S. Coast Guard
Title: New Design for Marine Portable Tank
Need for Information: This requirement is needed to promote the safety of life and property in marine transportation as mandated by 46 USC 3306 and 3703 and 49 USC 1804, 1805, and 1808.
Proposed Use of Information: The information is used to ensure that marine portable tanks designed to carry hazardous materials to and from offshore drill rigs meet safety standards. The Coast Guard uses this information to evaluate the safety of the tanks to avoid fires, chemical spills or similar marine casualties.
Frequency: On occasion
Burden Estimate: 950 hours
Respondents: Marine portable tank manufacturers
Form(s): None

DOT No: 2877
OMB No: 2115–0137
Administration: United States Coast Guard
Title: Report of Oil or Hazardous Substance Discharge
Need for Information: This information collection requirement is needed to provide adequate responses to oil or hazardous substance discharges and to execute adequate spill mitigations.
Proposed Use of Information: This requirement is used to ensure quick response to pollution incidents and to minimize the hazard to lives, property and the environment.
Frequency: On occasion
Burden Estimate: 2,047 hours
Respondents: Vessel operators
Form(s): None

DOT No: 2878
OMB No: 2115–0508
Administration: U.S. Coast Guard
Title: Letter Documenting Qualifications of Tankerman Applicants
Need for Information: The information is needed to fulfill the statutory obligation of assuring that the qualifications of applicants for Tankerman are documented. The information indicates that the applicant is trained in and capable of handling bulk liquid cargoes.
Proposed Use of Information: The Coast Guard uses this information to ensure the applicant is qualified for the Tankerman examination.
Frequency: On occasion
Burden Estimate: 900 hours
Respondents: Vessel master, operator or agent
Form(s): N/A

DOT No: 2879
OMB No: 2115–0121
Administration: U.S. Coast Guard
Title: Subchapter Q—Manufacturer Test Reports and Drawings
Need for Information: This requirement is needed to ensure that specific types of safety equipment and materials meet minimum levels of performance and safety prior to being installed on vessels. Legal authority is contained in 46 U.S.C. 3303. The regulatory authorities are 46 CFR Subchapter Q and 33 CFR 159.14.
Proposed Use of Information: The Coast Guard uses this information to determine compliance of the safety equipment and materials submitted with the technical requirements contained in the individual specifications.
Frequency: On occasion
Burden Estimate: 500 hours
Respondents: Manufacturers of life saving, fire fighting, emergency and marine sanitation devices
Form(s):

DOT No: 2881
OMB No: 2138–0014
Administration: Research and Special Programs Adm.
Title: Accessibility and Transmittal of Service Segment Data
Need for Information: To determine air traffic flow and adequacy of service
Proposed Use of Information: Provides the Department with trafffic and capacity data. Used to determine adequacy of service.
Frequency: Monthly
Burden Estimate: 24,400 hours
Respondents: Large certificated route air carriers
Forms: None

DOT No: 2882
OMB No: 2115–0090
Administration: U.S. Coast Guard
Title: Production Test Reports for Lifesaving Equipment—Subchapter Q
Need for Information: This is a recordkeeping requirement which is needed to ensure that the manufacturer's quality control is adequate to meet the required standards for life-saving devices.
Proposed Use of Information: The records are reviewed by Coast Guard or Coast Guard-recognized independent laboratories to determine that production stock of lifesaving devices will be identical to those that were originally tested and approved.
Frequency: Recordkeeping Retention Period of 10 Years
Burden Estimate: 5,500 hours
Respondents: Manufacturers of LIfe-Saving Equipment (Flotation Devices)
Forms: None

DOT No: 2883
OMB No: New
Administration: Federal Aviation Administration
Title: Airport Improvement Program (AIP)
Need for Information: The information is needed in order for the FAA to administer the Airport Grants Programs.

Proposed Use of Information: Data is used to determine eligibility, assure proper use of Federal funds and assure project accomplishment.
Frequency: On occasion, quarterly, annually (different portions due at different times)
Burden Estimate: 233,700 hours
Respondents: State and local government sponsors of airports
Forms: FAA Forms 5100-60/61/62/63/100

Issued in Washington, DC, on March 20, 1987.

John E. Turner,

Director of Information Resource Management.

[FR Doc. 87-6427 Filed 3-24-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; Greater Pittsburgh International Airport, PA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Department of Aviation, County of Allegheny (DACA) for the Greater Pittsburgh International Airport (GPIA), under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for the GPIA under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before August 31, 1987.

EFFECTIVE DATE: The effective date of FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is March 4, 1987. The public comment period ends April 18, 1987.

FOR FURTHER INFORMATION CONTACT: Frank Squeglia, Environmental Specialist, FAA Eastern Regional Office, Airports Division, AEA-610, Fitzgerald Federal Building, JFK Int'l Airport, Jamaica, NY, 11430; telephone No. (718) 917-0902.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the GPIA are in compliance with applicable requirements of Part 150, effective March 4, 1987. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or, disapproved on or before August 31, 1987. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations, Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The DACA submitted to the FAA on September 16, 1986, noise exposure maps, descriptions and other documentation which were produced during an airport noise compatibility planning study from April 1979 to July 1981. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and the surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the DACA. The specific maps under consideration are "1984 Noise Contours" and "1989 Noise Contours". The FAA has determined that these maps for the GPIA are in compliance with applicable requirements. This determination is effective on March 4, 1987. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedure contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of tbe Act. These functions are inseparable from the ultimate land-use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA formally received the noise compatibility program for GPIA, also effective on March 4, 1987. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before August 31, 1987.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level or aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly

addressed to local land-use authorities, will be considered by the FAA to the extent practicable. The public comment period ends April 18, 1987. Copies of the noise exposure maps, the FAA's evaluation of the maps and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independent Ave. SW., Rm. 617, Washington, DC
Eastern Regional Office, FAA, Fitzgerald Federal Building, Airports Division, JFK Int'l Airport, Jamaica, NY
Harrisburg Airports District Office, FAA, Terminal Building, Capital City Airport, New Cumberland, PA
Department of Aviation, County of Allegheny, Terminal Building Rm. M 134, Greater Pittsburgh Int'l Airport, Pittsburgh, PA

Questions may be directed to the individual named above under the heading **"FOR FURTHER INFORMATION CONTACT"**.

Issued in Jamaica, NY on March 4, 1987.

Arnold Aquilano,

Deputy Director, Eastern Region.

[FR Doc. 87-6397 Filed 3-24-87; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 81-02; Notice 7]

Preliminary Evaluation Report on Center High Mounted Stop Lamps; Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment; Request for Comments

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comments.

SUMMARY: This notice announces the publication by NHTSA of a preliminary Evaluation Report concerning Safety Standard No. 108, *Lamps, Reflective Devices,* and *Associated Equipment.* This staff report evaluates safety effectiveness of center high mounted stop lamps. The report was developed in response to Executive Order 12291, which provides for Government-wide review of existing major Federal regulations. The agency seeks public review and comment on this evaluation. Comments received will be used to complete the review required by Executive Order 12291.

DATE: Comments must be received no later than June 23, 1987.

ADDRESSES: Interested persons may obtain a copy of the report free of charge by sending a self-addressed mailing label to Ms. Glorious Harris (NAD-51), National Highway Traffic Safety Administration, 400 Seenth Street, SW., Washington, DC 20590. All comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. [Docket Hours, 8:00 a.m.–4:00 p.m., Monday through Friday.]

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, Director, Office of Standards Evaluation, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC. 20590 (202-366-1574).

SUPPLEMENTARY INFORMATION: Standard No. 108 (49 CFR 571.108) regulates the lamps, reflectors and associated equipment for cars, trucks, trailers, buses, multipurpose passenger vehicles and motorcycles. The standard was amended, effective September 1, 1985, to require that passenger cars be equipped with a center high mounted stop lamp (CHMSL). A CHMSL is a small red stop lamp mounted on the centerline of the rear of the automobile within specified ranges of vertical locations and brightness. The vertical location is specified with the intent of positioning the lamp higher than conventional stop lamps. The lamp is actuated only by braking. Accident reduction, specifically in the group of accidents in which braking by the struck vehicle is a critical factor, is the purpose of the CHMSL.

Pursuant to Executive Order 12291, NHTSA is conducting an evaluation of CHMSL to determine the effectiveness of the CHMSL performance standard in reducing crashes and their associated damages and casualties and to determine the benefits and costs of the standard to consumers. Under the Executive Order, agencies are to review existing regulations to determine whether the regulations are achieving the Order's policy goals, i.e., achieving legislative goals effectively and efficiently and without imposing any unnecessary burdens on those affected. This report is the agency's initial analysis of the effectiveness of CHMSL in preventing rear impact crashes. It is based on all police reported accidents that occurred at the 50 National Accident Sampling System areas, a nationally representative group of counties, Between June 1 and September 5, 1986.

The involvement rate in "CHMSL relevant" rear impacts for model year 1986 cars (all CHMSL equipped) is compared to 1985 cars (mostly without the lamps). CHMSL relevant collisions are those in which the back of the car is damaged and the stop lamps were actuated prior to impact. The involvement rate is defined to be the ratio of CHMSL relevant collisions to all other collisions. "CHMSL effectiveness" is the reduction of the model year 1986 involvement rate relative to model year 1985, adjusted upwards to reflect the fact that about 10 percent of the 1985 cars were already equipped with CHMSL in advance of the Federal requirement.

The National Accident Sampling System data used in this study did not distinguish between "CHMSL relevant" collisions and other rear impacts (where stop lamps were not actuated). As a result, it was first necessary to calculate the effectiveness of CHMSL for all types of rear impacts and then increase that result by half, since earlier studies had indicated that two thirds of all rear impacts are CHMSL relevant.

All effectiveness estimates have to be considered preliminary and could change in follow-up studies based on later NASS data as well as large State accident files.

The principal findings and conclusions of this study are the following:

- CHMSL equipped cars were *22 percent* less likely to be struck in the rear while braking than the cars without CHMSL. CHMSL significantly reduced a car's risk of being struck in the rear by another vehicle.
- CHMSL may be especially effective in preventing chain collisions involving *three or more* vehicles. CHMSL equipped cars were 38 percent less likely to be the *lead* car in a chain collision, while braking, than cars without CHMSL. Cars with CHMSL also had a 26 percent lower involvement rate, while braking, as *one of the middle* cars in a chain collision than cars without CHMSL.
- CHMSL equipped cars were 20 percent less likely to be the struck car, while braking, in a *two* vehicle front to rear collision than cars without CHMSL. Although the observed effectiveness in chain collisions is higher than in two vehicle collisions, the increment in the effectiveness is not statistically significant.
- CHMSL effectiveness was about the same in the large cities, suburbs and nonmetropolitan areas of the NASS sample.

NHTAS welcomes public review of the evaluation report and invites the public to submit comments.

It is requested but not required that 10 copies of comments be submitted.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

(15 U.S.C. 1392, 1401, 1407; delegation of authority at 49 CFR 1.50 and 501.8.)

Issued on: March 20, 1987.

Adele Spielberger,

Associate Administrator for Plans and Policy.

[FR Doc. 87-6439 Filed 3-24-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: March 20, 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.

U.S. Customs Service

OMB No.: 1515-0117
Form No. None
Type of Review: Extension
Title: Establishment of Container Station, 19 CFR 19.40
Description: The regulation provides for the establishment of a container station in any area under the jurisdiction of the district director, once the application has been filed and approved. The application requires a fee and a bond must also be filed.
Respondents: Businesses
Estimated Burden 354 hours
Clearance Officer: B.J. Simpson (202) 566-7529, U.S. Customs Service, Room 6426, 1301 Constitution Ave. NW., Washington, DC 20229
OMB Reviewer: Milo Sunderhauf, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Comptroller of the Currency

OMB No.: New
Form No.: None
Type of Review: New
Title: Banking Questionnaire
Description: The Office of the Comptroller of the Currency needs to evaluate the effectiveness of its written communications to ensure that they are designed clearly, understood by their intended audience and distributed promptly.
Respondents: Businesses
Estimated Burden: 184 hours
Clearance Officer: Eric Thompson (202) 447-1632, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219
OMB Reviewer: Robert Neal (202) 395-7340, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, DC 20503

Alcohol, Tobacco, and Firearms

OMB No.: 1512-0178
Form No.: ATF Form 4483
Type of Review: Reinstatement
Title: Report of Firearms Transactions
Description: This form (4483) is used to evaluate transactions by Federally licensed Firearms Manufacturers, importers, dealers, or collectors, when the Regional Director Compliance determines that there is a need to do so. The licensee prepares the entries from existing records and submits the completed form to the Regional Director.
Respondents: Businesses
Estimated Burden: 250 hours
Clearance Officer: Robert Masarsky (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Ave. NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports, Management Office.

[FR Doc. 87-6423 Filed 3-24-87; 8:45 am]

BILLING CODE 4810-25 -M

Office of the Secretary

[Department Circular—Public Debt Series—No. 7-87]

Treasury Notes of March 31, 1989, Series W-1989

March 19, 1987

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $10,000,000 of United States securities, designated Treasury Notes of March 31, 1989, Series W-1989 (CUSIP No. 912827 UR 1), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated March 31, 1987, and will accrue interest from that date, payable on a semiannual basis on September 30, 1987, and each subsequent 6 months on March 31 and September 30 through the date that the principal becomes payable. They will mature March 31, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or herefter imposed on the obligaiton or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Standard time, Tuesday, March 24, 1987. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, March 23, 1987, and received no later than Tuesday, March 31, 1987.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customer and the amount for each customers are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions of instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds memberships; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepeted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1 The Secretary of the Treasury expressly reserves that right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Tuesday, March 31, 1987. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, March 27, 1987. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, March 31, 1987. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forefeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in *Treasury Direct* are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in *Treasury Direct* must be completed to show all the information required thereon, or the *Treasury Direct* account number previouslay obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplement or amendments do not

adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-6513 Filed 3-24-87; 8:45 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 8-87]

Treasury Notes of March 31, 1991, Series M-1991

March 19, 1987

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of the Title 31, United States Code, invites tenders for approximately $7,750,000,000 of United States securities, designated Treasury Notes of March 31, 1991, Series M-1991 (CUSIP No. 912827 US 9), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated March 31, 1987, and will accrue interest from that date, payable on a semiannual basis on September 30, 1987, and each subsequent 6 months on March 31 and September 30 through the date that the principal becomes payable. They will mature March 31, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e, Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

2. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Standard Time, Wednesday, March 25, 1987. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, March 24, 1987, and received no later than Tuesday, March 31, 1987.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid if $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any nomcompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign cental banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to

provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherver the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, March 31, 1987. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, March 27, 1987. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Accounts on or before Tuesday, March 31, 1987. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in *Treasury Direct* are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in *Treasury Direct* must be completed to show all the information required thereon, or the *Treasury Direct* account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplememts or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-6512 Filed 3-24-87; 8:45 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 9-87]

Treasury Notes of April 15, 1994, Series E-1994

March 19, 1987

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,250,000,000 of United States securities, designated Treasury Notes of April 15, 1994, Series E-1994 (CUSIP No. 912827 UT 7), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated April 1, 1987, and will accrue interest from that date, payable on a semiannual basis on October 15, 1987, and each subsequent 6 months on April 15 and October 15 through the date that the principal becomes payable. They will mature April 15, 1994, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Standard time, Thursday, March 26, 1987. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, March 25, 1987, and

received no later than Wednesday, April 1, 1987.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive Tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Wednesday, April 1, 1987. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, March 30, 1987. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Wednesday, April 1, 1987. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in *Treasury Direct* are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in *Treasury Direct* must be completed to show all the information required thereon, or the *Treasury Direct* account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is

pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87-6511 Filed 3-24-87; 8:45 am]

BILLING CODE 4810-40-M

Internal Revenue Service

Art Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATE: The meetings will be held April 22 and June 9, 1987.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:AP:V, 1111 Constitution Avenue, NW., Room 2575, Washington DC, 20224, Telephone No. (202) 566-9259, (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), that closed meetings of the Art Advisory Panel will be held on April 22 and June 9 in Room 3313 beginning at 9:30 a.m., Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC 20224.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6130 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c) (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meeting will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122.)

Lawrence B. Gibbs,

Commissioner.

[FR Doc. 87-6446 Filed 3-24-87; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 57
Wednesday, March 25, 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 COMMUNICATIONS COMMISSION

March 19, 1987.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 26, 1987, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

Common Carrier—1—Title: In the Matter of Amendment to § 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry). Summary: The Commission will consider whether to adopt an Order on Reconsideration of the Report and Order in this proceeding released on June 16, 1986.

Common Carrier—2—Title: In the Matter of Amendment to § 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry). Summary: The Commission will consider whether to adopt a Report and Order in Phase II of this proceeding that addresses the regulatory treatment of protocol processing and other issues deferred from Phase I of the proceeding.

Mass Media—1—Title: Policies Regarding Detrimental Effects of Proposed New Broadcasting Stations on Existing Stations. Summary: The Commission will consider initiating a proceeding concerning the Carroll Doctrine and the UHF impact policy.

Mass Media—2—Title: Amendment of Part 76 of the Commission's Rules concerning Carriage of Television Broadcast Signals by Cable Television Systems. Summary: The Commission will consider petitions for reconsideration regarding the new mandatory signal carriage and input selector switch requirements.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sarah Lawrence, FCC Office of Congressional and Public Affairs, telephone number (202) 632-5050.

Issued: March 19, 1987.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-6572 Filed 3-23-87; 2:54 p.m.]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:30 a.m., Monday, March 30, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 20, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-6505 Filed 3-20-87; 4:40 p.m.]

BILLING CODE 6210-01-M

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Wednesday, April 1, 1987 at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints:
   Certain Mail Extraction Desks and Components Thereof (Docket Number 1381).
5. Inv. 303-TA-18, 731-TA-332, 333, 334 (Final) (Certain Fresh Cut Flowers from Mexico, Kenya, and Peru)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

Kenneth R. Mason,

Secretary.

March 19, 1987.

[FR Doc. 87-6521 Filed 3-23-87; 10:29 a.m.]

