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Presidential Documents

Title 3—

The President

Presidential Determination No. 88–19 of June 7, 1988

Determination Under Section 2(b)(2) of the Export-Import Bank Act of 1945, as Amended: Benin, Congo, Guyana, Suriname

Memorandum for the Secretary of State

Noting that, pursuant to Section 2(b)(2) of the Export-Import Bank Act of 1945, restrictions were placed against the Export-Import Bank guaranteeing, insuring, extending credit, or participating in the extension of credit in connection with the purchase or lease of any product by a number of countries, and noting further that these restrictions may be lifted for specific countries by a Presidential determination pursuant to Section 2(b)(2)(C), I hereby determine that the conditions of Section 2(b)(2)(C) have been met with respect to Benin, Congo, Guyana, and Suriname.

You are authorized and directed to report this determination to the Congress and publish it in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, June 7, 1988.

[FR Doc. 88–15852
Filed 7–11–88; 2:20 pm]
Billing code 3195–01–M

Rules and Regulations

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

GENERAL ACCOUNTING OFFICE

4 CFR Part 7

Political Activities

AGENCY: General Accounting Office.

ACTION: Final rule.

SUMMARY: The general language in § 7.3 is amended to provide specific language which describes permitted and prohibited political activities. The agency has determined that the guidance now offered in § 7.3 is too general to be of use to employees who want to engage in political activities. Publication of specific guidance will clarify prohibitions and permitted activities.

EFFECTIVE DATE: July 13, 1988.

FOR FURTHER INFORMATION CONTACT: Steve Schmal or Frances McCoy, (202) 275–3889.

SUPPLEMENTARY INFORMATION: The General Accounting Office Personnel Act (Pub. L. 96–191, Feb. 15, 1980), codified at 31 U.S.C. 731 *et seq.*, authorizes the Comptroller General to establish a personnel system for the General Accounting Office. Section 732(b)(3) requires that the personnel system must prohibit the political activities prohibited under Subchapter III of Chapter 73 of Title 5, United States Code.

Accordingly, the agency issued regulations, codified at 4 CFR 7.3 (1988), which are not as specific as the regulations pertaining to executive branch employees, set forth at 5 CFR Part 733. As a result the regulations may be too vague to provide useful guidance.

In order to provide specific guidance to employees consistent with that applicable to the majority of federal employees, the agency decided to adopt the language in 5 CFR Part 733, Subpart A. Changes were made to render the language agency-specific to meet GAO's needs.

The proposed rule was published in 53 FR 15043, April 27, 1988, for a 30-day comment period. No comments were received, and the language of the proposed rule is adopted as final.

List of Subjects in 4 CFR Part 7

Political activities (Government employees).

For the reasons set out in the preamble, Title 4, Chapter I, Subchapter A, Part 7, is amended as follows.

PART 7—PERSONNEL RELATIONS AND SERVICES

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

Authority: 31 U.S.C. 732.

2. Section 7.3 is revised to read as follows:

§ 7.3 Political activities.

(a) In this section:

(1) "Contribution" means any gift, subscription, loan, advance, deposit of money, allotment of money, or anything of value given or transferred by one person to another, including in cash, by check, by draft, through a payroll deduction or allotment plan, by pledge or promise, whether or not enforceable, or otherwise.

(2) "Election" includes a primary, special, and general election.

(3) "Employee" means an individual who occupies a position in the General Accounting Office.

(4) "Employer" or "employing authority" means the Comptroller General, his principles, or an employee's supervisor.

(5) "Federal workplace" means any place, site, installation, building, room, or facility in which any department or agency conducts official business, including, but not limited to, office buildings, forts, arsenals, navy yards, post offices, vehicles, ships, and aircraft.

(6) "Nonpartisan election" means—

(i) An election at which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; and

(ii) An election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any question or issue of a similar character.

(7) "Partisan" when used as an adjective refers to a political party.

(8) "Political fund" means any fund, organization, political action committee, or other entity that, for purposes of influencing in any way the outcome of any partisan election, receives or expends money or anything of value or transfers money or anything of value to any other fund, political party, candidate, organization, political action committee, or other entity.

(9) "Political party" means a national political party, a state political party, and an affiliated organization.

(b) All employees are free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this section. Each employee retains the right to—

(1) Register and vote in any election;

(2) Express his opinion as an individual privately and publicly on political subjects and candidates;

(3) Display a political picture, sticker, badge, or button;

(4) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;

(5) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;

(6) Attend a political convention, rally, fund-raising function, or other political gathering;

(7) Sign a political petition as an individual;

(8) Make a financial contribution to a political fund, political party, or organization;

(9) Take an active part, as an independent candidate, or in support of an independent candidate in a partisan election covered by paragraphs (h), (i), and (j) of this section;

(10) Take an active part, as a candidate or in support of a candidate, in a nonpartisan election;

(11) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character;

(12) Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by state or local law; and

(13) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise his/her efficiency or integrity as an employee or the neutrality, efficiency, or integrity of the agency.

(c) Paragraph (b) of this section does not authorize an employee to engage in political activity in violation of law, while on duty. The Comptroller General may prohibit or limit the participation of an employee or class of employees in an activity permitted by paragraph (b) of this section, if participation in the activity would interfere with the efficient performance of official duties, or create a conflict or apparent conflict of interests.

(d) An employee may not use his/her official authority or influence for the purpose of interfering with or affecting the result of an election.

(e) An employee may not take an active part in political management or in a political campaign, except as permitted by this section.

(f) Activities prohibited by paragraph (e) of this section include but are not limited to—

(1) Serving as an officer of a political party, a member of a national, state, or local committee of a political party, an officer or member of a committee of a partisan political club, or being a candidate for any of these positions;

(2) Organizing or reorganizing a political party organization or political club;

(3) Directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions, or other funds for a partisan political purpose;

(4) Organizing, selling tickets to, promoting, or actively participating in a fund-raising activity of a candidate in a partisan election or of a political party, or political club;

(5) Taking an active part in managing the political campaign of a candidate for public office in a partisan election or a candidate for political party office;

(6) Becoming a candidate for, or campaigning for, an elective public office in a partisan election;

(7) Soliciting votes in support of or in opposition to a candidate for public office in a partisan election or a candidate for political party office;

(8) Acting as recorder, watcher, chailenger, or similar officer at the polls on behalf of a political party or a candidate in a partisan election;

(9) Driving voters to the polls on behalf of a political party or a candidate in a partisan election;

(10) Endorsing or opposing a candidate for public office in a partisan election or a candidate for political party office in a political advertisement, a broadcast, campaign, literature, or similar material;

(11) Serving as a delegate, alternate, or proxy to a political party convention;

(12) Addressing a convention, caucus, rally, or similar gathering of a political party in support of or in opposition to a partisan candidate for public office or political party office;

(13) Initiating or circulating a partisan nominating petition;

(14) Soliciting, collecting, or receiving a contribution at or in the federal workplace from any employee for any political party, political fund, or other partisan recipient;

(15) Paying a contribution at or in the federal workplace to any employee who is the employer or employing authority of the person making the contribution for any political party, political fund, or other partisan recipient; and

(16) Soliciting, paying, collecting, or receiving a contribution at or in the federal workplace from any employee for any political party, political fund, or other partisan recipient.

(g) Paragraph (f) of this section does not apply to—

(1) The Comptroller General or the Deputy Comptroller General;

(2) An employee who resides in a municipality or other political subdivision designated under paragraph (i), subject to the conditions of paragraphs (i) and (j) of this section; or

(3) An employee who works on an irregular or occasional basis, on the days that he/she performs no services.

(h) Paragraph (f) of this section does not prohibit activity in political management or in a political campaign by an employee in connection with—

(1) A nonpartisan election, or

(2) Subject to the conditions and limitations established by the Comptroller General, an election held in a municipality or political subdivision designated under paragraph (i) of this section.

(i) For the purpose of paragraph (h)(2) of this section, the Comptroller General may designate a municipality or political subdivision in Maryland or Virginia in the immediate vicinity of the District of Columbia or a municipality in which the majority of voters are employed by the Government of the United States, when the Comptroller General determines that, because of special or unusual circumstances, it is in the domestic interest of employees to participate in local elections. The following municipalities and political subdivisions have been designated:

In Maryland

Annapolis
Anne Arundel County
Berwyn Heights
Bethesda
Bladensburg
Bowie
Brentwood
Capitol Heights
Cheverly
Chevy Chase, sections 1, 2, 3, and 4
Martin's Additions 1, 2, 3, and 4 to Chevy Chase
Chevy Chase View
College Park
Cottage City
District Heights
Edmonston
Fairmont Heights
Forest Heights
Garrett Park
Glendarden
Glen Echo
Greenbelt
Howard County
Hyattsville
Kensington
Landover Hills
Montgomery County
Morningside
Mount Rainier
New Carrollton
North Beach
North Brentwood
North Chevy Chase
Northwest Park
Prince Georges County
Riverdale
Rockville
Seat Pleasant
Somerset
Takoma Park
University Park
Washington Grove

In Virginia

Alexandria
Arlington County
Clifton
Fairfax County
Town of Fairfax
Falls Church
Herndon
Loudoun County
Manassas
Manassas Park
Portsmouth
Prince William County
Stafford County
Vienna

Other Municipalities

Anchorage, AK
Benicia, CA

Bremerton, WA
Centerville, GA
Crane, IN
District of Columbia
Elmer City, WA
Huachuca City, AZ
New Johnsonville, TN
Norris, TN
Port Orchard, WA
Sierra Vista, AZ
Warner Robins, GA

(j) An employee who resides in a municipality or political subdivision listed in paragraph (i) of this section may take an active part in political management and political campaigns in connection with partisan elections for local offices of the municipality or political subdivision, subject to the following limitations:

(1) Participation in politics shall be as an independent candidate or on behalf of, or in opposition to, an independent candidate.

(2) Candidacy for, and service in, an elective office shall not result in neglect of or interference with the performance of the duties of the employee or create a conflict, or apparent conflict, of interests.

Felix R. Brandon II,

Director of Personnel.

[FR Doc. 88-15660 Filed 7-12-88; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[AMS-FV-88-011FR]

Almonds Grown in California; Administrative Rules and Regulations Concerning Quality Control Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes administrative rules and regulations concerning quality control requirements established under the Federal marketing order for California almonds to require accepted users of almonds to: (1) Obtain a public weighmaster weight certificate for each lot of almonds received from handlers; (2) submit a business data sheet to the Almond Board of California (Board); and (3) complete an application with the Board for accepted user status. The Board is the agency responsible for local administration of the almond marketing order. These changes are needed to improve compliance under the almond marketing order.

EFFECTIVE DATE: August 12, 1988.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Specialist, Marketing Order Administration Branch, Room 2525, South Building, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5120.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final 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 (AMS) has considered the economic impact of this action on 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 Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are an estimated 105 handlers of almonds subject to regulation under the marketing order for California almonds during the current season. There are approximately 7,500 producers in the regulated area. There are 54 accepted users currently registered with the Board, of which 50 are feeders of almonds to livestock and four are crushers of almonds for the purpose of manufacturing almond oil. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. Small livestock producers have been defined as those having average gross annual revenues for the last three years of less than $100,000, except for small beef cattle feedlots and small egg producers, for which the standard is less than $1,000,000. Small vegetable oil manufacturers have been defined as those employing an average of less than 100 persons during the preceding 12 months. The majority of handlers, producers, and accepted users of California almonds may be classified as small entities.

This action amends the rules and regulations established under the marketing order for California almonds to specify requirements for accepted users. Accepted users are almond crushers, feeders, feed manufacturers, or other dealers in nut wastes who receive low quality almonds from handlers and dispose of those almonds in low value outlets.

This action will require potential accepted users to complete an application and a business data sheet in order to qualify for accepted user status. It is estimated that the application will take less than two minutes to complete and that the business data sheet will take less than five minutes to complete. This action will also require accepted users to obtain a public weighmaster certificate for each lot of almonds received from handlers and to submit this certificate to the Board along with the Board's Form 8. It is expected that it will cost accepted users $3.00 to $5.00 to have each lot weighed and certified and that about 300 lots will require certification each year, divided among about 54 accepted users. It is estimated that it will take accepted users less than two minutes to submit each certificate to the Board.

Based on the above, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

Information collection requirements in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0581-0071.

Notice of this action was published in the **Federal Register** on April 27, 1988 (53 FR 15048). Written comments were invited from interested persons until May 27, 1988. Comments were received from Peggy M. Leong, manager of the Board, and Steven W. Easter, vice president for Member and Government Relations for Blue Diamond Growers.

This final rule revises § 981.442 of "Subpart—Administrative Rules and Regulations." The final rule is based on a unanimous recommendation of the Board, the two comments, and upon other available information.

Section 981.42 of the order provides that handlers shall deliver a quantity of almond kernels equal to their inedible disposition obligation to the Board or Board accepted crushers, feed manufacturers, or feeders. A handler's

inedible disposition obligation is the percentage of inedible kernels in lots received by such handler during a crop year, as determined by the Federal-State Inspection Service (inspection agency), less any tolerance in effect for the crop year. Section 981.42 also provides that the Board may establish rules and regulations necessary to the administration of these provisions.

Paragraph 981.442(a)(1) of such rules and regulations provides that handlers shall meet their disposition obligations by delivering packer pickouts, kernels rejected in blanching, pieces of kernels, meal accumulated in manufacturing, or other material to crushers, feed manufacturers, feeders, or other dealers in nut wastes on record with the Board as accepted users. This action adds a new paragraph (a)(7) to § 981.442 to specify requirements for becoming an accepted user of record with the Board.

One of these requirements will require potential accepted users to file an application with the Board, as is current practice. This application will be in the form of an agreement whereby accepted users agree not to dispose of any almonds in human consumption outlets and to allow Board employees to enter applicants' premises at any reasonable time to observe the storage or disposition of almond material and examine and audit applicants' records of almond transactions. Accepted users will also agree to obtain Form 8 from handlers for each lot of material received and, upon crushing, mixing, or feeding the almonds, to execute Part B of the form and mail it promptly to the Board. Handlers currently complete Part A of Form 8 for each lot, providing information such as the net kernelweight of the lot as obtained from the inspection agency pursuant to § 981.442(a)(5) of the regulations and the total weight of the lot. As is current practice, the accepted user will certify on Part B of Form 8 that the material has been crushed into oil, mixed into feed, or fed directly to livestock. Accepted users will also acknowledge that their status as an accepted user could be revoked at any time if the accepted user violates the terms of the agreement.

This final rule will also require accepted users to submit a business data sheet to the Board. The sheet will include such information as the accepted user's name, mailing address, telephone numbers, type of business, location of the accepted user's facility, and the names of the principals involved in the business. This information is necessary so that the Board knows where disposition is to take place and how to contact those officials responsible for disposition in order for the Board to monitor proper disposal of inedible almonds. Finally, this action will require accepted users to obtain a public weighmaster weight certificate for each lot of almonds received from handlers and attach a copy of the certificate to the corresponding Form 8 submitted to the Board. Public weighmasters are officials of the State of California, who will weigh each almond lot on scales certified as accurate by the State of California to within 0.2 percent. Customarily, lots are also weighed at the handler's facility on public scales which are also certified as accurate to within 0.2 percent. This requirement will allow the Board to compare the weight of a lot at the handler's facility with the weight of the same lot upon receipt by the accepted user.

The proposed rule stated that in cases where the two weights differ by more than 0.4 percent, it would appear that the integrity of the lot is subject to question. Therefore, it was proposed that handlers not receive credit against their inedible disposition obligations for such lots. However, Commenter Easter, who supported the proposal in general, objected to the 0.4 percent tolerance. This commenter stated that the 0.4 percent tolerance was too restrictive and that the two weights could vary by more than 0.4 percent due to factors such as variation between scales, gain or loss of moisture content, and spillage. The commenter stated that for the period July 1987 through February 1988, Blue Diamond Growers shipped 60 lots which had a weight difference of between 0.54 percent and 1.40 percent. The commenter requested that the weight tolerance be increased from 0.4 percent to 2.0 percent. Since in our view a 2.0 percent tolerance would be restrictive enough to still deter the disposition of almonds intended for shipment to inedible outlets in lesser quantities than determined by the inspection agency, this change has been adopted. Therefore, under this action handlers will not receive credit against their inedible disposition obligations for lots where the difference between the weights on the handler's and the accepted user's public weighmaster weight certificates is more than 2.0 percent.

A provision in the proposal would have allowed the inspection agency rather than a public weighmaster to issue a weight certificate in cases where lots are inspected at the accepted user's facility by the inspection agency in order to determine their kernelweight content. Section 981.442(a)(5) of the order provides that this inspection may take place at either the handler's facility or the accepted user's facility. Commenter Leong stated, however, that the inspection agency is not authorized to issue weight certificates and that such certificates should be issued by a public weighmaster. The inspection agency has verified that the commenter is correct. Therefore, the change is adopted and all weight certificates required pursuant to this action must be issued by a public weighmaster.

In addition, a change for clarity is made in this final rule to reflect that the accepted user eligibility is subject only to the criteria as specified in the new provision in the regulations.

The new requirements established by this rule are intended to improve marketing order compliance by helping to ensure that inedible disposition almonds are disposed of properly. This action provides necessary safeguards to prevent handlers from diverting inedible disposition almonds after inspection, and then shipping those almonds into edible channels. Accepted users may be intentionally or unintentionally disposing of lesser quantities of almonds than determined by the inspection agency as reported by handlers on Form 8. This action should help prevent such practices.

After consideration of all relevant matter presented, including the Board's recommendation, the comments received, and other available information, it is found that the changes hereinafter set forth will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

Almonds, California, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR Part 981 is amended as follows:

PART 981—[AMENDED]

1. The authority citation for 7 CFR Part 981 continues to read as follows:

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

2. Amend § 981.442 by adding a new paragraph (a)(7) to read as follows:

Note.—This section will be published in the annual Code of the Federal Regulations.

§ 981.442 Quality control.

(a) * * *

(7) *Accepted Users.* An accepted user's eligibility shall be subject to the following criteria:

(i) Completion of an application with the Board for accepted user status;

(ii) Submission of a business data sheet to the Board; and

(iii) The accurate and prompt submission of ABC Form 8 Part B to the Board for each lot of almonds received, supported by a public weighmaster weight certificate issued at the request of the accepted user at the time of receipt.

The eligibility of accepted users shall be reviewed annually by the Board. Handlers will not receive credit towards their disposition obligations pursuant to paragraph (a)(4) of this section for lots where the difference between the weight of the lot reported by the inspection agency on ABC Form 8 and the weight of the lot reported on the public weighmaster weight certificate exceeds 2.0 percent.

Dated: July 8, 1988.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 88-15715 Filed 7-12-88; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 87-169]

Vaccinating Birds in Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are permitting birds in privately operated commercial bird quarantine facilities to be vaccinated against certain diseases by use of certain licensed vaccines. Only licensed veterinarians under the supervision of a veterinarian employed by the Animal and Plant Health Inspection Service (APHIS) will be authorized to vaccinate the birds in question. Available evidence indicates that vaccinations will increase the survival rate of imported birds without interfering with procedures used to isolate Newcastle disease, avian influenza, and other hemagglutinating viruses of poultry.

EFFECTIVE DATE: August 12, 1988.

FOR FURTHER INFORMATION CONTACT: Harvey A. Kryder, Jr., Senior Staff Veterinarian, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 809, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION:

Background

In a document published in the **Federal Register** on September 18, 1987 (52 FR 35271-35272, Docket No. 86-089), we proposed to amend the regulations in 9 CFR Part 92 (referred to below as the regulations) to permit birds in privately operated commercial bird quarantine facilities to be vaccinated against certain diseases by use of vaccines licensed by Veterinary Services (VS).

We received 258 comments on the proposal during the public comment period, which ended November 17, 1987. All of the comments were favorable; supplementary issues raised by commenters are discussed below.

Based on the rationale set forth in the proposal and in this document, and except for miscellaneous changes described below, we are adopting the proposal as a final rule.

Miscellaneous

In our proposed rule we proposed to redesignate, for the purpose of clarity, certain footnotes in § 92.11. This redesignation is being made in another document. We are therefore leaving it out of our final rule.

Comments

We received one comment which noted that a proposed requirement—that birds in quarantine be vaccinated only by licensed veterinarians under the direct supervision of an APHIS veterinarian—would be impractical if strictly interpreted. We are making no change in the final rule based on this comment. We did not mean to imply that licensed veterinarians must be physically observed by APHIS veterinarians while they administer vaccines. Instead, the term "direct supervision" is intended to mean that the approval of an APHIS veterinarian is required concerning which birds are to be vaccinated, the types of vaccines to be used, when the vaccinations are to occur, and any other vaccine-related procedures the APHIS veterinarian determines to be necessary to his or her effective supervision of the vaccination process.

We also received a number of comments advising that dead viruses should be used in the vaccines. We are making no changes in the final rule based on these comments. Using a live but attenuated virus in a vaccine is sometimes necessary in those instances where a dead virus would not produce the necessary immunogenic response in the animal being vaccinated. The commenters, however, appear to be concerned that the use of a live virus in a vaccine could cause an outbreak of the very disease the vaccine was meant to prevent. The possibility of this happening is remote, because the USDA has set up very strict vaccine testing procedures, as described in 9 CFR Part 113, which ensure that vaccines are safe, yet effective.

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.

Only 50 to 60 importers—approximately 5 of them large entities and the remainder small entities—may be affected by this rule. Under this rule, the use of vaccines will be optional; importers will be affected by this rule only if they choose to use vaccines.

We estimate that the amount of vaccine needed to vaccinate one bird will cost 1 or 2 cents, at the most. Other costs associated with the vaccination process, such as the cost of syringes, will bring the total cost of vaccinating one bird to approximately 10 cents. We estimate that the largest bird importer will vaccinate roughly 100,000 birds per year, with other, smaller importers vaccinating considerably fewer birds. This would bring the largest importer's total vaccination costs to approximately $10,000 per year. However, using vaccines should increase the survival rate of birds, resulting in greater profits. These increased profits should more than offset the costs involved in vaccinating the birds.

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.

Paperwork Reduction Act

Information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44

U.S.C. 3501 *et seq.*) and have been assigned OMB control number 0579-0040.

Executive Order 12372

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

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, 9 CFR Part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for Part 92 is revised to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 92.11 is amended by revising paragraph (f)(3)(ii)(B) to read as follows:

§ 92.11 Quarantine requirements.

* * * * *

(f) * * *

(3) * * *

(ii) * * *

(B) The birds may be vaccinated during quarantine only with a vaccine that has been approved by the Administrator, and is administered by a licensed veterinarian under the direct supervision of a veterinarian employed by the Animal and Plant Health Inspection Service. The Administrator will approve a vaccine if:

(*1*) The vaccine is licensed by the Animal and Plant Health Inspection Service in accordance with § 102.5 of this chapter; and

(*2*) The vaccine is not one that is used to prevent Newcastle disease, avian influenza, or any other hemagglutinating virus of poultry.[4]

* * * * *

[4] A list of approved vaccines is available from the Import-Export Operations Staff, Veterinary Services, APHIS, USDA, Room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Done in Washington, DC, this 8th day of July 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–15717 Filed 7–12–88; 8:45 am]

BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Corrections in Modification of Size Standards to Make Existing Size Standards Compatible With 1987 Standard Industrial Classification System; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; corrections.

SUMMARY: This document corrects a Final Rule published on May 25, 1988, in the **Federal Register** (53 FR 18821) by which the Small Business Administration (SBA) modified its size standards to conform with the revision of the Standard Industrial Classification (SIC) System which became effective on January 1, 1987. The most important correction amends the effective date of the rule to July 1, 1988 from July 1, 1987.

FOR FURTHER INFORMATION CONTACT: Alan Odendahl, Size Standards Staff, U.S. Small Business Administration, 1441 "L" Street NW., Rm–601, Washington, DC 20416, (202) 653–6373.

SUPPLEMENTARY INFORMATION: On May 25, 1988, the SBA published a Final Rule which modified SBA's size standards as codified in 13 CFR 121.2 to conform with the revised SIC system. The changes set forth below correct errors which appeared in the May 25, 1988 publication.

Accordingly, the following corrections are made to the final rule appearing in the May 25, 1988, issue of the **Federal Register** (53 FR 18821).

Page 18821

(1) The effective date is changed from "July 1, 1987" to "July 1, 1988."

Page 18828

(1) The description for SIC code 3728 reads "Aircraft Parts and Auxiliary Equipment, N.E.C." with no following footnote. It should read "Aircraft Parts and Auxiliary Equipment, N.E.C.[18]"

(20) The description for SIC code 3842 reads "Orthopedic, Prosthetic, and Surgical Applicances and Supplies." It should read "Orthopedic, Prosthetic, and Surgical Appliances and Supplies."

Page 18829

(1) The SIC for descriptive title "Deep Sea Foreign Transportation of Freight" reads "4412." It should read "4412*."

Page 18830

(1) The description for SIC code 5169* reads "Chemical and Allied Products, N.E.C." It should read "Chemicals and Allied Products, N.E.C."

Page 18834

(1) The period is omitted in footnote 17, second paragraph, third sentence. It should read "As services, these activities must each be in a separate industry."

(2) The period is omitted in footnote 19, fourth paragraph, second line. It should read "* * * of 1,500 employees shall apply."

(3) The period is omitted in footnote 19, fifth paragraph, end of first sentence. It should read "* * * a size standard of 1,000 employees shall apply."

Dated: June 27, 1988.

James Abdnor,

Administrator, U.S. Small Business Administration.

[FR Doc. 88–15586 Filed 7–12–88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88–ASO–4]

Revision of Transition Area, Lawrenceville, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the Lawrenceville, Georgia, Transition Area by correcting the geographic position coordinates of the airport, changing the airport name from Gwinnett County to Gwinett County-Briscoe Field Airport, deleting the extension either side of the Norcross VORTAC 077° radial and adding a new arrival area extension to provide controlled airspace for aircraft executing a new VOR/DME standard instrument approach procedure utilizing the Peachtree VOR/DME.

EFFECTIVE DATE: 0901 u.t.c., September 22, 1988.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedure Branch, Air Traffic Division, Federal Aviation

Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On April 26, 1988, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Lawrenceville, Georgia, Transition Area (53 FR 14817). This action will correct the geographic position coordinates of the airport, change the airport name from Gwinnett County to Gwinnett County-Briscoe Field Airport, delete an arrival area extension either side of the Norcross VORTAC 077° radial and add a new extension to provide controlled airspace for aircraft executing a new VOR/DME standard instrument approach procedure utilizing the Peachtree VOR/DME. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6D dated January 4, 1988.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises the Lawrenceville, Georgia, Transition Area.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Lawrenceville, GA [Revised]

By deleting the existing description and substituting the following: "That airspace extending upward from 700' above the surface within a 6-mile radius of the Gwinnett County-Briscoe Field Airport (Lat. 33°58'47" N., Long. 83°57'50" W.; within 2 miles either side of the Peachtree VOR/DME (Lat. 33°52'32" N., Long 84°17'56" W.) 069° radial, extending from the 6-mile radius area to 9 miles west of the airport."

Issued in East Point, Georgia, July 1, 1988.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

July 1, 1988.

[FR Doc. 88–15615 Filed 7–12–88; 8:45 am]

BILLING CODE 4910–13–797

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 201

[Release Nos. 33–6783; 34–25893; 35–24676; 39–2175; IC–16476; IA–1127; File No. S7–26–86]

Disciplinary Proceedings Involving Professionals Appearing or Practicing Before the Commission

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Securities and Exchange Commission is adopting an amendment to Rule 2(e)(7) of its Rules of Practice, the provision governing whether hearings in proceedings against professionals under that Rule are public or nonpublic. Prior to the adoption of this amendment, Rule 2(e)(7) provided that such administrative proceedings would be nonpublic unless the Commission otherwise ordered. The Commission has determined that the benefits of public proceedings outweigh the potential harms identified by the commentators. The amendment provides that Rule 2(e) proceedings shall be public unless the Commission otherwise orders.

EFFECTIVE DATE: August 12, 1988. The amendment to Rule 2(e) will apply to proceedings that are authorized and instituted by the Commission subsequent to the effective date of the amendment. Rule 2(e) proceedings authorized prior to the effective date of the amendment, but not instituted by that date, will not be subject to the amended provision.

FOR FURTHER INFORMATION CONTACT: Emily P. Gordy, Esq., (202) 272–2422, Office of the General Counsel, Securities and Exchange Commission, 450 Fifth Street NW., Mail Stop 6–6, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Securities and Exchange Commission is amending Rule 2(e)(7) of its Rules of Practice, 17 CFR 201.2(e)(7). Rule 2(e) governs Commission administrative disciplinary proceedings against professionals, such as attorneys and accountants, who practice before it.[1] Since 1971, Rule 2(e)(7) has provided

[1] Rule 2(e)(1) generally governs suspensions and bars from practice before the Commission, and provides that:

(1) The Commission may deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found by the Commission after notice of and opportunity for hearing in the matter (i) not to possess the requisite qualifications to represent others, or (ii) to be lacking in character or integrity or to have engaged in unethical or improper professional conduct, or (iii) to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws (15 U.S.C. 77a to 80a–20), or the rules and regulations thereunder.

17 CFR 201.2(e)(1).

Rule 2(e)(2) governs suspensions from appearing before the Commission for attorneys who are suspended or disbarred by any federal or state court, for accountants, engineers or other experts whose licenses have been revoked, or for persons convicted of a felony or misdemeanor involving moral turpitude. 17 CFR 201.2(e)(2).

Rule 2(e)(3)(i) governs temporary suspensions and provides that:

(3)(i) The Commission, with due regard to the public interest and without preliminary hearing, may by order temporarily suspend from appearing or practicing before it any attorney, accountant, engineer, or other professional or expert who, on or after July 1, 1971, has been by name:

(a) Permanently enjoined by any court of competent jurisdiction by reason of his misconduct in an action brought by the Commission from violation or aiding and abetting the violation of any provision of the Federal securities laws (15 U.S.C. 77a to 80b–20) or of the rules and regulations thereunder; or

(b) Found by any court of competent jurisdiction in an action brought by the Commission to which he is a party or found by this Commission in any administrative proceeding to which he is a party to have violated or aided and abetted the violation of any provision of the Federal securities laws (15 U.S.C. 77a to 80b–20) or the rules and regulations thereunder (unless the violation was found not to have been willful).

17 CFR 201.2(e)(3)(i).

that Rule 2(e) proceedings "shall be non-public unless the Commission on its own motion or the request of a party otherwise directs." [2] Those proceedings become public once an administrative law judge finds a basis for imposing a sanction against a respondent.

On September 29, 1986, the Commission proposed alternative amendments to Rule 2(e)(7).[3] The Proposing Release identified and sought comment on three alternative approaches to amending Rule 2(e)(7):

(1) Amending the Rule to provide that Rule 2(e) hearings shall be public unless the Commission, at any time during the proceedings, on its own motion or at the request of a party, otherwise directs;

(2) Amending the Rule to provide that hearings in specified classes of proceedings shall be public; or

(3) Amending the Rule to provide that the Commission will determine whether to hold public hearings on a case-by-case basis.

The Commission also sought comments on other possible approaches, including comments on whether Rule 2(e)(7) should remain in its present form.[4]

The Commission believes that the benefits of public proceedings outweigh the potential harms identified by the commentators and has determined to amend Rule 2(e)(7) to provide for public proceedings. The Commission has determined to adopt the first alternative amendment, which contains a presumption in favor of public proceedings while allowing flexibility for nonpublic proceedings under appropriate circumstances.

II. Discussion

As discussed below, there are a number of reasons supporting public Rule 2(e) proceedings. Public proceedings will avoid the appearance that the Commission favors Rule 2(e) respondents over respondents in proceedings conducted against securities professionals and others, and will also remove the incentive Rule 2(e) respondents have to delay proceedings for reasons unrelated to the merits of the case at issue. In addition, public proceedings will provide professionals and the public with knowledge of conduct that the Commission has determined warrants the institution of a proceeding and reduce the risk of misperceptions concerning the culpability of possible Rule 2(e) respondents when the professional's client is charged, but to the public's knowledge, no action is taken against the professional. Public proceedings will also provide increased public and Congressional oversight of the Commission's application of Rule 2(e). Such oversight will then be comparable to that applied to other administrative proceedings conducted by the Commission.

Commentators raised concerns about reputational damage, due process, the lack of specific professional standards of conduct, and whether policy considerations favor public access to this type of governmental process and to professional discipline. The Commission has concluded that the concerns raised by the commentators are outweighed by the benefits of public proceedings.

A. Benefits of Public Proceedings

Four reasons support public Rule 2(e) disciplinary proceedings. First, virtually all other administrative proceedings brought by the Commission (including those against brokers, dealers, investment advisers, and public companies)[5] and all Commission injunctive actions are public. The Commission believes that conducting private proceedings against accountants and attorneys, while at the same time providing for public proceedings against other persons such as securities professionals, creates the appearance that the Commission is according favored treatment to respondents in Rule 2(e) proceedings. This appearance of favoritism detracts from the integrity of the Commission's processes. With respect to the issue of whether the proceeding should be public, commentators were unable to identify any compelling reason to distinguish between Rule 2(e) proceedings and proceedings against brokers, dealers, investment advisers, and others.

Second, the Commission believes that private Rule 2(e) proceedings create an incentive for delay. Respondents have an incentive to delay private proceedings more than public ones because, in the event respondents are sanctioned in a Rule 2(e) proceeding, the long lapse of time between the time of the violation and the time the sanction is imposed, which is the first public notice of the proceeding, helps create the impression that the matter is stale and irrelevant to the professional's current practice. This incentive to delay can, for reasons unrelated to the complexity of a proceeding, add substantially to the costs of litigating a matter and does not promote the prompt and fair resolution of Commission administrative proceedings. Moreover, since other Commission administrative proceedings are, as noted above, public, this change will put Rule 2(e) respondents on an equal footing with other respondents with respect to whether delay is advantageous.

Third, there is considerable public and professional interest in the standards applied by the Commission in determining to commence disciplinary proceedings. The decision to commence a disciplinary proceeding most certainly does not imply that the allegations stated in the order instituting proceedings will be upheld by the administrative law judge, the Commission on appeal, or upon judicial review.[6] Professionals and members of the public have a legitimate interest in learning, on a timely basis, the facts and circumstances that may lead to the institution of disciplinary proceedings. Private proceedings may create misperceptions concerning the Commission's treatment of professionals, particularly if the professional's client has been publicly charged and, to the public's knowledge, no action has been taken against the professional.

Finally, as a general matter, open or public adjudicatory proceedings are more favored in the law than are closed proceedings. As discussed in more detail, *infra*, judicial precedent and the governing procedures of many organizations, while they do not mandate public Rule 2(e) proceedings, provide support for public proceedings. At bottom, such determinations rest on the proposition that open proceedings, with attendant public scrutiny, have the effect of protecting against abuse of

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[2] Securities Act Release No. 5147 (May 10, 1971). Prior to 1971, Rule 2(e) did not indicate whether proceedings would be public or nonpublic, although proceedings during that time generally were nonpublic.

[3] Securities Act Release No. 6662 (Sept. 29, 1986), 36 SEC Docket 1161 (Oct. 14, 1986) ("Proposing Release"). The Commission also published proposed amendments to Rule 2(e)(7) in 1974. At that time, the Commission solicited comments on a proposal to make Rule 2(e) proceedings public unless the Commission ordered otherwise. Securities Act Release No. 5477 (April 5, 1974), 4 SEC Docket 34 (April 16, 1974). On March, 4, 1975, the Commission withdrew that proposal to amend the rule. Securities Act Release No. 5572 (March 4, 1975), 6 SEC Docket 374 (March 19, 1975).

[4] *See* Securities Act Release No. 6662 (Sept. 29, 1986).

[5] *See* Rule 11(b) of the Commission's Rules of Practice, 17 CFR 201.11(b).

[6] *See, e.g., Kivitz v. Securities and Exchange Commission*, 475 F.2d 956 (D.C. Cir. 1973) (Commission order suspending attorney reversed by the court of appeals and remanded with directions to vacate order and dismiss proceeding on grounds that supporting evidence was not substantial); *In the Matter of Carter and Johnson*, Securities Exchange Act Release No. 17597 (Feb. 28, 1981), 22 SEC Docket 292 (March 17, 1981) (Administrative law judge decision reversed by the Commission on basis that record did not adequately support findings of violative conduct).

power by governmental entities.[7] Thus, public scrutiny of Commission actions resulting from open proceedings would provide added public and Congressional oversight of the Commission's use of Rule 2(e).

B. Views of Commentators

The Commission received twenty-six letters of comment in response to the Proposing Release.[8] Twenty-four of these letters were from accountants, attorneys or professional associations of accountants and attorneys. As discussed more fully below, these twenty-four commentators generally oppose amending the Rule. One commentator, an academic, favors amending the Rule to provide for public proceedings, and the then General Counsel of the Commodity Futures Trading Commission ("CFTC"), expresses no position on the advisability of public or private proceedings.

As an initial matter, the Commission notes that many of the arguments raised by commentators do not address the issue of whether Rule 2(e) proceedings should be public or private, but instead question the authority of the Commission to initiate such proceedings. The courts have upheld an agency's authority to discipline professionals who practice before it as a necessary adjunct to the agency's power to protect the public and the integrity of its own processes.[9] The Commission's authority to institute Rule 2(e) proceedings, public or private, is not, however, the issue posed in this rulemaking.

With respect to the proposed public disciplinary proceedings under Rule 2(e), the comments generally address the potential harm to professional reputations, due process considerations, the lack of specific professional standards of conduct, and whether there is a preference for public access to governmental processes and professional discipline.

1. Harm to Professional Reputation

The reason cited most frequently by commentators opposing pulbic Rule 2(e) proceedings concerns the potential that initiation of public proceedings might cause irreparable damage to a professional's reputation, regardles of whether the charges are ultimately sustained.[10] Those commentators argue that publicity at the institution of a proceeding is as damaging to a professional's reputation as the imposition of a sanction after adjudiction and, thus, damage from a public proceeding occurs irrespective of the outcome of that proceeding.[11]

The Commission recognizes that any public proceeding may involve reputational damage to the respondent.[12] At the same time, the Commission believes its process for the authorization of proceedings contains procedural safeguards designed to provide assurance that Commission decisions to institute proceedings against a professional are based on sufficient grounds.[13] Moreover, it is important to note that virtually all other commission administrative proceedings and all Commission injunctive actions (even if they involve attorneys and accountants) are publicly instituted. The commission routinely institutes public proceedings against securities professionals, such as brokers, dealers, and investment advisers, whos business also depends upon their reputations.[14] Thus, it is not clear that there is a greater need to protect the reputations of respondents in Rule 2(e) proceedings than the reputations of such other professionals.

Finally, the Commission notes that the identity of a potential Rule 2(e) respondent, and the allegations concerning the potenital respondent's conduct, may become known during an enforcement action against a public company that is a client or former client of the Rule 2(e) respondent. Consequently, the commencement of a public Rule 2(e) proceeding may not have substantial additional impact on the professional's reputation.

Commentators further assert that public Rule 2(e) proceedings can invite private litigation against the named professionals, before any wrongdoing or unprofessional conduct is found.[15] As

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[7] *See, e.g., Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 606 (1982); *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 569–573 (1980); *United States v. Criden*, 675 F.2d 550, 556 (3d Cir. 1982). *See also* 3 K. Davis, *Administrative Law Treatise* Section 14:13 (1980); Brandeis, *Other People's Money*, 92 (1932) ("Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.").

[8] The letters of comment and Commission staff's Summary of Comments are available for public inspection and copying at the Commission's Public Reference Room. *See* File No. 57–26–86. Seventeen letters were received from public accountants; two letters were received from attorneys; five letters were received from professional associations; one letter was received from a federal agency; and one letter was received from an associate professor of management.

[9] *See, e.g., Davy v. Securities and Exchange Commission*, 792 F.2d 1418 (9th Cir. 1986) (upholding the Commission's authority under Rule 2(e) finding that Davy, an accountant, had engaged in improper professional conduct and had willfully violated the federal securities laws); *Polydoroff v. Interstate Commerce Commission*, 773 F.2d 372 (D.C. Cir. 1985) (upholding the ICC's authority to police the behavior of attorneys appearing before it, and citing *Touche Ross* with approval); *Touche Ross & Co. v. Securities and Exchange Commission*, 609 F.2d 570 (2d Cir. 1979) (sustaining the validity of Rule 2(e) as a necessary adjunct to the Commission's power to protect the integrity of its administrative procedures and the public in general); and cases and authorities cited in *In the Matter of Carter and Johnson*, Securities Exchange Act Release No. 17597 (Feb. 28, 1981), 22 *SEC Docket* 292, 293–294 (March 17, 1981).

[10] *See, e.g.*, letter dated December 18, 1986 from the American Institute of Certified Public Accountants ("AICPA comment"); letter dated December 22, 1986 from Arthur Andersen & Co. ("Arthur Andersen comment"); letter dated December 24, 1986 from Jack G. Wahlig of McGladrey, Hendrickson & Pullen ("McGladrey comment"); letter dated December 31, 1986 from John D. Abernathy of Seidman & Seidman ("Seidman & Seidman comment"); letter dated January 2, 1987 from Peat, Marwick, Mitchell & Co. ("Peat Marwick comment"); letter dated January 2, 1987 from Ernst & Whinney ("Ernst & Whinney comment"); letter dated January 2, 1987 from Miller, Canfield, Paddock and Stone ("Miller Canfield comment"); letter dated January 5, 1987 from Harris J. Amhowitz and James J. Quinn of Coopers & Lybrand ("Coopers & Lybrand comment"); letter dated January 7, 1987 from Arthur Young & Co. ("Arthur Young comment"); letter dated January 26, 1987 from Richard B. Smith and George W. Bermant of the American Bar Association and letter dated January 26, 1987 from Lewis S. Black, Jr. and Harvey L. Pitt on behalf of the American Bar Association (since the two letters received from the ABA express substantially similar views they will hereinafter be referred to collectively as the "ABA comments" in instances when they express similar views, otherwise the letter from Lewis S. Black, Jr. and Harvey L. Pitt shall be referred to as the "Black/Pitt comment").

[11] *See* letter dated December 23, 1986 from the Association of the Bar of the City of New York; letter dated December 29, 1986 from John F. Fixmer of Wipfli, Ullrich & Co. as well as Ernst & Whinney and McGladrey comments.

[12] The status of a Rule 2(e) proceeding as a private proceeding does not mean that it is undisclosed outside the agency. During private Rule 2(e) proceedings, various persons in addition to parties and their counsel, such as witnesses and potential witnesses, may legitimately be informed of the allegations, facts, and circumstances involved in the case.

[13] *See infra* text accompanying notes 25–26.

[14] Investors often base their decisions to invest on the reputation of the securities professionals. *Cf. Gartenberg v. Merrill Lynch Asset Management, Inc.*, 694 F.2d 923, 929 n. 2 (2d Cir. 1982) (court stated "many shareholders may have invested in the fund on the strength of the adviser's reputation"); *Kaufman v. Merrill Lynch Pierce, Fenner & Smith, Inc.*, 464 F. Supp. 528, 535 (D. Md. 1978) (court stated that certain investors, believing that an investment adviser worked with the brokerage firm of Merrill Lynch, relied "to a certain extent on the reputation" of the firm); *The Anderson Co. v. John P. Chase, Inc.*, [1974–1975] Fed. Sec. L. Rep. (CCH) ¶ 95,009 (March 12, 1975) (the court stated that "Anderson's interest in Chase, Inc. stemmed from the reputation of that firm for the successful management of the two Funds whose investments it then supervised"); *see also* Comment, *Financial Columnists as Investment Advisers: After Lowe and Carpenter*, 74 Calif. L. Rev. 2061, 2073 n. 96 (December 1986) ("investment adviser's success largerly dependent upon reputation for honesty") (citing Note, *Investment Advisers and Disclosure of an Intent to Trade*, 71 Yale L. J. 1342, 1349 (June 1962)).

[15] *See* letter dated January 5, 1987 from Jake L. Netterville of Postlethwaite & Netterville, as well as AICPA, McGladrey and Arthur Andersen comments.

noted previously and discussed in more detail, *infra*, the Commission's processes are designed to determine that there are sufficient grounds upon which to base commission proceedings. In addition, many private Rule 2(e) proceedings follow, or are brought simultaneously with, public administrative or injunctive proceedings against other parties, and the identity of any attorney or accountant involved in the underlying conduct can usually be ascertained from the facts disclosed in those public proceedings. Thus, the decisions to initiate litigation made by private parties who believe themselves aggrieved by conduct underlying a public enforcement action are often independent of whether a Rule 2(e) proceeding is private or public.[16]

2. Due Process Considerations

Commentators also express certain due process concerns. At bottom, these concerns appear to rest largely on general skepticism with respect to the propriety of independent agency adjudication. Thus commentators argue that it is unfair for the Commission, in Rule 2(e) proceedings, to act as both complainant and adjudicator.[17] Commentators also argue that it is unfair that the decision to make a disciplinary proceeding public rests solely with the Commission acting upon an ex-parte staff recommendation.[18] Commentators assert that the Commission's staff may use the threat of public proceedings as a tactical weapon in negotiations in order to coerce settlements and thereby avoid extensive litigation.[19] Commentators also contend that the staff may use Rule 2(e) proceedings to vindicate its position in disputes arising out of legitimate factual or legal differences.[20] Finally, commentators argue that public proceedings may adversely affect an attorney's capacity to serve his clients by chilling effective advocacy.[21]

These arguments question generally the integrity of the agency process and the ability of that process to render fair decisions. These arguments are not unique to the Commission's process and apply to any administrative agency that has the power to discipline professionals that practice before it. However, contrary to these arguments, courts have consistently held that a combination of investigative and adjudicative functions in one administrative body is not, without more, a denial of due process.[22] Commission procedures in authorizing the institution of a Rule 2(e) proceeding and its role as ultimate adjudicator are fully consistent with this body of law. The investigative/prosecutorial functions and the adjudicative function must of necessity be combined in the administrative agency as an entity or in the members comprising the agency.[23] The requirement that such functions be performed by different and separate branches within an agency, however, tends to alleviate any potential unfairness or bias resulting from this combination of functions.[24]

All Commission administrative proceedings, including Rule 2(e) proceedings, require express Commission authorization; thus, staff recommendations are evaluated by the Commission before a proceeding is instituted. Prior to Commission authorization of proceedings, respondents generally are given the opportunity to submit a statement that is furnished to the Commission presenting the respondent's position with respect to the staff's recommendation.[25] In addition, with respect to Rule 2(e) proceedings, the Commission has further separated its investigative and litigation functions. The private investigations preceding the institution of Rule 2(e) proceedings are conducted by the Division of Enforcement; the Office of the General Counsel independently reviews any recommendation to initiate Rule 2(e) proceedings,[26] and such proceedings, if litigated, generally are handled by the Office of the General Counsel.

Finally, the Commission is sensitive to the potential for the appearance of abuse when an administrative agency with prosecutorial responsibilities has the authority to discipline attorneys who appear before it as advocates for their clients' positions. Nevertheless, the Commission believes, as it has stated before, that the potential for abuse is " 'neither so great nor so unique to this agency that the Commission should decline to exercise its authority in this area.' "[27] Furthermore, the Commission

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[16] Courts have consistently held that private rights of action are important and a necessary adjunct to commission action in the enforcement of the securities laws. *Bateman Eichler, Hill Richards, Inc. v. Berner*, 472 U.S. 299, 310, (1985) (the court stated "we repeatedly have emphasized that implied private actions provide a 'most effective weapon in the enforcement' of the securities laws and are 'a necessary supplement to commission action' ") (quoting *J.I. Case Co. v. Borak*, 377 U.S. 426, 432 (1964)); *In re Warner Communications Securities Litigation*, 618 F. Supp. 735, 750 (S.D.N.Y. 1985), *aff'd on other grounds*, 798 F.2d 35 (2d Cir. 1986) (the court stated: "The federal securities laws are remedial in nature and, in order to effectuate their statutory purpose of protecting investors and consumers, private law suits should be encouraged."). *See also Friedrich v. Bradford*, 542 F.2d 307 (6th Cir. 1976), *cert. denied* 429 U.S. 1053 (1977).

[17] *See* ABA and AICPA comments.

[18] *See* Arthur Andersen, McGladrey, Mann Judd, Miller Canfield, AICPA, Ernst & Whinney, Seidman & Seidman, Coopers & Lybrand and ABA comments.

[19] *See* ABA, Ernst & Whinney, Peat Marwick, Arthur Young and Seidman & Seidman comments.

[20] *See* Black/Pitt comment. *See also* Mann Judd, Ernst & Whinney, AICPA, DCICPA, Postlethwaite & Netterville and Philip Rootberg comments.

[21] *See* ABA comments.

[22] *See Withrow v. Larkin*, 421 U.S. 35 (1975) (Court held that it was not a violation of due process for members of state board of medical examiners who voted to initiate disciplinary proceedings to make the final decision on revocation of a license). The Court stated:

The contention that the combination of investigative and adjudicative functions necessarily creates an unconstitutional risk of bias in administrative adjudication has a much more difficult burden of persuasion to carry. It must overcome a presumption of honesty and integrity in those serving as adjudicators * * *.

Id. at 47. The Court also stated:

It is also very typical for the members of administrative agencies to receive the results of investigations, to approve the filing of charges or formal complaints instituting enforcement proceedings, and then to participate in the ensuing hearings. This mode of procedure does not violate the Administrative Procedure Act, and it does not violate due process of law * * *.

Id. at 56. *See also Richardson v. Perales*, 402 U.S. 389 (1971); *FTC v. Cement Institute*, 333 U.S. 683 (1948); *Hastings v. Judicial Conference of the U.S.*, 829 F.2d 91 (D.C. Cir. 1987), *appeal pending; Myrick v. City of Dallas*, 810 F.2d 1382 (5th Cir. 1987); *Boston v. Webb*, 783 F.2d 1163 (4th Cir. 1986); *United States v. Batson*, 782 F.2d 1307 (5th Cir.), *cert. denied*, 477 U.S. 906 (1986).

[23] *See* 1 Koch, *Administrative Law and Practice* Sections 1.27, 6.8 (1985).

[24] 5 U.S.C. 554(d)(C) provides:

An employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to Section 557 of this title, except as witness or counsel in public proceedings. This subsection does not apply—

* * * * *

(C) To the agency or a member or members of the body comprising the agency.

[25] Securities Act section 20(a), Securities Exchange Act Section 21(a) and 17 CFR 202.5(c). *See also* Securities Act Release No. 5310 [1972–1973] Fed. Sec. L. Rep. (CCH) ¶ 79,010 (Sept. 27, 1972) (Procedures Relating to the Commencement of Enforcement Proceedings and Termination of Staff Investigations).

[26] In addition, further procedural protection exists because recommendations from the Division of Enforcement may be reviewed by other Divisions and Offices. In the case of proceedings against accountants, the Office of the Chief Accountant reviews the recommendations.

[27] *In the Matter of Carter and Johnson*, Securities Exchange Act Release No. 17597 (Feb. 28, 1981), 22 SEC Docket 292, 295 (March 17, 1981), quoting, *In the Matter of Keating, Muething & Klekamp*, Securities Exchange Act Release No. 15982 (July 2, 1979), 17 SEC Docket 1149, 1165 (concurring opinion of Chairman Williams). Further quoting from Chairman Williams' opinion in *Keating, Muething & Klekamp*, the Commission stated:

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believes, as discussed, that the required separation of functions and other procedural safeguards protect against the risk that any potential animus toward the attorney as a result of vigorous professional representation of the client would lead to a vindicative or nonmeritorious action against the attorney.

3. Lack of Professional Standards

Some commentators reject the parallel between other administrative proceedings brought by the Commission and Rule 2(e) proceedings.[28] They argue that, while the Commission has express statutory authority to bring administrative proceedings against securities professionals and has developed particular expertise with respect to the activities of those professionals, it has neither the express authority nor the requisite expertise to bring Rule 2(e) proceedings against non-securities professionals. They also note that such professionals are subject to regulation and discipline by state authorities.

For purposes of determining whether its proceedings should be public or private, the Commission is not persuaded that it should distinguish Rule 2(e) proceedings from other administrative proceedings. To the extent that the commentators cite the absence of express statutory authority to conduct Rule 2(e) proceedings as a basis for the distinction, they merely rephrase their argument that Rule 2(e) proceedings, whether public or private, are beyond the scope of the Commission's authority. However, if the Commission lacked authority to conduct Rule 2(e) proceedings, conducting them in private would be no more permissible than conducting them in public.

Arguments based upon purported lack of expertise also do not justify nonpublic proceedings. First, most Rule 2(e) proceedings entail charges that the respondent violated the federal securities laws. The Commission's ability to adjudicate such cases—like the ability of the courts—depends upon its ability to apply the federal securities laws to specific facts. The Commission is the administrative agency with responsibility for interpreting and enforcing the federal securities laws;[29] it has adequate expertise to adjudicate issues relating to whether the federal securities laws have been violated, regardless of the profession of the respondent.

Second, even in those cases that depend upon a determination of improper professional conduct, the Commission's exercise of its authority is within the scope of its expertise. With respect to accounts, in Rule 2(e) proceedings based on improper professional conduct, the Commission applies specific professional accounting and auditing standards (*i.e.*, Generally Accepted Accounting Principles (GAAP) and Generally Accepted Auditing Standards (GAAS)) to determine whether improper professional conduct has occurred. GAAP and GAAS constitute a body of standards and principles which govern the accounting and auditing practices of accountants who appear before the Commission. The Commission has express statutory authority under the federal securities laws to prescribe the requirements for financial statements filed with the Commission.[30] Expertise to determine whether these standards have been properly applied is a corollary of that power.

With respect to attorneys, the Commission generally has not sought to develop or apply independent standards of professional conduct. The great majority of Rule 2(e) proceedings against attorneys involve allegations of violations of the *law* (not of professional standards); thus, the Commission, as a matter of policy, generally refrains from using its administrative forum to conduct *de novo* determinations of the professional obligations of attorneys.[31] Indeed, the Commission has generally utilized Rule 2(e) proceedings against attorneys only where the attorney's conduct has already provided the basis for a judicial or administrative order finding a securities law violation in a non-Rule 2(e) proceeding. Accordingly, Rule 2(e) proceedings rarely entail the adjudication of questions concerning professional standards that govern the conduct of attorneys.[32] On the contrary, with respect to attorneys, such proceedings serve primarily as a vehicle for protecting the Commission against further practice by attorneys who have been the subject of other judicial or administrative proceedings involving securities law violations.[33]

4. Preference for Public Access to Governmental Processes and Professional Discipline

a. *Governmental processes.* In its Proposing Release, the Commission stated that there have been a number of changes since 1975 that reflect an increased sensitivity to the benefits of public decisionmaking, citing as support judicial holidays evidencing common

"These concerns do not mean, however, that the Commission should ignore or refuse to exercise an effective professional disciplinary tool under the appropriate circumstances. The important role which professionals, particularly attorneys and accountants, play in assuring adherence to the federal securities laws has long been recognized * * *. Clearly, the Commission would be unable to administer effectively those laws in an environment in which issuers, underwriters, and others involved in the capital raising process were not routinely served by professionals of the highest integrity and competence well-versed in the requirements of the statutory scheme Congress has created. An incompetent or unethical practitioner has the ability to inflict substantial damage to the Commission's processes, and thus the investing public, and to the level of trust and confidence in our capital markets. [We believe] that Rule 2(e) should not be utilized as an enforcement tool against those who violate the federal securities laws and happen coincidentally also to be lawyers or accountants. But where such individuals engage in professional misconduct which impairs the integrity of the Commission's processes, the Commission has an obligation to respond through the application of Rule 2(e)."

Carter and Johnson at 295–296.

[28] *See* AICPA, ABA, Miller Canfield, Ernst & Whinney and Coopers & Lybrand comments.

[29] *See, e.g., Hughes* v. *Dempsey-Tegeler & Co.*, 534 F.2d 156, 170 (9th Cir.), *cert. denied*, 429 U.S. 896 (1976); *Carr* v. *New York Stock Exchange, Inc.*, 414 F. Supp. 1292, 1299 (N.D. Cal. 1976).

[30] Securities Act Section 19(a) and Schedule A.

[31] In *In the Matter of Carter and Johnson*, Securities Exchange Act Release No. 17597 (Feb. 28, 1981), the Commission announced a standard of professional conduct to be applied prospectively. In addition, the Commission solicited public comment on whether the standard should be expanded or modified. The Commission has not formally addressed the expansion or modification of the standard enunciated in *Carter and Johnson* and intends to take no further action in that regard. Since *Carter and Johnson*, the Commission has not attempted to set professional standards of conduct in Rule 2(e) proceedings, but has relied on a showing of violations of the securities laws.

Rule 2(e) proceedings brought by the Commission against attorneys since *Carter and Johnson* involved attorneys enjoined from violations of the securities laws. *In the Matter of Gary C. Cronai*, Securities Act Release No. 6762 (March 24, 1988); *In the Matter of Tommy B. Duke*, Securities Exchange Act Release No. 25165 (Nov. 30, 1987); *In the Matter of William D. Sauers*, Securities Exchange Act Release No. 24331 (April 13, 1987); *In the Matter of Robert D. Schulman*, Securities Exchange Act Release No. 23668 (Sept. 30, 1986); *In the Matter of Thomas W. Tierney*, Securities Exchange Act Release No. 23169 (April 23, 1986); *In the Matter of Richard Hirschfeld*, Securities Exchange Act Release No. 22796 (Jan. 15, 1986); *In the Matter of Carl Leibowitz*, Securities Act Release No. 6528 (May 1, 1984); *In the Matter of Martin E. Hecht*, Securities Act Release No. 6490 (Sept. 27, 1983); *In the Matter of Robert V. Gibson*, Securities Exchange Act No. 18314 (Dec. 7, 1981). The one exception has been a Rule 2(e) proceeding based on a criminal conviction for violations of the securities laws. *In the Matter of James F. McGovern*, Securities Exchange Act Release No. 25379 (Feb. 22, 1988).

[32] The Commission's practice of premising attorney Rule 2(e) proceedings on judicial orders minimizes the risk, cited by some commentators, that public disciplinary proceedings may have a chilling effect on zealous representation of a client, particularly when the attorney appears before the Commission as an advocate in an enforcement matter.