BILLING CODE 7020-02

federal register

Wednesday
March 25, 1987

Part II

Department of the Interior

Office of the Secretary

Coastal Barrier Resources Act; Section 10 Report to Congress; Notice of Availability of Proposed Recommendations.

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Coastal Barrier Resources Act; Section 10 Report to Congress; Availability of Proposed Recommendations

AGENCY: Office of the Secretary, Interior.
ACTION: Notice of availability.

SUMMARY: Under the provisons of section 10 of the Coastal Barrier Resources Act of 1982 (16 U.S.C. 3509), the Secretary of the Interior is required to provide recommendations to the Congress for conservation of the fish, wildlife and other natural resources of the Coastal Barrier Resources System (CBRS). He is also required to provide recommendations to the Congress for additions to or deletions from the CBRS, and for modifications to the boundaries of CBRS.

The Secretary of the Interior established a Coastal Barriers Study Group in 1983 and instructed it to develop an inventory of undeveloped coastal barriers on all coastlines of the United States and to develop management alternatives that foster the conservation of the CBRS' natural resources. The maps of the inventory were made available on Monday, March 4, 1985 **Federal Register** Vol. 50, No. 42, Part II, pp. 8689–8702), and the draft conservation alternatives on Wednesday, May 1, 1985 **Federal Register** Vol. 50, No. 84, p. 18576). The public comment period closed on September 30, 1985.

The notice announces the availability of the proposed recommendations for additions to and deletions from the CBRS and recomendations for conservation of the CBRS' natural resources

DATE: Comments should be received no later than June 23, 1987.

ADDRESS: Coastal Barriers Study Group, U.S. Department of the Interior, National Park Service—498, P.O. Box 37127, Washington, DC 20013–7127.

FOR FURTHER INFORMATION CONTACT: Mr. Frank McGilvrey, Coastal Barriers Coordinator, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, (202) 343–2618.

SUPPLEMENTARY INFORMATION: On October 18, 1982, President Reagan signed the Coastal Barrier Resources Act (CBRA) into law (16 U.S.C. 3501 *et seq.*). Section 4 of CBRA establishes the Coastal Barrier Resources System (CBRS) as referred to and adopted by Congress, and sections 5 and 6 prohibit all new Federal expenditures and financial assistance within the units of CBRS unless specifically excepted by the CBRA. These provisions of the CBRA became effective immediately. The CBRA also amends and conforms to the Federal flood insurance provisions of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) pertaining to undeveloped coastal barriers. The statutory ban on the sale of new Federal flood insurance for new construction or substantial improvements within the CBRS went into effect on October 1, 1983.

Section 10 of CBRA requires the Secretary of the Interior to submit to Congress a report regarding the CBRS that contains two essential elements: (1) Recommendations for conservation of the fish, wildlife and other natural resources of the CBRS through evaluation and comparison of management options available to Federal, State and local governments and the private sector; and (2) recommendations for additions, deletions and modifications in the CBRS. In addition, the report is to contain a summary of public comments received and an analysis of the impacts of general revenue sharing grants on undeveloped coastal barriers. The Secretary is to consult with the Governors of the affected States regarding proposed recommendations. To this end, the Secretary again invites comments from the governors of affected States. The governors' comments will be forwarded to the Congress as a part of the report.

Over 2,300 comments concerning the inventory and draft management alternatives were received during the 1985 public comment period. After careful consideration of comments from the public, affected governors, Federal, State and local agencies, and Congress, and review of the requirements and objectives of CBRA, the Department of the Interior proposes to make the following recommendations to Congress.

—Add all aquatic habitats associated with (1) coastal barriers presently in the CBRS and (2) coastal barriers along the Gulf of Mexico and Atlantic Coasts that are recommended for addition to the CBRS.
—Add undeveloped coastal barriers in Puerto Rico and the U.S. Virgin Islands and within large embayments such as Chesapeake Bay and Narragansett Bay.
—Add unprotected areas along the Atlantic and Gulf of Mexico coasts that function as coastal barriers but are not composed entirely of unconsolidated sediments. Included are bed rock/glacial depositis (New England), carbonate-cemented and mangrove shorelines (Florida Keys and Caribbean), and cheniers (Louisiana).
—Make adjustments to boundaries of units presently in the CBRS to account for discrepancies discovered during the study, such as deletion of areas fully developed at the time CBRA became law in 1982, deletion of Federal military and Coast Guard installations, and addition of areas found to be undeveloped.
—Delete areas that were unprotected in 1982 but that are now otherwise protected. Add a provision to enable DOI to delete areas within the CBRS that become protected in the future.
—Add privately-owned undeveloped barriers held for conservation or recreation purposes if the owner proposes development that would be inconsistent with the purposes of CBRA.
—Clarify and strengthen certain exceptions under Section 6 of CBRA.
—Add a provision to enable the General Services Administration (GSA) to add to the CBRS Federal excess coastal barrier properties, determined by GSA, in consultation with DOI, to be undeveloped, prior to disposal unless they otherwise qualify for exemption under the law.
—Add a provision for a joint study by the Department of the Interior, Department of Defense, National Oceanic and Atmospheric Administration, and Federal Emergency Management Agency to develop a unified national policy to guide Federal redevelopment of high-risk coastal areas.

Any modifications to the CBRS require legislative amendment to CBRA. The Secretary has no authority to modify the CBRS.

The 21 volumes of the report contain background information about each State or Territory's coastal barriers and maps, and recommendations for specific additions to or deletions from the CBRS in those States or Territories. Since 473 areas on 379 maps have been identified as part of the proposed recommendations, it is impractical to publish the maps or list the unit designations in a notice. The State volumes and Executive Summary are being sent to a number of recipients with special interest in this issue. The classes of recipients include:

—Senators and Representatives from the 17 affected States, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.
—U.S. Fish and Wildlife Service —Washington Office

—Regional Offices
—Ecological Services Field Offices
—National Park Service
—Washington Office
—Regional Offices
—Governors of the 17 affected States, Commonwealth of Puerto Rico, and the U.S. Virgin Islands
—Affected counties
—Federal Emergency Management Agency
—U.S. Army Corps of Engineers
—Environmental Protection Agency
—Department of Agriculture
—Department of Transportation
—Department of Defense
—Department of Housing and Urban Development
—National Wildlife Federation
—National Realtors Association
—Coastal States Organization

To facilitate public review, anyone interested in learning where the nearest set of maps can be examined may call the National Park Service at (202) 343–8116 between the hours of 8:00 a.m. and 4:00 p.m. (Eastern Time) Monday through Friday. A list of Fish and Wildlife Service Regional and Field Offices and National Park Service Regional Offices where maps can be reviewed is in the Appendix.

The original maps may be inspected at, and hand delivered comments may be taken to, the National Park Service, 1100 "L" Street NW., Room 3319, Washington, DC.

Dated: March 17, 1987.

P. Daniel Smith,

Assistant Secretary for Fish and Wildlife and Parks.

Appendix

Location of Maps Available for Review:

U.S. Fish and Wildlife Service

Regional offices	States of:
Assistant Regional Director—Fish & Wildlife Enhancement, P.O. Box 1306, Albuquerque, New Mexico 87103, (505) 766–2324.	Texas.
Assistant Regional Director—Fish & Wildlife Enhancement, Richard B. Russell Federal Building, 75 Spring Street, SW., Suite 1276, Atlanta, Georgia 30303, (404) 221–6343.	North Carolina, South Carolina, Georgia Flordia, Alabama, Mississippi, Louisiana, Puerto Rico, Virgin Islands.
Assistant Regional Director—Fish & Wildlife Enhancement, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158, (814) 234–4130/234–4286.	Maine, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia.
U.S. Fish and Wildlife Service Ecological Services Field Stations	
Field Supervisor, Corpus Christi State University, Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 888–3346.	Texas, from Calhoun County-South.
Field Supervisor, 17629 El Camino Real, Suite 211, Houston, Texas 77058, (713) 229–3681.	Texas, from Matagorda County-North.
Field Supervisor, P.O. Box 510, Boqueron, Puerto Rico 00622, (809) 851–7297.	Puerto Rico, Virgin Islands.
Field Supervisor, P.O. Box 4305, Lafayette, Louisiana 70502, (318) 234–7478.	Louisiana.
Field Supervisor, P.O. Box Drawer 1197, Daphne, Alabama 36526, (205) 626–1850.	Alabama, Mississippi.
Field Supervisor, 1612 June Avenue, Panama City, Florida 32405, (904) 769–0552.	Florida, West Coast, Pasco County-West.
Field Supervisor, P.O. Box 2676, Vero Beach, Florida 32960, (305) 562–3902.	Florida, all of East Coast, West Coast, North to and including Pinellas County.
Field Supervisor, 801 Gloucester Street, Federal Building, Room 334, Brunswick, Georgia 31520, (912) 265–9336.	Georgia.
Field Supervisor, P.O. Box 12559, Charleston, South Carolina 29412, (803) 724–4707.	South Carolina.
Field Supervisor, P.O. Box 25039, Raleigh, North Carolina 27611–5039, (919) 755–4520.	North Carolina.
Fish and Wildlife Biologist, P.O. Box 729, Gloucester Point, Virginia 23062, (804) 642–7180.	Virginia.
Field Supervisor, 1825–B Virginia Street, Annapolis, Maryland 21401, (301) 269–5448.	Maryland, Delaware.
Assistant Field Supervisor, 705 White Horse Pike, P.O. Box 534, Absecon, New Jersey 08201, (609) 646–9310.	New Jersey.
Assistant Field Supervisor, c/o Brookhaven National Laboratory Building 179, Upton, Long Island, New York 11973, (516) 282–3300.	New York-Long Island.
Field Supervisor, P.O. Box 1518, Concord, New Hampshire 03301, (603) 224–2585.	Maine Massachusetts, Rhode Island, Connecticut.
National Park Service (Regional Offices)	
Assistant Regional Director—Natural Resources, North Atlantic Regional Office, National Park Service, 15 State Street, Boston, Massachusetts 02109, (617) 565–8800.	Maine, Massachusetts, Connecticut, Rhode Island, New York, New Jersey.
Assistant Regional Director—Natural Resources, Mid-Atlantic Regional Office, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania 19106, (215) 597–7013.	Delaware, Maryland, Virginia.
Assistant Regional Director—Natural Resources, Southeast Regional Office, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 3030, (404) 331–5185.	North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Puerto Rico, Virgin Islands.
Assistant Regional Director—Natural Resources, Southwest Regional Office, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87504, (505) 988–6388.	Texas, Louisiana.

[FR Doc. 87–6165 Filed 3–24–87; 8:45 am]

BILLING CODE 4310–55–M

federal register

Wednesday
March 25, 1987

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91, 121, 125, and 135
Flight Recorders and Cockpit Voice Recorders; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 125, and 135

[Docket No. 24418; Amendment Nos. 91-199, 121-191, 125-8, and 135-23]

Flight Recorders and Cockpit Voice Recorders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment requires improved (digital) flight recorders with additional data parameters for airplanes type certificated before 1969 and operated in Part 121 operations. Review of National Transportation Safety Board accident/incident files for January 1983 to February 1986 revealed the high failure rate of the metal foil flight recorders. The data revealed that 37 recorders (48 percent) had one or more malfunctioning parameters preceding the accident/incident preventing the recording or readout pertinent data. As a result, post-accident flight recorder examination cannot be relied upon to provide accident investigators with sufficient information to accurately assess the causal interrelationship between man, machine, and environment. The requirement of a digital flight recorder with additional data parameters is deemed the minimum standard necessary to ensure that all of the underlying causal factors of an accident are identified. The amendment also requires cockpit voice recorders on newly manufactured multiengine, turbine-powered airplanes certificated to carry six or more passengers, requiring two pilots by type certification or operating rules for those operations conducted under Part 135. The amendment also specifies that for those operators conducting operations under Part 91 and Part 125 that have installed approved cockpit voice recorders, the Administrator will not use the record in any civil penalty or certificate action. These amendments were based on recommendations from a study conducted by Trans Systems Corporation and a number of safety recommendations by the National Transportation Safety Board.

EFFECTIVE DATE: May 26, 1987.

FOR FURTHER INFORMATION CONTACT: Frank Rock, Federal Aviation Administration, Office of Airworthiness, Aircraft Engineering Division, Technical Analysis Branch, AWS-120, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9567.

SUPPLEMENTARY INFORMATION:

Regulatory History

These amendments are based on Notice of Proposed Rulemaking (NPRM) No. 85-1, published in the **Federal Register** on January 8, 1985 (50 FR 949). All comments received in response to NPRM No. 85-1 were considered in adopting these amendments.

Background

For those operations conducted under Parts 91 and 125 of the Federal Aviation Regulations (FAR), there are no requirements that either a flight recorder or a cockpit voice recorder (CVR) be installed. However, in the interest of safety, the Federal Aviation Administration (FAA) has always encouraged the installation of approved flight recorders and approved cockpit voice recorders in airplanes used in those operations.

Section 121.343 of the FAR requires operators to equip each turbine-powered airplane and each airplane certificated for operation above 25,000 feet with an approved flight recorder. For airplanes having an original type certificate issued through September 30, 1969, the flight recorder parameters must include time, altitude, airspeed, vertical acceleration, heading, and radio transmission keying. Airplanes having an original type certificate issued after September 30, 1969, are required to have additional flight recorder parameters indicating pitch attitude, roll attitude, side-slip angle or lateral acceleration, pitch-trim position, control column or pitch control surface position, control wheel or lateral control surface position, rudder pedal or yaw control surface position, thrust of each engine, position of each thrust reverser, trailing edge flap, or cockpit flap or cockpit flap control position.

The CVR provisions for Part 121 operators require a CVR for each large turbine-powered or large pressurized airplane with four reciprocating engines.

Part 135 does not require operators to have flight recorders but does require turbojet airplanes configured to carry ten passengers or more to have a cockpit voice recorder installed.

Since these provisions were adopted, there has been a dramatic change in the air carrier industry. Deregulation has contributed to that change by allowing existing Part 121 carriers to pull out of short-to-medium-range markets, thereby creating a demand being filled by a rapidly expanding commuter airline industry. To meet the equipment needs of the expanding commuter airline industry, manufacturers have developed new fuel-efficient airplanes, including derivatives of airplanes type certificated through September 30, 1969. These airplanes have an expected lifespan well into the next century.

The past rule allowed these derivative airlanes to operate with flight recorder technology that dates back to the 1950's. In the past, cockpit voice recorders and flight recorders were not required of the commuter airline industry based on the premise that the level of passenger service was not sufficient to justify installing these recorders. Increased operation of the short-to-medium-range airplanes by the commuter airline industry, however, has placed them actuarially in a more severe operational environment than airplanes type certificated through September 30, 1969, creating the need for additional data collection.

Discussion

This amendment revises § 91.35 and adds a new § 125.202 that specifies that the Administrator will not use the cockpit voice recorder record in any civil penalty or certificate action. The purpose is to encourage operators to voluntarily install cockpit voice recorders in airplanes that are used in those operations where they are not required. The installed equipment must be approved and must continue to meet the airworthiness requirements under which the airplane is type certificated and operated.

This amendment substantively revises §§ 121.343 and 135.151. For operations conducted under Part 121, this rule requires retrofitting all airplanes type certificated through September 30, 1969 (currently using a six-parameter foil-type flight recorder), with a six-parameters digital flight recorder within 2 years from the effective date of the amendment. In addition, these flight recorders must be upgraded to 11-parameter digital flight recorders within 7 years after the effective date of this amendment. The 11 parameters consist of those currently required plus the following: (1) Pitch attitude; (2) roll attitude; (3) longitudinal acceleration; (4) control column or pitch control surface position; and (5) thrust of each engine. They are required to perform within the ranges, accuracies, and recording intervals specified in Appendix B of Part 121.

All newly manufactured airplanes having an original type certificate issued through September 30, 1969, are required to have 17-parameter digital flight recorders installed after 2 years from the effective date of this amendment.

The requirements for airplanes type certificated after September 30, 1969, do not change except for the substitution of

longitudinal acceleration for lateral acceleration.

For those operations conducted under Part 135, the amendment requires the installation of a CVR for all multiengine, turbine-powered airplanes certificated to carry six or more passengers and requiring two pilots by certification or operating rules, that are newly manufactured 2 years from the effective date of this amendment.

"Manufactured" means when the airplane inspection acceptance records reflect that the airplane is complete and meets the FAA-approved type design data. An airplane manufactured and then placed into storage prior to sale is considered manufactured on the date it is completed prior to being placed in storage.

Discussion of Comments

In response to NPRM No. 85–1, the FAA received comments from 29 interested persons. The majority of the comments received express opposition to the proposals based upon the costs involved in complying with the proposed requirements. More specifically, most of the opposition is directed to the digital flight data recorder proposals.

The proposals in NPRM No. 85–1 address three issues: (1) Recorder information to be used only for accident investigation purposes; (2) digital flight data recorders in specific airplanes operated under Part 121 of the FAR; and (3) cockpit voice recorders in specific newly manufactured airplanes operated under Part 135 of the FAR. For discusssion and analysis purposes, each issue will be addressed separately.

In its comments on NPRM No. 85–1, the National Transportation Safety Board (NTSB) states that the FAA has not entirely satisfied the intent of all its safety recommendations made to the FAA concerning enhancement of flight recorder standards required to provide adequate data for accident and incident investigation purposes and identifies six specific shortcomings. All the issues raised by the NTSB in its comments to NPRM No. 85–1 had been forwarded previously to the FAA as NTSB safety recommendations. These issues were considered in the development of the NPRM and have been addressed by FAA formal responses to the recommendations, the NPRM, or the preamble to this rule.

Since 1967, the NTSB has issued a total of 53 recommendations regarding CVR's and flight recorders. Of this total, 38 recommendations were forwarded to the FAA. The remaining 15 recommendations were issued to industry groups such as U.S. air carriers, the Air Line Pilots Association, the Allied Pilots Association, airplane and rotorcraft manufacturers, etc. Of the 15 industry recommendations, 5 remain open (A–82–101 through –105).