[33] Even in instances where the Commission brings a Rule 2(e) proceeding against an attorney who previously has been the subject of such a judicial or administrative finding, the attorney may contest the need for a bar or a suspension in the Rule 2(e) action.

law and constitutional presumptions of increased public access to proceedings and the Government in the Sunshine Act of 1976, Pub. L. No. 94–409, 90 Stat. 1241 (1976) ("Sunshine Act").[34]

Commentators argue that the authority cited by the Commission in the Proposing Release in support of public access to certain proceedings is inapposite to Rule 2(e) proceedings because the issue in the cited cases is the extent to which access to traditionally public proceedings may be restricted.[35] In contrast, the commentators argue, Rule 2(e) proceedings have been nonpublic since their inception.[36] Commentators also argue that the cases cited in the Proposing Release do not support the Commission's proposal because the cases arose out of proceedings in which a judge or magistrate, who was independent of the person prosecuting the action, adjudicated the claim.[37]

While the authorities cited in the Proposing Release discussing the common law and constitutional presumptions of public access do not require public Rule 2(e) proceedings, they reflect the courts' recognition of the importance of public access to certain decisionmaking processes. Although the distinction between historically private and historically public proceedings in an important factor in a court's evaluation of the availability of public access, it is not dispositive.[38] The fact that the proceedings in the cases cited in the Proposing Release involved independent judges or magistrates does not reduce the relevance of those cases as support for public access to Rule 2(e) proceedings.[39]

Commentators also argue that the passage of the Sunshine Act did not demonstrate an increased sensitivity to public decisionmaking because Congress specifically provided exceptions that allow agency meetings, including those involving particular formal agency adjudications, to be closed. [40] The Commission does not believe that the existence of exceptions to the Sunshine Act, which are specific and circumscribed, evidences a lack of support for the benefits of public adversarial proceedings. Further, the Commission continues to believe that Congress, by enacting the Sunshine Act, expressed support for the public's right of access to the decisionmaking processes of the Federal government.[41]

b. *Professional Discipline.* The Commission sought comment in the Proposing Release on whether modification of the Rule 2(e) provision would be consistent with the administrative practice of other federal and state regulatory agencies and professional organizations.[42] Commentators responded that the Commission's proposal is inconsistent with the administrative practices of other agencies and organizations.[43] They assert that the regulations promulgated by the federal banking agencies and the Internal Revenue Service provide for private disciplinary proceedings.[44] They also contend that, according to a survey conducted by the ABA in 1983, [45] a majority of state bar associations do not make their disciplinary proceedings public at the hearing stage.[46] One commentator argues that a substantial portion of state board disciplinary proceedings against accountants remain private until the board determines to impose sanctions, and that disciplinary proceedings by the AICPA and state societies of CPAs are private until a final adverse decision is made.[47]

While some agencies that have specified disciplinary procedures for professionals have private proceedings,[48] the Commission would not be unique in its adoption of a rule favoring public disciplinary proceedings. For example, the CFTC rules provide, with narrow exceptions, for public disciplinary proceedings.[49]

Although a majority of state bar associations do not currently provide for public proceedings at the hearing stage, a substantial proportion of states, acknowledging the benefits of public proceedings, have provided for earlier public access.[50] Those states that provide for public fact finding proceedings do so after a confidential initial investigation has been completed. Similarly, the investigation conducted prior to Commission authorization of an action is almost invariably private.[51] In

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[34] *See* Securities Act Release No. 6662 (Sept. 29, 1986).

[35] *See* ABA, Coopers & Lybrand, Ernst & Whinney and Miller Canfield comments.

[36] Commentators also argue that the cases cited in the Proposing Release recognized the important privacy interests at stake in disciplinary proceedings.

[37] *See* ABA, Coopers & Lybrand and Ernest & Whinney comments.

[38] *See, e.g., United States v. Chagra,* 701 F.2d 354, 363 (5th Cir. 1983); *United States v. Crider,* 675 F.2d at 554–557. *See also* Comment, *A First Amendment Right of Access to Judicial Disciplinary Proceedings,* 132 U. Pa. L. Rev. 1163 (June 1984). The cases cited in the Proposing Release discuss another factor crucial to a determination of whether proceedings should be public: The benefits and procedural importance of open proceedings.

Most Rule 2(e) actions are settled and thus do not reach the point at which public access would occur. Since very few Rule 2(e) proceedings are actually litigated, attempting to characterize them as historically public or private, for the purpose of determining whether public proceedings are warranted, is not particularly meaningful. As a result, the historical nature of these proceedings does not necessarily appear to be relevant to the analysis. *See United States v. Chagra,* 701 F.2d at 363; *United States v. Crider,* 675 F.2d at 555. The Commission has authorized the institution of public proceedings in several cases. While most of those actions were settled subsequent to the authorizations, and thus no public hearings were held, there have been instances when public proceedings were held. *See, e.g.,* Securities Act Release No. 6440, 26 *SEC Docket* 1275 (Dec. 14, 1982) (Commission announcement of public administrative proceedings against Russell G. Davy and Joseph S. Amundsen pursuant to Rule 2(e)).

[39] *See supra,* discussion of procedural safeguards and combination of investigative and adjudicative functions, text accompanying notes 22–26.

[40] *See* Coopers & Lybrand and AICPA comments.

[41] The Declaration of Policy and Statement of Purpose, section 2 of Pub. L. No. 94–409 provides, in part:

It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government.

[42] *See* Securities Act Release No. 6662 (Sept. 29, 1986).

[43] *See* ABA, Coopers & Lybrand, AICPA and Ernst & Whinney comments.

[44] *See* ABA and Coopers & Lybrand comments.

[45] *See* ABA Center for Professional Responsibility, Survey of Lawyer Discipline and Disability Proceedings in the United States (1984).

[46] *See* ABA, Coopers & Lybrand and AICPA comments.

[47] *See* Coopers & Lybrand comment.

[48] Some agencies, while not providing for disciplinary proceedings against such professionals, provide in their regulations that adjudicative hearings shall be public. *See, e.g.,* Federal Trade Commission Regulations, 16 CFR 3.41 (1988); National Labor Relations Board Regulations, 29 CFR 102.34 (1987).

[49] The CFTC rule governing proceedings against professionals provides:

All hearings shall be public, except that upon application of a respondent or affected witness the Administrative Law Judge may direct that specific documents or testimony be received and retained nonpublicly in order to prevent unwarranted disclosure of trade secrets or sensitive commercial or financial information or an unwarranted invasion of personal privacy.

17 CFR 10.64. *See* letter dated December 10, 1986 from Kenneth M. Raisler, General Counsel, Commodity Futures Trading Commission.

[50] *See, e.g.,* Michigan's attorney discipline procedures provide that, while the initial investigation is confidential, factfinding hearings are open, Rule 9.111, Mich. Stat. Ann. Rule 2 (Callaghan 1985); West Virginia's disciplinary procedures also provide for public proceedings after a confidential investigation has been completed. West Virginia State Bar By-Laws, W. Va. Code Ann. Vol. 1A, Art. VI, Section 30 (Michie 1986 Supp.). *See also Daily Gazette Co. v. Committee on Legal Ethics of the West Virginia State Bar,* 326 S.E.2d 705 (W. Va. 1984) (in holding that public has right of access to attorney disciplinary proceedings, the court recognized that attorneys are accountable to the public for their conduct and that closed hearings contradict fundamental concepts of accountability). In addition, according to the ABA survey, there are an additional fifteen states that provide for public access in their attorney disciplinary procedures. *See* ABA Center for Professional Responsibility, *supra.*

[51] *See* 17 CFR 202.5(a).

response to the Commission's citation to the American Bar Association Standards for Lawyer Discipline and Disability Proceedings ("ABA Standards"), the commentators argue that the ABA Standards do not constitute support for public proceedings by the Commission. They contend that the ABA Standards contemplate a system of procedural and substantive due process that separates the adjudicative and prosecutorial functions, whereas in Rule 2(e) proceedings, the Commission acts as both complainant and ultimate adjudicatory tribunal.[52] As discussed, the Commission believes that appropriate procedural safeguards exist for agency adjudication and that the procedural distinctions between the proceedings contemplated by the ABA Standards and Rule 2(e) proceedings do not argue for more restrictive public access in Rule 2(e) proceedings.[53]

While many state board disciplinary proceedings against accountants remain private until there is a determination to impose sanctions, some states have disciplinary procedures that provide for public proceedings.[54] The Commission recognizes that voluntary private professional organizations, such as the AICPA and the state societies of CPAs, conduct their disciplinary proceedings in private. However, since membership in these professional associations is voluntary, such private proceedings do not necessarily argue for more restrictive public access in the context of proceedings comparable to those of the Commission.[55]

[52] *See* ABA and AICPA comments.

[53] *See supra* text accompanying notes 25–26.

[54] *See, e.g.*, Ohio Rev. Code Ann. Sections 119.01 to 119.13, 4701.16 (Page 1987); Fla. Stat. Ann. Sections 286.011, 455.225(3) and 473.303 (West 1988 Supp.); *Dept. of Professional Responsibility v. Wardlaw*, No. 0046682.0034801 and DOAH No. 84–2830 and *Dept. of Professional Responsibility v. Etue*, No. 0046681 and DOAH No. 84–2833 (Recommended Order issued by Fla. Div. of Administrative Hearings on May 28, 1986; Final Order issued by State of Florida Board of Accountancy on January 15, 1987); Okla. Stat. Ann. tit. 59, Section 15.1 *et seq.* and tit. 25, Section 301 *et seq.* (West 1987) and Rule XV of the Rules of General Application promulgated pursuant to Section 15.5; Okla. Op. Att'y Gen. 83–290 (March 20, 1984); Mo. An. Stat. Sections 326.130, 621.045 and 621.135 (Vernon 1988 Supp.); Missouri State Board of Accountancy News Release (April 11, 1988) announcing the filing of disciplinary complaints with the Administrative Hearing Commission against the firm of Wright, Herfordt and Sanders and various individuals to determine whether there exists "sufficient grounds to discipline").

While some states have procedures for public proceedings, most of the proceedings are, in fact, settled prior to the stage at which the public has access.

[55] Furthermore, many states, in their disciplinary proceedings against judges, provide that confidentiality ends at the post-investigative stage, which would evidence processes similar to those of the Commission. One study finds that nineteen states provide for public access after a confidential investigation has been completed. Shaman and Begue, *Silence isn't Always Golden: Reassessing Confidentiality in the Judicial Disciplinary Process*, 58 Temp. L. Q. 755, 797–798 (Appendix A) (Winter 1985). The Commission believes that this is not an insignificant number and, thus, the study illustrates that many states recognize the benefits of public disciplinary proceedings.

III. Response to Alternative Proposals

A. Adoption of First Alternative

In its Proposing Release, the Commission sought comment on three alternative approaches to amending Rule 2(e). After consideration of the relevant arguments raised in response to its Proposing Release, the Commission has determined to adopt the first alternative which provides that Rule 2(e) proceedings shall be public unless the Commission otherwise orders. This alternative contains a presumption in favor of public proceedings and, thus, is consistent with the Commission's belief that the benefits of public proceedings outweigh the harms identified by the commentators. This alternative also allows the Commission flexibility to bring nonpublic proceedings when appropriate.

B. Views of the Commentators

1. First Alternative

Several of the commentators address the specific alternative proposals. One commentator argues that the first alternative, which provides for public proceedings unless the Commission, at any time during the proceedings, on its own motion or at the request of a party, otherwise directs, would create a burden for the Commission. The commentator argues that the Commission would be routinely faced with requests by respondents that proceedings remain private and this would necessitate difficult determinations regarding, among other things, the merits of the staff's case.[56] The Commission does not expect to be overly burdened by requests from respondents that the proceedings be private. The Commission has not been burdened by requests from brokers, dealers and investment advisers that proceedings be private.[57] If such requests are made, the respondents would normally be able to set forth their arguments for a private Rule 2(e) proceeding in submissions to the Commission prior to institution of the proceeding, thus assisting the Commission in determining at that stage whether the proceedings should be private.[58] Requests for private proceedings should not burden the Commission unduly. Prior to the institution of any Commission proceeding, consideration is afforded to the merits of the staff's proposed allegations. Thus, The Commission's burden as to the evaluation of a case before instituting an action would not change materially if it were considering whether the proceedings should be private.

[56] *See* Coopers & Lybrand comment.

[57] *See* Securities Exchange Act Sections 22 and 17 CFR 201.11(b). The Commission, in the past, has received and ruled on requests by respondents in administrative proceedings that such proceedings be private. *See, e.g., In the Matter of R.A. Holman & Co.*, 42 S.E.C. 866 (1965); *In the Matter of Axe Securities Corp.*, 42 S.E.C. 381 (1964).

2. Second Alternative

Several commentators object to the adoption of the second alternative proposal, which provided for public proceedings in four specified classes of proceedings. The commentators argue that the first class, where "[f]acts or allegations related to those supporting the charges are already public or will become public prior to or concurrent with the institution of the hearing," is defined in an overly broad manner and would thus encompass virtually all Rule 2(e) proceedings; the second class, where "[t]he nonpublic nature of the hearing may be a cause of unreasonable delay," it is unnecessary because the Commission has adequate means to avoid delay; the third class, where "[t]he professional's conduct was such that it seems appropriate to inform the public of the immediate risk or harm," is unnecessary since the Commission could seek a temporary restraining order in federal court or expeditious relief from a state licensing board; and the fourth class, where "[t]he Commission, on its own motion or after considering the request of a party, otherwise directs," provided no standards and could prejudice a proposed respondent since any number of possible parties

[58] Rule 2(e), as adopted, gives the Commission the flexibility to order Rule 2(e) proceedings, or some limited portion of those proceedings, to be closed when the public's substantial interest in open proceedings is outweighed by a demonstrated unfairness to the respondent or to the respondent's client. The public's interest in open proceedings could be found to be outweighed only in instances when such proceedings resulted in some unique or unusual harm to the respondent or the respondent's client. For example, such harm may be found to exist when public proceedings would involve the release of highly sensitive information posing a threat of physical harm, a threat of unique or unusual harm to a client's property, or a threat to national security.

could request a public hearing.[59] The Commission believes that this alternative could be subject to different interpretations by the Commission and respondents and would be more difficult to administer. Thus, the Commission has determined not to adopt this alternative proposal.

3. Third Alternative

Several commentators also object to the third alternative proposal, which provided for the Commission to decide on a case-by-case basis whether hearings should be public or private. The commentators argue that this alternative creates the greatest uncertainty, the most work for the Commission and the most risk for subjective, inconsistent and discriminatory results.[60] The Commission believes that this alternative, while allowing for maximum flexibility, would not reflect the Commission's belief that public proceedings are appropriate in most cases. Since the Commission believes that the benefits of public proceedings outweigh the burdens created by such proceedings, the Commission has determined not to adopt this alternative.

IV. Conclusion

For the reasons set forth above, the Commission believes that the benefits of public Rule 2(e) proceedings outweigh the potential harms identified by commentators. Therefore, the Commission has determined to adopt the first alternative amendment to Rule 2(e)(7) to provide for public proceedings. This amendment contains a presumption in favor of public proceedings, but allows flexibility to bring non-public proceedings under appropriate circumstances.

The amendment to Rule 2(e) will apply to proceedings that are authorized and instituted by the Commission subsequent to the effective date of the amendment. Thus, Rule 2(e) proceedings authorized prior to the effective date of the amendment but not instituted by that date will not be subject to the amended provision.

V. Competition Findings

Section 23(a)(2) of the Securities Exchange Act of 1934 ("Exchange Act") requires the Commission, when adopting rules under the Exchange Act, to consider the impact, if any, of such rules on competition and to balance any competitive impact against the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission has considered the amendment in light of the standard in section 23(a)(2) and believes that adoption of the amendment will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Commission believes that, because the amendment affects only matters of Commission practice and procedure, there will not be an unnecessary or inappropriate burden placed on competition. Furthermore, any impact on the Commission's Rules of Practice would have on competition would not be affected by the public or private nature of the proceedings.

VI. Regulatory Flexibility Act Status

Former Chairman John Shad certified in the Proposing Release that the proposed Rule amendment, if adopted, would not have a significant impact on any entity and thus should not have any such impact on a substantial number of small entities.[61] None of the comments addressed the certification.

VII. Statutory Basis

The Commission is adopting the amendment to the Rule pursuant to its authority under section 19(a) of the Securities Act of 1933, section 23(a) of the Securities Exchange Act of 1934, section 20(a) of the Public Utility Holding Company Act of 1935, section 319(a) of the Trust Indenture Act of 1939, section 211(a) of the Investment Advisers Act of 1940 and section 38(a) of the Investment Company Act of 1940.

List of Subjects in 17 CFR Part 201

Administrative practice and procedure, Investigations, Securities.

VIII. Text of the Amendment

In accordance with the foregoing—Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 201—RULES OF PRACTICE

1. The authority citation for Part 201 continues to read as follows:

Authority: Sec. 19, 48 Stat. 85, as amended, 15 U.S.C. 77s; Sec. 23, 48 Stat. 901, as amended, 15 U.S.C. 78w; Sec. 20, 49 Stat. 833, 15 U.S.C. 79t; Sec. 319, 53 Stat. 1173, 15 U.S.C. 77sss; Sec. 211, 54 Stat. 855, as amended, 15 U.S.C. 80b–11; Sec. 38, 54 Stat. 841, 15 U.S.C. 80a–37.

2. By revising paragraph (e)(7) of § 201.2 as follows:

§ 201.2 Appearance and practice before the Commission.

* * * * *

(e) * * *

(7) All hearings held under this paragraph (e) shall be public unless the Commission, at any time, on its own motion or after considering the request of a party, otherwise directs.

* * * * *

By the Commission.

Jonathan G. Katz,

Secretary.

July 7, 1988.

[FR Doc. 88–15705 Filed 7–12–88; 8:45 am]

BILLING CODE 8010–01–M

[59] *See* Coopers & Lybrand, Miller Canfield and ABA comments.

[60] *See* Coopers & Lybrand, Ernst & Whinney and ABA comments.

[61] Securities Act Release No. 6662 (Sept. 29, 1986).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM88–23–000; Order No. 498]

Deletion of Sections 2.51, 2.100, 2.101; Natural Gas Exploration, Policy and Interpretations

July 8, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is deleting §§ 2.51, 2.100 and 2.101 from Part 2 of its regulations that are no longer pertinent. Section 2.51 is deleted because the Commission does not have jurisdiction over the exportation of natural gas. Section 2.100 is deleted because the procedures authorized and described therein have been fully implemented and are no longer required. Section 2.101 is deleted because it has been superseded and rendered moot by subsequent legislation and Commission orders.

EFFECTIVE DATE: This final rule is effective July 8, 1988.

FOR FURTHER INFORMATION CONTACT:

Barry M. Smoler, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357–5597

Sandra S. Vincent, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357–8530.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the

Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), and electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357–8997. The full text of this final rule is available on CIPS for 10 days the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon and Charles A. Trabandt.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is deleting §§ 2.51, 2.100 and 2.101 from Part 2 of its regulations. Section 2.51 is deleted because the Commission no longer has jurisdiction over the exportation of natural gas. Section 2.100 is deleted because the procedures authorized and described therein have been fully implemented and are no longer required. Section 2.101 is deleted because it has been superseded and rendered moot by subsequent legislation and Commission orders.

II. Background and Discussion

A. Section 2.51

Section 2.51[1] is a statement of Commission policy with respect to authorization of the export of natural gas pursuant to section 3 of the Natural Gas Act.[2] It was adopted in 1976 by the Commission's predecessor, the Federal Power Commission (FPC). Subsequently, on October 1, 1977, the Department of Energy Ogranization Act (DOE Act) became effective. Pursuant to sections 301(b) and 402(a) of the DOE Act, the FPC's functions under section 3 of the Natural Gas Act were transferred to the Secretary of Energy.[3] Accordingly, the Commission is deleting § 2.51 for lack of jurisdiction.

B. Section 2.100

Section 2.100[4] of the Commission's regulations was adopted by the FPC in 1976 to implement section 5 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA).[5] At that time, the FPC had pending before it, in an evidentiary hearing before an administrative law judge, three competing applications for certificate authority to construct and operate pipeline facilities to transport natural gas from the North Slope of Alaska to the lower-48 states. Section 5 of ANGTA mandated that the FPC suspend that proceeding, review the pending applications, and submit a report and recommendation to the President with respect to the selection of an appropriate transportation system. Section 5(b)(2) of ANGTA authorized the FPC, by rule, to establish procedures for this purpose, including designation of a "delegate" to coordinate the process.

Section 2.100[6] of the Commission's regulations suspended the evidentiary hearings before the administrative law judge; authorized the FPC's Chairman to appoint a "delegate" to coordinate the compilation of data for the preparation of the FPC's report and recommendation to the President; and established procedures for that process.

On May 1, 1977, the FPC issued its *Recommendation to the President, Alaska Natural Gas Transportation System*. Pursuant to section 7 of ANGTA, in September 1977, President Carter submitted his *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (President's *Decision*). By Joint Resolution that became law on November 8, 1977, the Congress approved the President's *Decision*.[7]

The Commission, therefore, is deleting § 2.100 from its regulations because the procedures set forth in § 2.100 of the regulations have been fully implemented and no longer serve a useful purpose.

C. Section 2.101

Section 2.101[8] of the Commission's regulations is a statement of the Commission's policy with respect to tariffs for the transportation of natural gas through the Alaskan Natural Gas Transportation System (ANGTS). The statement of policy was adopted in Order No. 45 on August 24, 1979.[9] It pertains to costs incurred by transporters or shippers to condition natural gas for transportation through the ANGTS, and the relationship of these costs to the maximum lawful price of that gas. At that time, the ANGTS did not include a gas conditioning plant as part of the approved transportation system.

Order No. 45 also adopted amended regulations denominated as §§ 271.1105(b) and 271.1105(d), with respect to production-related costs for the Alaskan gas to be transported through the ANGTS. The policy statement in § 2.101 was integrally related to those amended regulations. Order No. 45 was stayed pending rehearing; no order on rehearing was ever issued; and the amended regulations never went into effect.[10]

In October 1981, pursuant to section 8 of ANGTA, President Reagan submitted to Congress his *Findings and Proposed Waiver of Law* (President's *Waiver*).[11] Congress approved the President's *Waiver* by Joint Resolution that became law on December 15, 1981.[12] The President's *Waiver*, among other things, revised the definition of the ANGTS so as to include the proposed gas conditioning plant on the North Slope as part of the approved transportation system.

On January 4, 1982, the Commission issued an order vacating Order No. 45, and closing Docket No. RM79–19, because Order No. 45 had been rendered moot by the President's *Waiver*.[13] The validity of the President's *Waiver* was confirmed in *Metzenbaum* v. *FERC*.[14] The court also construed the January 4, 1982, order vacating Order No. 45 (along with two companion orders of that date) as "nondiscretionary acts required by the waiver" such that "Notice and comment was 'unnecessary' * * *"[15]

In light of the above, the Commission is deleting the statement of policy in § 2.101.

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[1] 18 CFR 2.51 (1987).

[2] 15 U.S.C. 727b (1982).

[3] While the Secretary of Energy has on occasion delegated and assigned to the Commission certain functions under section 3 of the Natural Gas Act, these delegations and assignments do not include the functions underlying the statement of policy in § 2.51 of the Commission's regulations.

[4] 18 CFR 2.100 (1987).

[5] 15 U.S.C. 719c (1982).

[6] 18 CFR 2.100 (1987).

[7] H.R.J. Res. 621, Pub. L. 95–158, 91 Stat. 1268 (1977).

[8] 18 CFR 2.101 (1987).

[9] 44 FR 51554 (Sept. 4, 1979), FERC Stats. & Regs. [Regulations Preambles 1977–1981] ¶ 30,080 (1979); order staying effective date, 44 FR 61327 (Oct. 25, 1979), FERC Stats. & Regs. [Regulations Preambles 1977–1981] ¶ 30,090 (Oct. 19, 1979).

[10] 44 FR 76482 (Dec. 27, 1979), FERC Stats. & Regs. [Regulations Preambles 1977–1981] ¶ 30,112 (Dec. 20, 1979).

[11] *Reprinted in* H.R. Rep. No. 97–350, 97th Cong., 1st Sess. 25

[12] S.J. Res. 115, Pub. L. 97–93, 95 Stat. 1204 (1981).

[13] Order Vacating Prior Order and Closing Docket, 18 FERC ¶ 61,003 (1982).

[14] 675 F.2d 1282 (D.C. Cir. 1982).

[15] 675 F.2d at 1291.

III. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act [16] generally requires a description and analysis of final rules that will have a significant economic impact on a substantial number of small entities. The Commission certifies that promulgating this rule does not represent a major Federal action having a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis is required.

IV. Paperwork Reduction Act

The Paperwork Reduction Act [17] and the Office of Management and Budget's (OMB) regulations [18] require that OMB approve certain information collection requirements imposed by agency rule. This rule does not contain any information collection and recordkeeping requirements requiring OMB's approval. Therefore, this rule will not be submitted to OMB.

V. The National Environmental Policy Act Statement

The Commission concludes that promulgating this rule does not represent a major Federal action having significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act.[19] The Commission believes this rule is procedural in nature and therefore falls within the categorical exemptions provided in the Commission's regulations.[20] Consequently, neither an environmental impact statement nor an environmental assessment are required.

VI. Effective Date

This final rule is a matter of general policy and interpretation of the Commission's regulations. Since this rule does not itself alter the substantive rights or interests of any interested persons, prior notice and comment are unncessary under section 4 of the Administrative Procedure Act (APA).[21] Since the purpose of this final rule is to delete certain sections from Part 2 of the Commission's regulations that are no longer pertinent, the Commission finds good cause to make this rule effective immediately upon issuance.

[16] 5 U.S.C. 601–612 (1982).

[17] 44 U.S.C. 3501–3520 (1982).

[18] 5 CFR Part 1320 (1987).

[19] 52 FR 47897 (Dec. 17, 1987), III FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987).

[20] 18 CFR 380.4(a)(2)(ii) (1987).

[21] 5 U.S.C. 553(b) (1982).

List of Subjects in 18 CFR Part 2

Administrative practice and procedure, Electric power, Environmental impact statements, Natural gas, Pipelines, Reporting and recordkeeping requirements.

Accordingly, the Commission is amending Part 2, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. The authority citation for Part 2 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. No. 12009, 3 1978 Comp., p. 142; Federal Power Act, 16 U.S.C. 792–825r (1982) as amended by Electric Consumers Act of 1986, Pub. L. No. 99–495; Natural Gas Act, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645 (1982); and National Environmental Policy Act, 42 U.S.C. 4321–4361 (1982).

§§ 2.51, 2.100 and 2.101 [Removed]

2. Sections 2.51, 2.100 and 2.101 are removed.

[FR Doc. 88–15700 Filed 7–12–88; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 380

[Docket No. RM87–15–000; Order No. 486–B]

Regulations Implementing the National Environmental Policy Act of 1969; Order Making Technical Correction

Issued July 8, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order making technical correction.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is making a technical correction to its rule that adopted and supplemented the regulations of the Council on Environmental Quality implementing the National Environmental Policy Act of 1969 (Order No. 486, 53 FR 47897 (Dec. 17, 1987), Order No. 486–A, 53 FR 8176 (Mar. 14, 1988)).

EFFECTIVE DATE: This order is effective July 8, 1988.

FOR FURTHER INFORMATION CONTACT: Thomas J. Lane, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357–8530.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357–8997. The full text of this document is available on CIPS for 10 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon and Charles A. Trabandt.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is making a technical correction to its final rule [1] that adopted and supplemented the regulations of the Council on Environmental Quality implementing the National Environmental Policy Act of 1969.[2]

II. Background and Discussion

On rehearing of the final rule the Commission addressed the type of environmental review necessary for Commission approval of natural gas import or export sites. The order on rehearing, however, contained an incorrect legal citation. The Commission approves natural gas import/export sites pursuant only to DOE Delegation Order No. 0204–112,[3] not both DOE Delegation Order Nos. 0204–26 [4] and 0204–112 as stated in the order on rehearing. The Commission, therefore, is amending those regulations promulgated in the rehearing order that relate to

[1] Order No. 486, 52 FR 47897 (Dec. 17, 1987), III FERC Stats. & Regs. ¶ 30,783 (1988), Order No. 486–A, 53 FR 8176 (Mar. 14, 1988), III FERC Stats. & Regs. ¶ 30,799 (Mar. 9, 1988).

[2] 42 U.S.C. 4321–4370a (1982).

[3] 49 FR 6684 (Feb. 22, 1984), I FERC Stats. & Regs. ¶ 9913 (1988).

[4] 43 FR 47769 (Oct. 17, 1978), I FERC Stats. & Regs. ¶ 9906 (1988).

Commission approval of gas import/export sites to delete the references to DOE Delegation Order No. 0204–26.

The Commission is also deleting § 380.4(a)(31) of its regulations as added in the order on rehearing. That paragraph categorizes Commission approval of a natural gas import or export site as a type of action that does not require an environmental impact statement if the site does not involve the construction of facilities. Under DOE Delegation Order Nos. 0204–111 and 0204–112,[5] however, the Economic Regulatory Administration, not the Commission, approves import/export sites that require no construction.

III. Effective Date

The changes to the Commission's regulations contained in this order are effective immediately.

List of Subjects in 18 CFR Part 380

Environment, National Environmental Policy Act, Natural gas, Pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Part 380 of Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Lois D. Cashell,

Acting Secretary.

PART 380—REGULATIONS IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

1. The authority citation for Part 380 continues to read as follows:

Authority: National Environmental Policy Act of 1969, 42 U.S.C. 4321–4307a (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); E.O. 12009, 3 CFR 1978 Comp., p. 142.

§ 380.4 [Amended]

2. In § 380.4, paragraph (a)(31) is removed.

3. In § 380.5, paragraph (b)(1) is revised to read as follows:

§ 380.5 Actions that require an environmental assessment.

* * * * *

(b) * * *

(1) Except as identified in §§ 380.4, 380.6 and 2.55 of this chapter, authorization for the site of new gas import/export facilities under DOE Delegation No. 0204–112 and authorization under section 7 of the Natural Gas Act for the construction, replacement, or abandonment of compression, processing, or interconnecting facilities, onshore and offshore pipelines, metering facilities, LNG peak-shaving facilities, or other facilities necessary for the sale, exchange, storage, or transportation of natural gas;

* * * * *

4. In § 380.6, paragraph (a)(1) is revised to read as follows:

§ 380.6 Actions that require an environmental impact statement.

(a) * * *

(1) Authorization under sections 3 or 7 of the Natural Gas Act and DOE Delegation Order No. 0204–112 for the siting, construction, and operation of jurisdictional liquefied natural gas import/export facilities used wholly or in part to liquefy, store, or regasify liquefied natural gas transported by water;

* * * * *

[FR Doc. 88–15699 Filed 7–12–88; 8:45 am]

BILLING CODE 6717–01–M

[5] DOE Delegation Order No. 0204–26 was superseded by DOE Delegation Order No. 0204–55, which in turn was superseded by DOE Delegation Order NO. 0204–112.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–011F]

Occupational Noise Exposure Standard

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: Notice is hereby given that OSHA has reviewed the comments received in response to the **Federal Register** request for information on the paperwork burden associated with the occupational noise exposure standard. On the basis of the comments received, OSHA intends to maintain the present requirements of the standard. OMB has renewed the information collection clearance for the standard for three years.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Room N–3649, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 523–8151.

SUPPLEMENTARY INFORMATION:

Background

The Office of Management and Budget (OMB) reviewed and approved the information collection requirements of the occupational noise exposure standard (29 CFR 1910.95) when the hearing conservation amendment was issued in March 1983 (OMB Control No. 1218–0048). When OSHA sought renewal of its clearance for this standard in July 1986, however, OMB suggested that the Agency "reexamine, in conjunction with OMB, potential alternatives for reducing the [standard's] information collection burden." As a result of OMB's suggestion, OSHA agreed to seek public comment on the possibility of reducing the information collection burdens resulting from the noise standard.

On November 4, 1987, OSHA published a notice in the **Federal Register** (52 FR 42321) requesting comments concerning the current information collection burden of the OSHA noise standard. Comments were sought on whether and to what extent information collection requirements could be reduced without reducing the effectiveness of the standard in preventing employee hearing loss. Specifically, OSHA requested information on the practical utility of the information required to be collected by the existing regulation; on the appropriate frequency for collecting the information; and on possible alternatives for reducing the information collection burden.

In response to the **Federal Register** notice, 31 comments representing 29 organizations were received. With the exception of NIOSH, the respondents fell into two fairly well-defined categories:

1. Professional noise and audiologic consultants and related professional associations (21 comments).

2. Representatives of industrial and public utility organizations (9 comments).

Summary of Submitted Comments

1. Professional Noise and Audiologic Consultants and Related Professional Associations

Of the 21 comments received, 20 stated emphatically that no changes should be made in the present requirements of the standard. In 11 of these comments, it was pointed out that most consultants (who service smaller employers) and most large companies who perform their own audiometric testing make extensive use of computerized systems which keeps paperwork burden to a minimum. Sixteen of the 21 commenters in this group maintained that any changes, particularly in the frequency of audiometric testing, would diminish the effectiveness of the standard. Eight pointed out explicitly that they had

received no complaints from any of their clients on any recordkeeping requirements of the standard and no commenter in this group suggested that any client had raised any complaints about any provisions of the standard.

With regard to the frequency of audiometric testing, one commenter (Ex. 513–12) pointed out that, in one case, when audiometric testing was postponed for one year, upon resumption of testing, an STS was found in 24% of the 204 employees involved. The rate of STS fell to 3% when testing was resumed on an annual basis. Another commenter (Ex. 513–27) cited an Air Force study indicating that if audiometric tests were not performed annually, hearing loss due to noise exposure would not be discovered in time to avoid hearing impairment. The same commenter also cited an International Standards Organization standard (ISO–1999.2) which predicted that changes in hearing basis necessitates annual audiograms.

One commenter (Ex. 513–21) suggested that, under certain conditions and after 6 to 8 audiograms have been done annually, it might be possible to allow audiometric testing to be performed at two year intervals. However, all others opposed such a practice.

The subject of monitoring frequency was raised in one comment (Ex. 513–2) in which the commenter stated that noise monitoring need not be repeated annually. However, OSHA does not require annual monitoring and does, in fact, require exactly the provisions which the commenter recommends.

Overall, the comments from this group denied that there was any undue paperwork burden in the noise standard, maintained that none of their clients had any difficulties in complying with the standard, and stated that any changes in the provisions would weaken the standard's ability to provide adequate protection to employees.

2. Representatives of Industrial and Public Utility Organizations

Of the 9 comments in this group, two perceived problems with the present standard. Another (Ex. 513–24) submitted a detailed comment requiring the OSHA Form 200 issue of recordable hearing loss. However, the recordability of hearing loss on OSHA Form 200 is not a requirement of the noise standard. (It is required under 29 CFR Part 1904). Thus the comment is irrelevant to the issues addressed here. The remaining six comments expressed no knowledge of any reason why the paperwork requirements of the standard are too burdensome and urged that they not be changed.

The first of the two commenters who perceived problems with the standard (Ex. 513–14) raised only one point. He felt the provision requiring the posting of the standard in an accessible location to be unnecessary. Since OSHA does not regard this requirement to be "paperwork" or "information collection", it is not considered relevant to the issue.

The second commenter (Ex. 513–15) who expressed problems with the requirements of the standard did not provide any explicit information. He felt that the scope of information collection was too broad. However, the only specifics mentioned related to schedules, bulletins, telephonic or telegraphic requests, etc. None of these are required by the noise standard. It seems apparent from the wording of the comment that the commenter was looking at the OMB definition of "Information Collection" which was included in the **Federal Register** notice, and assumed that these elements were part of the noise standard.

The other six commenters in this category opposed making any changes. Most of them explicitly stated that there was nothing excessively burdensome in the present requirements.

On the basis of the 9 comments in this category, no information has been presented which justifies making any change in the present noise standard.

3. NIOSH

NIOSH was the only government agency to submit a comment. They stated that present requirements are necessary to ensure the effectiveness of the standard and that any reduction in the present information collection requirements may result in a significant increase in the risk of hearing impairment among exposed workers.

Action To Be Taken

In the **Federal Register** notice of November 4, 1987, OSHA requested information "on the practical utility of the information required to be collected by the existing regulation, on the appropriate frequency for collecting the information and on possible alternatives for reducing the burden without reducing the effectiveness of the standard in protecting employee hearing." OSHA believes that, based on the comments received, no case has been made that would support any action to change any provision of the existing noise standard. OSHA therefore has prepared this **Federal Register** notice to announce that, as a result, no further action will be taken.

OMB has cleared the information collection requirements of the Occupational Noise Exposure Standard for three years until June 30, 1991, the maximum period allowed under the Paperwork Reduction Act.

List of Subjects in 29 CFR Part 1910

Occupational health standards, Noise.

Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 6(b) and 8(d) of the Occupational Safety and Health Act (29 U.S.C. 655, 659).

Signed at Washington, DC, this 8th day of July, 1988.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 88–15713 Filed 7–12–88; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300188A; FRL 3412–8]

Definitions and Interpretations; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule adds a commodity definition for marjoram that defines marjoram for tolerance purposes and clarifies and updates the relationship between the general commodity term "marjoram" and the specific raw agricultural commodities classified as "*Origanum* spp." This regulation was requested by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: July 13, 1988.

ADDRESS: Written objections, identified by the document control number, [OPP–300188A], may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail:

Hoyt Jamerson, Emergency Response and Minor Use Section (TS–767C), Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis

Highway, Arlington, VA 22202, (703)–557–2310.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of May 4, 1988 (53 FR 15854), in which it was 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, had submitted a request on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, Technical Committee.

IR–4 requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose that 40 CFR 180.1(h) be amended by adding "marjoram" to the general category of commodities listed in column A and defining the general commodity term for tolerance purposes by inserting the corresponding raw agricultural commodities "*Origanum* spp. (includes sweet or annual marjoram, wild marjoram or oregano, and pot marjoram)" in the specific commodities listing in column B. Additionally, it was proposed that 40 CFR 180.34(f)(9)(xix) (A) and (B), a listing of the herbs and spices crop group and its representative commodities, be revised to make it consistent with the general commodity definition for marjoram.

The IR–4 requested these amendments in order to clarify and update the relationship between the general commodity term "marjoram" and the specific raw agricultural commodities classified as "*Origanum* spp."

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

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the rule will protect the public health. Therefore, the rule is 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. 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: June 23, 1988.

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 180.1(h) is amended by adding a definition for marjoram, to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(h) * * *

A	B
* *	* * * *
Marjoram	*Origanum* spp. (includes sweet or annual marjoram, wild marjoram or oregano, and pot marjoram).
* *	* * * *

3. Section 180.34 is amended by revising paragraph (f)(9)(xix), to read as follows:

§ 180.34 Tests on the amount of residue remaining.

* * * * *

(f) * * *

(9) * * *

(xix) *Herbs and spices group*—(A) *Commodities.* Anise (aniseed) (*Pimpinella asisum*); balm (*Melissa officinalis*); basil (*Ocimum basilicum*); borage (*Borago officinalis*); burnet (*Sanguisorba minor*); camomile (*Anthemis nobilis*); caraway (*Carum carvi*); catnip (*Nepeta cataria*); chives (*Allium schoenoprasum*); clary (*Salvia sclarea*); coriander (*Coriandrum sativum*); costmary (*Chrysanthemum balsamita*); cumin (*Cuminum cyminum*); curry leaf (*Murraya koenigii*); dill (*Anethum graveolens*); fennel (Italian and sweet); (*Foeniculum vulgare*); fenugreek (*Trigonella foenumgraecum*); horehound (*Marrubium vulgare*); hyssop (*Hyssopus officinalis*); marigold (*Calendula officinalis*); marjoram (*Origanum* spp.) (including sweet or annual marjoram, wild marjoram or oregano, and pot marjoram); nasturtium (*Tropaeolum majus*); pennyroyal (*Mentha pulegium*); rosemary (*Rosmarinus officinalis*); rue (*Ruta graeolens*); sage (*Salvia officinalis*); savory, summer and winter (*Satureja* spp.); sweet bay (bay leaf) (*Laurus nobilis*); tansy (*Tanacetum vulgare*); tarragon (*Artemesia draculunculus*); thyme (*Thymus* spp.); wintergreen (*Gaultheria procumbens*); woodruff (*Galium odorata*); wormwood (*Artemesia absinthium*).

(B) *Representative commodities.* Basil, chives, dill, marjoram or other *Origanum* spp., and sage.

* * * * *

[FR Doc. 88–15484 Filed 7–12–88; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[OPP–00265; FRL–3411–4]

Pesticide Tolerance for Metolachlor; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error in the tolerance designation in 40 CFR 180.368(a) for residues of the herbicide metolachlor in or on safflower seed.

DATE: Effective on July 13, 1988.

FOR FURTHER INFORMATION CONTACT:

Richard Mountfort, Product Manager (PM) 23, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–557–1830.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 11, 1982 (47 FR 10537), EPA established a tolerance of 0.1 part per million (ppm) for residues of the herbicide metolachlor in or on safflower seed. In the **Federal Register** of July 16, 1986 (51 FR 25697), EPA reissued the table in § 180.368(a) and through a typographical error the tolerance entry for safflower seed was inadvertently listed as 0.01 ppm. This

document corrects that typographical error by changing the entry to read "0.1."

List of Subjects in 40 CFR Part 180

Pesticides, Pests.

Accordingly, 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.

§ 180.368 [Amended]

2. In § 180.368(a), the tolerance entry for safflower seed is revised to read "0.1".

Dated: June 28, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 88–15339 Filed 7–12–88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP OF2389/R973; FRL-3411-3]

Pesticide Tolerances for Permethrin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide permethrin and its metabolites in or on the raw agricultural commodities alfalfa (fresh) and alfalfa hay; meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep; milk; poultry; and eggs. This rule to establish maximum permissible levels for the combined residues of permethrin was requested pursuant to petitions by the FMC Corp.

EFFECTIVE DATE: July 13, 1988.

ADDRESS: Written objections, identified by the document control number [PP OF2389/R973], may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

George LaRocca, Product Manager (PM) 15, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–3210.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of June 7, 1988 (53 FR 20872), in which it was announced that the FMC Corp. Agricultural Chemical Group, 2000 Market St., Philadelphia, PA 19103, had submitted pesticide petition OF2389 to the Agency proposing to establish new tolerances and amend existing tolerances for the combined residues of the insecticide permethrin [(3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] and its metabolites *cis* and *trans* 3-(2,2-dichloroethenyl)-2,2-dimethylcylopropanecarboxylic acid, 3-phenoxybenzyl alcohol and 3-phenoxybenzoic acid in or on the following raw agricultural commodities: Alfalfa, fresh at 25.0 parts per million; alfalfa, hay at 55 ppm; meat of cattle goats, hogs, horses, and sheep to 0.25 ppm; meat byproducts of cattle, goats, hogs, horses, and sheep at 2.0 ppm; fat of cattle, hogs, and horses at 2.5 ppm; fat of goats and sheep at 3.0 ppm; fat of poultry at 1.0 ppm; eggs at 1.0 ppm; and milk fat (reflecting 0.25 ppm in whole milk) at 6.25 ppm.

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

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is 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. 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: June 29, 1988.

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 180.378 is amended in paragraph (b) by adding and alphabetically inserting the commodities alfalfa, fresh and alfalfa, hay and in paragraph (c) by revising the entries for eggs; fat, meat, and meat byproducts (mbyp) of cattle, goats, hogs, horses, poultry and sheep; and milk, to read as follows:

§ 180.378 Permethrin; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million
Alfalfa, fresh	25.0
Alfalfa, hay	55.0

* * * * *

(c) * * *

Commodities	Parts per million
Cattle, fat	3.0
Cattle, meat	0.25
Cattle, mbyp	2.0
Eggs	1.0
Goats, fat	3.0
Goats, meat	0.25
Goats, mbyp	2.0
Hogs, fat	3.0
Hogs, meat	0.25
Hogs, mbyp	3.0
Horses, fat	3.0
Horses, meat	0.25
Horses, mbyp	2.0
Milk fat (reflecting 0.25 ppm in whole milk)	6.25
Poultry, fat	0.15
Poultry, meat	0.05
Poultry, mbyp	0.25
Sheep, fat	3.0
Sheep, meat	0.25
Sheep, mbyp	2.0

[FR Doc. 88–15340 Filed 7–12–88; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 71146-8001]

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 total allowable catch (TAC) for the "other rockfish" category in the Central Regulatory Area of the Gulf of Alaska will be taken by July 9, 1988. Fishing for and retention of "other rockfish" is therefore prohibited in the Central Regulatory Area from July 9, 1988, through December 31, 1988. This action is necessary to limit the harvest of "other rockfish" to the amount permissible under Federal regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: Effective at noon, July 9, 1988, Alaska Daylight Time (ADT), until midnight, Alaska Standard Time (AST), December 31, 1988. Comments on this notice may be submitted to the Regional Director until July 25, 1988.

ADDRESS: Address comments to James W. Brooks, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668.

FOR FURTHER INFORMATION CONTACT: Jessica Gharrett (Resource Management Specialist, NMFS) 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the exclusive economic zone (EEZ) 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. Under the procedures set forth at § 672.20(a), 1988 TACs were established for each groundfish target species or species group and apportioned among the regulatory areas or districts (53 FR 890, January 14, 1988).

One of the groups of groundfish species for which TAC was established is the "other rockfish" category, which in the Central Regulatory Area consists of members of the genus *Sebastes*, as described in Table 1, § 672.20. The 1988 TAC for "other rockfish" in the Central Regulatory Area is 7,100 mt and is apportioned entirely to domestic annual processing (DAP).

The estimated catch through June 23, 1988, in the Central Regulatory Area is 5,100 mt. At current harvest rates, the TAC will be reached on July 9, 1988. Under § 672.20(c)(2)(i), if the Regional Director determines that the TAC for any target species or the "other species" category in any regulatory area or district has been or will be reached, directed fishing for that species will be prohibited and that species will be declared a prohibited species. Therefore, beginning at 12:00 noon on July 9, 1988, fishing for, and retention of, "other rockfish" in the Central Regulatory Area is prohibited. Fishing for other groundfish species for which a quota is available in the Central Regulatory Area is permitted, but any catches of "other rockfish" must be treated as a prohibited species and discarded at sea in accordance with § 672.20(e).

In making this decision, the Regional Director concluded that: (1) There will be no threat of overfishing "other rockfish" stocks because bycatches of "other rockfish" in other groundfish fisheries are expected to be negligible, (2) the long-term economic interests of authorized users of the "other rockfish" fishery are protected because the stocks are protected from additional decline, and (3) a continued closure will have no significant impact on the socioeconomic well-being of other domestic fisheries, since other species of fish and shellfish will not be significantly affected.

Classification

At current harvest rates, the "other rockfish" TAC will be fully harvested by July 9, 1988. Therefore, the health of stocks of "other rockfish" could be jeopardized unless this notice takes effect promptly. Therefore, NOAA finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and that its effective date should not be delayed. This action is taken under § 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 8, 1988.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-15679 Filed 7-8-88; 2:27 pm]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 71146-8001]

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 total allowable catch (TAC) assigned to hook-and-line gear in the Western Regulatory Area of the Gulf of Alaska will be reached by July 8, 1988. Fishermen are prohibited from retaining sablefish during directed hook-and-line fishing for sablefish and while fishing for other groundfish species with hook-and-line gear in this area after 12:00 noon, Alaska Daylight Time (ADT), on July 8, 1988. This closure is necessary to limit the share of sablefish assigned to hook-and-line gear to that amount specified in the regulations. It is intended as a management measure that complies with objectives of the FMP.

DATES: This notice is effective from 12:00 noon on July 8, 1988, Alaska Daylight Time (ADT), until midnight, Alaska Standard Time, December 31, 1988.

ADDRESS: Comments should be addressed to James W. Brooks, Acting Director, Alaska Region (Regional Director), National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Fishery Management Biologist, 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 672.20(a) of the regulations establishes an optimum yield range of 116,000-800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. TACs for each target groundfish species and species group are specified annually. For 1988, TACs were established for each of the target groundfish species and species groups and apportioned among the regulatory areas and districts.

Section 672.2 of the regulations defines the Western Regulatory Area in the Gulf of Alaska. The TAC for sablefish is 4,060 mt in this area. Under § 672.24(b)(2) of current regulations,

persons fishing with hook-and-line gear may take up to 55 percent of the TAC in this area, or 2,230 mt.

NMFS estimated as many as 72 hook-and-line vessels registered to fish in the Western Regulatory Area. Landings through July 4, 1988 total about 2,193 mt of sablefish caught by hook-and-line gear. At present catch rates, the Regional Director has determined that the remainder of the amount of sablefish assigned to hook-and-line gear (37 mt) in the Western Regulatory Area will be taken by July 8, 1988.

Under § 672.24(b)(3)(ii), if the share of the sablefish TAC assigned to any type of gear for any area or district will be reached, further catches of sablefish must be treated as prohibited species for the remainder of the year by pesons using that type of gear. Since the share of the TAC assigned to hook-and-line gear will be reached, further sablefish catches must be treated as prohibited species after 12:00 noon, ADT, on July 8, 1988.

The specified allocation of the sablefish resource between hook-and-line, trawl, and pot gear in the Western Regulatory Area will be jeopardized unless this notice takes effect promptly. Therefore, NOAA 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.

Public comments on the necessity for this action are invited for a period of 15 days after the effective date of this notice. Public comments on this notice of closure may be submitted to the Regional Director at the address above until July 25, 1988. If written comments are received which oppose or protest this action, the Secretary will reconsider the necessity of this action, and, as soon as practicable after that reconsideration, will either publish in the **Federal Register** a notice of continued effectiveness of the adjustment, responding to comments received, or modify or rescind the adjustment.

Classification

This action is taken under § 672.24 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 8, 1988.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-15729 Filed 7-8-88; 5:12 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 53, No. 134
Wednesday, July 13, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 13

Setoffs and Withholdings Against Debt.

AGENCY: Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: This proposed rule amends 7 CFR Part 13, the provisions stating the conditions under which amounts approved by Agricultural Stabilization and Conservation county committees for disbursement to persons under programs administered by the Department of Agriculture, or any agency thereof, will be withheld or set off against debts of such persons owing to any department or agency of the United States. The intent of this proposed rule is to extend the regulatory period of time allowed for setoff and withholding to ten years. This regulation would then allow a period of time similar to that allowed by the regulations issued under the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (31 U.S.C. 3716). This proposed rule also permits all agencies of the United States to submit administrative offset requests directly to the appropriate Agricultural Stabilization and Conservation Service state office.

DATE: Comments must be received by August 12, 1988.

ADDRESSES: Comments concerning this proposed regulation should be addressed to: Director, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All comments submitted in response to this proposed rule will be available for public inspection, in Room 6094, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC., between 8:30 am and 4:00 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Paula Roney, Claims Specialist, (202) 382–0185.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in conformance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major" because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs and prices for consumers, individual industries, federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under Departmental Regulation 1512–1. No sunset review date has been set for this regulation because review is ongoing.

Richard Lyng, Secretary of Agriculture, certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and others. Therefore this action is exempt from the provision of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

The titles and numbers of the Federal Domestic Assistance Programs to which this proposed rule applies are: Commodity Loans and Purchases, 10.051; Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Storage Facilities and Equipment loans, 10.056; Wheat Production Stabilization, 10.058; Rice Production Stabilization, 10.065; Grain Reserve Program, 10.067; as listed in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

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

This proposed rule makes two changes in existing regulations:

First, it amends 7 CFR Part 13 to extend the period of time in which the Government may exercise its right to administrative offset against amounts approved by Agricultural Stabilization and Conservation county committees for disbursement to persons under programs administered by the Department of Agriculture, or any agency thereof.

Currently, regulations provide that setoff under 7 CFR Part 13 against a debt owed the Government is barred when no suit has been filed and the applicable statue of limitation for enforcing payment of such a debt expires prior to the date the amount becomes payable to the debtor. Although the period may vary, the statutory period for bringing a civil action on a claim is usually six years. The Debt Collection Act of 1982 amended the Federal Claims Collection Act of 1966 (31 U.S.C. 3716) to allow a ten-year period during which a federal agency may collect a claim by administrative offset under setoff regulations. This ten-year period begins to run from the date a claim becomes due and payable and is not paid. This proposed action allows a similar period for withholding and setoff under these regulations.

This regulation is necessary to protect the financial integrity of many federal farm programs by ensuring the government will be able to collect debts incurred by program participants, including many on which a civil action to enforce would be ineffectual, not sufficiently cost effective for the Government to pursue, or legally barred.

Secondly, it amends 7 CFR Part 13 to permit all agencies of the United States to submit to the appropriate ASCS State office all requests for administrative offset against amounts approved by Agricultural Stabilization and Conservation county committees for disbursement to persons under programs administered by the Department of Agriculture, or any agency thereof.

Currently most federal agencies are required to submit requests for offset directly to the Administrator of the Agricultural Stabilization and Conservation Service (ASCS). The proposed regulation permits such requests to be made directly to the appropriate ASCS state office. This proposed change will streamline the

offset process and promote better cooperation between federal agencies.

List of Subjects in 7 CFR Part 13

Setoffs and Withholdings.

Accordingly, it is proposed that the regulations at 7 CFR Part 13 be amended to read as follows:

PART 13—[AMENDED]

1. The authority citation for Part 13 is revised to read as follows:

Authority: Sec. 5(a)-(d), Pub. L. 89–508, 80 Stat. 308, as amended by sec. 10(2), Pub. L. 97–365, 96 Stat. 1754, and Sec. 1(16)(a), Pub. L. 97–452, 96 Stat. 2471 (31 U.S.C. 3716).

2. 7 CFR 13.5 is amended by revising paragraph (b) to read as follows:

§ 13.5 Conditions under which setoff or withholding shall not be made.

Setoff or withholding shall not be made:

* * * * *

(b) If the claim has been outstanding for more than ten years, or legal action to enforce the debt is barred by an applicable statutory period of limitation, whichever is later. For purposes of this section, a claim is not outstanding until the debt underlying the claim became due and payable and was not paid.

* * * * *

3. 7 CFR 13.6 is amended by revising paragraph (c), removing paragraph (d), redesignating paragraphs (e) and (f) as paragraphs (d) and (e) respectively and adding a new paragraph (e)(5) to read as follows:

§ 13.6 Requests for setoff.

* * * * *

(c) All requests for setoff and Notices of Levy from agencies, of the United States other than those set out in paragraph (a) of this section shall be mailed or delivered to the appropriate ASCS State office.

* * * * *

(e) * * *

(5) Each request shall include a certification that all requirements of the law and the regulations for collection of the debt and for requesting offset have been complied with.

Signed at Washington, DC, on July 6, 1988.

Richard E. Lyng,

Secretary.

[FR Doc. 88–15662 Filed 7–12–88; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 920

[AMS–FV–88–064PR]

Kiwifruit Grown in California; Proposed Amendment No. 3 to the Continuing Handling Regulation and Revision of Administrative Rule

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would add a subsection to the handling regulation for kiwifruit grown in California specifying the types of uses which would exempt such handling from the requirements of that regulation. The proposal would also revise the regulation which exempts kiwifruit handlers from certain regulations based on the sale of a small quantity of fruit sold for home use. These actions are needed to clarify provisions relative to the quantity and types of shipments that are not subject to the quality, maturity, size, pack, and inspection requirements imposed under the marketing order.

DATE: Comments must be received by August 12, 1988.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2085–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the date and page number of this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Todd A. Delello, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 3525–S, Washington, DC 20090–6456, telephone (202) 475–5610.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 920 (7 CFR Part 920), as amended, regulating the handling of kiwifruit grown in the State of California. This order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed 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 (AMS) has considered the economic impact of this proposal on 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 Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 145 handlers of California kiwifruit subject to regulation under the marketing order, and approximately 1,225 producers in the production area. The Small Business Administration (13 CFR 121.2) has defined small agricultural producers as those having annual gross revenue for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California kiwifruit may be classified as small entities.

The 1987 California kiwifruit harvest totaled 7.8 million trays and tray equivalents, 21 percent larger than the 1986 harvest. For the past ten years, kiwifruit production has increased in California and is expected to increase again in 1988 to a total of 8.7 million trays. Most of the crop is shipped to fresh markets, with only a small volume of fruit utilized by processors. Exports increased 31 percent over last year and are expected to account for 55 percent of the 1987 production. Domestic shipments also grew by about 20 percent. It has been estimated that 20 to 25 percent of domestic shipments is utilized in foodservice markets (e.g., restaurants).

The handling requirements for fresh California kiwifruit are specified in 7 CFR 920.302 (52 FR 37130, October 5, 1987). The section requires that at least 85% of the kiwifruit in each shipment handled under the marketing order must be U.S. No. 2 grade as defined in the United States Standard for Grades of Kiwifruit, with not more than 8 percent allowed for defects other than shape causing damage, not more than 4 percent allowed for defects other than shape causing serious damage, and not more than 1 percent allowed for fruit affected by internal breakdown or decay. Kiwifruit also must meet a minimum size of 49 and contain a minimum of 6.5 percent soluble solids at the time of inspection. Pack and

container requirements are also specified.

This proposed rule would add a new paragraph (c) to the handling regulation (§ 920.302) listing the types of shipments that are exempt from its requirements and revise the administrative rule pertaining to the minimum quantity exemption. These changes were recommended by the Kiwifruit Administrative Committee on April 6.

The marketing order specifies in paragraph (a) of § 920.54 that kiwifruit handled for certain uses are exempt from the handling regulations imposed under the order as well as inspection and assessment requirements. Such uses are consumption by charitable institutions, distribution by relief agencies, and commercial processing into products. There currently exists some misunderstanding among kiwifruit handlers as to what activities "commerical processing into products" includes. This proposed rule would list those exemptions in the handling regulation and define the meaning of "commercial processing into products" consistent with the intent of this order provision.

As previously indicated, the foodservice industry is an important market for California kiwifruit in terms of the volume of fruit utilized in such outlets. Additionally, consumers are often introduced to this fruit while dining outside the home. The committee therefore believes it is necessary that a quality product reach these markets.

Fresh kiwifruit used by foodservice operators is generally peeled and sliced before serving. Some shippers have mistakenly interpreted this to mean the fruit is being processed and therefore such shipments fall within the exemption provision.

The record evidence supporting this exemption provision in the order, however, indicates that "commercial processing into products" is intended to cover such uses as production into wine, jams and jellies because kiwifruit so utilized does not affect the marketing of kiwifruit in commercial fresh fruit market channels, and therefore no use would be served by requiring such kiwifruit to meet quality standards imposed under the order.

While the acts of peeling and slicing prior to serving do not qualify as "commercial processing into products" under paragraph (a) of § 920.54, the committee considered recommending that shipments to foodservice outlets be exempt from handling regulations under paragraph (b) of that section. The majority of the committee members believed, however, that such shipments should continue to meet the established grade, size and maturity standards because they account for a significant share of total fresh shipments. Allowing such a large volume of potentially substandard fruit to be shipped would depress the market for all kiwifruit. In addition, it would be difficult to monitor the movement of fruit shipped to foodservice outlets to ascertain whether the fruit was, in fact, utilized for exempt purposes.

It is therefore proposed that the term"commercial processing into products" be clearly defined to mean that kiwifruit is physicially altered in form or chemical composition through freezing, canning, dehydrating, pulping, juicing, or heating. This proposed clarification would ensure that fresh kiwifruit served in foodservice outlets meet the minimum quality standards imposed under the order.

The marketing order also provides another exemption from the handling regulation for kiwifruit directly marketed by growers under certain conditions. Such kiwifruit must be sold for home use, and not for resale. The maximum quantity that can be sold to any one person on any one day is currently limited to 200 pounds. Using this current poundage limit, a handler can sell three separate family members in one vehicle up to 600 pounds of kiwifruit free from all regulations. The committee believes that this amount is excessive in view of the basic intent of this exemption provision, i.e. that the fruit is for home use, not resale. The committee recommended that the 200 pound limit be applied to all persons collectively in any one vehicle and believes that this change would further the fulfillment of this provision's objective. With current annual per capita consumption of kiwifruit in the United States being approximately 0.2 pounds, a 200 pound-per-vehicle exemption amount should be adequate to meet the needs for home use. Therefore, paragraph (b)(2) of § 920.110 is proposed to be revised accordingly.