Of the 38 NTSB recommendations issued to the FAA, 26 recommendations are "CLOSED" through FAA/NTSB staff coordination and 12 recommendations remain in an "OPEN" status. The FAA is continuing to address these remaining 12 "OPEN" recommendations. The following is a summary of the "OPEN" recommendations that are mentioned in the NTSB's comments to the docket.

Recommendations A–82–067 and –108 recommend requirements for improved CVR's and flight recorders for rotorcraft and are being dealt with under a separate rulemaking action.

Recommendation A–82–106 recommends the development of a technical standard order (TSO) for CVR's and flight recorders. Proposed TSO–C111, which contains standards for CVR and flight recorders and combined CVR's/flight recorders, was published in the **Federal Register** on April 12, 1985. The final version of the TSO is presently undergoing internal FAA coordination prior to issuance.

Recommendations A–82–064 through –066 recommend that flight recorders currently required on fixed-wing aircraft operated under Part 121 be improved and that such aircraft manufactured after a certain date be equipped for flight recorders with additional parameters.

Recommendations A–82–107 and –109 through –111 recommend that turbojet fixed-wing aircraft certificated for six or more passengers not now required to have CVR's or flight recorders be required to have CVR's and flight recorders with additional parameters.

In its comments to the docket regarding Recommendations A–82–064 through –066, the NTSB requested that the FAA reconsider its action on Recommendation A–82–066 and require 32 parameters for flight recorders on newly manufactured fixed-wing aircraft operated under Part 121. The FAA has determined that an increase in the required parameters to 17 represents an appropriate balance of costs and benefits.

In its comments to the docket on Recommendations A–82–107 and –109 through –111, the NTSB acknowledged that the FAA has satisfied its recommendation with respect to CVR requirements for aircraft operating under Part 135. The NTSB urged the FAA to require flight recorders for all multiengine turbine-powered aircraft operated under Part 135. The FAA agrees with the NTSB that requiring flight recorders on multiengine turbine-powered aircraft operated under Part 135 would provide helpful accident investigation information. However, the FAA continues to believe that the benefits of such regulation would not be communsurate with the associated costs.

In its comments to the docket, the NTSB states that the rule does not provide flexibility to accommodate advancing technology. The FAA agrees that changes in aeronautical technology may at some future date require changes to this rule. However, to issue a rule that includes the degree of flexibility necessary to accommodate future technology that is not presently defined is impracticable. When new design features are identified, the FAA can and will evaluate them during development of the type certification basis and take whatever actions are necessary to maintain the required safety level. If additional parameters or interfaces between electronic systems call for special requirements, they will be issued as appropriate. Consistent with rulemaking policy and as experience is gained with such future novel technologies, consideration will be given to revising the appropriate rules. In the new, fly-by-wire aircraft control system design, the one-to-one correlation from crew input to the resulting control system response does not exist. That, and other new design features, may require the FAA to propose and adopt additional parameters to be recorded, over those currently required by the operating rules.

The NTSB continues to urge that the FAA initiate further rulemaking to require flight recorders in multiengine, turbine-powered, fixed-wing airplanes operated under Part 91 or 125. A careful review of the benefits required to offset the cost of requiring flight recorders in the class of airplanes recommended by the NTSB operating under Part 91 or 125 shows that the anticipated benefits will not support such a requirement. The rule does encourage the installation of such equipment by stating that flight recorder records will not be used by the Administrator in any civil penalty or certificate action.

In its comments to the docket, the NTSB stated that it was disturbed that the FAA has not taken the initiative to propose rulemaking consistent with the standards recently adopted by the International Civil Aviation Organization (ICAO). This amendment is consistent with the recent Amendment 17 to ICAO Annex 6, Part I. The NTSB, in its comments, intermingles ICAO "requirements" and ICAO "recommendations." Requirements are

binding on the ICAO member states, while recommendations are not. This amendment is in full agreement with the ICAO requirements in § 6.3 of Annex 6 and in many respects is in agreement with the ICAO recommendations in that section. Attachment D to ICAO Annex 6, Part I, contains detailed flight recorder guidance to member states. In that attachment, ICAO recommends the 32-parameter flight recorders for certain types of airplanes. The FAA agrees with both ICAO and the NTSB that more data is always preferable and also agrees with the ICAO position that the increased data parameters be recommendations and not required parameters. The FAA believes that the parameters specified in this amendment are sufficient to identify accident probable cause and that the additional parameters (up to 32) have not been shown to be cost beneficial.

Recorder Information for Accident Investigation

One commenter supports the proposed amendments to §§ 91.35 and 125.202. A second commenter opposes the amendments, contending that the FAA should use the data as necessary to improve piloting skills. The FAA does not agree that the Administrator should use the cockpit voice recorder record in any civil penalty or certificate action. As stated in the notice, the purpose is to encourage operators to voluntarily install cockpit voice recorders in airplanes where they are not required. The information from the record is to determine the cause of the accident and not to place blame. Improvement of piloting skills can be obtained by current requirements, such as the biennial flight checks.

Digital Flight Data Recorder

The FAA received seven comments supporting the notice as it relates to the digital flight data recorder proposals.

One commenter contends that any airline retrofit requirement can be satisfied by equipment currently in production and agrees with the FAA's estimates of equipment costs. This commenter asserts that his estimate of maintenance cost savings to airlines which replace foil recorders with digital flight recorders reflects a savings of $600,000 annually based on a 100-airplane fleet.

Another commenter agrees with the requirement to replace metal foil-type recorders with digital types because accident investigation would be simplified and accomplished with greater accuracy but expresses concern that the 2-year period for replacement of existing metal foil-type recorders with digital types may not be realistic. The commenter asserts that the assumption was made that the new digital recorders would be directly interchangeable with existing foil-type recorders in all installations. Although many metal foil-type recorders in service are packaged in rectangular (standard ½ Air Transport Rated (ATR) long) containers, almost 1,400 Lockheed Model 109C metal foil-type recorders packaged in a spherical container have been delivered to customers, and many are still in service today. This commenter also recommends that the two-phase (2-year/7-year) plan be replaced with a single-phase program for incorporation of the 11 parameter recorder and that the time limit for completion be compatible with existing airline maintenance cycles. The FAA recognizes that the Lockheed Model 109C recorder is configured differently from the standard ½ ATR long container but still believes that the 2-year phase-in period, with proper planning, is sufficient to reconfigure the mounting rack for installation of the new recorder.

Two commenters, while supporting the proposed rule, believe that the requirements should be further expanded to maximize the information available from accident investigations and contend there is sufficient justification to require all airplanes operated under Part 121 and type certificated through September 30, 1969, to be upgraded to the 17-parameter digital recorder within 2 years from the effective date of the amendment. The FAA agrees that 17 parameters would derive more information from the accident. However, the 11 parameters required for the aircraft type-certificated through September 30, 1969, via the 2-step program will enhance the accident data available to investigators with minimum cost and out-of-service time for the airplane. The FAA does not believe that the additional 6 parameters will provide the safety benefit necessary to offset the additional cost. Both commenters are of the opinion that all airplanes involved in Part 135 operations should be required to carry the digital flight recorders within 2 years from the adoption of the amendment. One of the commenters also questions the use of a single parameter for measuring engine thrust and believes a more accurate method is to measure the N_1 speed and fuel flow for each engine. The FAA considers these issues to be outside the scope of this current rulemaking action.

One other commenter considers the 17-parameter digital recorder as being too limited and not consistent with recently adopted International Civil Aviation Organization (ICAO) requirements (32 parameters) applicable to airplanes over 60,000 pounds. The FAA evaluated these issues in the Trans Systems study while preparing the notice and concluded that based on the information available at that time, the proposals were the most cost beneficial in terms of accident prevention through accident investigations. It should also be pointed out that the final ICAO document addresses only new certificates of airworthiness issued after 1989. The comment is outside the scope of the notice, and there is insufficient justification by the commenter to issue a supplemental notice that addresses the recent ICAO standards. The FAA concludes that the existing air carrier fleet of 2,000 plus transport category airplanes do need the new digital type 11-parameter recorder, and this regulatory action should proceed.

Another commenter agrees with the proposals and believes they are necessary to ensure that adequate data is available for accident investigations. The commenter contends that in the affected airplanes, there will be adequate room, and little weight penalty for the digital flight recorder to be installed and serviced without difficulty. The FAA agrees with these comments.

One commenter states that the requirement for converting to a 6-parameter digital recorder should be deleted as it is unlikely to enhance accident investigation to any extent and recommends requiring the 11-parameter recorder in 7 years. The FAA does not agree because adequate time has been allotted for foil-type recorders to be replaced and then expanded to the 11-parameter recorder without undue hardship in the airline industry. Research of the National Transportation Safety Board (NTSB) records indicates that 48 percent of the recorders recovered from accidents or incidents were not functioning. The foil-type recorder would likely increase in failure rate over the 7-year period, resulting in increased inspections, decreased time between overhaul, and possible increase in FAR maintenance violations, as well as not having the data available in the event of an accident or incident. There is a definite need to replace the foil recorders as soon as possible.

In addition to the above, the FAA received 18 responses to the notice expressing opposition to the digital flight recorder proposals on the basis of the economic impact of complying with the proposed requirements. Five commenters provided estimated cost figures for retrofitting their CV-580 turbopropeller airplanes to comply with

the proposed requirements. These estimates ranged from $14,000 to $50,000 per airplane modification. Estimated cost figures that were provided for other models of airplanes came within the above low and high estimates per airplane modification. In addition, one commenter notes that the FAA estimated costs in the notice did not consider the loss of value on currently owned flight recorders, and this commenter estimates this value at $6,000 per recorder. With the loss of $6,000 per recorder added to his estimate, this brings the total estimated cost to approximately $9,500 below the average of the low and high estimates above. Another commenter states that he has observed a price increase per flight recorder of approximately $5,000 to $6,000 since the issuance of NPRM No. 85–1. To properly respond to these comments, the FAA has prepared a detailed cost estimate using the latest available information in its Regulatory Evaluation, and the FAA considers these costs the most realistic in determining the cost of compliance with the final rule.

The NTSB suggests the addition of longitudinal acceleration as a parameter. The NTSB contends that longitudinal acceleration is vital for determining the effect of wind shear, braking, and airplane performance and is a much more significant parameter than some others presently recorded. The NTSB is responsible for determining the probable cause of and contributing factors to an accident and is the prime user of the flight recorder data. The FAA agrees with the NTSB that the longitudinal accelerometer is necessary in identifying the contributing factors to an accident or incident, and has changed the requirements for the 11-parameter recorder by substituting longitudinal acceleration for pitch trim for the post-September 30, 1969, certificated airplanes. In addition, the FAA has substituted longitudinal acceleration in place of lateral acceleration for newly manufactured airplanes. The FAA has reviewed type design data for airplanes affected and finds that other than the reconnection of wiring at the tri-axis accelerometers in the post-September 30, 1969 airplane, and the substitution of a longitudinal accelerometer for pitch trim synchro or a potentiometer in the 11-paramater airplane type certificated through September 30, 1969, these changes are not significant.

Another commenter opposes the digital flight recorder proposal but does not operate any airplanes that require modification to comply with the proposal. This commenter did not provide any information or data to support this opposition. The FAA does not agree with this commenter.

One commenter contends the foil-type flight recorders are satisfactory for the older turbopropeller-driven airplanes because their design and operating environment is sufficiently different from that of turbojet-powered airplanes. The FAA does not agree that the foil-type recorder is adequate in the current accident investigation environment because of the inaccuracies that can occur between the routine maintenance times and the operations check before flight. A recent review of NTSB accident files has found the inservice failure rate of the foil recorders to be unacceptable.

Several commenters state that many of the older affected airplanes will likely be retired shortly after the anticipated effective date in early 1987. The FAA does not agree that the older airplanes should be exempted because of a supposed early retirement from service. Certain operators may retire their affected airplanes from their fleets, but these airplanes most likely will be in service with other operators, and the requirements will continue to be applicable. Because the airplanes comply with the new rules, the operator has a more marketable and valuable airplane at the time the airplane is placed on the market. The FAA does agree that an airplane in service for a considerable length of time may be considered to have a low probability of operational and mechanical "surprises." However, unanticipated events such as fatigue may still occur and human factor information is relevant in accident investigations involving old and new airplanes alike. A digital flight recorder as an investigative tool will provide insight into these issues.

One commenter, an all-cargo carrier operating under Part 121 with nine CV–580 airplanes, states that the additional cost to comply with the proposed requirements would create a serious financial hardship on the company. This commenter contends that: The recent accident data for CV–50 airplanes does not justify any need to change the type of flight recorder in use; the CV–580 airplane design and operating environment has not changed in the past 25 years; and, the additional parameters and significant additional cost have not been justified on a cost versus flight safety benefit basis. Furthermore, this commenter contends that the cost to retrofit the digital flight recorder in his CV–580 airplanes could easily run as high as $450,000. The FAA recognizes that this commenter's contention of $50,000 per airplane for complying with the proposed requirement would be significant. However, no information or data was provided to show how this figure was derived. Most prudent operators will not incur these extremely high costs to comply with this final rule. The basis for this conclusion is explained in the section of the regulatory evaluation discussing FAA's response to these comments. A pilot-induced accident can occur any time with any airplane, and the accident history of a specific airplane type should not be a basis for exclusion from this regulation. Every accident must be evaluated to determine the probable cause and related events, and these types of airplanes are operated in sufficient numbers in passenger service to require the same accident investigation tools as other Part 121 airplanes.

One commenter recommends that airplanes type certificated prior to January 1, 1958, be exempt from the proposed requirements. The FAA does not agree with this recommendation, because every accident must be adequately investigated to determined the probable cause and identify actions to prevent accidents of that nature.

One commenter contends that the estimated nonrecurring cost for the proposed 2-phase retrofit of digital flight recorders on its association's member fleet is $49.5 million for 2,000 airplanes, not counting cash loss due to out-of-service time, and contends that the FAA's cost estimates are inconsistent. Furthermore, this commenter asserts that the FAA's stated basis for the proposed rule is based upon erroneous information and speculative estimates of future "unknown hazards" that would be identified by the expanded parameter digital recorders; that the FAA did not present any data that conclusively shows that the probable cause of any U.S. air carrier accident could not be determined because of the use of 6-parameter foil-type recorders; and that properly maintained 6-parameter flight recorders have not served the industry and Government well in developing accident prevention measures. This commenter recommends the notice be withdrawn because of the lack of adquate justification presented by the FAA. In addition, this commenter recommends that if the FAA decides to require the improve flight recorders regardless of the airline safety record, a single-step program that provides at least 7 years for accomplishment would minimize the impact on the airlines. Furthermore, the FAA should reevaluate its cost versus benefit estimates using

economic data presented in this response and by other commenters. The FAA has reevaluated the cost data, and the Regulatory Evaluation reflects these changes. With respect to the basis for this rule change, experience has shown that unexpected accident scenarios and unusual combinations of circumstances will occur.

Another commenter, while not opposing the proposal, recommends deleting the 6-parameter step in the program and recommends going directly to the 11-parameter digital flight recorder requirements, because the 2-year implementation period for retrofit is considered unrealistic. This would permit installations to coincide with maintenance schedules. This commenter also states that the notice assumed that foil-type recorders are apparently interchangeable with digital types in all cases and states that the digital flight recorders and the spherical configured foil-type are not, in fact, directly interchangeable as assumed. As previously stated, the FAA does not agree that the implementation program should be lengthened or that the 2-year implementation program is unrealistic. This commenter presented no information to support this assertion. The FAA has reevaluated the time frames for implementation against the availability of modification kits and/or digital recorders necessary for complying with these requirements and continues to find them achievable and realistic. Further, a slight additional cost for replacing the spherical foil recorder with the rectangular digital recorder is reflected in the revised Regulatory Evaluation.

One commenter recommends that § 121.343(c)(6) and (d)(6) be changed to indicate that radio communication either to or from Air Traffic Control (ATC) is acceptable. The FAA the intent was to record the airplane transmitter keying which would be *to* ATC. The rule has been changed accordingly. This commenter also recommends that the word "large" be added before the words "turbine engine powered" in § 121.343(b) to clarify that the requirement applies only to large airplanes. The FAA does not agree this change is necessary, because all airplanes operated under Part 121 must be type certificated in the transport category and the FAA is not aware of any small airplanes, weighing less than 12,500 pounds maximum certificated takeoff weight, being operated under Part 121. If small airplanes do in the future operate under Part 121, the FAA sees no reason to treat them differently from large airplanes.

Another commenter suggests replacement of the foil-type recorders with digital types on an attrition basis and contends that the price increase of 100 percent in the last 3 years for the foil medium will achieve this objective. The FAA does not agree, because there is no assurance of attrition as suggested, and no assurance that digital flight recorders will be installed within a reasonable period of time. Furthermore, the FAA has no way of controlling flight recorder prices.

These amendments are based on a number of NTSB recommendations and a study conducted by Trans Systems Corporation, completed in May 1983 for the FAA Office of Aviation Safety, entitled "Cockpit Voice and Flight Data Recorder Evaluation." The study evaluated a number of CVR/flight recorder equipment requirements and options, one of which was the adoption of all NTSB recommendations. The Trans Systems study is available in the Public Docket for review. Copies of the FAA replies to NTSB safety recommendations concerning CVR's/flight recorders are available from the FAA Office of Aviation Safety.

Cockpit Voice Recorder

The FAA received 16 comments in response to the cockpit voice recorder proposal, with 9 commenters opposing the proposal and 7 commenters expressing support.

Three commenters contend that the requirements should apply only to those turbined-powered airplanes with a seating configuration of ten or more, excluding pilot seats. One commenter states that no rationale is given to reduce the number to six and that, historically, the dividing line has been ten passenger seats. The FAA does not agree with the increase to ten because of the large number of small airplanes that operate with between six and nine passengers and that are required by Part 135 to have two pilots for conducting Instrument Flight Rules operations with those airplanes.

The NTSB's recommendation, which was used as the basis of the Trans Systems Corporation study, was about the number of accidents involving six-passenger turbine-powered, multiengine airplanes in air taxi and corporate/executive operations in which the accidents circumstances remain unknown.

One commenter asserts that the increased fuel consumption to carry these recorders should be considered in the economic evaluation. The FAA agrees that the increased fuel cost should be added in the analysis, and the economic evaluation addresses the increase.

Another commenter contends that the purpose of cockpit voice recorders is to fix the blame for an accident or incident. The FAA does not agree because the purpose of the recorder is to determine the probable cause of the accident, and this should not be construed to mean "fix the blame." The same commenter asserts that some 80 percent of all accidents are caused by pilot error but provides no basis for this assertion. The FAA does not agree with the 80 percent figure recognizes that a significant number of accidents can be attributed to pilot error. Finding a pilot's action or inaction as a causal factor in an accident or incident is not intended to be the same as "fixing the blame."

One commenter contends that most of the airplanes to which this rule would apply operate in a very limited environment or portion of the airspace and that there is insufficient time to record much voice communication when a problem arises. The commenter further contends that the cause of most accidents in this area is probably pilot error during takeoff and landing and doubts that the addition of CVR's would shed any new light on the cause or circumstances surrounding any accident. The FAA does not agree that there is insufficient time to record meaningful voice communications. It is not the quantity but rather the quality of such data that may determine the cause in the relationship between the pilots, the airplane, and the operating environment at the time of an accident. Also, it is not just the voice communications that are useful in determining a cause but all recorded noise, i.e. switch actuation, engine revolution, aural warnings, etc.

One commenter asserts that the cockpit voice recorder would not add to the level of safety of a flight, and its only benefit, that of aiding accident investigation, is abstract and unproven. The FAA agrees that the CVR does not add to the level of safety of a specific flight but does not agree that the usefulness is abstract and unproven. There are years of experience with cockpit voice recorders in Part 121 aircraft that attest to the benefits to be derived from the recorders.

Another commenter contends the proposed rule is discriminatory since many small multiengine airplanes that not turbine powered are certificated to carry more than six passengers. The FAA does not agree that the rule is discriminatory.

One commenter asserts that an operator should be given the option of

installing a flight recorder instead of the cockpit voice recorder because more information may be obtained from the former. As a regulatory proposal, this comment is outside the scope of the notice.

Three commenters contend that the CVR has proven to be an invaluable tool in accident/incident investigations and that it would be prudent to require a CVR for any multiengine, turbine-powered airplane operating under Part 135 with two pilots and carrying six or more passengers regardless of the date of manufacture of the airplane. The FAA evaluated this issue in the Trans Systems study while preparing this notice but concluded that the estimated costs would exceed the potential benefits if all multiengine airplanes are included.

Regulatory Evaluation

The FAA has completed a detailed regulatory evaluation of the final rule which is available in the regulatory docket. It is similar in form to the regulatory evaluation of NPRM No. 85–1, but many revisions have been made in response to comments that addressed the notice. The evaluation also incorporates more current cost and fleet forecast information.

The major findings of the evaluation of the final rule are summarized below. However, FAA's response to those comments that addressed the regulatory evaluation of the notice is presented in its entirety.

I. Discussion of Comments Addressing the Regulatory Evaluation of the NPRM

Numerous comments were received to NPRM No. 85–1, that addressed the regulatory evaluation of the proposed rule. These comments have been considered by the FAA and are discussed in this section. The regulatory evaluation of the final rule follows this discussion of comments. The FAA has revised its evaluation in many respects to reflect issues raised by the commenters.

A. Comments on Costs

A.1. Part 121 Proposals

Numerous comments criticize FAA's estimates of the cost to retrofit existing pre-1969 type-certificated airplanes operated under Part 121 with digital flight recorders and to upgrade these airplanes to record 11 parameters of information. In its regulatory evaluation of the notice, FAA considered the costs of various digital flight recorder and flight data acquisition unit equipment combinations that would meet the proposed requirements and estimated that the maximum cost for any of the various options, including labor and signal sources, would be approximately $22,000 per airplane. Comments have been received arguing the FAA's costs were significantly underestimated and that compliance costs could exceed $50,000 per airplane, more than twice FAA's highest estimate. Further, commenters also state that additional costs would result because airplanes would need to be removed from service to accomplish the retrofit; that the two-phase approach (initial digital recorder retrofit within 2 years followed by the upgrade to 11 parameters within 7 years) would result in higher compliance costs than a one-phase approach because airplanes would need to be taken out of service twice; that design certification costs had been omitted; and that many spherical foil recorders were still in service that would create special installation problems when replaced with digital recorders in standard one-half ATR boxes.

The FAA was unable to find evidence that the very high compliance cost estimates of approximately $50,000 would be incurred by cost-conscious operators. These high costs could be realized if the equipment were purchased through third parties and if the installation work was not scheduled to coincide with regular maintenance intervals. However, because most prudent operators would negotiate with recorder equipment manufacturers to obtain the best fleet purchase price, reflecting quantity discounts, and because cost-conscious operators can be expected to use scheduled maintenance cycles as efficiently as possible, FAA expects that actual compliance costs will in most cases be similar to those estimated by the FAA. The FAA has raised its equipment cost estimates by 10 percent to reflect inflation in the prices of recorders since the notice was prepared 2 years ago.

To allow for the additional cost which may be incurred by some operators who find it necessary to rely on a modification shop to perform the retrofit as a complete package, including the provision of all necessary equipment, the FAA has added 40 percent to its estimated cost values for recorders, flight data acquisition units (FDAU's), and signal sources. This modification shop markup factor has been applied to 15 percent of the airplanes affected by the retrofit provisions of this final rule.

The FAA also found that air carriers, when performing contract maintenance work for other carriers, and modification shops charge labor rates of approximately $35 to $40 per hour. Further, the contractor's overhead expenses are already included in the labor rates charged to customers. The FAA has used a $40 labor rate in its evaluation of the final rule, slightly higher than the $35 value used for the notice.

Other factors may affect the compliance costs of the rule, not all of which may necessarily have been identified by the FAA or the commenters. Installation labor may in some instances exceed FAA estimates, or, as one commenter argued, recorder manufacturers may increase their prices following implementation of the rule (which the FAA does not expect to be much of a problem because of competition among manufacturers). However, to allow for these contingencies, the FAA has performed a sensitivity analysis on its cost estimates. This enables comparisons to be made of the potential effects variations in the cost estimates may have on the overall desirability of the new Part 121 recorder standards.

The FAA maintains its expectation that both the digital retrofit and parameter upgrade work can be completed without requiring airplanes to be removed from service specifically for this purpose. Although it will require careful planning on the part of operators, both the digital recorder retrofit and parameter upgrade work can be completed in steps and integrated into regularly scheduled maintenance intervals over the 2-year digital conversion compliance period and the 7-year parameter upgrade compliance period. Similarly, installation labor costs can be partially reduced by anticipating maintenance procedures involving aircraft disassembly that would also provide an opportunity to install the additional information parameter signal sources and wiring.

Engineering design and certification costs are expected to be relatively minor for each airplane type/recorder equipment combination that operators elect to install. These costs usually have already been incurred by recorder equipment manufacturers and are reflected in the prices they charge their customers. Further, many of the airplane types affected by the amendments are operated by foreign carriers with similar or more stringent recorder requirements; therefore, the engineering work has, to a large extent, previously been completed. Finally, when prorated over the total number of airplanes converted using a particular equipment combination, the per-airplane cost attributable to design and certification is expected to be an extremely small portion of the overall equipment and installation costs.

Nevertheless, a cost sensitivity analysis has been added to the regulatory evaluation, and this should adequately provide for the occasional situation where design and certification costs present a special problem.

The FAA agrees that for those aircraft equipped with the Lockheed spherical foil recorder, a new mounting rack will be required which will add about $500 to the installation costs. However, because of a previous rule change, any spherical recorders that had originally been installed in the wheel wells should have already been relocated to the rear of the airplane. Therefore, no additional installation costs should result from the need to relocate the recorder.

Commenters also question the FAA's estimate of the annual recorder maintenance savings that could be realized as a result of replacing foil recorders with digitial recorders. One commenter states that converting to digital equipment would result in carriers experiencing a range of from $2,400 additional annual maintenance expense per airplane to $1,800 annual maintenance savings per airplane. This compares to the $2,500 annual maintenance savings estimate used by the FAA in the notice, which the FAA considered a conservative reduction of flight recorder manufacturer savings estimates that ranged from $3,000 to $5,00 annually per airplane.

The FAA maintains its expectation that because of the higher reliability of digital recorders in comparison to aging foil recorders, and the continuously increasing cost of the foil medium, digital recorders should result in net maintenance savings for operators. However, because of the concerns raised by commenters, the FAA has reduced its estimate of annual maintenance savings from $2,500 per airplane to only $1,500 per airplane in its analysis of the final rule. Further, the FAA also maintains its original expectation that the additional signal sources will require maintenance only infrequently and that any maintenance costs which may result from the signal sources will be negligible in comparison to savings resulting from the conversion to much more reliable digital equipment.

Similarly, the FAA expects that the relatively higher mean time between failures of digital equipment in comparison to foil recorders should actually reduce the potential for flight delays because of minimum equipment list requirements, rather than increase this possibility, as some commenters state.

Another commenter states that the short remaining life of older airplanes would reduce the maintenance savings attributable to digital recorders well below FAA estimates. However, in its regulatory evaluation of the notice, the FAA allowed for forecast fleet attrition in estimating the total maintenance savings that would result from the rule. Further, the FAA did not take credit for maintenance savings realized by digitally equipped airplanes that had voluntarily converted or were expected to voluntarily convert in the absence of the rule. Finally, in later years of the 15-year analysis period, the FAA reduced the percentage of active airplanes forecast in those years that would realize maintenance savings as a result of the new rule. This was because newly manufactured airplanes just entering service are currently delivered with digital recorders and because airplanes that operators have voluntarily converted generally would be the airplanes with the longest remaining service life.

One commenter expresses concern that airplanes exempt from the noise standards of Part 36 until January 1, 1988, would be retired shortly after the effective date of the flight recorder final rule. As stated in the notice, the FAA expects that the availability of hush kits will enable many of these airplanes to remain active after their noise exemption expires. Similarly, Boeing 707 and McDonnell Douglas DC-8 airplanes, other than DC-8-70's retrofitted with noise compliant engines, were excluded from the fleet expected to be affected by the proposed rule because of other Part 36 noise standards that became effective in 1985. However, since the notice was written, hush kits have become available for both DC-8's and Boeing 707's, and a limited number of these airplanes are now expected to remain in service. Therefore, based upon preliminary information prepared by the FAA's Office of Environment and Energy, these types of airplanes have been added to the forecast of the pre-1969 type certificated airplane fleet expected to be affected by the rule.

Other comments state that any additional weight attributable to the digital retrofit and parameter upgrade would result in slightly higher fuel consumption. The FAA argees and has added a weight penalty cost factor to its analysis.

Comments were received stating that in its cost estimates the FAA did not allow for the lost residual value of foil recorders when the new rule makes them instantaneously obsolete. The FAA recognizes that this is a valid consideration; however, this factor has already been reflected in the analysis. It is the remaining utility or useful life of the foil recorders that will be lost as a result of this rule change, or in other words, the foregone *benefits* that would have been derived from their continued use. (The equipment costs of the old foil recorders are sunken costs that will not affect, or be affected by, any decisions made concerning the new requirements. Therefore, these costs are not relevant for the present analysis and have been excluded.) However, the regulatory evaluations of both the notice and the final rule have assessed the *improvements* in accident investigations and consequently safety which will result from the new requirements, i.e., the *additional* or *incremental* benefits which will be realized over and above the current rule. Therefore, to offset the incremental benefits by the lost benefit of the old recorders (i.e., the lost residual value) would represent double-counting. Further, because the incremental cost of the new requirements is on average only about one or two cents per enplanement over the analysis period (based on *FAA Aviation Forecasts Fiscal Years 1986–1997*), operators should not find it difficult to recover their additional costs in the fares collected from passengers who are the ultimate beneficiaries of the safety improvements.

The NTSB expresses concern in its comments that the longitudinal acceleration parameter had not been included among the additional information parameters proposed in the NPRM. The FAA has reconsidered this question and decided that longitudinal acceleration should be included. Although this change from the original proposal may at first glance appear potentially expensive because it will affect airplanes type certificated after September 30, 1969, as well as those type certificated before that date, it will have a relatively minor cost impact. First, the FAA has determined that virtually all post-1969 type certificated airplanes are equipped with tri-axis accelerometers, capable of sensing longitudinal, vertical, and lateral acceleration; and in most cases the longitudinal axis sensor is wired to the recorder. Second, for airplanes type certificated before 1969, the FAA will allow operators to substitute longitudinal acceleration for the pitch trim parameter originally proposed for existing airplanes that will be required to upgrade to 11 parameters and to substitute longitudinal for lateral acceleration on newly manufactured airplanes subject to the new 17-parameter requirement. A slight additional signal source expense will be incurred over that estimated in the notice for airplanes upgrading from 6 to

11 parameters, and the regulatory evaluation of the final rule has been revised accordingly.

One commenter states that the 1983 Trans Systems Corporation report entitled "Cockpit Voice and Flight Data Recorder Evaluation" indicated that expanding the retrofit requirement for pre-1969 airplanes from the 6-parameter digital conversion to the 11-parameter upgrade requirement would more than double the total compliance costs of the rule change. The Trans Systems Corporation study did state this. However, the Trans Systems Corporation study presented an overview of numerous cockpit voice recorder and flight recorder options for airplanes operating under various operating regulations of the FAR. The FAA's regulatory evaluations of NPRM No. 85–1 and of the final rule are much more focused and have analyzed the specific option that has been proposed and adopted in much greater detail than was possible in the Trans System Corporation study. The FAA's cost estimates of the final rule indicate that the 11-parameter upgrade requirement will increase total compliance costs by only about one-third over the total costs of a rule that would require just the 6-parameter digital retrofit for existing pre-1969 airplanes.

One commenter expresses concern that the new flight recorder requirements would create problems for the international exchange of aircraft for either sale or lease. The FAA does not agree. Many foreign countries currently have flight recorder requirements that exceed those of the United States. The new requirements being adopted by this final rule will reduce the differences between the airplanes of U.S. operators and those of many foreign operators. This may in fact facilitate, rather than hamper, the internatonal exchange of aircraft.

Other comments state that the development of new recorder technology and the expense of maintaining old foil recorders would result in the gradual attrition of foil recorders. Therefore, they concluded, this rulemaking action was unnecessary. The FAA disagrees. Voluntary replacement of foil recorders with digital equipment has already occurred in about one-third of the pre-1969 fleet affected by this rulemaking, and in its analysis of the notice the FAA estimated that, in the absence of a new rule, this trend would have continued until about one-half of the pre-1969 fleet had been voluntarily converted at the time the new rule would mandate the converison. Although attrition could have been expected to continue beyond this deadline in the absence of the rule change (and this has been considered in estimating the compliance costs of the final rule), it alone would not have resulted in a timely replacement of the remaining foil recorders still active in the fleet. Further, attrition would not have resulted in the voluntary upgrade of the safety information parameters that will be required by this final rule.

One commenter states that because this operation intends to purchase new airplances in the near future, there would not be enough time to fully depreciate the investment in the new flight recorders that would be required by this rule. Although this is true, the resale value of the operator's current fleet should be enhanced because the airplanes have already been equipped with the digital recorders that many potential customers will also require for their operations. The value of these assets should not be lost when the airplanes are placed on the market.

A.2. Part 135 Proposals

Some commenters disagrees with the FAA's estimates of the cost of equip newly manufactured airplanes operated under Part 135 with cockpit voice recorders. In NPRM No. 85–1, FAA estimated that the cost would be $7,275 per airplane based upon the least expensive unit available at the time. This estimate was the CVR cost to the airframe manufacturer but did not include any markup by the airframe manufacturer, only installation labor. One commenter obtained a quote from an airframe manufacturer of about $30,000 per airplane. This higher cost could be incurred only if a more expensive model CVR were to be installed in the airplane and if the airframe manufacturer significantly marked up the recorder price over its own acquisition cost. However, the FAA's cost estimates in the final rule are based on the expectation that CVR equipment will be furnished by the airplane customer to the airframe manufacturer for installation. This is the common practice in the industry for avionics equipment because it enables prudent operators to negotiate with equipment manufacturers to obtain the best fleet purchase price and quantity discount.

Another commenter states that the FAA did not consider the reduced complexity and associated costs of recorders meeting the Society of Automotive Engineers Aerospace Standard (AS) 8039, "Minimum Performance Standard—General Aviation Flight Recorder," issued in January 1985. Although this standard was not available in 1983, the original Trans System Corporation study used order of magnitude recorder cost estimates reflective of simpler recorder designs in its evaluation of various Part 135 recorder options. Further, the FAA has contacted various recorder manufacturers and determined that none currently plan to produce a separate CVR unit meeting the AS 8039 standard, although some are considering a combined cockpit voice/flight data recorder unit. Therefore, the FAA has again based its CVR equipment cost estimates for the Part 135 amendment on a relatively inexpensive CVR model that is currently available. The FAA has adjusted its cost estimates in the evaluation of the final rule to reflect 1986 equipment prices.

Another comment states that the additional weight of the cockpit voice recorder would result in a slight increase in fuel consumption for those airplanes that will be required to install them. The FAA agrees and has added a weight penalty cost factor to its analysis.

One commenter expresses concern that the additional weight of the CVR would sometimes result in payload restrictions. FAA does not expect that this will be a problem for the types of airplanes affected by the rule. The turbine-powered airplanes typically used by Part 135 operators have sufficient performance capability to accommodate the slight additional weight of the CVR without affecting most operations. In high-altitude, hot-temperature conditions where the airplane will be operating closer to its performance limits, the weight of the CVR is light enough that careful planning of fuel load should prevent impacting payload any further than it might already have been impacted by those conditions. Situations where the CVR weight would be critical to conducting an operating with the desired payload are expected to be extremely rare.