Finally, the Department is proposing a change in paragraph (a) of the handling regulation (§ 920.302) to remove obsolete language.

Based on the above, the Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons sufficient time to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 920

Marketing agreements and orders, Kiwifruit, California.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 920 be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 920 continues to read as follows:

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

2. Section 920.110 is amended by revising paragraph (b)(2) to read as follows:

§ 920.110 Exemptions.

* * * * *

(b) * * *

(2) The total weight of such kiwifruit sold to all persons collectively in any one vehicle during any one day does not exceed 200 pounds.

* * * * *

3. Section 920.302 is amended by revising paragraph (a) introductory text and adding a new paragraph (c) to read as follows:

§ 920.302 Grade, size, pack, and container regulations.

(a) No handler shall ship any kiwifruit unless such kiwifruit meet the following requirements:

* * * * *

(c) Exemptions. Any person may handle kiwifruit without regard to the provisions of this section provided that such kiwifruit is handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; or (3) commercial processing into products. For the purposes of this section, "commercial processing into products" means that the kiwifruit is physicially altered in form or chemical composition through freezing, canning, dehydrating, pulping, juicing, or heating of the product. The act of slicing, dicing, or peeling shall not be considered commercial processing into products.

Dated: July 8, 1988.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 88–15716 Filed 7–12–88; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1079

[Docket No. AO-295-A38; DA-88-111]

Milk in the Iowa Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider a proposal to expand the marketing area to include unregulated territory in Illinois, Iowa and Missouri, and two counties in Wisconsin that currently are in the marketing area of the Chicago Regional marketing order. Other proposals would provide a two-month lock-in for plants pooled under the Iowa order, and would amend the location adjustment provisions to recognize an expanded marketing area.

Swiss Valley Farms, Co., a dairy farmer cooperative that operates milk plants, requested an emergency hearing to consider expanding the marketing area to recognize current distribution patterns of fluid milk by handlers regulated under the Iowa order.

DATE: The hearing will convene at 9:00 a.m., local time, on July 26, 1988.

ADDRESS: The hearing will be held at Jumers Castle Lodge, I-74 at Sprucehill Drive, Bettendorf, Iowa 52722 (319) 359-7141.

FOR FURTHER INFORMATION CONTACT: Richard A Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at Jumers Castle Lodge, I-74 at Sprucehill Drive, Bettendorf, Iowa 52722, 319/359-7141, beginning at 9:00 a.m., local time, on July 26, 1988, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Iowa marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to proposal No. 2.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96-354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purposes of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Proposal No. 1, which would redefine the marketing area, raises the issue of whether the provisions of the present order would tend to effectuate the declared policy of the Act, if they are applied to the marketing area as proposed to be redefined and, if not, what modifications of the provisions of the order would be appropriate.

Proposal No. 1 would add to the Iowa order marketing area the following territory: The Iowa counties of Des Moines, Henry, Lee and Van Buren; the Illinois counties of Hancock, Henderson, and the townships named in Whiteside County; and the counties in Missouri and Wisconsin indicated in the proposed amendment. Crawford and Grant Counties in Wisconsin, are now part of the marketing area defined by the Chicago Regional Federal milk marketing order. Therefore, evidence may be received relative to whether these two counties in Wisconsin should be terminated from the Chicago Regional order.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

PART 1079—[AMENDED]

The authority citation for 7 CFR Part 1079 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Swiss Valley Farms, Co.

Proposal No. 1

§ 1079.2 [Amended]

Amend § 1079.2 by revising paragraphs (a) and (b), and adding paragraphs (c) and (d) to read as follows:

(a) The Iowa counties of:

Adair, Adams, Allamakee, Appanoose, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Butler, Calhoun, Carroll, Cedar, Cerro Gordo, Chickasaw, Clarke, Clayton, Clinton, Dallas, Davis, Decatur, Delaware, Des Moines, Dubuque, Fayette, Floyd, Franklin, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Henry, Humboldt, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Muscatine, Pocahontas, Polk, Poweshiek, Ringgold, Scott, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, Wright.

and the city of Osage in Mitchell County.

(b) The Illinois counties of:

Hancock, Henderson, Henry, Mercer, Rock Island.

and the city of East Dubuque in Jo Daviess County, and the townships of Fulton, Ustick, Clyde, Genesee, Mount Pleasant, Union Grove, Garden Plain, Lyndon, Fenton, Newton, Prophetstown, Portland and Erie in Whiteside County.

(c) The Missouri counties of: Clark, Harrison, Lewis, Mercer, Putnam, Schuyler and Scotland.

(d) The Wisconsin counties of: Crawford and Grant.

Proposal No. 2

§ 1079.7 [Amended]

In § 1079.7, revise paragraph (d) to read as follows:

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant qualified as a pool plant pursuant to this section which also meets the pooling requirements of another Federal order and from which during the month a greater quantity of fluid milk products, except filled milk, was disposed of as route disposition, in such other marketing area and to pool

plants qualified on the basis of route disposition in such other marketing area than was so disposed of from such plant in the Iowa marketing area as route disposition, or to pool plants qualified on the basis of route disposition, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its fluid milk products disposition, except filled milk, is made in the above described manner in such other marketing area;

(4) A plant qualified as a pool plant pursuant to this section which also meets the pooling requirements of another Federal order and from which during the month a greater quantity of fluid milk products, except filled milk, was disposed of as route disposition in this marketing area, and to pool plants qualified on the basis of route disposition in this marketing area than was so disposed of in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(5) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately, and is not approved by any regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

Proposal No. 3

§ 1079.52 [Amended]

In § 1079.52, revise paragraph (a)(2)(ii) to read as follows:

(ii) The Illinois counties of Henry, Mercer, Rock Island, and the townships of Fulton, Ustick, Clyde, Genesee, Mount Pleasant, Union Grove, Garden Plain, Lyndon, Fenton, Newton, Prophetstown, Portland and Erie in Whiteside County.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 4

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, James H. Williamson, P.O. Box 4606, Overland Park, Kansas 66204, 913/648–1050 or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrator, Iowa Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on July 11, 1988.

J. Patrick Boyle,

Administrator.

[FR Doc. 88–15877 Filed 7–12–88; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Leak-Before-Break Technology; Public Comment Period Extended

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comments.

SUMMARY: The Nuclear Regulatory Commission is proposing to investigate the safety benefits associated with using leak-before-break technology to modify functional and performance requirements for emergency core cooling systems and environmental qualifications of safety related electrical and mechanical equipment.

DATE: On April 6, 1988, the Nuclear Regulatory Commission published a notice soliciting public comments on additional applications of leak-before-break technology (53 FR 11311). The original closing date for public comment of July 5, 1988, is now extended to August 5, 1988.

ADDRESSES: Send written comments to the Secretary of the Commission, Washington, DC. 20555, Attention: Docketing and Service Branch. Copies of comments received by the Commission may be examined at the NRC Public Docket Room, 1717 H Street NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John A. O'Brien, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492–3928.

Dated at Rockville, Maryland, this 6th day of July 1988.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 88–15689 Filed 7–12–88; 8:45 am]

BILLING CODE 7590-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Exchange Recordkeeping Regarding Clearing Organizations' Trade Registers

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On June 8, 1988 the Commodity Futures Trading Commission ("Commission") published in the **Federal Register** a notice of proposed rulemaking concerning its proposal to expand the required reporting of customer-type indicators to include two specified categories of trades in stock index futures and options on such futures contracts, specifically index-arbitrage and substitution transactions. The proposed rulemaking provided a thirty-day period for public comment which ends on July 8, 1988.

The Commission has been requested by the Chicago Mercantile Exchange, and others, to extend the comment period on the Commission's proposed rulemaking for an additional thirty days. Such additional time has been requested in order to permit commenter organizations to consult their memberships, where necessary. The Commission agrees that a thirty-day extension of the public comment period is appropriate to enhance the opportunity for interested parties to comment on the issues raised in the proposed rulemaking.

DATE: All comments on the Commission's proposed rules concerning exchange recordkeeping regarding clearing organizations' trade registers

(53 FR 21490 (June 8, 1988)) must be received by August 12, 1988.

ADDRESS: Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 and should make reference to "Customer-Type Indicator".

FOR FURTHER INFORMATION CONTACT: John Mielke, Associate Director or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 (202) 254–3310 or 254–6990, respectively.

Issued in Washington, DC, this 7th day of July, 1988, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 88–15650 Filed 7–12–88; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–184–86]

Income Taxes; Continued Accruals Beyond Normal Retirement Age; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to requirements for continued accruals beyond normal retirement age under employee pension benefits plans. Changes to the applicable tax law were made by the Omnibus Budget Reconciliation Act of 1986.

DATES: The public hearing will be held on Monday, August 22, 1988, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Monday, August 8, 1988.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE–184–86) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, telephone 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 410 and 411 of the Internal Revenue Code of 1986. The proposed regulations appeared in the **Federal Register** for Monday, April 11, 1988 (51 FR 11876).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than August 8, 1988, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Chief, Technical Section, Legislation and Regulations Division.

[FR Doc. 88–15681 Filed 7–12–88; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4 and 12

[Notice No. 662, Ref. Notice No. 657]

Nongeneric Designations of Grape Wine Having Geographic Significance; Extension of Comment Period

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 657, an advance notice of proposed rulemaking regarding nongeneric designations of grape wine having geographic significance, published in the **Federal Register** on April 12, 1988 (53 FR 12024). ATF has received requests from the National Association of Beverage Importers, the Embassies of Portugal and Germany, and Coudert Brothers of Washington, DC, for an extension of the comment period in order to provide sufficient time for all interested parties to respond to the complex issues addressed in the advanced notice.

DATE: Written comments must be received on or before October 11, 1988.

ADDRESS: Please submit all comments to the Chief, Alcohol Import-Export Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385 (Attn: Notice No. 662)

FOR FURTHER INFORMATION CONTACT: John Colozzi, Specialist, Alcohol Import-Export Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Ave., NW., Washington, DC 20226 (202–535–6245).

SUPPLEMENTARY INFORMATION:

Background

On April 12, 1988, The Bureau of Alcohol, Tobacco and Firearms published a Notice of Proposed Rulemaking, Number 657, Nongeneric Designations of Grape Wine Having Geographic Significance. It details a proposed regulatory change to Title 27, Code of Federal Regulations, Part 4, "Labeling and Advertising of Wine." Names of geographic significance may be used only to designate wine of the origin indicated by that name.

The purpose of this change is to expand the list of foreign names of geographic significance for the purpose of labeling and advertising wine. Numerous foreign countries, including members of the European Economic Community, have petitioned ATF to recognize names of geographic significance used in connection with foreign wines. ATF plans to list these names in a new Part 12, entitled "Foreign Names of Geographic Significance."

Furthermore, § 4.24 provides that certain nongeneric names may be used as "distinctive" designations of wines, if approved by ATF, and certain of these names have been found by the Director to be "distinctive" designations of specific grape wines when they are

known to the consumer and to the trade as the designation of a specific wine of a particular place, or region, distinguishable from all other wines. Examples of this distinctive type are "Liebfraumilch" and "Lacryma Christi."

Originally, the date for closing of comments was July 11, 1988. Several comments have been received to date. A written request from the National Association of Beverage Importers asked for an extension of the closing date to December 31, 1988. The Embassies of Portugal and Germany have asked for a ninety day extension to October 11, 1988, as did Coudert Brothers of Washington, DC, acting on behalf of the Stabilisierungsfonds fuer Wein, a quasi-government authority in the Federal Republic of Germany whose mandate includes the protection of German geographic designations of origin throughout the world.

After a review of all materials submitted by thirteen countries on a previous survey, ATF believes that a ninety day extension to October 11, 1988, is adequate. Respondents are already familiar with the issues and questions involved, and extension beyond the October 11th date will only delay unnecessarily further discussions to resolve this matter.

Respondents should take note of a typographical error that appears in the April 12, 1988, Notice of proposed rulemaking. In the first paragraph of Subpart C—Foreign Names of Geographic Significance, on page 12028, the phrase "27 CFR 4.24(c)(2)" should have read "27 CFR 4.24(c)(1)".

Drafting Information

The principal author of this document was John Colozzi, Alcohol Import-Export Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Imports, Labeling, Packing and Containers, Wine.

27 CFR Part 12

Administrative practice and procedures, Imports, Labeling, Wine.

Dated: July 6, 1988.

Stephen E. Higgins,

Director.

[FR Doc. 88-15649 Filed 7-8-88; 2:.02 pm]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

Ventilation Safety Standards for Underground Coal Mines; Extension of Commit Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the period for public comment regarding the Agency's proposed rules for ventilation for underground coal mines in 30 CFR Part 75.

DATE: Written comments on the proposed rule for ventilation standards must be received on or before August 19, 1988.

ADDRESS: Send comments to the Office of Standards, Regulations, and Variances; MSHA; Room 631; Ballston Tower No. 3; 4015 Wilson Boulevard; Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia Silvey, Director Office of Standards, Regulations, and Variances, MSHA, phone (703) 235-1910.

SUPPLEMENTARY INFORMATION: On January 27, 1988, MSHA published in the **Federal Register** (53 FR 2382) a proposed rule to revise existing ventilation standards for underground coal mines. On March 29, 1988, (53 FR 10104) MSHA extended the comment period to April 28, 1988 in response to requests from the mining community. Due to further requests from the public, MSHA extended the comment period for the proposed rule to May 27, 1988; (53 FR 15416, April 29, 1988).

On May 12, 1988, MSHA published in the **Federal Register** (53 FR 16872) a Notice of Public Hearings which stated that the record would remain open until July 22, 1988, for the submission of post-hearing comments. Due to requests from the mining community at the public hearings, MSHA is extending the comment period to August 19, 1988. All interested parties are encouraged to submit commends prior to that date.

Dated: July 7, 1988.

David C. O'Neal,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 88-15661 Filed 7-12-88; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-88-32]

Special Local Regulations; Hampton Bay Days, Hampton River, Hampton, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal that would establish permanent special local regulations for the Hampton Bay Days Festival, an annual event held in September. Notice of the precise dates and times of the festival will be published annually in the Fifth Coast Guard District Local Notice to Mariners and in the **Federal Register**. The special local regulations are necessary to control vessel traffic due to the confined nature of the waterway and the expected congestion at the time of the event.

DATE: Comments should be received on or before August 29, 1988.

ADDRESSES: Comments should be mailed or hand delivered to Commander (bb), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments will be available for inspection and copying at Room 209 of that address. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804) 398-6204.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 05-88-32) and the specific section of the proposal to which their comments apply, and give reasons for each comment.

The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on the proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the

rulemaking process. The receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

Drafting Information

The drafters of this notice are Mr. Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and Lieutenant Robin K. Kutz, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Proposed Regulation

The area covered by this proposal is the same as that covered by the special local regulations for the 1987 Hampton Bay Days Festival. The Hampton Bay Days Festival is an annual weekend event consisting of a parade of boats, water ski shows, various type boat races, and a fireworks display. The special local regulations provide safety for the persons participating in the various events, and control spectator craft congestion during these events.

Special anchorage areas also are established for use by vessels during the event. Vessels less than 20 meters long may anchor in these areas without displaying the anchor lights and shapes required by Inland Navigation Rule 30, 33 U.S.C. 2030.

If adopted, this proposal will apply to the 1988 Hampton Bay Days Festival scheduled as follows:

a. 3:30 p.m. to 8:00 p.m., September 9, 1988
b. 9:30 a.m. to 10:30 p.m., September 10, 1988
c. 12:30 p.m. to 2:30 p.m., September 11, 1988

This proposal also will apply to future Hampton Bay Days Festivals, and annual notice of the precise dates and times of the festival events would be published in the Local Notice to Mariners and in the **Federal Register**.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Because closure of the waterway is not anticipated for any extended period, commercial marine traffic will be inconvenienced only slightly. The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new § 100.508 is added to read as follows:

§ 100.508 Hampton River, Hampton, Virginia.

(a) *Definitions.*—(1) *Regulated area.* The waters of Sunset Creek and Hampton River shore to shore bounded to the north by the C&O Railroad Bridge and to the south by a line drawn from Hampton River Channel Light 16 (LL 5715), located at latitude 37° 01'03.0" North, longitude 76° 20' 26.0" West, to the finger pier across the river at Fisherman's Wharf, located at latitude 37° 01' 01.5" North, longitude 76° 20' 32.0" West.

(2) *Coast Guard Patrol Commander.* The Cost Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, Group Hampton Roads.

(3) *Special anchorage areas*—(i) *Area A.* Located in the upper reaches of the Hampton River, bounded to the south by a line drawn from the western shore at latitude 37° 01' 48.0" North, longitude 76° 20' 22.0" west, across the river to the eastern shore at latitude 37° 01' 44.0" North, longitude 76° 20' 13.0" West, and to the north by the C&O Railroad Bridge. The anchorage area is marked by orange buoys.

(ii) *Area B.* Located on the eastern side of the channel, in the Hampton River, south of the Queen Street Bridge, near the Bayberry Psychiatric Hospital. Bounded by the shoreline and a line drawn between the following points: Latitude 37° 01' 26.0" North, longitude 76° 20' 24.0" West, latitude 37° 01' 22.0" North, longitude 76° 20' 26.0" West, and latitude 37° 01' 22.0" North, longitude 76° 20' 23.0" West.

(b) *Special local regulations.* (1) Except for vessels operated by Bay Days Inc., participants in the Hampton Bay Days Festival, and as provided in paragraph (b)(2) of this section; no person or vessel may enter or remain in the regulated area without the permission of the Coast Guard Patrol Commander.

(2) Spectator vessels may enter and anchor in the special anchorage areas described in paragraph (a)(3) of this section without the permission of the Patrol Commander, if they proceed at a slow, no wake speed while in the regulated area.

(3) Vessels less than 20 meters long may anchor in the special anchorage areas described in paragraph (a)(3) of this section without exhibiting the anchor lights and shapes required by Inland Navigation Rule 30, 33 U.S.C. 2030.

(4) The operator of any vessel in the immediate vicinity of the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Coast Guard commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any Coast Guard commissioned, warrant, or petty officer.

(c) *Effective period.* This section is effective during Hampton Bay Days Festival events, and for one hour before each event starts and one hour after each events ends. The Commander, Fifth Coast Guard District publishes notices in the **Federal Register** and the Fifth Coast Guard District Local Notice to Mariners that announce the times and dates this section is in effect.

Dated: July 5, 1988.

A.D. Breed,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 88–15619 Filed 7–12–88; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300190; FRL–3412–6]

Aluminum Isopropoxide and Aluminum Secondary Butoxide; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes establishing an exemption from the requirement of a tolerance for the pesticide chemicals aluminum isopropoxide (CAS Reg. No. 555–31–7) and aluminum secondary butoxide (CAS Reg. No. 2269–22–9) when used as stabilizers in formulations of the insecticide amitraz applied to growing crops or animals. This proposed

regulation was requested by Nor-Am Chemical Co.

DATE: Written comments, identified by the document control number [OPP–300190], must be received on or before July 28, 1988.

ADDRESS:

By mail, submit comments to: 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: Registration Support and Emergency Response Branch, Registration Division (TS–767C), Environmental Protection Agency, Rm 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557–7700.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Kerry B. Leifer, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–7700.

SUPPLEMENTARY INFORMATION: At the request of Nor-Am Chemical Co., the Administrator proposes to amend 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for aluminum isopropoxide (CAS Reg. No. 555–31–7) and aluminum secondary butoxide (CAS Reg. No. 2269–22–9) when used in formulations of the insecticide amitraz [*N'*-(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]methyl]-*N*-methylmethanimidamide] applied to growing crops or animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; and propellants in aerosol dispensers and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredients. Aluminum isopropoxide (CAS Reg. No. 555–31–7) and aluminim secondary butoxide (CAS Reg. No. 2269–22–9).

Name and address of requestor. Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803.

Bases for approval of aluminum isopropoxide and aluminum secondary butoxide. 1. The data submitted in the request and other relevant material have been evaluated. The environmental fate data considered in support of the proposed exemption from the requirement of a tolerance include a hydrolysis study of a mixture of aluminum isopropoxide and aluminum secondary butoxide. This study determined that the mixture is completely hydrolyzed. The hydrolysis products were determined to be isopropanol, secondary butanol, and aluminum hydroxide. Hydrolysis was judged to be complete after 25 seconds.

2. Each of the three hydrolysis products noted above are cleared as pesticide inert ingredients and food additives under the following sections of 40 CFR and 21 CFR.

Isopropanol

a. Isopropanol is cleared under 40 CFR 180.1001 (c), (d), and (e) for use as an inert ingredient in pesticide formulations applied to growing crops, raw agricultural commodities after harvest, and animals.

b. Isopropanol is cleared under 21 CFR 172.515 as a synthetic flavoring substance.

c. Isopropanol is cleared under 21 CFR 175.,105 as a component of adhesives intended to contact food and as a substance used in the formulation of defoaming agents for food-contact coatings, paper, and paperboard under 21 CFR 176.200 and 21 CFR 176.210.

Secondary butanol (Isobutanol)

a. Isobutanol is cleared under 40 CFR 180.1001(d) for use as an inert ingredient in pesticide formulations applied to growing crops only.

b. Isobutanol is cleared under 21 CFR 73.1 and 21 CFR 73.1001 as a color additive diluent for good and drug use.

c. Isobutanol is cleared under 21 CFR 172.515 as a synthetic flavoring substance.

d. Isobutanol is cleared under 21 CFR 175.105 as a component of adhesives intended to contact food and as a substance used in the formulation of defoaming agents for food-contact coatings, paper, and paperboard under 21 CFR 176.200 and 21 CFR 176.210.

3. Isobutanol is cleared as an adjuvant to textile and textile fibers intended to contact food under 21 CFR 177.2800.

Aluminum Hydroxide

a. Aluminum hydroxide is cleared under 40 CFR 180.1001(c) for use as an inert ingredient in pesticide formulations applied to growing crops or raw agricultural commodities after harvest.

b. Aluminum hydroxide is cleared under 21 CFR 176.210 as a substance used in the formulation of defoaming agents used in the manufacture of paper and paperboard articles intended to contact food.

c. Aluminum hydroxide is cleared under 21 CFR 177.2600 as a component of rubber articles intended to contact food.

d. Aluminum hydroxide migrating to food from paper and paperboard products used in food packaging is a substance that is generally recognized as safe under 21 CFR 182.90.

e. Aluminum hydroxide is cleared under 21 CFR 331.11 as an active ingredient in antacide produce for over the counter human use.

f. Aluminum hydroxide (as part of a streptomycin-dihydrostreptomycin-kaolin-pectin-aluminum hydroxide gel powder) is certified as an oral dosage antibiotic drug for animal use under 21 CFR 544.173e.

g. Aluminum hydroxide is present as an ingredient in exempted prescription products under 21 CFR 1308.32.

EPA has initiated new review procedures for tolerance exemptions for inert ingredients. Under these procedures the Agency conducts a review of the data base supporting any prior clearances, the data available in the scientific literature, and any other relevant data. Based on a review of such data, the Agency has determined that no

additional test data will be required to support this regulation. Based on the above information and review of the ingredients' use, it has been found that when used in accordance with good agricultural practices these ingredients are useful and do not pose a hazard to humans or the environment.

In conclusion, the Agency has determined that the exemptions from the requirement of a tolerance for aluminum isopropoxide and aluminum secondary butoxide will protect the public health. Therefore, the exemptions are proposed as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, an Rodenticide Act (FIFRA), as amended, that contains this inert ingredient may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number [OPP-300190]. All written comments filed in response to this proposal will be available for inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 29, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. In Subpart D, new § 180.1091 is added, to read as follows:

§ 180.1091 Aluminum isopropoxide and aluminum secondary butoxide; exemption from the requirement of a tolerance.

Aluminum isopropoxide (CAS Reg. No. 555-31-7) and aluminum secondary butoxide (CAS Reg. No. 2269-22-9) are exempted from the requirement of a tolerance when used in accordance with good agricultural practices as stabilizers in formulations of the insecticide amitraz [*N*'-(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]methyl]-*N*-methylmethanimidamide] applied to growing crops or animals.

[FR Doc. 88-15485 Filed 7-12-88; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 6E3424/P454; FRL 3412.7]

Pesticide Tolerances for Glyphosate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for the combined residues of the herbicide glyphosate and its metabolite in or on the raw agricultural commodities atemoya, carambola, and sugar apple. The proposed regulation to establish maximum permissible levels for residues of the herbicide in or on the commodities was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 6E3424/P454], must be received on or before August 12, 1988.

ADDRESS:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 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: Hoyt Jamerson, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716C, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 6E3424 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Station of Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the herbicide glyphosate (N-(phosphonomethyl)glycine), and its metabolite aminomethylphosphonic acid (AMPA) in or on the raw agricultural commodities atemoya, carambola, and sugar apple at 0.2 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include:

1. A three-generation rat reproduction study with a no-observed-effect level (NOEL) of 10 miligrams (mg) per kilogram (kg) per day.

2. A chronic feeding/oncogenicity study in rats with a systemic NOEL greater than 31 mg/kg/day, which was negative for oncogenic potential under the conditions of the study at all feeding levels tested (0, 3, 10, and 31 mg/kg/day). Although the rat study meets the requirement for a chronic feeding study, it does not satisfy guideline requirements for an oncogenicity study. There is no evidence that the maximum

dose tested (31 mg/kg/day) was a toxic or maximum tolerated dose (MTD).

3. A 1-year dog feeding study with a systemic NOEL greater than 500 mg/kg/day (highest dose tested).

4. A rat teratology study, negative for teratogenic effects at 3,500 mg/kg/day, with maternal and fetotoxic NOELs of 1,000 mg/kg/day.

5. A rabbit teratology study, negative for teratogenic efforts at 350 mg/kg/day, with a maternal NOEL of 175 mg/kg/day and a fetotoxic NOEL of 350 mg/kg/day.

6. Mutagenicity studies as follows: chromosomal aberration *in vitro* (no aberrations in Chinese hamster ovary cells were caused with or without S-9 activation); DNA repair in rat hepatocytes (negative); *in vivo* bone marrow cytogenic in rats (negative); rec-assay with *B. subtilis* (negative up to 2,000 micrograms of test material per disk); reverse mutation with *S. typhimurium* (negative); Ames test with *S. typhimurium* (negative); and a dominant lethal test in mice (negative).

Additionally, a 2-year oncogenicity study in CD-1 mice has been completed and reviewed by the Agency. Feeding levels in this study were 1,000, 5,000 and 30,000 ppm (equivalent to 50, 250 and 1,500 mg/kg, respectively). The NOEL for nonneoplastic chronic effects has been established at 5,000 ppm. Glyphosate produced an equivocal oncogenic response in the mouse, causing a slight increase in the incidence of renal tubular adenomas (a benign tumor of the kidney) in male mice at the highest test dose (30,000 ppm) in this study. Because of the equivocal nature of the oncogenic response in mice, the Agency referred the issue to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Science Advisory Panel (SAP) for a "Weight-of-Evidence" classification. After reviewing all available evidence, the SAP concluded that the oncogenic potential of glyphosate could not be determined and recommended that the mouse study be repeated to clarify unresolved questions. Subsequently, the Agency decided to classify glyphosate as a "Class D Oncogen" (inadequate evidence of oncogenicity) and also to request repeat oncogenicity studies in the mouse and rat. The pesticide manufacturer, Monsanto Co., was notified of these requirements by the Glyphosate Registration Standard dated June 30, 1986. The mouse and rat oncogenicity studies are due in 1990.

Agency policy, as stated in the Registration Standard, is to issue registrations for significant new uses of glyphosate on a case-by-case basis. Tolerances which change the theoretical maximum residue contribution (TMRC) for glyphosate by 1 percent or less are not considered toxicologically significant. The TMRC from existing tolerances for a 1.5-kg daily diet is calculated to be 0.008339 mg/kg/day. The tolerances for atemoya, carambola, and sugar apple will result in a combined increase in the TMRC of less than 0.001 percent.

The acceptable daily intake (ADI), based on the rat reproduction study NOEL of 10 mg/kg/day and using a 100-fold safety factor, is calculated to be 0.1 mg/kg of body weight (bw)/day. Published tolerances utilize 8.3 percent of the ADI; the current action represents an insignificant increase in the ADI.

No secondary residues in meat, milk, poultry, or eggs are anticipated since atemoya, carambola, and sugar apples are not considered livestock feed commodities. The nature of the residues is adequately understood and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. An analytical enforcement method is currently available in the *Pesticide Analytical Manual* (PAM), Vol. II. There are currently no actions pending against the continued registration of this chemical.

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

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 6E3424/P454]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: June 30, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.364 is amended by adding, and alphabetically inserting, the following commodities to paragraph (a) to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Atemoya	0.2
* * * * *	
Carambola	.02
* * * * *	
Sugar apple	0.2
* * * * *	

[FR Doc. 88-15486 Filed 7-12-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4E3143, 4E3144/P455; FRL. 3413-4]

Pesticide Tolerances for Methomyl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for residues of the insecticide methomyl in or on the raw agricultural commodities of the crop group *Brassica* (cole) leafy vegetables and leeks. The proposed regulation to establish maximum permissible levels

for residues of the insecticide in or on the commodities was requested in petitions submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments, identified by the document control number [PP 4E3143, 4E3144/P455], must be received on or before August 12, 1988.

ADDRESS:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 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: Hoyt Jamerson, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716H, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–557–2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the named Agricultural Experiment Stations. These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the insecticide methomyl (*S*–methyl–*N*–[(methylcarbamoyl)oxy]thioacetimidate) in or on certain raw agricultural commodities as follows:

1. PP 4E3143 on behalf of the Agricultural Experiment Stations of California and Florida in or on the commodities in the *Brassica* (cole) leafy vegetables crop group at 6 parts per million (ppm).

2. PP 4E3144 on behalf of the Agricultural Experiment Station of Florida in or on leeks at 3 ppm.

The data submitted in the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include:

1. A 2–year chronic feeding/oncogenicity study in rats, which is negative for oncogenic effects under the conditions of the study, with a no-observed-effect level (NOEL) for systemic effects of 100 ppm (equivalent to 5.0 milligrams (mg)/kilogram (kg)/day).

2. A 2–year chronic feeding/oncogenicity study in mice, which is negative for oncogenic effects under the conditions of the study, with a NOEL for systemic effects at 50 ppm (equivalent to 7.5 mg/kg/day).

3. A 2–year dog feeding study with a NOEL of 100 ppm (equivalent to 2.5 mg/kg/day).

4. A rat teratology study with no teratogenic effects observed at 400 ppm (the highest dose tested), and a maternal NOEL of 100 ppm.

5. A rabbit teratology study with no teratogenic or fetotoxic effects at 16 mg/kg/day (highest dose tested) and a NOEL for maternal toxicity at 2 mg/kg/day.

6. A three-generation reproduction study in rats with no reproductive effects observed at 100 ppm (highest dose tested).

7. Mutagenicity testing including an Ames test (negative), a rat cytogenetic study (negative), and an *in-vitro* transformation assay (negative).

The acceptable daily intake (ADI), based on the 2-year feeding study in dogs (NOEL of 2.5 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.025 mg/kg or body weight (bw)/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 daily diet is calculated to be 0.016766 mg/kg/day; the current action will increase the TMRC by 0.0003361 mg/kg/day (a 2-percent increase).

The metabolism of methomyl in animals has not been fully characterized. Thiodicarb, a structurally similar pesticide, has been shown to form a minor animal metabolite, acetamide, which has been demonstrated to induce cancer in rats. A metabolism study in animals is currently underway, and the results will be addressed in the final registration standard for methomyl, which is scheduled for completion in 1988.

The nature of the residues in plants is adequately understood, and available metabolism data demonstrate that acetamide is not likely to occur in plants following treatment with methomyl. Since the proposed tolerances are for commodities that are not recognized as livestock feed items, there is no reason to believe that the tolerances will result in methomyl residues in meat, milk, poultry, or eggs.

An adequate analytical method, gas chromatography, using a sulfur-sensitive photometric detector, is available for enforcement purposes in the Food and Drug Adminstration Pesticide Analytical Manual, Vol, II (PAM II).

Based on the above information considered by the Agency, the tolerances established by amending 40 CFR 180.253 would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, (PP 4E3143, 4E3144/P455). All written comments filed in response to this document will be available in the Information Services Section, at the address given above from 8 a.m to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial

number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: July 1, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.253 is amended by adding and alphabetically inserting the raw agricultural commodiates *Brassica* (cole) leafy vetatables and leeks, to read as follows:

§ 180.253 Methomyl; tolerances for residues.

* * * * *

(a) * * *

Commodities	Parts per million
* * * * *	
Brassica (cole) leafy vegetables	6.0
* * * * *	
Leeks	3.0
* * * * *	

[FR Doc. 88-15566 Filed 7-12-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-3413-3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to grant a petition submitted by the Goodyear Tire and Rubber Company, Randleman, North Carolina, to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 268, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Today's proposed decision is based on an evaluation of waste-specific information provided by the petitioner.

The Agency is also proposing the use of an organic leachate model and a fate and transport model and their application in evaluating the waste-specific information provided by the petitioner. These models have been used in evaluating the petition to predict the concentration of hazardous constituents released from the petitioned waste, once it is disposed of.

DATES: EPA is requesting public comments on today's proposed decision and on the applicability of the organic leachate and fate and transport models used to evaluate the petition. Comments will be accepted until August 29, 1988. Comments postmarked after the close of the comment period will be stamped "late".

Any person may request a hearing on this proposed decision and/or the models used in the petition evaluation by filing a request with Bruce R. Weddle, whose address appears below, by July 28, 1988. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branch, PSPD/OSW (WH-563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F-88-GYEP-FFFFF."

Requests for a hearing should be addressed to Bruce R. Weddle, Director, Permits and State Programs Division, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW., (sub-basement), Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000.

For technical information concerning this notice, contact Robert Kayser, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-4536.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amendment list of hazardous wastes from non-specific and specific sources. This list has been amended several times and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, reactivity, corrosivity, and EP toxicity), and must present sufficient information for the Agency to determine

whether the waste contains any other toxicants at hazardous levels. See 40 CFR 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of a hazardous waste, generators remain obligated to determine whether their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. See 40 CFR 261.3 (c) and (d)(2). The substantive standard for "delisting" a treatment residue or a mixture is the same as previously described for listed wastes.

B. Approach Used to Evaluate This Petition

In making a delisting determination, the Agency evaluates each petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). If the Agency believes that the waste remains hazardous based on the factors for which the waste was originally listed, EPA will propose to deny the petition. If, however, the Agency agrees with the petitioner that the waste is non-hazardous with respect to the original listing criteria, EPA then will evaluate the waste with respect to other factors or criteria, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The Agency considers whether the waste is acutely toxic, and considers the toxicity of the constituents, the concentration of the constitutents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and any other additional factors which may characterize the petitioned waste.

The Agency is proposing to use such information to identify plausible exposure routes for hazardous constituents present in the waste, and is proposing to use an organic leachate model and a fate and transport model to predict the concentration of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the unregulated disposal of Goodyear's petitioned waste on human health and the environment. Specifically, the models will be used to predict compliance-point concentrations which will be compared directly to the levels of regulatory concern for particular hazardous constitutents.

EPA believes that these models represent a reasonable worst-case waste disposal scenario for the petitioned waste, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C. Because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict and does not control how a waste will be managed after delisting. Therefore, EPA currently believes that it is inappropriate for the Delisting Program to consider extensive site-specific factors. For example, a generator may petition the Agency for delisting of a metal hydroxide sludge which is currently being managed in an on-site landfill and provide data on the nearest drinking water well, permeability of the aquifer, dispersivities, etc. If the Agency were to base its evaluation solely on these site-specific factors, the Agency might conclude that the waste, at that specific location, cannot affect the closest well, and the Agency might grant the petition. Upon promulgation of the exclusion, however, the generator is under no obligation to continue to manage the waste at the on-site landfill. In fact, it is likely that the generator will either choose to send the delisted waste off-site immediately, or will eventually reach the capacity of the on-site facility and subsequently send the waste off-site to a facility which may have very different hydrogeological and exposure conditions.

The Agency also considers the applicability of ground-water monitoring data to its evaluation of delisting petitions. In this case, the Agency determined that, because Goodyear utilizes off-site disposal of the petitioned waste, ground-water monitoring data collected from the petitioner's facility would not characterize the effect of the petitioned waste on the underlying ground water at the off-site disposal facility. Therefore, the Agency did not request ground-water monitoring data.

Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made on the petition proposed today until all public comments (including those at requested hearings, if any) are addressed.

II. Disposition of Petition

Goodyear Tire and Rubber Company, Asheboro Wire Plant, Randleman, North Carolina.

1. Petition for Exclusion

The Goodyear Tire and Rubber Company's (Goodyear), Asheboro Wire Plant, located in Randleman, North Carolina, is involved in the reduction and electroplating of steel rods. Goodyear petitioned the Agency to exclude its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006—"Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sufluric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum." The listed constituents of concern for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed). Goodyear petitioned to exclude its waste because it does not believe that the waste meets the criteria for which it was listed. Goodyear also believes that its wastewater treatment process generates a non-hazardous filter cake because the constituents of concern, although present in the waste, are in an essentially immobile form. Goodyear also believes that the filter cake is not hazardous for any other reason (*i.e.*, there are no additional constituents or factors that could cause the waste to be hazardous). Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See section 222 of the Amendments, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)–(4). Today's proposal to grant this petition for delisting is the result of the Agency's evaluation of Goodyear's petition.

2. Background

On September 22, 1986, Goodyear petitioned the Agency to exclude its wastewater treatment sludge filter cake. Additional information was submitted to the Agency on December 26, 1986. In support of its petition, Goodyear submitted (1) detailed descriptions of its manufacturing and wastewater treatment processes; (2) results from

total constituent and EP toxicity analyses for the EP toxic metals, and nickel; (3) results from total constituent analyses for cyanide, reactive cyanide, and reactive sulfide; (4) results from total oil and grease analyses on representative waste samples; and (5) a list of raw materials used in both its manufacturing and treatment processes.

The manufacturing processes at Goodyear which generate the waste are copper and zinc electroplating operations, ultrasonic cleaning operations, acid pickling operations, water rinse and quenching operations, and electrolytic pickling operations. The wastewaters from the above operations flow to an equalization tank at the wastewater treatment plant for mixing. The wastewater is then aerated and neutralized, and sent to two flash mixers where polymers are added to promote metals precipitation in the clarifiers. The clarified effluent flows to a publicly owned treatment works (POTW), and the resulting clarifier sludge is pumped to a sludge holding tank. Sludge from the holding tank is then pumped to a frame filter press for dewatering. The dewatered sludge is collected in a 20 cubic yard hopper and is currently disposed of off-site in a hazardous waste landfill.

To collect representative samples from filter presses like Goodyear's, petitioners are normally requested to collect a minimum of four composite samples comprised of independent grab samples collected over time or area (*e.g.*, grab samples collected every hour and composited by shift, etc.). See "Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods," U.S. EPA Office of Solid Waste and Emergency Response, Publication SW–846 (third edition), November 1986, and "Petitions to Delist Hazardous Wastes—A Guidance Manual," U.S. EPA, Office of Solid Waste, (EPA/530–SW–85–003), April 1985.

Goodyear collected a total of four composite samples from their filter press over a period of three weeks. Each composite sample consisted of a total of six grab samples. Three grab samples were taken from the the plate and frame filter press (one each from the middle and both ends of the filter press plates) each day for two consecutive days. The four composite samples were analyzed for total constituent concentrations (*i.e.*, mass of a particular constituents per mass of waste) of all the EP toxic metals, nickel, cyanide, reactive sulfide, and total oil and grease content, and for EP leachable concentrations (*i.e.*, mass of a particular constituent per unit volume of extract) of the EDPO toxic metals and nickel. Goodyear claims that during the three week period, when the four composite samples were collected, no significant changes were made in the chemicals used, the plating process, water usage, or the wastewater treatment process. Goodyear further claims that both its manufacturing and waste treatment processes are consistent, and that the facility does not have any seasonal variations in either its manufacturing or waste treatment processes. Goodyear, therefore, believes that, due to a consistent manufacturing and treatment process, the analyses presented are representative of any variation in filter cake constituent concentrations.

3. Agency Analysis

Goodyear used SW–846 method numbers 7060–7760 to quantify the total constituent concentrations of the EP toxic metals and nickel. Goodyear used SW–846 method number 9010 to quantify the total constituent concentrations of cyanide and reactive cyanide. Goodyear used SW–846 method number 9030 to quantify the total constituent concentration of reactive sulfide. Goodyear used SW–846 method number 1310 to quantify the EP leachable concentrations of the EP toxic metals and nickel. (Goodyear did not perform EP leachate analysis for cyanide. Analysis for EP leachable concentrations of reactive sulfide is not necessary since the Agency's level of regulatory concern is based on the total constituent concentration of reactive sulfide.) The total constituent and EP leachate analyses of the filter cake revealed the maximum concentration presented in Table 1 and Table 2, respectively.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS FILTER CAKE

Constituents	Total constituent analyses (mg/kg)
Arsenic	ND (below detection limit of 5).
Barium	3.2.
Cadmium	4.3.
Chromium	33.
Lead	8.7.
Mercury	ND (below detection limit of 2).
Nickel	27.
Selenium	ND (below detection limit of 0.5).
Silver	ND (below detection limit of 1).
Cyanide	0.25
Reactive sulfide	ND (below detection limit of 1).
Reactive cyanide	ND (below detection limit of 1).

ND: Not Detected. Denotes concentrations below the detection limits.

TABLE 2.—EP LEACHATE CONCENTRATIONS FILTER CAKE

Constituents	EP leachate analyses (mg/l)
Arsenic	ND (below detection limit of 0.03).
Barium	0.03.
Cadmium	ND (below detection limit of 0.01).
Chromium	ND (below detection limit of 0.01.
Lead	0.02.
Mercury	ND (below detection limit of 0.01).
Nickel	0.25.
Selenium	ND (below detection limit of 0.04).
Silver	ND (below detection limit of 0.01).
Cyanide	0.12.[1]
Reactive sulfide	Not applicable.
Reactive cyanide	Not applicable.

ND: Not detected. Denotes concentrations below the detection limits.

[1] Leachable cyanide tests were nor performed. However, leachable cyanide was determined by assuming a theoretical leaching of 100 percent and a twenty-fold dilution (100 grams of solids diluted with 2.0 liters of water) of the maximum total constituent concentration of cyanide.

The detection limits presented in Table 1 and Table 2 represent the lowest concentrations quantifiable by Goodyear, when using the appropriate SW–846 analytical methods to analyze its waste. (Detection limits may vary according to the waste and waste matrix being analyzed, *i.e.*, the "cleanliness" of waste matrices varies and "dirty" waste matrices may cause interferences, thus raising the detection limit.) Using SW–846 method number 3540, Goodyear determined that its waste had a maximum oil and grease content of 0.48 percent; therefore, the EP analyses did not have to be modified in accordance with the Oily Waste EP methodology (*i.e.*, wastes having more than one percent total oil and grease may either have significant concentrations of the constituent of concern in the oil phase which may not be assessed using the standard EP leachate procedure, or the concentration of oil and grease may be sufficient to coat the solid phase of the sample and interfere with the leaching out of metals from the sample). See SW–846 method number 1330. None of the analyzed samples exhibited the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23.

Goodyear also submitted a list of all raw materials used in its manufacturing and wastewater treatment processes. This list indicated that no hazardous constituents (other than those tested for) are used in Goodyear's processes and that formation of any hazardous constituents (*e.g.*, as reaction by-products) is highly unlikely. To verify

that the filter cake did not contain any Appendix VIII constituents, Goodyear analyzed one composite sample for all the priority pollutants. Goodyear submitted these data to support its claim that none of the more common Appendix VIII constituents are used in any of its processes. The Agency reviewed Goodyear's material safety data sheets and did not identify any Appendix VIII constituents as components of any process materials used by Goodyear; therefore, the Agency did not request Goodyear to submit an additional three samples (the Agency normally requires a minimum of four representative samples to be collected and analyzed for all Appendix VIII constituents likely to be present in the wastestream when characterizing the petitioned wastestream) of the waste, nor did the Agency use the priority pollutant data to evaluate the petitioned wastestream since no Appendix VIII constituents (other than those tested for) were expected to be present in the petitioned wastestream.

Goodyear submitted a signed certification stating that based on current annual waste generation, their maximum annual generation rate of wastewater treatment sludge is 1,944 tons per year. The Agency reviews a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate estimated waste volume. EPA accepts Goodyear's certified estimate of 1,944 tons per year (approximately 1,920 cubic yards per year).

EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The Agency, however, previously conducted a spot-sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions and, as a part of this program, conducted a spot-sampling visit at Goodyear's facility. The results of this visit, including chemical analyses of waste samples from Goodyear, are discussed in this notice.

4. Agency Evaluation

The Agency considered the appropriateness of alternative disposal scenarios for filter cake wastes and decided that a landfill scenario is the most reasonable, worst-case scenario for this waste. Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. The Agency, therefore, evaluated the petitioned waste using its vertical and horizontal spread (VHS) landfill model which predicts the potential for ground-water contamination from wastes that are landfilled. See 50 FR 7882 (February 26, 1985), 50 FR 48896 (November 27, 1985), and the RCRA public docket for these notices for a detailed description of the VHS model and its parameters. This modeling approach, which includes a ground-water transport scenario, was used with conservative, generic parameters, to predict reasonable worst-case contaminant levels in ground water at a hypothetical receptor well (*i.e.*, the model estimates the ability of an aquifer to dilute the toxicant from a specific volume of waste). In addition, the Agency used its organic leachate model (OLM) to esimate the leachable portion of the organic constituents in the petitioned waste. See 50 FR 48953 (November 27, 1985), 51 FR 41084 (November 13, 1986), and the RCRA public docket for these notices for a detailed description of the OLM and its parameters. The results of the OLM analysis were used in conjunction with the VHS model to estimate the potential impact of the organic constituents on the ground water. The Agency requests comments on the use of the OLM and VHS model as applied to the evaluation of Goodyear's waste.

Specifically, the Agency used the VHS model to evaluate the mobility of all the inorganic constituents (except arsenic, cadmium, chromium, silver, and mercury—see explanation below) from Goodyear's wastewater treatment sludge filter cake. The Agency's evaluation, using the waste volume of 1,920 cubic yards (per year) and the maximum reported EP leachate concentrations of all the inorganic constituents of concern in the VHS model, generated the compliance-point concentrations shown in Table 2. The Agency did not evaluate the mobility of the remaining inorganic constituents (*i.e.*, arsenic, cadmium, chromium, mercury, selenium, and silver) from Goodyear's waste because they were not detected in the EP extract using the appropriate analytical method (see Table 3). The Agency believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. Specifically, if a constituent cannot be detected (when using the appropriate analytical method) the Agency assumes that the constituent is not present and therefore does not present a threat to either human health or the environment.

TABLE 3.—VHS MODEL: COMPLIANCE-POINT CONCENTRATIONS LISTED AND NON-LISTED CONSTITUENTS FILTER CAKE

Constituents	Compliance-point concentrations (mg/1)	Regulatory standards (mg/1)
Barium	0.003	1.0
Cyanide	0.0013	0.7
Lead	0.0022	0.05
Nickel	0.027	0.5

The filter cake exhibited barium and lead levels at the compliance point below the levels prescribed by the National Primary Drinking Water Regulations (NPDWR). See 40 CFR Part 141. The concentration of cyanide (at the compliance point) is below the Agency's health-based standard of 0.7 mg/1. See Verified Reference Doses of the U.S. EPA, Office of Health and Environmental Assessment (OHEA), Environmental Criteria and Assessment Office, Cincinnati, Ohio, 1988. The concentration of nickel (at the compliance point) is below the Agency's health-based standard of 0.5 mg/1. See Hazardous Waste Management System; Land Disposal Restrictions: Notice of Availability and Request for Comment, 52 FR 29994, Proposed Health-Based Levels for Nickel and Cyanide, August 12, 1987.

Additionally, the total concentration of reactive cyanide is below the Agency's interim standard of 250 ppm and the total concentration of reactive sulfide is below the Agency's interim standard of 500 ppm. See "Interim Agency Thresholds for Toxic Gas Generation," July 12, 1985, Internal Agency Memorandum in the RCRA Public Docket.

The Agency concluded, after reviewing Goodyear's processes and raw materials list, that no other hazardous constituents of concern are being used by Goodyear, and that no other constituents of concern are likely to be present or formed as reaction products or by-products of Goodyear's waste. On the basis of test results submitted by the petitioner, pursuant to § 260.22, the Agency concludes that the waste does not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, 261.23.

On March 9, 1987, staff under contract to the Agency conducted a site visit to Goodyear as part of the Agency's spot-sampling and analysis program. The staff collected one composite sample comprised of four full depth core

samples taken from Goodyear's roll-off dumpster and one composite sample comprised of a grab sample taken from four randomly selected filter press plates. The two composite samples were analyzed for total constituent concentrations and EP leachate concentrations of the EP toxic metals, nickel, and cyanide. The samples were also analyzed for total constituent concentrations of the priority pollutants.

The evaluation of the spot-sampling samples for the EP toxic metals, nickel, and cyanide produced the maximum concentrations reported in Tables 4 and 5.

TABLE 4.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS SPOT-SAMPLING VISIT SAMPLES FILTER CAKE

Constituents	Total constituent analyses (mg/1a)
Arsenic	13
Barium	26
Cadmium	ND (below detection limit of 0.5)
Chromium	130
Lead	ND (below detection limit of 5)
Mercury	ND (below detection limit of 0.05)
Selenium	ND (below detection limit of 0.5)
Silver	18
Cyanide	ND (below detection limit of 0.25)
Nickel	99

ND: Not Detected. Denotes concentrations below the detection limit.

TABLE 5.—Maximum EP Leachate Concentrations Filter Cake

Constituents	EP leachate analyses (mg/1)
Arsenic	ND (below detection limit of 0.25)
Barium	ND (below detection limit of 2)
Cadmium	ND (below detection limit of 0.05)
Chromium	ND (below detection limit of 0.2)
Lead	ND (below detection limit of 0.25)
Mercury	ND (below detection limit of 0.001)
Nickel	0.58
Selenium	ND (below detection limit of 0.02)
Silver	ND (below detection limit of 0.025)
Cyanide	ND (below detection limit of 0.0125 [1])

ND: Not Detected. Denotes concentrations below the detection limit.

[1] Leachable cyanide tests were not performed. However, leachable cyanide was determined by assuming a theoretical leaching of 100 percent and a twenty-fold dilution (100 grams of solids diluted with 2.0 liters of water) of the maximum total constituent concentration of cyanide.

Although comparison of Goodyear's data with the Agency's spot-sampling data indicates some variation in the constituent concentrations reported, the Agency is not concerned with the variation between the Agency's and Goodyear's analytical data because: (1) Goodyear's samples were collected over the course of three weeks while the Agency's samples were collected on one day; (2) Goodyear's samples were composite samples comprised of six grab samples collected over two days and the Agency's samples were composites of filter cake generated on one day; and (3) the analyses were conducted by different laboratories using different detection limits. Variation between Goodyear's samples and the Agency's samples is, therefore, expected and is not of concern because Goodyear's compositing procedure would tend (more so than the Agency's compositing procedure) to average any particular daily peak in constitutent concentrations.

Leachable concentrations of nickel, when evaluated using the VHS model, produced a compliance-point concentration below the regulatory standard for nickel, as seen in Table 6.

TABLE 6.—COMPLIANCE-POINT CONCENTRATION SPOT-CHECK SAMPLES FILTER CAKE

Constituent	Compliance-point concentration (mg/1)	Regulatory standard (mg/1)
Nickel	0.063	0.5

The Agency did not evaluate the mobility of the remaining inorganic constitutents (*i.e.*, the EP toxic metals and cyanide) from Goodyear's waste because they were not detected in the EP extract (see Table 5).

Although no other Appendix VIII hazardous constituents were expected to be present in Goodyear's waste, when the Agency conducts a spot-sampling visit, the samples are routinely analyzed for the presence of the priority pollutants (which account for most of the analytically feasible Appendix VIII constituents). Results of the Agency's spot-sampling visit analyses indicated that no priority pollutant volatile or semi-volatile organic constituent, priority pollutant pesticide, or polychlorinated biphenyls were detected at or above their respective detection limits, using SW–846 method numbers 8240, 8270, and 8080, respectively, except for toluene and bis(2-3thylhexyl) phthalate. Toluene and bis(2-ethylhexyl) phthalate were detected at 1.0 mg/kg and 1.4 mg/kg, respectively, in the one composite sample collected by the Agency from Goodyear's roll-off dumpster. Goodyear does not use toluene or bis(2-ethylhexyl) phthalate in its manufacturing or treatment processes, therefore, the Agency believes that the presence of these constituents may be caused by laboratory contamination since toluene is used as a laboratory solvent and bis(2-ethylhexyl) phthalate is used as a plasticizer in laboratory containers.

The Agency evaluated the mobility of the detected organic constituents using the VHS model. The Agency used the OLM to predict leachable concentrations of the detected organic constituents in Goodyear's filter cake. The resulting leachable concentration and the estimated volume of waste (*i.e.*, 1920 cubic yards) were then used as inputs in the VHS model in order to assess the potential impacts of the constituents upon the ground water. The OLM/VHS model analysis calculated compliance-point concentrations of 2.3×10^{-3} mg/l and 2×10^{-4} mg/l for toluene[1] and bis(2-ethylhexyl) phthalate,[2] respectively. These compliance-point concentrations are well below the regulatory standards of 10 mg/l and 4.2×10^{-3} mg/l set for toluene and bis(2-ethylhexyl) phthalate, respectively.

5. Conclusion

The Agency believes that Goodyear's wastewater treatment system renders the F006 wastes non-hazardous. Because Goodyear's manufacturing and waste treatment processes operate 24 hours a day, seven days a week, and there are no significant production/process variations (*i.e.*, the production rate of their single product, wire tire cord, does not vary, and the facility is not a job shop or subject to seasonal variations), the Agency believes that the sampling procedures used by Goodyear were adequate and that the samples are representative of the day-to-day variation in constituent concentrations found in the filter cake.

The Agency is generally concerned that sampling periods less than one month in duration may not be long

[1] See Verified Reference Doses of the U.S. EPA, Office of Health and Environmental Assessment (OHEA), Environmental Criteria and Assessment Office, Cincinnati, Ohio, 1988

[2] See Carcinogenic Risk Assessment Verification Endeavor (CRAVE) Risk Estimate for Carcinogenicity. Office of Health and Environmental Assessment, Environmental Criteria and Assessment Office, Cincinatti, Ohio, 1988.

enough to characterize the variability of an electroplating filter cake. The key factors that could cause toxicant concentrations in a waste to vary would be: the use of different raw materials due to changes in the product line being manufactured; the periodic disposal of plating bath solutions in the waste treatment system; or increased carry-over due to an increase in production rate or variation in the shape and size of products manufactured. Additionally, variation in the raw materials can be expected either when the facility performs as a job-shop or when the product line changes seasonally. In Goodyear's case, however, because the manufacturing and waste treatment processes do not vary or change seasonally, the Agency believes that Goodyear's three-week sampling period was sufficient to characterize the day-to-day variation in manufacturing and treatment processes intended to be used thereafter.

The Agency, therefore, is proposing that Goodyear's waste be considered non-hazardous, as it should not present a hazard to either human health or the environment. The Agency proposes to grant an exclusion to the Goodyear Tire and Rubber Company's Asheboro Wire Plant, located in Randleman, North Carolina, for its filter cake described in its petition as EPA Hazardous Waste No. F006. If the proposed rule becomes effective, the wastewater treatment sludge filter cake should no longer be subject to regulation under 40 CFR Parts 262 through 268 or the permitting standards of 40 CFR Part 270.

If made final, the exclusion will only apply to the processes covered by the original demonstration. The facility would require a new exclusion if either its manufacturing or treatment processes are altered, and accordingly would need to file a new petition. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition would be relieved from Subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either store, treat, or dispose of the waste in an on-site facility, or ensure that the waste in delivered to an off-site storage, treatment, or disposal facility, either of which must be permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility which beneficially uses or reuses, or legitimately recycles or reclaims the waste; or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Effective Date

This rule, if promulgated, will become effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule, if promulgated, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation, and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, we believe that this exclusion should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant an exclusion is not major since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding a waste generated at one facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its wastes as non-hazardous. There is no additional economic impact, therefore, due to today's rule. This proposal is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.
Date: July 6, 1988.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestreams in alphabetical order:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste Description
•	•	•
Goodyear Tire and Rubber Company.	Randleman, North Carolina.	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations after [insert date of final rule's publication].
•	•	•

[FR Doc. 88–15673 Filed 7–12–88; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Refuge—Specific Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This Fish and Wildlife Service (Service) proposes to amend certain regulations in 50 CFR Part 32 that pertain to migratory game bird, upland game, and big game hunting on individual national wildlife refuges. Refuge hunting programs are reviewed annually to determine whether the regulations governing individual refuge hunts should be modified, deleted or added to. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitats may warrant modifications to ensure the continued compatibility of hunting with the purposes for which the individual refuges involved were established and, to the extent practical, make refuge hunting programs consistent with State regulations.

DATE: Comments must be received on or before August 12, 1988.

ADDRESS: Address comments to: Assistant Director—Refuges and Wildlife, U. S. Fish and Wildlife Service, 18th and C Streets, NW. Room 3252, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: David E. Heffernan, Division of Refuges, U.S. Fish and Wildlife Service, 18th and C Streets, NW., Room 2343, Washington, DC 20240; Telephone (202) 343–1014.

SUPPLEMENTARY INFORMATION: 50 CFR Part 32 contains provisions governing hunting on national wildlife refuges. Hunting is regulated on refuges to (1) ensure compatibility with refuge purposes, (2) properly manage the wildlife resource, (3) protect other refuge values, and (4) ensure refuge user safety. On many refuges, the Service policy of adopting State hunting regulations is adequate in meeting these objectives. On other refuges, it is necessary to supplement State regulations with more restrictive Federal regulations to ensure that the Service meets its management responsibilities, as outlined under the section entited "Conformance with Statutory and Regulatory Authorities." Refuge-specific hunting regulations may be issued only after a wildlife refuge is opened to migratory game bird, upland game, or big game hunting through publication in the **Federal Register**. These regulations may list the wildlife species that may be hunted, seasons, bag limits, methods of hunting, descriptions of open areas, and other provisions. Previously issued refuge-specific regulations for migratory game bird, upland game, and big game hunting are contained in 50 CFR 32.12, 32.22, and 32.32 respectively. Many of the proposed amendments to these sections are being promulgated to standardize and clarify the existing language of these regulations. Again this year, regulations for nontoxic shot are required on more refuges and consequently new regulations are being added.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. It is, therefore, the purpose of this proposed rulemaking to seek public input regarding these proposed amendments. Accordingly, interested persons may submit written comments to the Assistant Director, Refuges and Wildlife (address above) by the end of the comment period. All substantive comments will be considered by the Department prior to issuance of a final rule.