A related comment also argues that the added weight of the recorder would result in higher engine operating temperatures and consequently higher engine maintenance costs. The FAA does not agree. The additional weight of the CVR installation will only be about 30 pounds, and this represents only a very small fraction of a percent of the overall weight for those airplane types that will be effected by the rule. Any possible effect on engine operating temperatures, and consequently engine maintenance costs, will be so slight as to be unmeasurable.

B. Comments on Benefits Analysis

B.1 Part 121 Proposals

Some of the comments addressing the analysis of benefits focus on the particular examples of accident investigations that were cited in the evaluation and on the discussion of advances in understanding wind shear that the FAA attributed to expanded parameter recorders.

One commenter states that the FAA provided no evidence to support its contention that the expanded parameter flight recorder requirements "are necessary to ensure that all of the underlying casual factors of an accident are identified" and that the FAA only referenced two accidents in the notice in discussing the benefits of recorders. The benefits analysis in the complete regulatory evaluation, available in the docket, discussed six accidents or incidents supporting the value of expanded parameter recorders, although only three were referred to in the summary of the regulatory evaluation published in NPRM No. 85–1. The availability in the docket of the complete regulatory evaluation was stated in the notice.

Another commenter states that no benefits would be realized by replacing foil recorders with digital recorders during the first phase of implementation. Airplanes retrofitted with digital recorders would be allowed to operate for at least 5 years before being required to upgrade to 11 parameters. The FAA does not agree with this argument. The FAA reviewed NTSB data from 1983 to early 1986 and found that in about 49 percent of the accident or incident investigations in which foil recorder tracings were read, a recorder malfunction or maintenance deficiency resulted in the partial or complete loss of recorded information. Further, the two-phase approach is intended to allow operators to perform all retrofit work during regularly scheduled maintenance cycles.

One commenter questions specific details of one of the examples. In the notice, the FAA stated that following the May 1979 crash of a DC–10 at Chicago, the expanded 17-parameter digital flight recorder provided evidence that the loss of control was a direct result of the unwanted retraction of the airplane's left leading edge slats, not the separation of the No. 1 engine and pylon assembly itself. The commenter asserts that this statement is erroneous because the recorder did not record slat retraction since power to the recorder was lost when the engine and pylon separated. Identification of the unwanted slat retraction was not based on recorded information of the left inboard and outboard slat positions. These parameters were lost when the No. 1 engine and pylon separated, together with certain other parameters that received electrical power from the No. 1 a.c. generator bus. However, the flight recorder continued to record all remaining parameters for approximately one-half of a minute until the recording ended upon impact. It was the *correlation* of the remaining recorded aircraft and flightcrew information, together with simulator tests, knowledge of the DC–10's performance characteristics, and other investigation findings, that resulted in the conclusion that the left leading edge slats had retracted.

Other comments question the validity of the FAA's claim that recorders contributed significantly to a better understanding of wind shear. The comments state that almost all wind shear accidents involved airplanes equipped with 6-parameter foil recorders and that sufficient information was available to determine probable cause. The FAA does not disagree that the presence of wind shear could be determined from the limited parameter recorders and other sources of accident information. However, only a limited amount of information concerning airplane performance or flightcrew response in these situations could be obtained. Although very few wind shear accidents or incidents involving expanded parameter recorders have occurred, they have provided significant amounts of information about wind shear. Further, preliminary analysis of information recorded by the expanded parameter recorder installed aboard the Lockheed L–1011 that crashed in Dallas in August 1985 has provided strong evidence confirming theories about especially hazardous microburst characteristics that previously had only been simulated in laboratory tests.

Comments also state that, because the wind shear problem was well on the way to being solved, the FAA was relying on the detection of other "random unknown safety hazards." The commenter states that the FAA's estimate of a range of between zero and four accidents, distributed around a mean of 2, that might be prevented during the 15-year analysis period as a result of information learned from the expanded parameter recorders was speculation. FAA expects that the information learned from the expanded parameter recorder, especially in the area of human factors, could result in the prevention of a number of accidents in the future. However, because the relationship between accident investigations, increased understanding of potential hazards, improvements in equipment and crew training, and the actual prevention of future accidents is somewhat indirect and cannot be easily measured, the FAA will not attempt to assign a specific probability distribution to the potential number of future accidents that might be prevented, as it did in the evaluation of the notice. Rather, the FAA will show that if just one accident is prevented as a result of this rule, the compliance costs, in terms of costs per fatality avoided, fall well within the range of values generally considered acceptable by various regulatory agencies when implementing safety regulations. It is very reasonable to expect that at least one accident will be prevented as a result of information learned from the expanded parameter recorders required by this final rule.

One commenter states that the Trans Systems Corporation study concluded that because of the well-known and proven characteristics of the pre-1969 airplanes, "the probability of not being able to determine a cause of an accident for these aircraft is considered to be low." The FAA agrees that the basic cause of an accident usually can be detected from limited parameter recorders and other sources of accident information. However, as stated previously, only a limited amount of information concerning airplane performance and flightcrew response during these accident situations can be obtained, and the opportunity to improve flightcrew reactions in potentially survivable situations is lost.

One major point needs to be made concerning those comments that address the analysis of benefits. Comments tend to focus on details of specific examples but miss the more general principles that these examples were attempting to demonstrate. The detailed information that expanded parameter flight recorders make available allows a much more objective accident analysis to be completed. Investigators can compare and correlate the actual performance of the airplane with that intended by the flightcrew, and, most importantly, the numerous assumptions that investigators often must make in determining probable cause can be reduced significantly. Thus, more specific and focused corrective actions can take place, especially in the area of human factors and crew training, than would otherwise be possible in the absence of this additional information. Further, the graphic depiction of an

accident scenario that can be reconstructed in great detail will leave a much more lasting impression on the part of flightcrews. This concept is very similar to the old maxim "A picture is worth a thousand words." The opportunity that a detailed, specific accident report provides for flightcrews to more thoroughly think through their own possible reactions if they were to find themselves in a similar situation is a learning experience that cannot be obtained from an accident report characterized by more general conclusions based upon numerous assumptions.

B.2 Part 135 Proposals

Comments that address the benefits of the proposal to require that CVR's be installed on newly manufactured turbine-powered airplanes operated under Part 135 generally question the value of such recorders. Commenters state that the safety benefits that the FAA attributed to the CVR's were overstated.

The FAA considers this rule to be a long-term corrective action reflecting recent changes in the structure of the airline industry. Part 135 operations have grown significantly since airline deregulation in 1978 opened up the commuter industry, yet only turbojet airplanes equipped with 10 or more passenger seats are currently required to have CVR's (Section 135.151). Implementation of this final rule will eventually result in all turbine-powered airplanes operated by the commuter industry being equipped with a recorder of some type—a CVR for those smaller airplanes with 30 seats or less operated under Part 135, and both a CVR and flight recorder for those larger airplanes with between 31 and 60 seats operated under Part 121. The FAA recognizes that these benefits will not be realized immediately, but expects that this long-term approach will provide the public with the safety benefit of more thorough investigations of accidents involving those airplane types that now carry a much larger share of passenger traffic than in previous years, yet not unduly burden the operators of these airplanes.

II. Evaluation of Costs and Benefits

The 15-year period of the regulatory evaluation includes the years from 1987 through 2001. Values are expressed in 1986 dollars, and present values have been calculated using the 10 percent discount rate prescribed by the Office of Management and Budget.

A. Costs.

1. Amendment of the flight recorder requirements for aircraft operating under Part 121.

The major cost components of complying with the amendments to the Part 121 flight recorder requirements include the digital flight recorder, an FDAU necessary to convert input signals into a digital format, signal sources (such as transducers, potentiometers, etc.) when none are presently available for the additional parameters to be recorded, labor costs for installation, and ground support equipment to maintain the digital recorders. Offsetting these retrofit and upgrade costs are the present value of the retrofit costs that would have eventually been incurred to replace many foil recorders reaching the end of their economic lives subsequent to the digital conversion deadline established by this final rule, and the reduction in the cost of maintenance for a digital flight recorder in comparison to the older, electromechanical foil recorders.

In response to comments, a cost factor has been added reflecting the fuel penalty resulting from any increases in airplane weight that are attributable to the new rule. Cost estimates have also been modified to reflect substitution of the longitudinal acceleration parameter for other parameters originally proposed in the notice and special retrofit installation requirements for airplanes equipped with older, spherical foil recorders.

Further, the FAA expects that the majority of operators will find it most economical to purchase recorder and FDAU equipment directly from the manufacturers of that equipment, even though the actual installation work may be contracted out. However, in some instances an operator may have a modification shop provide the equipment as well as the labor. This would increase the retrofit costs to the operator because the modification shop marks up the parts it supplies. This additional unit cost in converting some airplanes has been considered in estimating the cost of the final rule.

Other cost factors may potentially affect the compliance costs of this rule. These factors include the possibility that recorder manufacturers might attempt to increase the prices of their equipment following implementation of the rule (which is not expected to be a very significant problem because of competition between manufacturers), that in some special cases design engineering and certification costs may not be fully included in equipment costs, or that installation labor may exceed FAA's estimates, even when the work is carefully planned ahead of time. To allow for these contingencies, the FAA has performed a sensitivity analysis on its cost estimates.

For airplanes operated under Part 121, the present value total cost of the various digital flight recorder requirements in this final rule, after deducting maintenance savings and the present value of costs which would result from the expected future attrition of many foil recorders in the absence of this rule, has been estimated to be approximately $27.6 million. These costs are summarized in Table 1 below:

TABLE 1.—SUMMARY OF PART 121 FLIGHT RECORDER COSTS, PRESENT VALUE—1986 DOLLARS (THOUSANDS)

Initial Retrofit with Digital Recorder	$24,870
Upgrade from 6 to 11 Parameters	8,612
Newly Manufactured Aircraft	1,385
Ground Support Equipment	2,504
Fuel Penalty	1,824
Subtotal	$39,195
Less Anticipated Foil Attrition/Digital Replacement	(3,689)
Less Maintenance Savings	(7,928)
Total Cost	$27,578

Should the contingencies allowed for in the cost sensitivity analysis result in actual costs that are 25 percent higher than estimated, and actual deductions that are 25 percent lower, the total cost could increase to approximately $40.3 million. These costs represent discounted values of incremental costs incurred as a result of the final rule for the 15-year period between 1987 and 2001.

The revised unit costs and additional cost factors used in evaluating the final rule are summarized in Table 2.

1. Initial retrofit from foil to digital flight recorder:

TABLE 2.—SUMMARY OF REVISED ASSUMPTIONS USED IN ESTIMATING COSTS OF AMENDMENTS TO PART 121 FLIGHT RECORDER REQUIREMENTS

Equipment	Installation
Direct replacement, single unit digital flight recorder	
$15,420 combined FDAU/flight recorder unit.	$0
Separate flight recorder and FDAU	
	(including 6-to-11 parameter upgrade).
$11,000 flight recorder	$1,400 labor (35 hrs @ $40 per hour, FDAU in avionics bay).
$11,000 mini-FDAU	$1,900 signal sources.
$22,000 Total	$3,300 Total.

2. Upgrade from 6-parameter digital to 11-parameter digital flight recorder:

Equipment	Installation
Direct replacement flight recorder capable of recording 11-parameters as single-unit	
$2,200 Modification kit (when required).	$2,000 labor (50 hrs. @ $40 per hour, FDAU/recorder in rear of aircraft). $1,900 signal sources.
	$3,900 Total.
Direct replacement flight recorder requiring external mini-FDAU to record 11-parameters	
$11,000 mini-FDAU	$3,300 (same as separate FDAU and flight recorder installation above).

3. Installation of 17-parameter vs. 6-parameter digital flight recorder during assembly of newly manufactured aircraft:

$4,800 average FDAU/flight recorder cost differential over 6-parameter options.	
1,400 labor (35 hrs. @ $40 per hour).	
2,175 signal sources.	
$8,375 Total	

4. Miscellaneous Costs: a. Recorder, FDAU, and signal source equipment costs increased 40 percent when purchased through modification shop rather than directly from manufacturer.

b. Retrofit of spherical foil recorders—$500 additional cost to install rack for standard ½ ATR long container.

c. Lost asset value of obsolete foil recorders—$4,500 per unit.

d. Fuel penalty 15 gallons annually for each additional pound of weight added to transport category airplane. Current fuel price $0.85 per gallon. Average additional weight estimated at 10 pounds for airplanes subject to retrofit and 25 pounds for newly manufactured airplanes requiring 17 parameters.

e. Digital recorder ground support equipment (maintenance and testing)—$55,000 per set.

5. Maintenance Savings—Foil to Digital Conversion: $1,500 annually per airplane.

Source: Equipment price quotations from flight recorder and FDAU manufacturers, labor and signal source estimates from FAA aircraft engineering and maintenance staff, air carrier maintenance personnel, and modification shop personnel.

2. Amendment requiring cockpit voice recorders on certain newly-manufactured, turbine-powered aircraft operated under Part 135

The equipment that will be required to comply with this proposal includes the cockpit voice recorder, the control unit with area microphone, and the vibration mounts, connectors, and other hardware required for installation. The manufacturer of a relatively inexpensive unit currently available indicates that this equipment could be purchased for approximately $9,500 per set. Adding 15 hours of labor at $40 per hour for installation, the total cost of equipping a newly manufactured airplane with a CVR has been estimated to be $10,100.

The maintenance cost of a CVR is approximately $150 per 1,000 hours of operation. The FAA estimates that the Part 135 aircraft affected by this proposal are utilized a maximum of 1,600 hours per year. Annual maintenance costs are therefore estimated to be $240.

The additional airplane weight resulting from the CVR is approximately 30 pounds. Based upon the 14 gallons of fuel estimated to be consumed annually for each pound of weight carried aboard typical commuter airplanes affected by this rule, and current jet fuel prices in the $.80 to $.85 per gallon range, the FAA estimates that the cost of additional fuel attributable to the weight of the CVR will be approximately $350 per year for each airplane.

Estimating the number of multiengine, turbine-powered airplanes certificated to carry six or more passengers and requiring two pilots, which will be manufactured during the 15-year period of this analysis and operated under Part 135, is extremely difficult because the commuter market is undergoing a major transition. A new generation of aircraft developed specifically for the expanding commuter industry has recently begun to enter service. These new aircraft, most of which are large enough to operate under Part 121, are expected to dominate the commuter market in the years to come, but the exact impact that they will have on the future market share of the older generation commuter aircraft which operate under Part 135 is difficult to predict.

Because of the uncertainty characterizing this transitional period, the FAA estimated a range of costs based upon a low delivery rate of 120 aircraft per year and a high delivery rate of 240 aircraft per year in the regulatory evaluation of the notice. However, the FAA has reviewed current trends in the delivery of new turbine-powered airplanes with airframe manufacturers or their representatives and found that its original estimates for Part 135 were somewhat high. Therefore, the FAA has revised its forecast downward for the evaluation of the final rule and estimates that only between 75 and 125 new turbine-powered airplanes for Part 135 operators will be delivered annually during the period of this analysis.

Applying the unit cost values discussed above to these delivery rates and discounting yields present value total costs which range from $8.3 to $13.8 million.

B. Benefits

1. Overview of Benefits Analysis

Estimating the benefits of flight recorders and cockpit voice recorders is difficult because a recorder is an investigative tool, and unlike other airborne safety devices, the absence of a flight recorder or cockpit voice recorder cannot be considered the cause of or a contributing factor to an accident involving that airplane.

Therefore, the benefits of flight recorders and cockpit voice recorders can only be measured in abstract terms; that is, how the recorder's contribution to determining the cause of one accident can lead to corrective measures to prevent other similar accidents, or, in other words, preventing the opportunity cost of lost information. It is not possible to accurately predict the number of accidents that would have occurred had these corrective actions not been taken. Nor is it possible to look at accidents wherein the probable cause remained elusive and state with assurance that the cause would have been positively determined and corrective action taken if the accident airplane had recorded more information. To demonstrate the utility of flight data and cockpit voice recorders, the benefits analysis of the regulatory evaluation examines the types of accidents in which recorders have been or could have been the key element in determining the cause of an accident.

2. Proposal to amend the flight recorder requirements for aircraft operating under Part 121

The accident investigations cited in the regulatory evaluation demonstrate how expanded parameter flight recorders have been effective in the determination of an aircraft structural, mechnical, or systems failure. This information has led directly to corrective actions such as aircraft modifications or changes in operating procedures that can prevent future accidents. Further, the determination that an accident was *not* caused by an airplane mechanical, structural, or systems problem can also be quite beneficial because costly but unnecessary design analyses or modifications to an airplane prompted by hypotheses rather than conclusive evidence can be prevented. Similarly, use of expanded parameter flight recorders could prevent an unnecessary suspension of an airworthiness certificate and avert economic losses to

passengers and carriers alike. Although such costs are difficult to quantify, the benefits of avoiding these costs must be recognized.

Another benefit resulting from the determination of accident cause through expanded parameter flight recorders is the ability to define more precisely those operational problems that need to be addressed by research and development programs. The most prominent example of this is wind shear. Expanded parameter flight recorders have made, and continue to make, significant contributions towards understanding this hazardous phenomenon and improving pilot training programs so that flightcrews are better able to handle wind shear encounters. At least one averted accident has been attributed directly to the improved techniques that have resulted from the wind shear program.

In the regulatory evaluation of the notice, the FAA developed a probability distribution of possible future accidents that could be prevented as a result of the expanded parameter recorder requirements. However, the relationship between accident investigations and the actual prevention of future accidents is somewhat abstract and cannot be directly observed. Further, the prevention of accidents is the cumultative result of numerous related learning experiences, only one of which is the feedback made possible through recorded accident information. In most cases it is not possible to link a prevented accident with a specific source of learning, if in fact it is even possible to identify most situations where an accident has been averted. The accident that does not occur often goes unnoticed. For these reasons, the FAA has reconsidered its original approach, and has determined that a meaningful probability distribution of the future accidents that may be prevented as a result of this final rule cannot realistically be assigned. Any effort to do so would be an attempt to give the analysis a greater degree of precision than the nature of the problem and the availability of information can support. However, because the various arguments presented in the regulatory evaluation demonstrate how expanded parameter recorders enable the detailed correlation of accident investigation information and contribute to much more specific corrective actions, it is highly probable that at least one accident, if not more, will be prevented as a result of information learned because of the amended flight recorder requirements which are being adopted in this final rule. The benefits of flight recorders are realized particularly in the area of human factors analysis providing information on how flightcrews respond to hazardous situations, and this information is valuable for preventing future accidents regardless of whether it is learned from an accident involving an older or newer airplane model.