Conformance With Statutory and Regulatory Authorities The National Wildlife Refuge System Administration Act (NWRSAA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary of the Interior to permit the use of any area within the Refuge System for any purpose, including but not limited to, hunting, fishing and public recreation, accommodations and access, when he determines that such uses are compatible with the purpose(s) for which the area was established.

The Refuge Recreation Act authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which the areas were established. The Refuge Recreation Act also authorizes the Secretary to issue regulations to carry out the purposes of the Act. Hunting plans are developed for each refuge prior to opening it to hunting. In many cases, refuge-specific hunting regulations are included in the hunting plan to ensure the compatibility of the hunting programs with the purposes for which the refuge was established. Initial compliance with the NWRSAA and Refuge Recreation Act is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Continued compliance is ensured by annual review of hunting programs and regulations.

Economic Effect

Executive Order 12291 requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; or a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The proposed amendments to the codified refuge-specific hunting regulations would make relatively minor adjustments to existing hunting programs. The regulations are not expected to have any gross economic effect and will not cause an increase in costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions. The benefits accruing to the public are expected to exceed by a large margin the costs of administering this rule. Accordingly, the Department of the Interior has determined that this proposed rule is not a "major rule" within the meaning of E.O. 12291 and would not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) These requirements are presently approved by OMB under #1018–0014 Economic and Public Use Permits. These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB.

Environmental Considerations

Compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) and the

Endangered Species Act of 1973 (16 U.S.C. 1531–1543) is ensured when hunting plans are developed, and the determinations required by these acts are made prior to the addition of refuges to the lists of areas open to hunting in 50 CFR. Refuge-specific hunting regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular national wildlife refuge. The changes in this rulemaking would not substantially alter the existing uses of the refuges involved. Information regarding hunting permits and the conditions that apply to individual refuge hunts and maps of the hunt areas are available at refuge headquarters or can be obtained from the regional offices of the U.S. Fish and Wildllfe Service at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 Multnomah Street, Portland, Oregon 97232; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma and Texas.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766–1829.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725–3507.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico and the Virgin Islands.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Richard B. Russell, Federal Building, 75 Spring Street, SW, Atlanta, Georgia 30303; Telephone (404) 221–3538.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newtonu Corner, Massachusetts 02158; Telephone (617) 965–9222.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver, Colorado 80225; Telephone (303) 236–8145.

Region 7—Alaska (Hunting on Alaska refuges is in accordance with State regulations. There are no refuge-specific hunting regulations for these refuges).
Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3538.

David E. Heffernan, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC. 20240, is the primary author of this proposed rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, National Wildlife Refuge System, Wildlife, Wildlife refuges.

Accordingly, it is proposed to amend Part 32 of Chapter I of Title 50 of the Code of Federal Regulations as set forth below:

1. The authority citation for Part 32 would continue to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.12 would be amended by redesignating (e)(1) through (4) as (2) through (5); adding a new (e)(1); removing the newly redesignated (e)(3); redesigning (e)(4) and (5) as (e)(3) and (4); adding (f)(11)(vii); revising (i)(2) introductory text; removing (i)(2)(i) through (vi); revising (l)(2)(i) and (m)(1)(ii); removing (m)(1)(iii); redesignating (m)(1)(iv) as (iii); revising (m)(2) and (n)(1); adding (n)(1)(i); revising (n)(2); adding (n)(2)(i) and (q)(7)(iv); revising (t)(2) introductory text; removing (t)(2)(i) and (ii), (u)(1)(iii) and (u)(2)(iv); redesignating (u)(2)(v) as (iv); removing (u)(3)(iii); revising (w)(1) introductory text; removing (w)(1)(i) and (ii); revising (aa)(1), (cc)(2) introductory text and (cc)(2)(i); removing (cc)(2)(ii) through (vi); redesignating (gg)(2) through (4) as (3) through (5); adding a new (gg)(2) introductory text, (i) and (ii); revising (hh)(4)(i), (hh)(10)(ii) and (hh)(11)(ii) and (iv); removing (ll)(2); redesignating (ll)(3) and (4) as (2) and (3); revising (mm)(5)(vi) and (mm)(7)(i) and (v); adding (pp)(6); revising (qq)(1)(i) and (4)(ii); adding (gg)(4)(v) and (vi), and (qq)(5)(vi); revising (qq)(6) and (qq)(7)(i), (iii) and (iv); adding (qq)(7)(vi); removing (rr)(1)(iii); revising (rr)(2) introductory text; removing (rr)(2)(i) and (ii); revising (rr)(3) introductory text; and removing (rr)(3)(i) and (ii).

§ 32.12 Refuge-specific regulations; migratory game birds.

* * * * *

(e) *Arkansas—(1) Cache River National Widelife Refuge.* Hunting of ducks, snow geese, coots, woodcock, snipe, and mourning doves is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(f) *California*—* * *

(11) *San Francisco Bay National Wildlife Refuge.* * * *

(vii) Waterfowl and coot hunters, in that portion of the refuge contained in Alameda County, shall possess and use, while in the field, only nontoxic shot.

* * * * *

(i) *Florida*—* * *

(2) *Lower Suwannee National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(l) *Illinois*—* * *

(2) *Crab Orchard National Wildlife Refuge.* * * *

(i) Waterfowl hunting is permitted on the controlled areas of Grassy Point, Carterville and Greenbrair land areas, plus Orchard, Turkey, Sawmill and Grassy Islands, from sunrise to 12:00 noon each day during the goose season. Goose hunting on these areas, including lake shorelines, is permitted only from existing refuge blinds. Only selected hunters are allowed on these islands or are allowed to occupy any existing refuge blinds during the goose season. Controlled blind hunters may use or possess only ten (10) shells per hunter, except that water blind hunters may possess fifteen (15) shells during the duck season only.

* * * * *

(m) *Iowa—(1) DeSoto National Wildlife Refuge.* * * *

(ii) Hunting is permitted until noon each day from November 1 through the end of the State waterfowl season within the zones.

* * * * *

(2) *Union Slough National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: State regulations regarding the use of decoys, and governing the construction and use of blinds on game management areas shall apply.

* * * * *

(n) *Iowa, Illinois, and Missouri—Mark Twain National Wildlife Refuge.* * * *

(1) Hunting is permitted on the Big Timber Division including Turkey and Otter Islands.

(i) only temporary wood or brush blinds are permitted.

(2) Hunting is permitted on the Gardner Division.

(i) Blinds may only be constructed on blind sites posted by the Illinois Department of Conservation.

* * * * *

(q) *Louisiana*—* * *

(7) *Tensas River National Wildlife Refuge.* * * *

(iv) Waterfowl and coot hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(t) *Michigan*—* * *

(2) *Shiawassee National Wildlife Refuge.* Hunting of geese is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(w) *Missouri—(1) Mingo National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(aa) *New Jersey—Edwin B. Forsythe National Wildlife Refuge.* * * *

(1) Waterfowl hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(cc) *New York*—* * *

(2) *Montezuma National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge subject to the following condition:

(i) Permits/reservations are required in advance.

* * * * *

(gg) *Oklahoma*—* * *

(2) *Salt Plains National Wildlife Refuge.* Hunting of ducks, geese, sandhill cranes and mourning doves is permitted on designated areas of the refuge subject to the following conditions:

(i) Waterfowl hunters shall possess and use, while in the field, only nontoxic shot.

(ii) Hunters are required to check in and out of the refuge.

* * * * *

(hh) *Oregon*—* * *

(4) *Cold Springs National Wildlife Refuge.* * * *

(i) Hunting is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day, Christmas Day and New Year's Day.

* * * * *

(10) *McKay Creek National Wildlife Refuge.* * * *

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day, Christmas Day and New Year's Day.

* * * * *

(11) *Umatilla National Wildlife Refuge.* * * *

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day, and New Year's Day on the McCormack Unit.

* * * * *

(iv) Decoys, boats and other personal property must be removed from the refuge following each days hunt.

* * * * *

(mm) *Texas*—* * *

(5) *McFaddin National Wildlife Refuge.* * * *

(vi) Use of airboats is permitted only in accordance with specific guidelines as provided in 50 CFR 25.31.

* * * * *

(7) *Texas Point National Wildlife Refuge.* * * *

(i) Hunting is permitted only on designated days. Notice of actual hunting days will be issued as provided in 50 CFR 25.31.

* * * * *

(v) Use of airboats is permitted only in accordance with guidelines as provided in 50 CFR 25.31.

* * * * *

(pp) *Virginia—Chincoteague National Wildlife Refuge.* * * *

(6) Waterfowl hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(qq) *Washington—(1) Columbia National Wildlife Refuge.* * * *

(i) Permits are required for hunting in Farm Unit 226–227.

* * * * *

(4) McNary National Wildlife Refuge. * * *

(ii) In the McNary Division, hunting is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day, Christmas Day and New Year's Day.

* * * * *

(v) No decoys or other personal property may be placed on the refuge earlier than one hour before State shooting time or opening of the State waterfowl season, and must be removed from the refuge within one hour following the close of State shooting time.

(vi) Hunters in marked hunt site area must hunt within fifty (50) feet of designated blind sites except when shooting to retrieve crippled birds.

(5) *Ridgefield National Wildlife Refuge.* * * *

(vi) Hunting is permitted only from assigned blinds except when shooting to retrieve crippled birds.

(6) *Toppenish National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only within fifty (50) feet of designated blind sites except when shooting to retrieve crippled birds.

(7) *Umatilla National Wildlife Refuge.* * * *

(i) In the Paterson Slough Unit, hunting is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day, Christmas Day and New Year's Day.

* * * * *

(iii) No decoys or other personal property may be placed on the refuge earlier than one hour before State shooting time or opening of the waterfowl season, and must be removed within one hour following the close of State shooting time.

(iv) Hunters may not use or possess more than twenty-five (25) shells per day in the Paterson Unit.

* * * * *

(vi) Digging or hunting from pit blinds is prohibited.

* * * * *

(rr) *Wisconsin*—* * *

(2) *Necedah National Wildlife Refuge.* Hunting of migratory game birds is permitted only on designated areas of the refuge.

(3) *Trempealeau National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions: Permits are required.

* * * * *

3. Section 32.22 would be amended by revising (a)(4) introductory text; removing (a)(4) (i) through (vi); revising (b) (1) introductory text; redesignating (d) (2) through (6) as (3) through (7); adding a new (d) (2); revising (h) (2) introductory text; removing (h) (2) (i) through (v); revising (h) (3) introductory text; removing (h) (3) (i) through (iii); revising (l), (1) and (l)(2); revising (bb) (2) introductory text, (bb) (2) (i), (ii) and (iii), redesignating (ee) 91) through (4) as (2) through (5); adding a new (ee) (1); redesignating the newly redesignated (ee) (3) through (5) as (4) through (6); adding a new (ee) (3); removing (ff) (1), (2) and (11); redesignating (ff) (3) through (10) as (1) through (8); revising the newly redesignated (ff) (1) (i), (6) (ii) and (8) (ii); revising (hh) (3) introductory text; removing (hh) (3) (i) through (iv); revising (nn) (3) (i) and (5) 9ii).

§ 32.22 Refuge-specific regulations; upland game.

(a) *Alabama* * * *

(4) *Wheeler National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the

following special conditions: Permits are required.

* * * * *

(b) *Arizona)(1) Buenos Aires National Wildlife Refuge.* Hunting of cottontail rabbit, jackrabbit, coyote, fox, bobcat, ringtail, skunk, coatimundi, badger, raccoon and weasel is permitted on designated areas of the refuge.

* * * * *

(d) *Arkansas*—* * *

(2) *Cache River National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, raccoon, opossum, and beaver is permitted on designated areas of the refuge subject to the following conditions: Permits are required.

* * * * *

(h) *Florida*—* * *

(2) *Lower Suwannee National Wildlife.* Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(3) *St. Marks National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon and armadillo is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(l) *Illinois, Iowa and Missouri—Mark Twain National Wildlife Refuge.* * * *

(1) Hunting is permitted on the Big Timber Division including Turkey and Otter Islands, and on the Gardner Division.

(2) Hunting of squirrel is permitted on the Keithsburg Division from the opening of the Illinois squirrel season until the start of the Illinois waterfowl season.

* * * * *

(bb) *New York*—* * *

(2) *Montezuma National Wildlife Refuge.* Hunting of small game mammals and legally hunted furbearers is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for night hunting of furbearers.

(ii) Hunting is permitted from the close of the refuge deer hunting season through the close of the respective State small game season.

(iii) Shotguns only are permitted, except .22 caliber rimfire firearms may be used to take furbearers at night consistent with State law.

* * * * *

(ee) *Oklahoma—(1) Little River National Wildlife Refuge.* Hunting of squirrel and rabbit is permitted on designated areas of the refuge subject to the following condition: Access is limited to designated roads and trails.

* * * * *

(3) *Salt Plains National Wildlife Refuge.* Hunting of quail and pheasant is permitted on designated areas of the refuge subject to the following condition: Hunters must check in and out of the refuge.

* * * * *

(ff) *Oregon—(1) Cold Springs National Wildlife Refuge.* * * *

(i) Hunting is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day, Christmas Day and New Year's Day.

* * * * *

(6) *McKay Creek National Wildlife Refuge.* * * *

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day, Christmas Day and New Year's Day.

* * * * *

(8) *Umatilla National Wildlife Refuge.* * * *

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day, Christmas Day and New Year's Day on the McCormack Unit.

* * * * *

(hh) *South Carolina*—* * *

(3) *Santee National Wildlife Refuge.* Hunting is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(nn) *Washington*—* * *

(3) *McNary National Wildlife Refuge.* * * *

(i) Hunting is permitted by shotgun or bow and flu-flu arrow, only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day, Christmas Day and New Year's Day.

* * * * *

(5) *Umatilla National Wildlife Refuge.* * * *

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays, Veterans Day, Thanksgiving Day, Christmas Day and New Year's Day on the Paterson Unit.

* * * * *

4. Section 32.32 would be amended by revising (a)(3) introductory text; removing (a)(3) (i) through (iv); revising (b)(1); redesignating (d)(2) through (5) as (3) through (6); adding a new (d)(2); revising (h)(3) introductory text; removing (h)(3) (i) through (vii); revising (h)(4) introductory text; removing (h)(4) (i) through (viii); revising (i)(4) introductory text; removing (i)(4) (i) through (vii); revising (i)(5) introductory text; removing (i)(5) (i) through (x); revising (l)(3); removing (n)(1); redesignating (n) (2) and (3) as (1) and (2); revising newly redesignated (n) (1) and (2); revising (p)(2) introductory text; adding (p)(2) (i) and (ii); revising (r)(3) introductory text; removing (r)(3) (i) through (vii); revising (v) (2) and (5); adding (v)(8) and (x)(4)(iii); revising (bb)(2)(iii); redesignating (dd) introductory text, (1) through (4) as (dd)(2) introductory text, (i) through (iv); adding (dd)(1) introductory text, (i) through (iii); adding (dd)(3) introductory text, (i) through (iii); revising (ff)(2) introductory text; removing (ff)(2) (i) and (ii); adding (gg)(2) (v) through (Vii); revising (gg)(4)(ii); removing (gg)(4)(iii); redesignating (gg)(4) (iv) through (vi) as (iii) through (v); revising (ll)(4) introductory text; removing (ll)(4)(i) through (vi); and adding (rr)(3) (vi) and (vii).

§ 32.32 Refuge-specific regulations; big game.

(a) *Alabama*—* * *

(3) *Wheeler National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(b) *Arizona—(1) Buenos Aires National Wildlife Refuge.* Hunting of mule and white-tailed deer, javelina, feral hogs and mountain lions is permitted on designated areas of the refuge.

* * * * *

(d) *Arkansas*—* * *

(2) *Cache River National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(h) *Florida*—* * *

(3) *Lower Suwannee National Wildlife Refuge.* Hunting of big game is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(4) *St. Marks National Wildlife Refuge.* Hunting of white-tailed deer, turkeys and feral hogs is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(i) *Georgia*—* * *

(4) *Okefenokee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(5) *Piedmont National Wildlife Refuge.* Hunting of white-tailed deer is permitted on desingated areas of the

refuge subject to the following condition: Permits are required.

* * * * *

(l) *Illinois—Crab Orchard National Wildlife Refuge.* * * *

(3) Hunters using Area II are required to check in at the refuge visitor contact center prior to hunting.

* * * * *

(n) *Illinois, Iowa and Missouri—Mark Twain National Wildlife Refuge.* * * *

(1) Firearms hunting is permitted on the Bear Creek Unit of the Gardner Division. Firearms hunting is permitted on the remainder of the Gardner Division only during part of the November firearms season, from one-half hour before sunrise to 3:00 p.m. Permits are required.

(2) Archery hunting is permitted on the Gardner Division.

* * * * *

(p) *Iowa*—* * *

(2) *Union Slough National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) The construction or use of permanent blinds, stands or ladders is prohibited.

(ii) All stands must be removed from the refuge by the end of the season.

* * * * *

(r) *Louisiana*—* * *

(3) *Catahoula National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following condition: Daily permits are required.

* * * * *

(v) *Massachusetts—Parker River National Wildlife Refuge.* * * *

(2) Hunting is permitted from one-half hour before sunrise until 2:00 p.m.

* * * * *

(5) Hunting is permitted on six days within the framework of the State shotgun deer season.

* * * * *

(8) Only antlerless deer may be harvested, under appropriate State permits, on days one and two of the refuge hunt.

* * * * *

(x) *Minnesota*—* * *

(4) *Rice Lake National Wildlife Refuge.* * * *

(iii) Permits are required.

* * * * *

(bb) *Nebraska*—* * *

(2) *DeSoto National Wildlife Refuge.* * * *

(iii) Muzzleloader hunting of deer is permitted only on designated areas of the refuge and only during the special State season. Hunters must check in and out of the refuge.

* * * * *

(dd) *New Jersey—(1) Edwin B. Forsythe National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) A State permit for the appropriate New Jersey Deer Management Zone is required.

(ii) Refuge hunting hours are consistent with State hunting hours. Hunters may enter the refuge no earlier than two hours before shooting time and leave no later than one hour after the end of shooting hours.

(iii) Use or possession of alcoholic beverages while hunting is prohibited.

* * * * *

(3) *Supawna Meadows National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) A State permit for the appropriate New Jersey Deer Management Zone is required.

(ii) In addition to the State permit, a Special Use Deer Hunting Permit issued by the refuge is required.

(iii) All hunters must attend a refuge hunter orientation session.

* * * * *

(ff) *New York*—* * *

(2) *Montezuma National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(gg) *North Carolina*—* * *

(2) *Great Dismal Swamp National Wildlife Refuge.* * * *

(v) Hunters are required to sign in and out on each hunt day.

(vi) The daily bag limit is two (2) deer, either sex.

(vii) Hunting and/or possession of loaded firearms on refuge roads and road rights-of-way is prohibited.

* * * * *

(4) *Pee Dee National Wildlife Refuge.* * * *

(ii) Muzzleloader hunting is permitted on Tuesday and Wednesday following the first Saturday in November.

* * * * *

(ll) *South Carolina*—* * *

(4) *Santee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(rr) *Virginia*—* * *

(3) *Great Dismal Swamp National Wildlife Refuge.* * * *

(vi) Hunters are required to sign in and out on each hunt day.

(vii) Hunting and/or prosession of loaded firearms on refuge roads and road rights-of-way is prohibited.

* * * * *

Date: June 27, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-15677 Filed 7-12-88; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 53, No. 134
Wednesday, July 13, 1988

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

July 8, 1988.

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., Washington, DC 20250, (202) 447–2118.

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

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

Extension

• Agricultural Marketing Service
Tokay Grapes Grown in San Joaquin County, California—Marketing.
Order No. 926.
No agency report forms.
Recordkeeping; On occasion; Annually.
Farms; Businesses or other for-profit; Small businesses or organizations; 484 responses; 41 hours; not applicable under 3504(h).
Virginia Olson (202) 447–5057.

• Agricultural Stabilization and Conservation Service
7 CFR, Part 700—Conservation and Environmental Programs Regulations.
Form ACP–245, Request for cost-sharing.
ACP–245.
On occasion.
Individuals or households; Farms; 216,400 responses; 90,167 hours; not applicable under 3504(h).
Charles W. Sims (202) 447–7334.

• Agricultural Stabilization and Conservation Service
Request for Farm Reconstitution.
ASCS–155.
On occasion.
Individuals or households; Farms; 900,000 responses; 375,000 hours; not applicable under 3504(h).
Jane Salem, (202) 447–7635.

• Federal Grain Inspection Service
Report of Grain Inspected and Weighed for Export.
FGIS–938.
Recordkeeping; Weekly.
State or local governments; Businesses or other for-profit; Federal agencies or employees; 2,375 responses; 784 hours; not applicable under 3504(h).
Michael Gavron, (202) 382–1741.

Revision

• Rural Electrification Administration
Preloan Procedures and Requirements for Telephone Program.
REA–490, –494, –495, –567 and –569.
On occasion.
Small businesses or organizations; 665 responses; 5,178 hours; not applicable under 3504(h).
F. Lamont Heppe, Jr., (202) 382–8530.

Larry K. Roberson,
Acting Departmental Clearance Officer
[FR Doc. 88–15714 Filed 7–12–88; 8:45 am]
BILLING CODE 3410–01–M

Federal Grain Inspection Service

Invitation To Serve on Federal Grain Inspection Service Advisory Committee

Congress is currently considering legislation to extend section 20 of the United States Grain Standards Act (Act), which directs the Secretary of Agriculture to establish an advisory committee to provide advice to the Administrator of the Federal Grain Inspection Service with respect to the efficient and economical implementation of the Act. The Federal Grain Inspection Service Advisory Committee (Advisory Committee) was established by the Secretary on September 29, 1981. The Advisory Committee presently consists of 12 members, appointed by the Secretary, representing the interests of all segments of the grain industry, including grain inspection and weighing agencies. Members of the committee serve without compensation except that members, while away from their homes or regular places of business in the performance of service, are reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of Title 5, United States Code.

The authority in section 20 of the Act for the establishment of the Advisory Committee terminates on September 30, 1988. Congress is currently considering extending the authority through September 30, 1993, and expanding the Advisory Committee to 15 members including scientists.

With the assumption that the authority will be extended and the Advisory Committee expanded, nominations are needed for persons to serve on the Advisory Committee. Persons interested in serving on the Advisory Committee should contact, in writing, W. Kirk Miller, Administrator, FGIS, Room 1094, P.O. Box 96454, Washington, DC 20090–6454, not later than August 15, 1988, and furnish the following information: Name, home address, social security number, business address, employer, occupation and title, statement of reason for nomination, and major source of income. Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, or marital status.

The final selection of committee members and alternates will be made by the Secretary. It is the Secretary's policy that membership on USDA boards and committees reflect, to the extent practicable, the diversity of individuals served by the programs.

Dated: July 6, 1988.

Kenneth A. Gilles,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 88-15663 Filed 7-12-88; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Silver Fire Recovery Project, Siskiyou National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of a record of decision.

SUMMARY: The Forest Supervisor for the Siskiyou National Forest in Grants Pass, Oregon, has decided to implement Alternative I-Modified to guide the Silver Fire Recovery Project. The project area was extensively damaged by severe wildfires in the summer of 1987. Under the selected alternative (one of 9 considered in detail), the Forest Service will seek to recover the burned timber while giving strong emphasis to resources protection, especially protection of streams. Implementation of this alternative calls for salvaging approximately 157 million board feet from about 9,500 acres, constructing an estimated 20 miles of new roads, and physically reforesting approximately 5,720 acres. A copy of the record of decision, as signed on July 8, 1988, appears at the end of this notice.

DATE: Implementation of the decision will begin July 9, 1988.

ADDRESS: The final environmental impact statement and record of decision, as well as the planning and analysis records, may be reviewed at the Siskiyou National Forest Supervisor's Office, 200 NE. Greenfield Road, Grants Pass, Oregon.

Sale implementation records may be reviewed at the Galice Ranger Station in Grants Pass and the Gold Beach Ranger Station in Gold Beach, as well as at the Supervisor's Office.

FOR FURTHER INFORMATION CONTACT: Warren B. Olney, Public Affairs Officer, Siskiyou National Forest, Grants Pass, Oregon 97526, (503) 479-5301.

Dated: July 8, 1988.

Ronald J. McCormick,

Forest Supervisor.

Record of Decision

Silver Fire Recovery Project, Final Environmental Impact Statement

Siskiyou National Forest

Galice and Gold Beach Ranger Districts
Josephine and Curry Counties, Oregon

July 8, 1988.

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I. Introduction

On August 30, 1987, the Silver Fire was started by lightning and burned through approximately 96,500 acres of the Siskiyou National Forest. In the aftermath of the Silver Fire, the Forest Service had to decide if it should leave the burned area to recover naturally, rehabilitate the burned area, and/or provide the opportunity to salvage some or all of the burned trees.

In determining whether to rehabilitate the burned area, additional decisions included how to do so, and which parts of the burned area to rehabilitate. In determining whether to provide the opportunity for salvage, additional decisions included how much timber to salvage, where to salvage, and what type of logging systems to use. In determining whether to implement any action in the burned area, decisions included whether roads should be built, and if so, where.

Development of mitigation measures and a monitoring plan is also important. Mitigation measures eliminate, avoid or minimize potential impacts of the selected alternative. Monitoring will evaluate the effectiveness of the mitigation measures, as well as the effects of project activities and how well objectives are being met.

In order to assist the Forest Service in making this difficult decision, an Environmental Impact Statement (EIS) has been prepared. This EIS fully discloses the environmental consequences of implementing project options available to the Forest Service. The Draft Environmental Impact Statement (DEIS) was released March 21, 1988. After a public review period lasting until May 9, 1988, a Final Environmental Impact Statement (FEIS) has been prepared. The FEIS describes and analyzes nine alternatives. The FEIS fully discloses information used to decide the type and extent of recovery activities for the area.

Approximately 42,900 acres of the burned area are included in the Silver Fire Recovery Project. Approximately 53,600 acres are in the Kalmiopsis Wilderness and will be left to recover through natural processes. The Forest Service will not undertake any activities within the Kalmiopsis Wilderness. None of the decisions on salvage or rehabilitation apply to the Wilderness.

Land in the Silver Fire Recovery Area is currently managed according to direction in the Rogue-Illinois Land Management Plan (FEIS, 1979). That direction will be superseded upon approval of the Siskiyou National Forest Land and Resource Management Plan (Forest Plan), which was published in draft form in August 1987. Preparation of the Forest Plan was required by the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act of 1976 (NFMA).

The NFMA allows the Forest Service to continue the management of units of the National Forest System under existing land and resource management plans pending completion of Forest Plans. This decision on the Silver Fire Recovery Project EIS is being made prior to final approval of the Forest Plan. The expected deterioration of the burned timber and its resultant loss in value, as well as the need to accomplish rehabilitation work for soils, watersheds, and fish and wildlife habitat as quickly as possible, make the Silver Fire Recovery Project decision an urgent one that cannot logically be

delayed until the Forest Plan becomes final. The information learned in compiling the Silver Fire Recovery Project EIS will be used in further development of the Forest Plan and FEIS.

An examination of the Rogue-Illinois Land Management Plan and field reconnaissance conducted after the fire disclosed no inconsistencies between land allocations in that plan and activities of the selected alternative. These activities are based on new data gathered after fire dramatically altered the area. This FEIS, therefore, tiers to the Rogue-Illinois Land Management Plan solely for its land allocations. (Refer to FEIS, Chapter I, Section "Need and Purpose.")

The FEIS discloses the environmental effects of all alternatives considered. Some environmental effects are probable with the implementation of any of the action alternatives. These effects are to cultural resources, existing improvements, wilderness, water, vegetation, fire, air quality, wildlife, visuals, recreation, old growth, and roadless values. (For a more detialed discussion of environmental effects of each of the alternatives, see Chapter IV, FEIS.)

II. Decision

Based on the Silver Fire Recovery FEIS, it is my decision to select Alternative I-Modified as the project alternative for the Silver Fire Recovery Project. This Record of Decision documents my selection of the alternative and my rationale for the selection.

The selected alternative is a modification of the preferred alternative, Alternative I, as described in the DEIS. The interdisciplinary team (IDT) modified Alternative I to better reflect public response to the DEIS and management concerns with the issues of water quality and fisheries, recreation/visuals, economics, timber recovery, and road access.

The objectives of Alternative I-Modified is to rehabilitate the burned area outside of the Wilderness. The selected alternative will accomplish this through recovery of burned timber while emphasizing resource protection, especially protection of streams. Project activities are designed to maintain water temperatures and minimize sedimentation in perennial streams.

The selected alternative recovers approximately 157 million board feet (MMBF) of burned timber from approximately 9,500 acres. It constructs approximately 20 miles of new roads. Trees will be planted on approximately 5,720 acres, both in harvested units and in unharvested areas.

The project area is divided into four transportation areas, based on transportation systems. Twelve fire salvage timber sales are located within the transportation area. (For a complete description of Alternative I-Modified, see Chapter II, FEIS.)

Where additional tree mortality occurs as a result of the fire, it is my intent to salvage this material. Incidental and insignificant numbers of fire-killed trees within units would be removed under the timber sale contracts, if still in force. Since site analysis of these stands has been accomplished with the Silver Fire Recovery Project FEIS, the removal of additional mortality will be carried out under that document. This material will only be harvested where site conditions, harvest prescriptions, and environmental standards and mitigations are within the parameters specified in the FEIS.

This decision includes a monitoring plan that will provide information to evaluate project objectives and effects. Information gathered through monitoring will also be used to evaluate the appropriateness and timing of future entries into the recovery area. This plan will also provide the basis for determining the necessity of follow-up rehabilitation measures.

The selected alternative complies with all applicable State and Federal laws and regulations. If preliminary data from monitoring indicates that laws, regulations, or stated objectives are not being met, the project will be modified immediately. Certain measures in the monitoring plan are specifically designed to provide this feedback during on-going operations.