The FAA estimates that the benefits that will be realized from a typical catastrophic accident that is avoided in the future will be the prevention of approximately 110 passenger and crew fatalities, the loss of the airplane, and the associated accident investigation costs. The standard average air carrier hull value of $8.9 million for destroyed airplane and the standard NTSB major accident investigation cost of $953,000 have been used to estimate the quantifiable benefits for each accident prevented.[1]

Discounting these values as a uniform series of payments over the 15-year period of the analysis (to allow for the random nature of acidents that may be prevented anywhere within that period) at the 10 percent discount rate prescribed by OMB yields an average quantifiable benefit of $5.2 million for each accident prevented. From this information and the previous cost analysis, the cost per fatality avoided has been determined. This is discussed subsequently in subsection C, "Comparison of Costs and Benefits."

3. Amendment requiring cockpit voice recorders on certain newly-manufactured, turbine-powered airplanes operated under Part 135.

The benefits that will result from the Part 135 amendment requiring cockpit voice recorders on all newly manufactured multiengine, turbine-powered airplanes certificated to carry six or more passengers and requiring two pilots are very similar to those achieved from flight recorders on Part 121 aircraft. Implementation of this rule will eventually result in all turbine-powered airplanes operated by the commuter industry being equipped with a recorder of some type—a CVR for those smaller airplanes with 30 seats or less operated under Part 135, and both a CVR and flight recorder for those larger airplanes with between 31 and 60 seats operated under Part 121. Therefore, the traveling public would benefit from the learning opportunities that more thorough investigations would allow.

The CVR's are particularly useful for human factors analysis. Although frequently the aircraft system malfunction, weather situation, or other causal factor can be identified, without the recorder it is difficult to ascertain whether or not the flightcrew responded to the emergency situation appropriately. The lack of this information makes it difficult to develop techniques that could benefit future travelers caught in similar situations. CVR's also can pick up other information useful to investigators, such as engine sounds, audio alarms and signals, and the sounds of some switches and control activation.

There have been a number of recent accidents involving turbine-powered airplanes operated under Part 135 in which a CVR would have greatly assisted in the accident investigations. This is especially true of the December 1984 Embraer Bandeirante accident in Jacksonville, Florida. The airplane crashed shortly after takeoff, but the exact cause of this accident has been extremely difficult for investigators to pinpoint. The other fatal accidents include three landing accidents and one training accident. Investigations of all of these accidents would have been enhanced if recorded information were available. Adoption of this final rule will prevent future occurrences of this problem in many newly manufactured airplanes operated under Part 135 and will contribute to the prevention of future accidents.

The FAA estimates that the benefits that will be realized from a typical catastrophic commuter accident that is avoided in the future will be the prevention of approximately 12 passenger and crew fatalities, the loss of the airplane, and the associated accident investigation costs. An average hull value of $1.0 million for a typical used turbine-powered airplane and the previously cited major accident investigation cost of $953,000 have been used to estimate the quantifiable benefits for each accident prevented.

Discounting these values as a uniform series of payments over the 15-year period of the analysis (to allow for the random nature of accidents that may be prevented anywhere within that period) at the 10 percent discount rate prescribed by OMB yields an average quantifiable benefit of $1.0 million for each accident prevented. From this information and the previous cost analysis, the cost per fatality avoided has been determined. This is discussed

[1] See *Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs* (Report # FAA-APO-81-3), and *Economic Analysis of Investment and Regulatory Decisions—A Guide* (Report # FAA-APO-82-1), FAA Office of Aviation Policy and Plans. Values have been adjusted for inflation as prescribed in these guides.

subsequently in subsection D, "Comparison of Costs and Benefits."

C. Comparison of Costs and Benefits

1. Amendment of the flight recorder requirements for airplanes operating under Part 121.

The FAA has estimated that the total compliance costs of meeting the new Part 121 flight recorder standards will be approximately $27.6 million. The cost sensitivity analysis indicated that this figure could increase to approximately $40.3 million. If one or more catastrophic accidents are prevented, which is a highly probable consequence of this rule change, then the loss of at least one transport category airplane and 110 fatalities will be avoided.

This will prevent aircraft hull value and accident investigation costs of $5.2 million (discounted present value). Deducting the prevented hull loss and accident investigation costs from the total compliance costs yields that portion of costs that will go entirely toward saving lives. Based upon the average of 110 fatalities avoided for each accident prevented, the maximum cost per fatality avoided will fall between $203,000 and $319,000, depending on whether the higher costs allowed for in the cost sensitivity analysis are in fact incurred. These are maximum values for the cost per fatality avoided and will be less if more than one accident is prevented as a result of this rule.[2]

2. Amendment requiring cockpit voice recorders on certain newly-manufactured, turbine-powered airplanes operated under Part 135.

The FAA has estimated that the total compliance costs of meeting the new Part 135 CVR requirement will range from $8.3 to $13.8 million, depending on the number of new airplanes delivered during the 15-year period of this analysis. If one or more catastophic accidents are prevented as a result of information learned from these CVR's, then the loss of at least one commuter airplane and 12 fatalities will be avoided. This will prevent aircraft hull value and accident investigation costs of $1.0 million (discounted present value). Deducting the prevented hull loss and accident investigation costs from the total compliance costs yields that portion of costs that will go entirely towards saving lives. Based upon the average of 12 fatalities avoided for each accident prevented, the maximum cost per fatality avoided will be between $602,000 and $1.1 million. However, there is a greater likelihood of realizing the potential benefits as the cost per fatality avoided increases because there will also be more airplanes equipped with CVR's in active service. Further, the cost per fatality avoided will be less if more than one accident is prevented as a result of this rule.

[2] The prevented accidents that may result from this rule could occur at any time during the period of this analysis. Generally, there is a social preference to realize benefits at an earlier rather than later time, and when a specific monetary value has been assigned to a particular benefit, discounting is used to reflect this time preference. Benefits realized earlier will have a higher present value than those realized later. However, when it is difficult to assign a specific monetary value to a benefit and it is therefore expressed in other units for comparison to costs (in this case the benefit unit is the number of fatalities avoided), discounting of the benefit units would only serve to introduce an element of specious accuracy into the analysis and is therefore inappropriate. Realistically, the actual benefit units can only be compared to the present value of costs, with the understanding that if it could be measured more precisely, the time preference would be to realize the benefits as early as possible.

III. International Trade Impact Analysis

The amendment will have little or no impact on trade for either U.S. firms doing business in foreign countries or foreign firms doing business in the United States. The amendments will affect only U.S. air carriers because foreign air carriers are not subject to Part 121 or 135. Foreign air carriers are prohibited from operating between points within the United States; therefore, they will not gain any competitive advantage over the domestic operations of U.S. carriers. In international operations, foreign air carriers are not expected to realize any cost advantages over U.S. air carriers because many foreign countries have even more stringent recorder requirements than those adopted in this final rule. Therefore, there will essentially be no trade impact.

IV. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities."

All of the rule changes will directly affect those air carriers operating under Parts 121 and 135 that are classified as small entities. However, with one exception, they are not expected to result in "a significant economic impact on a substantial number" of small entity air carriers.

The following evaluation analysis explains the reasons for this determination. In developing estimates of annualized net compliance costs, uniform annualized costs for capital investments have been determined by multiplying the amount of the investment by a capital recovery factor appropriate for the discount rate and period of the analysis. A capital recovery factor of .125, based upon a 10 percent discount rate over a 15-year period, has been used in this analysis. Threshold cost values and small entity size standards are those stated in FAA Order 2100.14, *Regulatory Flexibility Criteria and Guidance.* Values have been adjusted to 1986 dollars.

The Part 121 amendment requires aircraft to initially equip with 6-parameter digital flight recorders and later increase the number of parameters to 11. The unit investment cost for the most expensive configuration (separate FDAU and separate flight recorder) has been estimated to be $28,000, including a prorated share of the test equipment cost, and assuming that the foil recorder on this airplane would not have been replaced at any time during the analysis period in the absence of this rule. The uniform annualized cost for this investment is $3,508. Adding the annual fuel penalty cost of $128 and deducting the annual maintenance savings of $1,500 from this amount yields an annual net cost of $2,136 per aircraft.

The threshold values defining a significant economic impact for schedued carriers are $94,094 if the entire fleet has a seating capacity of over 60 seats and $52,546 for other scheduled carriers. A carrier would have to convert 45 or 25 airplanes, respectively, to exceed either of these thresholds. A small entity is defined as one which owns nine or fewer airplanes. Consequently, any scheduled operator exceeding either of the minimum cost thresholds for scheduled operators as a result of this amendment would not be considered a small entity.

However, the threshold value defining a significant economic impact for an unscheduled operator is only $3,666. A carrier would only have to convert two airplanes to exceed this threshold. Data collected by the FAA on Part 121 fleet size distribution indicated that there are 64 unscheduled carriers operating under Part 121 and that 26 of these carriers, or 40 percent, operate 2 or more airplanes. This is more than one-third of the small unscheduled operators subject to the rule. Consequently, the FAA has determined that this amendment may have a significant economic impact on a substantial number of small unscheduled operators, and a regulatory flexibility analysis is required under the terms of the RFA. The regulatory flexibility analysis for these

unscheduled operators follows in Section V.

Those air carriers that have already retrofitted their fleet voluntarily would only incur costs as a result of the requirement to upgrade from 6 to 11 parameters. However, none of the carriers that the NTSB identified as having converted voluntarily are small carriers. Therefore, no small entities would be impacted by this requirement.

The Part 135 amendment requiring CVR's on certain turbine-powered aircraft would not have a significant economic impact on small entity commuter air carriers. The uniform annualized cost of the $10,100 investment to install a CVR on a newly-manufactured aircraft is $1,266. Adding the annual maintenance and fuel penalty costs of $590 yields a net annual compliance cost of $1,856. Commuter carriers are scheduled operators and therefore the threshold value of $52,546 applies. An operator would have to buy 29 new aircraft to exceed this threshold, far greater than the 9 aircraft defining a small entity. Therefore, no small entity commuter carriers will be affected by this amendment.

With respect to on-demand air taxis operating under Part 135, the FAA's Aviation Standards National Field Office in Oklahoma City lists approximately 4,000 operators registered as on-demand air taxis. The majority of these are small entities. However, data examined in the *FAA Statistical Handbook of Aviation* indicate that less than 20 percent of all air taxis operate turbine-powered aircraft. Therefore, the criteria for a "substantial number," one-third of the small entities affected, has not been exceeded.

For these reasons, the amendments adopted in this final rule are not expected to have a significant economic impact on a substantial number of small entities for all affected categories other than the small unscheduled Part 121 operators. However, a regulatory flexibility analysis is required under the terms of the RFA for the small unscheduled Part 121 operators.

V. Final Regulatory Flexibility Analysis

As required by section 604 of the RFA, the following analysis deals with the amended Part 121 flight recorder requirements as they relate to small unscheduled operators.

A. Why Agency Action is Taken

The reasons for agency action are detailed in the final rule and the regulatory evaluation.

Briefly, the amendment upgrades flight recorder standards for airplanes receiving original type certificates before September 30, 1969, and operated under Part 121. The expected service life of a pre-1969 type certificated airplane has been prolonged far longer than anticipated at the time higher flight recorder standards were adopted for post-1969 airplanes. The advantages of the additional parameters of recorded information have been demonstrated by those airplanes so equipped, and it is desirable that more specific information be obtained following an accident than is possible under current regulations.

B. Objectives and Legal Basis for the Rule

The objective of the amendment is simply to make commercial air transportation safer. This objective has been thoroughly discussed in the final rule and the regulatory evaluation.

The legal bases of the proposal are sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 through 1430 and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

C. Description of Small Entities Affected by the Rule

The entities are unscheduled air carriers subject to Part 121 of the FAR with nine or fewer airplanes. This is covered in detail in Section IV above.

D. Compliance Requirements of the Rule

The amendment requires that pre-1969 type certificated airplanes operated under Part 121 be equipped with digital flight recorders within 2 years of the effective date of the rule and that these recorders be upgraded to record 11 parameters of information within 7 years of the effective date of the rule.

E. Overlap of the Rule with Other Federal Rules

There are no other Federal rules that duplicate, overlap, or conflict with the amended rule.

F. Comments in Response to the Initial Regulatory Flexibility Analysis

In NPRM No. 85–1, the FAA certified that the proposed rule was not expected to have a significant economic impact on a substantial number of small entities for all categories of operators which would be affected by the rule. Consequently, an Initial Regulatory Flexibility Analysis was not required and none was prepared. The revisions to the cost estimates in the final rule resulted in the determination that the amendment could result in a significant economic impact on a substantial number of small entities for only one category of operator, the small unscheduled Part 121 air carriers. However, as discussed below, this is the result of the relatively low threshold value for determining a significant economic impact applicable to unscheduled operators in comparison to scheduled operators of similar equipment, and therefore the small unscheduled Part 121 air carriers are not expected to be any more adversely affected than their scheduled counterparts.

The FAA's original regulatory flexibility determination remains the same for all other categories of small entities.

G. Alternatives to the Proposal

The small entity nonscheduled Part 121 operators should be included in the rule, rather than excluded, because they operate the same types of airplanes as those operated by scheduled Part 121 operators. Further, Part 121 operators engage in common, rather than private, carriage of persons and property. The standards should be the same for all operators of similar equipment that hold out to the public as a common air carrier, regardless of whether their operations are scheduled or not. Finally, because unscheduled carriers operate the same types of airplanes as scheduled carriers, their operating costs are very similar for the same scale of operations. The $3,666 threshold value defining a significant economic impact for unscheduled operators is substantially lower than the $52,546 and $94,094 thresholds applicable to scheduled carriers. However, this is because the vast majority of unscheduled operators are air taxis that operate under Part 135 with much smaller and less costly piston-powered airplanes. Although small entity unscheduled Part 121 operators will exceed their low threshold value if they convert two or more airplanes, they should be no more adversely affected than the scheduled small entity Part 121 operators because their costs are much more comparable to those of scheduled Part 121 operators than to those of unscheduled Part 135 operators.

Conclusion

For the reasons discussed in the preamble and based upon the findings in the Regulatory Evaluation, Regulatory Flexibility Determination, and Trade Impact Assessment located in the docket, the FAA has determined that this document: (1) Involves an amended regulation that is not major under Executive Order 12291; and (2) is a significant rule pursuant to the Department of Transportation

Regulatory Policies and Procedures (44 FR 11064; February 26, 1979). In addition, it is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities for all the affected categories of small entities other than the small, unscheduled Part 121 operators. A final Regulatory Flexibility Analysis has been prepared in accordance with Sections 604 (a) and (b) of the Regulatory Flexibility Act for this category. A copy of the evaluation may be obtained by contacting the person identified in the **"FOR FURTHER INFORMATION CONTACT"** paragraph.

List of Subjects

14 CFR Part 91

Air carriers, Aviation safety, Safety, Aircraft, Air transportation.

14 CFR Part 121

Aviation safety, Safety, Air carriers, Air transportation, Aircraft, Airplanes, Transportation, Common carriers.

14 CFR Part 125

Aircraft, Airplanes, Airworthiness.

14 CFR Part 135

Air carriers, Aviation safety, Safety, Air transportation, Air taxi, Aircraft, Transportation, Airplanes

Adoption of The Amendment

Accordingly, Parts 91, 121, 125, and 135 (14 CFR Parts 91, 121, 125, and 135) are amended as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for Part 91 is revised to read as set forth below, and the authority citations following all sections in Part 91 are removed:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 State 1180); 42 U.S.C 4321 et seg.; E.O. 11514; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. By amending § 91.35 by designating the introductory text as paragraph (a); by redesignating paragraphs (a), (b), (c), and (d) as (a)(1), (2), (3), and (4); and by adding a new paragraph (b) to read as follows:

§ 91.35 Flight recorders and cockpit voice recorders.

* * * * *

(b) In the event of an accident or occurrence requiring immediate notification to the National Transportation Safety Board under Part 830 of its regulations that results in the termination of the flight, any operator who has installed approved flight recorders and approved cockpit voice recorders shall keep the recorded information for at least 60 days or, if requested by the Administrator or the Board, for a longer period. Information obtained from the record is used to assist in determining the cause of accidents or occurrences in connection with investigation under Part 830. The Administrator does not use the cockpit voice recorder record in any civil penalty or certificate action.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

3. The authority citation for Part 121 is revised to read as set forth below, and the authority citations following all sections in Part 121 are removed:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

4. By revising § 121.343 to read as follows:

§ 121.343 Flight recorders.

(a) Except as provided in paragraph (b), (c), or (d) of this section, no person may operate a large airplane that is certificated for operations above 25,000 feet altitude or is turbine-engine powered unless it is equipped with one or more approved flight recorders that record data from which the following may be determined within the ranges, accuracies, and recording intervals specified in Appendix B of this part:
(1) Time;
(2) Altitude;
(3) Airspeed;
(4) Vertical acceleration;
(5) Heading; and
(6) Time of each radio transmission either to or from air traffic control.

(b) No person may operate a large airplane type certificated up to and including September 30, 1969, for operations above 25,000 feet altitude, or a turbine-engine powered airplane certificated before the same date, unless it is equipped before May 26, 1989 with one or more approved flight recorders that utilize a digital method of recording and storing data and a method of readily retrieving that data from the storage medium. The following information must be able to be determined within the ranges, accuracies, and recording intervals specified in Appendix B of this part:
(1) Time;
(2) Altitude;
(3) Airspeed;
(4) Vertical acceleration;
(5) Heading; and
(6) Time of each radio transmission either to or from air traffic control.

(c) No person may operate an airplane specified in paragraph (b) of this section unless it is equipped, before May 26, 1994 with one or more approved flight recorders that utilize a digital method of recording and storing data and a method of readily retrieving that data from the storage medium. The following imformation must be able to be determined within the ranges, accuracies and recording intervals specified in Appendix B of this part:
(1) Time;
(2) Altitude;
(3) Airspeed;
(4) Vertical acceleration;
(5) Heading;
(6) Time of each radio transmission either to or from air traffic control;
(7) Pitch attitude;
(8) Roll attitude;
(9) Longitudinal acceleration;
(10) Control column or pitch control surface position; and;
(11) Thrust of each engine.

(d) No person may operate an airplane specified in paragraph (b) of this section that is manufactured after May 26, 1989, as well as airplanes specified in paragraph (a) of this section that have been type certificated after September 30, 1969, unless it is equipped with one or more approved flight recorders that utlitize a digital method of recording and storing data and a method of readily retrieving that data from the storage medium. The following information must be able to be determined within the ranges, accuracies, and recording intervals specified in Apendix B of this part:
(1) Time;
(2) Altitude;
(3) Airspeed;
(4) Vertical acceleration;
(5) Heading;
(6) Time of each radio transmission either to or from air traffic control;
(7) Pitch attitude;
(8) Roll attitude;
(9) Longitudinal acceleration;
(10) Pitch trim position;
(11) Control column or pitch control surface position;
(12) Control wheel or lateral control surface position;
(13) Rudder pedal or yaw control surface position;
(14) Thrust of each engine;
(15) Position of each thrust reverser;

(16) Trailing edge flap or cockpit flap control position; and
(17) Leading edge flap or cockpit flap control position.

For the purpose of this section, "manufactured" means the point in time at which the airplane inspection acceptance records reflect that the airplane is complete and meets the FAA-approved type design data.

(e) Whenever a flight recorder required by this section is installed, it must be operated continuously from the instant the airplane begins the takeoff roll until it has completed the landing roll at an airport.

(f) Except as provided in paragraph (g) of this section, and except for recorded data erased as authorized in this paragraph, each certificate holder shall keep the recorded data prescribed in paragraph (a), (b), (c), or (d) of this section, as appropriate, until the airplane has been operated for at least 25 hours of the operating time specified in § 121.359(a). A total of 1 hour of recorded data may be erased for the purpose of testing the flight recorder or the flight recorder system. Any erasure made in accordance with this paragraph must be of the oldest recorded data accumulated at the time of testing. Except as provided in paragraph (g) of this section, no record need be kept more than 60 days.

(g) In the event of an accident or occurrence that requires immediate notification of the National Transportation Safety Board under Part 830 of its regulations and that results in termination of the flight, the certificate holder shall remove the recording media from the airplane and keep the recorded data required by paragraph (a), (b), (c), or (d) of this section, as appropriate, for at least 60 days or for a longer period upon the request of the Board or the Administrator.

(h) Each flight recorder required by this section must be installed in accordance with the requirements of § 25.1459 of this chapter in effect on August 31, 1977. The correlation required by § 25.1459(c) of this chapter need be established only on one airplane of any group of airplanes—

(1) That are of the same type;

(2) On which the model flight recorder and its installation are the same; and

(3) On which there is no difference in the type design with respect to the installation of those first pilot's instruments associated with the flight recorder. The most recent instrument calibration, including the recording medium from which this calibration is derived, and the recorder correlation must be retained by the certificate holder.

(i) Each flight recorder required by this section that records the data specified in paragraph (a), (b), (c), or (d) of this section, as appropriate, must have an approved device to assist in locating that recorder under water.

Appendix B—[Amended]

5. By amending Appendix B by removing the phrase "Lateral acceleration" in the "Information" column and inserting the phrase "Longitudinal acceleration" in its place and by removing "Sideslip angle" in its entirety.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

6. The authority citation for Part 125 is revised to read as set forth below, and the authority citations following all sections in Part 125 are removed:

Authority: 49 U.S.C. 1354, 1421 through 1430, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

7. By adding a new § 125.202 to read as follows:

§ 125.202 Flight recorders and cockpit voice recorders.

In the event of an accident or occurrence requiring immediate notification of the National Transportation Safety Board under Part 830 of its regulations which that in the termination of the flight, any operator who has installed approved flight recorders and approved cockpit voice recorders shall keep the recorded information for at least 60 days or if requested by the Board, for a longer period. Information obtained from the record is used to assist in determining the cause of accidents or occurrences in connection with investigations under Part 830. The Administrator does not use the cockpit voice recorder record in any civil penalty or certificate action.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

8. The authority citation for Part 135 is revised to read as set forth below, and the authority citations following all sections in Part 135 are removed:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

9. By amending § 135.151 by revising the introductory text of paragraph (a); by redesignating paragraph (b) as (c); and by adding a new paragraph (b) to read as follows:

§ 135.151 Cockpit voice recorders.

(a) No person may operate: A turbojet airplane having a passenger seating configuration, excluding any pilot seat, of 10 seats or more, or a multiengine, turbine-powered airplane that has been manufactured after May 26, 1989, certificated to carry six or more passengers and requiring two pilots by certification or operating rules, unless it is equipped with an approved cockpit voice recorder that—

* * * * *

(b) For the purpose of this section, "manufactured" means the point in time at which the airplane inspection acceptance records reflect that the airplane is complete and meets the FAA-approved type design data.

* * * * *

Issued in Washington, DC, on March 18, 1987.

Donald D. Engen,

Administrator.

[FR Doc. 87–6398 Filed 3–24–87; 8:45 am]

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Federal Register

Wednesday
March 25, 1987

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 785

Surface Coal Mining and Reclamation, Operations; Permanent Regulatory Program; Requirements for Special Categories of Mining—Mountaintop Removal Mining; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 785

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Requirements for Permits for Special Categories of Mining—Mountaintop Removal Mining

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the U.S. Department of the Interior (DOI) proposes to amend its rules for "Permits for Special Categories of Mining—Mountaintop Removal Mining." This action would correct an inadvertent error whereby certain substantive provisions concerning mountaintop removal mining in the Surface Mining Control and Reclamation Act of 1977 (the Act) were not included in previous implementing regulations.These provisions include a finding for permit issuance that the applicant has presented specific plans for the proposed postmining land use and has made appropriate assurances concerning the use.

The addition of these provisions would make the rules for mountaintop removal mining consistent with the Act, as well as with the Secretary's brief in *In re: Permanent Surface Mining Regulation Litigation II* (Round III). The requirements of the proposed rule would ensure that all the substantive provisions of the Act are applied to mountaintop coal mining operations.

DATES:

Written comments: OSMRE will accept written comments on the proposed rule until 5:00 p.m. eastern time on June 3, 1987.

Public hearings: Upon request, OSMRE will hold public hearings on the proposed rule in Washington, DC; Denver, Colorado; and Knoxville, Tennessee, at 9:30 a.m. local time on May 27, 1987. Upon request, OSMRE also will hold public hearings in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington at times and on dates to be announced prior to the hearings. OSMRE will accept requests for public hearings until 5:00 p.m. eastern time on May 13, 1987.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining, Administrative Record, Room 5315A, 1100 L Street, NW., Washington, DC, or mail to the Office of Surface Mining, Administrative Record, Room 5315A–L, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public Hearings: Department of the Interior Auditorium, 18th and C Street, NW., Washington, DC; Brooks Towers, 2nd Floor Conference Room, 1020 15th Street, Denver, Colorado; and the Hyatt House, 500 Hill Avenue, SE., Knoxville, Tennessee. The addresses for any hearings scheduled in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington will be announced prior to the hearings.

Requests for public hearings: Submit orally or in writing to the person and address specified under "FOR FURTHER INFORMATION CONTACT" by the time specified under "DATES."

FOR FURTHER INFORMATION CONTACT: Arlo V. Dalrymple, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; telephone: 202–343–5840.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit five copies of their comments (see "**ADDRESSES**"). Comments received after the close of the comment period (see "DATES") may not be considered or included in the Administrative Record for the final rule.

Public Hearings

OSMRE will hold public hearings on the proposed rule on request only. The times, dates, and addresses scheduled for the hearings at three locations are specified previously in this notice (see "**DATES**" and "**ADDRESSES**"). The times, dates, and addresses for the hearings at the remaining locations have not yet been scheduled but will be announced in the **Federal Register** at least 7 days prior to any hearings which are held at these locations.

Persons who wish to participate in a hearing at a particular location should notify Arlo V. Dalrymple (see "**FOR FURTHER INFORMATION CONTACT**") either orally or in writing of the desired hearing location by 5:00 p.m. eastern time on May 6, 1987. If no one has expressed an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a written copy of their testimony. To assist OSMRE in preparing appropriate questions to clarify issues, OSMRE also requests that persons who plan to testify submit to OSMRE at the address previously specified for the submission of written comments (see "**ADDRESSES**") an advance copy of their testimony.

II. Background

The Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.* sets forth the statutory requirements governing surface coal mining operations and the surface impacts of underground coal mining. OSMRE has by regulations at 30 CFR Chapter VII implemented or clarified many of these requirements and established corresponding performance standards.

Section 515(c) of the Act permits an exception to the approximate original contour restoration requirement of section 515(b)(3) for mountaintop removal operations which, after reclamation, would be capable of supporting specified postmining land uses. In such operations, instead of restoring the approximate original contour, the operator is permitted to remove all of the overburden and to create a level plateau or a gently rolling contour with no highwall remaining. The regulatory authority may grant a permit of this type if a number of specific conditions are satisfied. Section 515(c)(3)(B) requires the applicant to present specific plans and assurances that the postmining land use will meet seven conditions.

In 1979, OSMRE promulgated regulations implementing section 515(c)(3)(B) at 30 CFR 785.14(c)(1)(iii). That section required any person who intended to conduct mountaintop removal mining to demonstrate in the permit application compliance with the seven conditions by cross-referencing

the requirements for alternative postmining land uses in 30 CFR 816.133.

On September 1, 1983 (48 FR 39892 *et seq.*), OSMRE promulgated final rules amending portions of its permanent regulatory program concerning postmining land uses and variances from approximate original contour. The rules amended included 30 CFR 785.14 and 816.133.

When OSMRE amended these sections, it inadvertently omitted the following requirements of section 515(c)(3)(B) of the Act, which an applicant must satisfy to qualify for a variance:

(B) The applicant presents specific plans for the proposed postmining land use and appropriate assurances that such use will be—

(i) Compatible with adjacent land uses;

(ii) Obtainable according to data regarding expected need and market;

(iii) Assured of investment in necessary public facilities;

(iv) Supported by commitments from public agencies where appropriate;

(v) Practicable with respect to private financial capability for completion of the proposed use;

(vi) Planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use; and

(vii) Designed by a registered engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site;

The omission of these requirements was challenged in *In re: Permanent Surface Mining Regulation Litigation II*, No. 79–1144 (D.D.C. 1985). As a result the Secretary reviewed the rule, determined it was necessary to amend it to correct this inadvertent error, and so informed the court. *In re: Permanent Surface Mining Regulation Litigation II* (Round III, Secretary's brief at p. 142, n. 90 (Dec. 17, 1984)). The court noted the Secretary's decision not to oppose the challenge and his determination to reinstate these provisions through a new rulemaking (July 15, 1985 Memorandum Opinion at p. 132).

III. Discussion of Proposed Rule

The proposed rule would amend 30 CFR 785.14, concerning permit requirements for mountaintop removal mining, to add a new paragraph (c)(1)(iii). The new paragraph (c)(1)(iii) would implement the provisions of section 515(c)(3)(B) of the Act.

The added provisions would require an applicant to present specific plans for the proposed postmining land use and to make appropriate assurances concerning this use to the regulatory authority. The plans and assurances concerning the use would allow the regulatory authority to examine the operation and determine that such use would or would not be compatible with adjacent land uses, obtainable according to the expected need and market, assured of investment in necessary public facilities, supported by appropriate public agency commitments, practicable with respect to private financial capabilities for completion of the proposed use, planned with respect to reclamation planning so as to integrate the mining operation and reclamation with postmining land use, and designed by a registered engineer.

Existing paragraphs (c)(1)(iii) and (c)(1)(iv) would be redesignated as paragraphs (c)(1)(iv) and (c)(1)(v), respectively. The newly redesignated paragraph (c)(1)(iv), which implements section 515(c)(3)(C) of the Act, would be revised to change the existing term "compatible" to "consistent" to conform to the exact language of section 515(c)(3)(C). This provision requires the regulatory authority to find that the proposed land use would be consistent with adjacent land uses and existing State and local land use plans and programs. No substantive change is intended.

The proposed rule would ensure the full implementation of the statutory provisions of section 515(c)(3) (B) and (C) as they pertain to mountaintop removal mining.

Effect in Federal Program States

The rules proposed today, if adopted, would apply through cross-referencing to the following Federal program States: Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee and Washington. The Federal programs for these States appear at 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, 942 and 947, respectively. Comments are specifically solicited as to whether unique conditions exist in any of these States relating to this proposal, which should be reflected either as changes to the national rules or as State-specific amendments to any or all of the Federal programs.

IV. Procedural Matters

Federal Paperwork Reduction Act

The information collection requirements of this proposed rule have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned approval number 1029–0040. The information is needed to meet the requirements of section 515(c)(3) of Pub. L. 95–87, and will be used by regulatory authorities when issuing permits for mountaintop removal operations.

Executive Order 12291

The DOI has examined the proposed rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis.

Regulatory Flexibility Act

The DOI also has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rule would not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

OSMRE has prepared an environmental assessment (EA) on the impacts on the human environment of this proposed rulemaking. This EA is on file in the OSMRE Administrative Record at the address listed in the "Addresses" section of the preamble. An EA on the final rule will be completed and a final conclusion reached on the significance of any resulting impacts before issuance of the final rule.

Author

The author of this proposed rule is Arlo V. Dalrymple, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–343–5361.

List of Subjects in 30 CFR Part 785

Coal mining, Reporting and recordkeeping requirements, Surface mining.

For these reasons set out in this preamble, Title 30, Chapter VII, Subchapter G of the Code of Federal Regulations, is proposed to be amended as set forth below.

Dated: February 25, 1987.

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING—MOUNTAINTOP REMOVAL MINING

The authority citation for Part 785 is revised to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 *et seq.*), unless otherwise noted.

2. Section 785.14 is amended by redesignating paragraphs (c)(1)(iii) and (c)(1)(iv) as paragraphs (c)(1)(iv) and (c)(1)(v), respectively.

3. Section 785.14 is amended by adding a new paragraph (c)(1)(iii) and revising newly redesignated paragraph (c)(1)(iv) to read as follows:

§ 785.14 Mountaintop removal mining.

* * * * *

(c) * * *

(1) * * *

(iii) The applicant has presented specific plans for the proposed postmining land use and made appropriate assurances that such use will be—

(A) Compatible with adjacent land uses;

(B) Obtainable according to data regarding expected need and market;

(C) Assured of investment in necessary public facilities;

(D) Supported by commitments from public agencies where appropriate;

(E) Practicable with respect to private financial capability for completion of the proposed use;

(F) Planned pursuant to schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use; and

(G) Designed by a registered engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site.

(iv) The proposed use would be consistent with adjacent land uses and existing State and local land use plans and programs;

* * * * *

[FR Doc. 87-6416 Filed 3-24-87; 8:45 am]

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Wednesday
March 25, 1987

Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 785 and 823

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Prime Farmland; Proposed Rule

DEPARTMENT OF THE INTERIOR

30 CFR Parts 785 and 823

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Prime Farmland

AGENCY: Office of Surface Mining Reclamation and Enforcement Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the U.S. Department of the Interior (DOI) proposes to amend certain portions of its rules applicable to prime farmland. In part, this action is being taken to comply with the decision the of U.S. District Court for the District of Columbia, October 1, 1984. *In re: Permanent Surface Mining Regulation Litigation II.* The amended rules would: (1) Provide guidance in implementing a limited exemption for lands occupied by coal preparation plants, support facilities and roads associated with underground mines, which are actively used over long periods of time and affect a minimal amount of land; specific provision would be made for coal processing waste storage areas of preparation plants associated with underground mines; (2) Amend the water body exemption in consideration of the District Court decision; and (3) Propose a rule which relates to the removal and replacement of B and C soil horizons, where removal is unnecessary and would not normally be required.

DATES: .

Written Comments: OSMRE will accept written comments on the proposed rule until 5 p.m. eastern time on June 3, 1987.

Public Hearings: Upon request, OSMRE will hold public hearings on the proposed rule in Washington, DC; Denver, Colorado; and Springfield, Illinois, at 9:30 a.m. local time on May 27, 1987. Upon request, OSMRE also will hold public hearings in the State of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington at times and on dates to be announced prior to the hearings. OSMRE will accept requests for public hearings until 5:00 p.m. eastern time on May 13, 1987.

ADDRESSES:

Written Comments: Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record, Room 5315A, 1100 L Street NW., Washington, DC; or mail to the Office of Surface Mining, Administrative Record, Room 5315A–L, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240.

Public Hearings: Department of the Interior Auditorium, 18th and C Streets NW., Washington, DC; Illinois Department of Transportation Auditorium, 2300 Dirksen Parkway, Springfield, Illinois; and Brooks Towers, 2d Floor Conference Room, 1020 15th Street, Denver, Colorado. The addresses for any hearings scheduled in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington will be announced prior to the hearings.

Public Meetings: OSMRE offices in Washington, DC; Springfield, Illinois; Pittsburgh, Pennsylvania; and Denver, Colorado.

Request For Public Hearings: Submit orally or in writing to the person and address specified under **"FOR FURTHER INFORMATION CONTACT."**

FOR FURTHER INFORMATION CONTACT: Donald F. Smith, Division of Reclamation Technology, Room 5101–L, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; telephone: 202–343–1510.

SUPPLEMENTARY INFORMATION: .

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, commenters should submit five copies of their comments (see **"ADDRESSES"**). Comments received after the close of the comment period (see **"DATES"**) may not be considered or included in the Administrative Record for the final rule.

Public Hearings

OSMRE will hold public hearings on the proposed rule on request only. The times, dates, and addresses scheduled for the hearings at three locations are specified previously in this notice (see **"DATES"** and **"ADDRESSES"**). The times, times, dates, and addresses for the hearings at the remaining locations have not yet been scheduled, but will be announced in the **Federal Register** at least 7 days prior to any hearings which are held at these locations.

Any person interested in participating at a hearing at a particular location should inform Donald F. Smith (see **"FOR FURTHER INFORMATION CONTACT"**), either orally or in writing, of the desired hearing location, by 5:00 p.m. eastern time on May 6, 1987.

If no one has contacted Mr. Smith to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a written copy of their testimony. To assist OSMRE in preparing appropriate questions for clarification of issues, OSMRE also requests that persons who plan to testify submit to OSMRE at the address previously specified for the submission of written comments (see **"ADDRESSES"**) an advance copy of their testimony.

Public Meetings

Persons wishing to meet with OSMRE representatives to discuss these proposed rules may request a meeting at any of the OSMRE offices listed in **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (see **"ADDRESSES"**). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

Statutory Background

The Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, contains special permitting and performance standards governing mining on prime farmland as defined in section 701(20) of the Act. Permit application information and approval requirements are contained in sections 507(b)(16), 508(a)(2)(C), 508(a)(5) and 510(d) of the Act. Section 507(b)(16) of the Act requires that permit applications contain a soil survey for those lands in the application which a reconnaissance inspection suggests may be prime farmland. Section 508(a)(2)(C) of the Act requires that permit applications contain a statement of the productivity of the land prior to mining including the appropriate classification as prime farmland, as well as the average yield of

food, fiber, forage or wood products from such lands obtained under high levels of management. Section 508(a)(5) of the Act requires a plan for soil reconstruction, replacement, and stabilization pursuant to the prime farmland performance standards of 515(b)(7) of the Act. Moreover, section 510(d)(1) of the Act provides that the regulatory authority shall grant a permit to mine on prime farmland, after consultation with the Secretary of Agriculture, if the regulatory authority finds in writing that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in section 515(b)(7).

Statutory performance standards for prime farmland are found in sections 515 (b)(7) and (b)(20) of the Act. Section 515(b)(7) sets forth minimum requirements for soil removal, storage, replacement, and reconstruction. Section 515(b)(20) establishes when the period of responsibility for successful revegetation shall begin and provides an exception to vegetative cover requirements when the regulatory authority issues a written finding approving a long-term, intensive, agricultural postmining land use. In addition, section 519(c)(2) states that performance bonds shall not be released until soil productivity for prime farmland has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey. Rules implementing these permitting, bonding and performance provisions are found at 30 CFR 785.17, 800.40 and 30 CFR Part 823.

Section 516 of the Act requires the Secretary to promulgate rules and regulations directed toward the surface effects of underground coal mining operations. However, in adopting such performance standards, permit requirements, and bonding rules, the Secretary shall consider the distinct differences between surface coal mining and underground coal mining in accordance with sections 516(a) and 516(b)(10) which make the prime farmland performance standards applicable, and 516(d) which makes the permit application and bonding requirements applicable. Also, according to section 516(a), such rules shall not supersede any provision of the Federal Coal Mine Health and Safety Act of 1969 or implementing rules.

With respect to coal mine wastes from underground mining activities, section 516(b)(3) of SMCRA requires operators to maximize to the extent technologically and economically feasible the return of coal wastes to the mine workings or excavations. Under 30 CFR 784.25 and 817.81(f), disposal of coal mine waste in abandoned underground mine workings must be performed in accordance with a plan approved by the regulatory authority and the Mine Safety and Health Administration. If the surface disposal of coal processing waste cannot be avoided, section 516(b)(4) of SMCRA requires that these waste piles be stabilized and that leachate meet applicable Federal and State laws.

Regulatory Background and Court Cases

On May 3, 1982 (47 FR 19076 *et seq.*), OSMRE proposed rules in consideration of the U.S. District Court order of May 16, 1980, remanding to the Interior Secretary portions of his March 13, 1979 prime farmland rules as they applied to underground mining. *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. May 16, 1980) at 1–3. The 1980 opinion suggested that the Secretary promulgate an exemption from 30 CFR Part 823 for surface facilities of underground mines, including roads, loading structures, coal processing plants, and stockpiles that are actively used over extended periods but which affect a minimal amount of land.

Final rules implementing that decision were published on May 12, 1983 (48 FR 21446 *et seq.*), and became effective on June 13, 1983. At that time OSMRE published final § 823.11(a) which excluded from the special prime farmland performance standards, land occupied by coal preparation plants, support facilities, and roads associated with surface and underground mines. Following promulgation of the final rule, the National Wildlife Federation (NWF) challenged the exemption insofar as it applied to surface facilities of surface mines and asserted that it did not contain adequate guides on spatial and temporal limits concerning exempted land for underground mines. On October 1, 1984, the U.S. District Court for the District of Columbia ruled on these challenges. *In re: Permanent Surface Mining Reclamation Litigation II*, No. 79–1144 (D.D.C. October 1, 1984) at 21–23 (*In re: Permanent II*). The court remanded the regulation extending the exemption to surface facilities associated with surface mines. The court explained that the rationale for its earlier opinion, the difference between surface and underground mining operations, does not apply to surface mines where topsoil need not be stored for many years but can be redistributed over the areas disturbed by surface operations. The court agreed that the exemption did apply to the listed surface facilities for underground mines. The court also held that the Secretary has a duty to "flesh out" the statutory requirements and provide guidelines limiting the scope of this exemption. *Id.* at p. 23. Other portions of the court's opinion are discussed below.

The purpose of this proposed rule is to conform to the court's ruling of October 1, 1984 in a manner which is practical, environmentally protective and will conserve prime farmland.

III. Discussion of Proposed Rule

A. Section 823.11(a)(1)

OSMRE proposes to amend the exclusion at § 823.11(a) so that it will exclude from the prime farmland standards only those coal preparation plants, support facilities, and roads which are actively used in connection with underground mines.

The previous rule, which the court remanded and OSMRE suspended, also excluded such facilities associated with surface mines.

Under the proposal, a specific temporal limit would be applied. The exclusion would apply to facilities of underground mines which are projected to be in operation for 10 or more years. This proposal is based upon comments received during OSMRE's outreach meetings, as well as the practical application of this exemption to the mining and reclamation process. Based on its experience with underground mines, OSMRE has concluded that almost all shaft or slope underground mines in prime farmland areas operate at least 10 years to recover the start-up cost.

OSMRE is also proposing spatial limits to apply to the exemption for coal preparation plants, support facilities, and roads associated with underground mines. The exemption would apply to surface areas occupied by coal preparation plants, support facilities, and roads associated with underground mines which affect less than 3 percent of the proposed underground extraction area.

This rule would have its greatest impact in Illinois, where the largest areas of underground coal reserves are overlain by the largest concentration of prime farmland in the United States. In reviewing the current underground coal mining permits in the State of Illinois,

the following categories of surface facilities were identified: entries and airshafts, waste areas, coal processing and support handling areas, roads and other transportation facilities, soil storage, and diversions. Surface disturbance per permit ranged from 8 to 2,543 acres with a total of 19,392 acres disturbed since 1940 for all current underground mine permits within Illinois. The ratio of premining prime farmland acres to underground mined acres varies from 0.0% for preparation plants servicing several mines to 15.4% for an underground mine which has a disproportionate number of acres within the permit, with a mean of 3.0% for current permits within Illinois. Specific information available to OSMRE has been included in the Administrative Record.

B. Section 823.11(a)(1)(ii)

OSMRE also proposes that the exemption for coal mine waste piles of coal preparation plants associated with underground mines located on prime farmland would not be subject to the 3 percent spatial limit. Only coal waste storage areas containing underground coal mine processing waste would be excepted from the spatial limits. Of the underground permits reviewed, waste areas per permit ranged from 0 to 659 acres, with a total of 6,280 acres for all underground permits within Illinois.

Under the proposal, the 3 percent spatial limit for coal waste piles would not apply only where the coal processing waste from underground mines could not be technologically or economically stored in underground mines or on non-prime farmland. Also, the operator would be required to minimize the surface area used for such purposes, and restore these refuse piles in accordance with the criteria found in § 817.83, Coal mine waste: Refuse piles. The bond release criteria for these refuse pile surface areas includes the soils and revegetation requirements of §§ 817.22 and 817.111 through 817.116.

Justification for not having spatial limits on the exclusion of storage areas of underground waste on prime farmland is found in Section 516 of SMCRA, which requires consideration of the distinct differences between surface and underground coal mining. Some of those differences with respect to coal waste are: (1) The greater availability of disposal sites for coal processing waste at surface mines; (2) the technological and economic feasibility of the alternatives for disposal; (3) the relative health and safety of miners; and (4) current coal waste disposal practice.

The availability of coal waste disposal areas is much greater at surface mines than at underground mines because of the operator's access to the open pit for such disposal at surface mines. Also, the need for coal preparation waste areas from surface mines is generally less because of the smaller percentage of coal rejected. The technological and economic feasibility of returning coal processing wastes to active or inactive underground coal mines is uncertain, as was reported in the National Academy of Sciences report "Underground Disposal of Coal Mine Wastes" (NAS 1975).

OSMRE specifically requests comment on the technological and economic feasibility of returning coal processing waste to active and inactive underground coal mine workings.

C. Section 785.17(e)(1)

In *In re: Permanent II*, NWF also challenged § 823.11(b) which set forth an exclusion from the prime farmland performance standards for water bodies that had been approved by the regulatory authority as an alternative postmining land use. Although OSMRE stated in 1979 that "last cut" lakes were acceptable on prime farmland (44 FR 15087), a specific exemption from the Part 823 performance standards for prime farmland was first added to the rules in 1983 (48 FR 21446). The District Court struck down the exemption and held that it provided a broad and impermissible variance from the postmining use of prime farmland. *In re: Permanent II*, pp. 19–21.

OSMRE is proposing an exemption for water bodies where the total acreage of prime farmland is not decreased in the permit area. Section 823.11(b) and 30 CFR 785.17(e)(1) would work in tandem to provide this limited exception. Section 785.17(e)(1), which prescribes that the postmining land use for prime farmland is cropland, would allow impoundments on prime farmland in certain instances. Proposed § 823.11(b) would then exclude those areas on which impoundments are authorized from the soil reconstruction and productivity requirements of §§ 823.14 and 823.15, respectively. In every instance, the soil removal, segregation, and stockpiling requirements of § 823.12 would continue to apply before the impoundments are created to assure sufficient reclamation material for the surrounding areas.

Under proposed § 785.17(e)(1), OSMRE would authorize the approved postmining land use of prime farmland to include impoundments so long as the aggregate premining prime farmland acreage within the permit area would be retained and the consent of affected property owners within the permit area is obtained. This proposal would preserve the number of prime farmland acres which were present prior to mining, although there could be a shift in the location of soil placement to accommodate the creation of water bodies. All resulting prime farmland would have to meet the soil reconstruction and productivity standards of Part 823, with no net loss of prime farmland acreage. Protection from the potential economic consequences of shifting the location of prime farmland would be provided to property owners because the property owners would have to consent before an impoundment would be allowed.

Proposed § 785.17(e)(1) is consistent with the prime farmland provisions of the Act which are meant to maintain the number of prime farmland acres at premining levels as well as maintain the crop productive capacity of those lands. Comment is also requested on whether impoundments which are necessary or beneficial for cropland use should be allowed.

D. Sections 823.12 and 823.14

Section 515(b)(7) of SMCRA requires that for all prime farmlands to be *mined and reclaimed*, the Secretary of Agriculture shall establish specifications for soil removal, storage, replacement, and reconstruction, and that the mine operator shall be required to segregate, store, and replace prime farmland soils. This provision is implemented in 30 CFR 823.12 and 823.14. However, in areas that are not mined and where the B and C horizons would not otherwise be removed, such as under coal preparation plants, support facilities, and roads, B and C soil horizon removal and segregation serves little purpose and should not be required. Thus, proposed amendments to 30 CFR 823.12 and 823.14 would authorize the regulatory authority to approve an exception from the requirement to remove the B and C horizons and then reconstruct them, when the B and C horizons would not be removed by mining activities. Although the B and C horizons would not be removed under the proposed rule, the productive capacity of the soil would have to be reestablished under the standards of 30 CFR 823.15.

An earlier version of the existing regulations also allowed this exception. This was recognized in the Secretary's brief of December 21, 1979 in *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144, at p. 103, n. 13, and was accepted by the court in its May 16, 1980 decision. *In re: Permanent*

Surface Mining Regulation Litigation, N. 79–1144 (D.D.C. 1980), p.3, n. 4. In that opinion, the court summarized an operator's soil handling requirements in such situations as follows: "[A]n operator need only engage in deep tilling to restore compacted land to prime farmland where support facilities have compacted the soil. The operator would still, however, be required to engage in a pre-application investigation and also comply with the permit and bonding requirements." *Id.*

OSMRE agrees with the court's summary, but also recognizes that there may be instances when the B or C soil horizons may need to be protected from chemical contamination in order to achieve the applicable vegetative cover and productivity required by § 823.15. The proposed regulations contemplate that the regulatory authority would direct any such action to be taken, as necessary. Under existing 30 CFR 816.22(e), as well as under Part 823, the regulatory authority could require that the B or C horizons be separately removed, segregated, stockpiled, and replaced to ensure retention of soil capabilities. The regulatory authority also could require the operator to preserve the productive capacity of prime farmland soils in place by taking measure such as placing a protective barrier between the surface coal mining activity causing chemical contamination and the B or C soil horizons.

Reference Material

NAS (National Academy of Sciences), 1975, Underground disposal of coal mine wastes, 172 pp. (See Administrative Record No. 406.)

Illinois Underground Mine Surface Facilities, Chart prepared by OSMRE Springfield Field Office

Underground Mine Support Area 1986, Chart prepared by Land Reclamation Division, Illinois Department of Mines and Minerals, September 17, 1986

Effect in Federal Program States

The rules proposed today, if adopted, would be applicable through cross-referencing in those States with Federal programs. This includes Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts, 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. Comments are specifically solicited as to whether unique conditions exist in any of these States relating to this proposal which should be reflected either as changes to the national rules or as State-specific amendments to any or all of the Federal programs.

IV. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that these are not major rules within the standards established by the Executive Order and, therefore, no regulatory impact analysis is required. These rules propose to allow certain exemptions from the prime farmland soil reconstruction provisions of Part 823, thus lessening the regulatory burden in special situations of coal preparation plants, support facilities and roads, and certain coal waste disposal areas associated with underground mining.

Federal Paperwork Reduction Act

There are no information collection requirements in the proposed rule requiring review by the Office of Management and Budget under 44 U.S.C. 3507.

Regulatory Flexibility Act

The DOI has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rule will not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

OSMRE has prepared an environmental assessement (EA) on the impacts of the human environment of this proposed rulemaking. This EA is on file in the OSMRE Administrative Record at the address listed in the "Addresses" section of this preamble. An EA on the final rule will be completed and a final conclusion reached on the significant of any resulting impacts before issuance of the final rule.

Author

The author of this regulation is Donald F. Smith, Division of Reclamation Technology, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; telephone (202) 343–1510 (Commercial or FTS).

List of Subjects in 30 CFR Parts 785 and 823

Agriculture, Coal mining, Environmental protection, Surface mining, Underground mining, Prime farmland.

Accordingly, it is proposed to amend 30 CFR Parts 785 and 823 as follows:

Dated: February 26, 1987.

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

PART 785—REQUIREMENT FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

1. The authority citation of Part 785 is revised to read as follows:

Authority: Pub. L. 95–87, 30 U.S.C. 1201 et seq.

2. Paragraph (e)(1) of § 785.17 is revised to read as follows:

§ 785.17 Prime farmland.

* * * * *

(e)* * *

(1) The approved postmining land use of these prime farmlands will be cropland, except that impoundments may be approved by the regulatory authority so long as the aggregate premining prime farmland acreage will be retained and the consent of affected property owners within the permit area is obtained.

* * * * *

PART 823—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS ON PRIME FARMLAND

3. The authority citation for Part 823 continues to read as follows:

Authority: Pub. L. 95–87, 30 U.S.C. 1201 et seq.

4. Section 823.11 is revised to read as follows:

§ 823.11 Applicability.

(a) The requirements of this part shall not apply to—

(1)(i) Coal preparation plants, support facilities, and roads of underground mines that are actively used 10 years or more and affect surface areas which are less than 3 percent of the proposed underground extraction area for the life of the mine.

(ii) Except where coal processing waste resulting from underground mines can be technologically and economically stored in underground mines or on nonprime farmland, the acreage limitations of paragraph (a)(1)(i) of this section do not apply to waste disposal areas of coal preparation plants associated with underground mines. The operator shall minimize the area of prime farmland used for such purposes, and shall restore these refuse piles in accordance with § 817.83.

(2) Prime farmland that has been excluded in accordance with § 785.17(a) of this chapter.

(b) The requirements of §§ 823.14 and 823.15 shall not apply to impoundments authorized under § 785.17(e)(1) of this chapter.

5. The first sentence of § 823.12(c)(2) is revised to read as follows:

§ 823.12 Soil removal and stockpiling.

* * * * *

(c) * * *

(2) Separately remove the B or C horizon or other suitable soil material to provide the thickness of suitable soil required by § 823.14(b), except as approved by the regulatory authority where the B or C horizons would not otherwise be removed. * * *

* * * * *

6. Section 823.14(d) is revised to read as follows:

§ 823.14 Soil replacement.

* * * * *

(d) The operator shall replace the B horizon, C horizon, or other suitable material specified in § 823.12(c)(2) to the thickness needed to meet the requirements of paragraph (b) of this section. In those areas were the B or C horizons were not removed but may have been compacted or otherwise damaged during the mining operation, the operator shall engage in deep tilling or other appropriate means to restore pre-mining capabilities.

* * * * *

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S.J. Res. 65/Pub. L. 100-13

To designate the week of April 5, 1987, through April 11, 1987, as "National Know Your Cholesterol Week." (Mar. 20, 1987; 101 Stat. 127; 1 page) Price: $1.00