The Silver Fire Recovery Project FEIS is a site specific document. The recovery project includes twelve salvage timber sales and associated roads. Environmental analysis of these sales is complete with this FEIS.

III. Rational for the Decision

The Forest Service has an obligation to rehabilitate National Forest lands and resources damaged in burned areas outside of designated Wilderness. With full consideration to be given to environmental values, specific management objectives for resource recovery and rehabilitation are to:

(1) Reforest burned-over areas to ensure watershed and soil quality and to provide for future timber needs.

(2) Restore watershed and soil values damaged as a result of the fires.

(3) Restore wildlife and fisheries habitat.

(4) Salvage as much of the burned timber as possible. Salvage is the removal of recently-dead or dying trees to minimize the loss of wood products.

(5) Reduce the potential for insect infestation in adjacent unburned areas.

(6) Reduce accumulation of fuel in the burned areas to reduce future fire hazard.

I am fully aware of the environmental consequences of the alternatives as described in the Silver Fire Recovery Project FEIS. Specific factors which weighed heavily in my selection of Alternative I-Modified as a final recovery plan are discussed below. No single factor determined my choice of alternatives. Alternative I-Modified best addresses a combination of the issues.

One factor is timely salvage of fire-killed timber so the value of this resource will not be lost to the economy, including local counties and the federal government. Fire-killed timber can be expected to deteriorate rapidly after two years (see Appendix A, FEIS). The selected alternative recovers about 60 percent of the fire-killed timber in the project area, with all salvage complete in two years. An accelerated implementation schedule makes this possible. While some alternatives salvage more timber or have shorter timelines, they do not adequately address other issues such as water quality. Some road construction is necessary to recover the timber and carry out other rehabilitation work.

The selected alternative strikes a reasonable balance between the need to reforest unstocked areas and the high cost of planting trees in areas that are not easily accessed. Some lands that are unsuitable for timber management will be reforested to benefit soil stability, improve wildlife habitat, and protect streams from sedimentation. Roads improve the efficiency of reforestation operations.

Equally important is the restoration of the area's capacity to provide fisheries habitat and produce steelhead and salmon in Silver and Indigo Creeks and their tributaries. The selected alternative emphasizes stream protection. Recovery activities have been designed with the objectives of minimizing physical disturbance of streams and leaving as much forest canopy cover as possible.

Based on our analysis, recovery activities will not cause a measureable increase in stream temperatures or measureable impact to beneficial uses through sedimentation. Best Management Practices (BMPs), measure to protect beneficial water uses, were described in detail in developing the I-

Modified alternative. (See Appendix F, FEIS).

In selecting Alternative I-Modified, I also considered the issue of wildlife. The selected alternative provides a mid-range of big game habitat and mature and old-growth habitat. The Bald Mountain Road system will be closed to the public by gate after recovery activities to prevent disturbance of wildlife, as well as to maintain solitude in certain areas and prevent erosion.

There will be no adverse impacts to any Federally listed threatened and/or endangered species or critical habitat as a result of this project. One pair of peregrine falcons was discovered in the project area during field reconnaissance, and after publication of the DEIS. The Forest Service, in consultation with the USDI Fish and Wildlife Service, has established measures to ensure protection of the falcons. These meaures are defined in the completed Peregrine Falcon Kalmiopsis Site Management Plan.

Another factor I considered is future site productivity in the project area. Productivity of the forest ecosystem is tried to organic matter and nutrient content of soils. (Refer to Chapter IV, section "Soils," FEIS.) The selected alternative includes measures to protect site productivity from the potential effects of fire and recovery activities. An average of at least 20 pieces per acre of large woody material will be left in harvest areas to protect site productivity. The selected alternative falls in a mid-range of acres harvested. The amount of harvest on higher risk soils was decreased between Alternative I and the selected Alternative I-Modified. Also, use of helicopter logging systems protects site productivity.

The question of the North Kalmiopsis Roadless Area (NKRA) is very important and frequently raised on the Siskiyou National Forest. I have considered the roadless character and controversial history of the entire NKRA by reviewing Appendix C, "Roadless Areas," of the Forest Plan DEIS. This appendix analyzes all roadless areas on the Siskiyou National Forest in a site-specific manner, and is incorporated by reference into the Silver Fire Recovery Project FEIS. I have also reviewed a summary and analysis of the public responses to both the Forest Plan DEIS and the Silver Fire Recovery Project DEIS. I have determined that the need for recovery efforts as described in Alternative I-Modified outweighs the value of maintaining the entire project area in a roadless state.

Ninety-eight percent of the Silver Recovery Project area is included in the NKRA. The Silver Recovery Project area makes up 38 percent of the NKRA. After the selected alternative is implemented, 83 percent of the NKRA will remain in a roadless state.

A primary attribute of the area is its proximity to the Kalmiopsis Wilderness and the Wild and Scenic Illinois River. The area is largely roadless and, for backcountry users, provides solitude and the feeling of remoteness. This special, remote area of the Siskiyou National Forest holds spiritual and cultural values for some of the individuals who commented on the DEIS. Alternative I-Modified allows for preserving some of the areas important to these individuals.

Primitive and semi-primitive recreation opportunities will be reduced, but motorized recreation opportunities will be created. Trail buffers will be left on the higher use trails. Part of the Silver Peak Trail will be moved to a ridgetop location. One administrative trail to be used in recovery activities has potential as a recreation trail, through connecting the Bald Mountain Trail with Hobson Horn Ridge. A trail will be built along Silver Creek from Old Glory Mine to the confluence of the Illinois River for recreation and rehabilitation work. The west side of Bald Mountain in the lower reach of Silver Creek will remain roadless and largely undisturbed, preserving land allocation options in the Forest planning process.

I determined it necessary to find an optimum combination of helicopter logging and road construction. The helicopter can provide an advantage in speed of salvage, the roads in long-term recovery operations and efficiency of operations. Helicopters, coupled with long-span Skyline logging systems, are an excellent tool in terms of economic returns and reduced environmental impacts. They also allow a lower road density. Helicopters will be used to recover approximately 105 MMBF, or 67 percent of the burned timber to be salvaged.

Increased access into the project area is necessary for reforestation, watershed rehabilitation work, salvage harvest, and fire fighting. While increased access reduces primitive recreation opportunities and changes the roadless character of the project area, it allows for development of new types of roaded recreation, such as hunting and sightseeing. A portion of the roads constructed in the selected alternative will remain available for recreation use. Alternative I-Modified provides a balance between leaving some roads open for recreation and closing some roads to benefit other forest uses.

Another factor in my decision was the visual quality of the project area. the selected alternative includes several features that are favorable for management of the visual resource. The alternative meets the Visual Quality Objectives in the Wild and Scenic Illinois River viewshed, retaining visual qualities of the Illinois River canyon as seen from the river.

Current direction in the Rogue-Illinois Land Management Plan classifies this viewshed as Management Area 2, with one objective being to "protect and essentially retain the existing natural qualities, including retention of visual qualities of the Illinois River Canyon." In the draft Forest Plan, this area is allocated as a Custodial (Roadless) area, an area in which no timber harvest or road construction activities will occur. The selected alternative meets all current direction (the Rogue-Illinois Land Management Plan) and does not preclude future visual management options in this sensitive viewshed as described in the draft Forest Plan.

The cumulative effects for the visual resource do not meet the objectives for visual management in some parts of the project area. However, in areas classified as Retention, (a very restraining Visual Quality Objective), the selected alternative fully meets this visual objective in all viewsheds. (Refer to Appendix E, FEIS.) This is an improvement on Alternative I, preferred in the DEIS, which would have resulted in cumulative effects exceeding Retention thresholds in two viewsheds. Further measures which will mitigate the impact on the visual resource include selective cutting, leaving of wildlife trees, buffering trails, harvesting by helicopter, and grass seeding of the burned areas.

Another factor that I considered important is conducting recovery activities in an efficient, cost-effective manner. While Alternative I-Modified does not have the highest monetary return, it is among the more economically feasible of the alternatives. And, the attributes necessary to protect the environment are incorporated in its design.

The return on the timber is expected to offset the cost of salvage harvest, road construction, and rehabilitation activities. Some harvest units of low economic return will be made optional for the purchaser. This use of optional units makes the selected alternative more economically attractive, and focuses salvage harvest on units of higher value. The selected alternative provides a reasonable economic return

while meeting the resource objectives of the project.

Alternatives D, H and G have higher present net values (PNVs) than Alternative I-Modified. The PNV is the sum of all costs and benefits of activities in the project area for the next 60 years, discounted back to present time. Alternatives D and G are unacceptable relative to the issues of water quality and fisheries, recreation and visuals, and wildlife. Alternative H rates low under the issue of reforestation, and rates lower than Alternative I-Modified in the important issue of water quality and fisheries. Again, Alternative I-Modified provides a better response to a combination of the issues.

Alternative J is the "environmentally preferrable alternative." Environmentally preferable alternative is defined by Council on Environmental Quality (CEQ) regulations as that causing the least damage to the bilogical and physical environment. Alternative J concentrates on rehabilitation and enhancement of the project area. Alternative J would cause no additional impacts to streams or fish, and reforestation would occur more quickly in selected areas than with a fully natural recovery. I did not select Alternative J because, while this alternative rates high for some issues such as water quality and fisheries, it is unacceptable for other issues such as rapid timber recovery and reforestion. The selected alternative provides a more beneficial blending of all of the issues.

A major on-the-ground effort was made at the beginning of the project to verify existing resource inventories and to determine what changes have occurred because of the fire within the Silver Fire Recovery area. This effort involved a variety of resource disciplines. This updated inventory is the basis of the site specific analysis in the EIS.

I intend to use this updated inventory during the completion of the Forest Plan. An overview of this information indicates that a hard look is needed at the preferred alternative in the Forest Plan DEIS, with specific reference to the lands within the project area. It will be with this in mind that management of the remaining roadless areas will be addressed in the FEIS of the Forest Plan.

The cumulative effects analysis established that the fire caused some damage to streams, watersheds, and fish habitat. (Refer to Appendix B, FEIS.) It is my intention to defer future green timber harvest in the project area fire perimeter until it has recovered from the combined effects of the fire and timber salvage operations. Information collected during monitoring will be the basis for decisions about future harvesting of green timber.

Responses from the public and from other government agencies weighed heavily in my decision. Opinions were wide-ranging, from "no action" to "salvage as much timber and build as much road as possible." We modified the preferred alternative in several areas because of specific resource information and ideas from individuals, groups, and other agencies. The overall message from the public was to recover the values of the fire-killed timber, but to do so carefully, with full consideration for both the long-term health of the forest environment and economic efficiency.

Alternative I-Modified does the best job of combining all these factors into a plan that makes sense environmentally and economically, and will ultimately speed the Silver Fire area to recovery.

IV. Alternatives

Following the public scoping of issues, field reconnaissance and data collection by the IDT, and the study of existing resource inventories, the process of alternative development began.

Based on available data and direct public involvement, a full range of reasonable alternatives for the Silver Fire Recovery Project area was developed and anaylzed in the EIS. Six of the nine alternatives proposed in this FEIS are the outcome of public workshops in which the public and the Forest Service worked together to develop alternatives. Two were developed by the IDT to provide a range of responses to the issues and concerns. Alternative I-Modified was developed between the draft and final stages of the EIS in response to public comment and management concerns. The nine alternatives are briefly described below. (For a more complete discussion of alternative development, see FEIS, chapter II, Section "Alternative Development Process.")

Alternative A—No Action

The No Action Alternative is required by the National Environmental Policy Act and serves as a baseline for comparing other alternatives. There would be no road construction, salvage of fire-killed timber, or rehabilitation activities. The area within the fire perimeter would recover naturally.

Alternative D

The objective of Alternative D is to harvest as much fire-killed timber as quickly as possible. More timber would be logged by helicopter than by skyline cable to eliminate delays created by extensive road construction. Nearly all of the merchantable dead timber would be harvested with little emphasis on economic efficiences. About 38 miles of new road would be constructed and an estimated 241 million board feet (MMBF) of timber produced.

Alternative E

Alternative E emphasizes the protection of existing fisheries and water quality. Fire-killed timber would be harvested in a manner consistent with this emphasis. No harvest adjacent to streams on land with high potential for soil movement would occur. Dead and dying trees in high watershed sensitivity areas would not be harvested. Organic matter would be left and reforestation would occur on all lands suitable for timber production and some sites which are not. About nine miles of new roads would be constructed and an estimated 86 MMBF of timber recovered.

Alternative F

The aesthetic and roadless character of the project area and maintenance and enhancement of wildlife habitat capability are emphasized. Visual Quality Objectives of the area would be maintained by precluding timber harvest in certain visually sensitive areas. Cumulative effects would be very low. All understocked lands suitable for timber production would be reforested. Timber harvest near streams would be restricted to maintain streamside habitat. About a half mile of new road would be constructed and an estimated 60 MMBF of timber recovered.

Alternative G

Development of road access for timber management is emphasized. All understocked lands suitable for timber production would be reforested. Unsuitable lands would be replanted where reforestation success is likely. Timber would be logged helicopter during road construction but primarily by skyline cable systems when roads are completed. About 80 miles of new road would be constructed and approximately 212 MMBF of timber recovered.

Alternative H

Economic considerations for maximizing net revenues are emphasized. Only burned timber stands that produce an economic benefit after subtracting the costs of harvesting and road construction would be harvested. About 22 miles of new road would be constructed and an estimated 130 MMBF of timber recovered.

Alternative I

Harvesting timber while emphasizing resource protection is the objective. No timber would be harvested along perennial streams. Moderate amounts of wildlife habitat would be retained on harvested lands. All land suitable for timber production within two miles of roads would be reforested. The Visual Quality Objectives would be maintained on land seen from certain visually sensitive viewpoints. About 21 miles of new road would be constructed and 146 MMBF of timber recovered.

Alternative I-Modified (the Selected Alternative)

This alternative is based on the same objectives as Alternative I, harvesting timber while emphasizing resource protection, but with increased emphasis on protection of streams. Timber volume recovered will be 157 MMBF and approximately 20 miles of new road will be built.

Alternative J

There would be no road construction and no salvage of fire-killed timber. Resource rehabilitation and enhancement projects would be undertaken and much of the area would be reforested.

(For a more complete discussion of the alternatives, see FEIS, Chapter II.)

Other Alternatives Considered

In addition to the alternatives listed above, the IDT evaluated other approaches to managing the project area, but did not consider them in detail. Alternatives B and C were used to provide a range of choices to facilitate public participation. They were dropped from detailed study after suggestions from the public resulted in both being merged with other alternatives. An alternative based on natural regeneration of the project area and one based on "natural selection forest management" were also proposed, but dropped from detailed study.

In developing the I-Modified Alternative, the IDT worked with several variations of Alternative I based on different levels of resource protection and use. These variations are not separate alternatives, but were used as a tool for evaluating responses to public comments and management concern with the issues of water quality, recreation/visuals, economics, timber recovery, and road access.

V. Issues and Resolution

Forest Service scoping of issues included review of the draft Forest Plan, the Rogue-Illinois Land Management Plan, and the environmental documents and contracts of pertinent timber sales in the area.

In addition, the Forest Service actively solicited public opinion in development of this project. From the thousands of opinions and comments received, eight issues emerged.

The major issues derived during the scoping sessions form the basis for evaluating alternatives for the Silver Fire recovery area. Considerable effort was expended by both the public and the Forest Service to generate a wide range of alternatives. As a result, the response of each alternative to each issue will vary from negligible to the maximum possible.

This section briefly describes the eight issues and summarizes the effects of all alternatives on each major issue. (Refer to Chapter I, FEIS for more discussion of the issues. Refer to Chapter II, FEIS for comparison of the alternatives.)

Issue No. I—Rapid Timber Recovery

Issue. Because of the deterioration of wood and the potential for insect and disease damage, the volume and quality of burned timber will decline rapidly. Depending on tree size, the loss in volume could range from 35 to 90 percent of the pre-fire merchantable volume and value. Data show that a majority of loss in volume can be expected to occur within two to five years. Figures given depend on the timelines and activities of each alternative.

Resolution: Alternatives G and D provide the largest timber volume recovery. Of the potential salvage volume of 262 MMBF, 81 percent would be recovered under Alternative G, 92 per cent under Alternative D. Alternative D recovers more volume than Alternative G because of the greater harvest acreage and early harvesting by helicopter. The additional miles of road and the time required for construction in Alternative G would allow timber to deteriate, thereby reducing the actual amount of sound salvage volume.

Half of the potential volume, 130 MMBF, is harvested under Alternative H. Alternative I would harvest approximately 6 percent more volume, 146 MMBF, on 36 percent more acreage than Alternative H, with the additional harvest consisting primarily of scattered dead trees. Alternative I-Modified would harvest approximately 8 percent more volume, 157 MMBF, on 21 percent less acreage than Alternative I. Some of the harvest units in Alternative I have lower volumes per acre than some units that were added to Alternative I-Modified, allowing for more volume harvested from fewer acres. Harvesting more trees from a given area under Alternatives H, I, and I-Modified would recover more timber than Alternatives E or F. Alternative F would recover the least timber volume, 60 MMBF, of the harvest alternatives because of the low number of harvested acres. The "No-action" Alternative A and "rehabilitation only" Alternative J would recover no salvage volume.

Deterioration of fire-killed timber would increase markedly during the second and successive year after the fire. Wood fiber deterioration over time would be influenced by factors such as weather, insects, and disease. The predicted deteriorated net volume is the current net volume shown above minus the volume of deteriorated wood expected at time of harvest.

Issue No. 2—Water Quality and Fisheries

Issue: Fish are considered the primary beneficial use of streams in the project area. In the lower Rogue and Illinois River systems, the primary fish species are Chinook salmon and steelhead. Salmonid habitat is highly sensitive to both natural and human-caused sediment and stream temperature changes. Sediment entering these streams is expected to increase because of the fire. Higher summer temperatures are predicted because of the loss of shading due to the fire. Road building and timber salvage could potentially increase the fire-caused stresses to fish habitat.

Resolution: Alternatives D and G would have the greatest effects on water quality and fisheries. Harvest along Class IV drainages, within areas of high watershed sensitivity, and many miles of road construction would generate considerable sediment, result in decreased pool volume in streams. Use of helicopter logging under Alternatives D and G would avoid some of the adverse effects from cable logging. Alternatives D, G, and H would have identical harvest prescriptions along streamcourses. However, the economic constraints under Alternative H that limit the number of acres harvested would considerably reduce effects on water quality compared to those of Alternatives D and G.

Alternatives A, E, F, and J would retain the most habitat along nonharvested Class III and IV streams. Increased openings along Class III streams and more acres harvested under Alternative I would slightly decrease the quantity and quality of stream-related habitat. Alternative I-Modified will retain more habitat along streams than Alternative I, but less than Alternatives

A, E, F, and J. Based on our analysis, Alternative I-Modified will not increase water temperatures or cause any significant impact on fish.

Issue No. 3—Site Productivity

Issue: Soil erosion, mass wasting, and nutrient cyclying affect productivity of the forest environment. Organic matter in wood material contributes to site productivity. There is concern that site productivity may be adversely affected by salvage harvest activities.

Resolution: Alternatives D and G would allow the greatest reduction of total organic matter and therefore could have the greatest effect on site productivity. Minimum numbers of wildlife trees and pieces of large woody debris would remain on the area. Organic matter levels would be 35 percent of pre-fire levels.

Alternative H would result in reduction of total organic matter similar to D and G, but over fewer acres, making its effects less than Alternatives D and G and greater than Alternatives I and I-Modified.

Alternatives I and I-Modified would moderately reduce total organic matter, but would leave enough organic matter to ensure maintenence of site productivity. Organic matter levels would be 45 percent of pre-fire levels under both alternatives.

Of the action alternatives, Alternatives E and F would have the least effect on total organic matter and therefore potential site productivity. Large numbers of trees would be removed in relatively small areas, and losses of organic matter after fuel treatment (slash burning) would be minimal. Organic matter levels would be 60 and 65 percent of pre-fire levels, respectively.

Issue No. 4—Wildlife

Issue: Wildlife populations within the Silver Fire area have been affected to differing degrees by the various fire intensities. There is concern that the alterations of wildlife habitat produced by the fire may be compounded by recovery activities.

Resolution: Alternatives A, F, and J would maintain most of the existing contiguous mature and old-growth stands which meet the needs of species requiring this habitat. Openings created by the fire have improved habitat for big game.

Alternatives E, H, I, and I-Modified would moderately reduce the quality of mature and old-growth stands for wildlife. Big game habitat would be more suitable than before the fire, due to openings created by the fire and by salvage harvest.

Alternatives D and G would considerably reduce the quality of mature and old-growth stands for wildlife because many lightly burned stands would be partially harvested. Big game habitat would be less suitable during the first two years of harvest than before the fire because of the miles of new roads and high levels of logging activity on much of the area.

Other Effects of the Alternatives

Alternatives A, E, F, I, I-Modified, and J would retain many pieces of large woody debris for wildlife species that use this habitat. Alternatives D, G, and H would retain very little large woody debris.

Forest habitat along streams would not be affected by harvest activities under Alternatives A, E, F, and J. Alternatives D and G would impact a large amount of this habitat; Alternative H includes the same prescriptions, but over fewer acres for somewhat less impact. Alternatives I would have a moderate impact. Alternative I-Modified will have a low impact on streamside habitat. As more acres of streamside areas are affected or harvested, protective habitat would be lost, reducing wildlife use in those areas.

All alternatives except D and G are expected to retain enough standing dead trees (snags) to provide high quality snag habitat over time. Alternative D would retain very few dead trees per acre, resulting in a shortage of snags as many fall before replacement snags are available.

Issue No. 5—Reforestation

Issue: NFMA states that all forested lands within the National Forest System are required to maintain a prescribed level of appropriate forest cover, whether conifers or hardwoods. The objective is to secure the maximum benefits of multiple-use sustained yield management in accordance with land management plans. There is concern that the burned area may not be returned to optimum stocking levels because of economic or physical constraints.

Resolution: Alternatives D, E, and G would plant all 7,700 acres "suitable" for timber production. Alternative F would plant 7,280 acres; the conversion of 490 acres of hardwood stands would be foregone to enhance long-term wildlife habitat diversity and visual variety. Suitable lands under Alternatives I, I-Modified, and J that are more than two miles from the nearest road would not be planted, unless harvested, because of the high costs. Alternative J, unlike Alternative I, would not convert hardwood stands to conifers.

Alternative H restricts planting to harvested suitable lands to minimize costs and generate maximum economic returns. Alternative A relies solely on natural regeneration of conifers, and an estimated 1,600 acres would reforest naturally to conifer-dominated stands.

Issue No. 6—Acres Accessed By Road Development

Issue: A developed road system provides access for reforestation, control of competing vegetation, fire protection, and wildlife habitat enhancement. Roaded recreation, hunting, fish and wildlife habitat enhancement, woodcutting, and sightseeing are accommodated by roads.

Resolution: No roads would be constructed in Alternatives A and J. Access would be limited to the existing road network located on the periphery of the Silver Fire Area. Alternative F slightly increases the amount of suitable lands accessible by ground-based logging systems, compared to Alternatives A and J.

Alternative E would construct 9.5 miles of new road, increasing to 21 percent the area within ½ mile of a road. Ten percent of the suitable lands would be accessible by ground-based logging systems.

Alternatives H and I would construct 22 and 20.5 miles of new road, respectively. Alternative I-Modified would construct 20 miles of new road. The additional road construction in Alternative H does not increase the percentage of road access compared to Alternatives I or I-Modified. All three alternatives access 30 percent of the area within ½ mile of a road and 15 percent of the suitable lands capable of being logged by ground-based systems.

Alternatives D and G would construct 37.7 and 80.2 miles of new road, respectively. Alternative D would provide more general access to the area, particularly along the east half of the Silver Peak-Hobson Horn ridgeline. Alternative G increases road access to nearly three-quarters of the area (nearly the maximum feasible for timber harvest). Increased access over that provided in Alternative D would include construction of a tie-through road from Hobson Horn to Indigo Prairie along Silver Peak ridge, and completion of roading west across Bald Mountain.

Issue No. 7—Recreation and Visual Resources

Issue: Remoteness and solitude found in the Bald Mountain area and other portions of the Recovery Project area are highly valued by some people. There is concern that increased development

would destroy these qualities and the scenic value of the area.

Resolution: The Recreation Opportunity Spectrum (ROS) identifies possible combinations of recreation activity, setting, and experience ranging from Primitive to Urban. Alternatives A and J do not change the pre-fire ROS inventory; both preserve the existing ROS opportunities. The rehabilitation projects in Alternative J do not change the ROS.

Alternatives D and G would have so many harvest units that the minimum size criterion for the non-roaded classifications would not be met. The entire project area would be classified as Roaded Natural. These alternatives would retain the least amount of acreage classified as non-roaded of all the action alternatives presented.

Alternatives I, E, I-Modified, H, and F would retain increasing amounts of non-roaded acreages, depending on the dispersion of harvest units and the number of roads proposed for construction. Of the alternatives prescribing timber harvest, Alternative F would retain the most non-roaded ROS acres, followed by Alternative H down to the minimum in this group with Alternative I.

For visual resources, the alternatives are compared on the basis of the number of viewsheds exceeding the "Maximum Disturbance Thresholds" for Retention, Partial Retention, and Modification Visual Quality Objectives (VQO). "Maximum Disturbance Threshold" is the visual sum of acreage harvested and roaded, calculated as a percentage for each VQO in each viewshed.

The nine alternatives can be grouped into three broad ranges for comparison. Alternatives D and G would create the greatest visual disturbance; six of the viewsheds would exceed the Retention and Modification threshold; and all nine would exceed the Partial Retention threshold.

In the midrange, Alternative E would exceed the Retention threshold in two viewsheds, and three viewsheds would exceed the Partial Retention and Modification thresholds. Under Alternative H, three viewsheds would exceed the Retention and Modification thresholds, and five would exceed the Partial Retention threshold. Under Alternative I, two viewsheds would exceed the Retention threshold, four would exceed the Partial Retention threshold, and five would exceed the modification threshold. Under Alternative I-Modified, no viewsheds would exceed the Retention threshold, three would exceed the Partial Retention threshold, and five would exceed the Modification threshold.

Alternative F has one viewsheds exceeding the Modification threshold, and Alternatives A and J have no viewsheds that exceed a maximum disturbance threshold.

Issue No. 8—Economics

Issue: The sale of National Forset timber can generate revenues to the U.S. Treasury and county governments. The monetary return from salvage operations is affected by the the cost of road construction, the selection of logging systems (i.e. cable logging, helicopter logging), and the rate of deterioration of the burned timber over time. There is concern about whether timber salvaging and land rehabilitation will benefit the Federal, State, and local economies.

Resolution: The three separate analyses for the Economic Issue include net cash value of the project, payments made to counties, and Present Net Value.

Net cash value of the project is the net balance of all the costs of activities and revenues generated from the recovery project. The expected net cash value from a salvage operation ranges from $6.3 million in Alternative H to—$3.9 million in Alternative E. The net cash value of the selected alternative is $1.7 million. Alternative H would generate the most revenue, even though only 118 MMBF of deteriorated net volume would be salvaged, because timber harvest is limited to stands where revenues exceed costs. Net cash value depends primarily on four factors: The amount of volume recovered, the mix of logging systems used to recover the volume, the amount of access provided by roads and the amount of rehabilitation scheduled outside the harvest units. In Alternatives E, F and G, the Federal government would lose money on salvage because timber sale costs are expected to exceed revenues.

The amount of money that the Federal government would share with Oregon counties from the sale of salvaged timber is estimated to range from $4.6 million in Alternative D to $0 in Alternatives A and J. This amount will be $3.3 million with Alternative I-Modified. These revenues will be offset by reductions in timber harvesting on the rest of the Forest.

Of the nine alternatives, Alternative H is expected to produce the highest ($34) payment per thousand board feet (MBF) to the counties because only those timber stands that produce an economic benefit would be harvested. With the selected alternative, payments will be $24 per MBF. Under all other alternatives that harvest timber, payments to the counties are expected to average between $20 and $24 per MBF. The difference in payment amount per MBF would be somewhat offset by the higher harvest volumes produced under Alternatives D, G, I, and I-Modified.

The Present Net Value (PNV) is the sum of all costs and benefits of activities in the project area for the next 60 years, discounted back to present time. The PNV would range from around $35 million in Alternatives E, F, and J to $45 million in Alternative H. The PNV of the selected alternative is $41 million. Most of the PNV is attributed to the estimated net value of harvesting the 450 MMBF of live, mature timber on lands suitable for timber production. Harvesting of green (live) timber was assumed to begin in the next decade, and continue over the next 40 to 50 years. The difference in PNV between two groups of alternatives (Alternatives D, G, H, I, and I-Modified versus Alternatives E, F, and J) would be the varying net value of the salvage/rehabilitation project and the amount of roads constructed.

The value assigned to future timber management varies among the alternatives primarily because of the amount of additional future road construction. In alternatives which build roads and salvage timber, the cost of the road system constructed would be partially offset by the value of salvaged timber. Alternative H has the highest PNV because the road construction costs are offset by profitable salvage harvests.

VI. Public Involvement and Response to Public Comment

Because of the history of this area, the Forest Service recognized that fire in the area would intensify debate about its best and most appropiate use. A priority of the Silver Fire Recovery Project has been to involve the public in the decision making process to an unprecedented degree. The Forest Service encouraged public involvement through tours of the fire area; open house informational gathering in Gold Beach, Eugene, Grants, Pass, and Coos Bay; meetings with the forest products industry, enviornmental groups, and local, State, and Federal government personnel; and workshops at which alternatives were constructed by the public. A full page display ad inviting mail-in comments was placed in newspapers in Medford, Grants Pass, Ashland, Gold Beach, and Brookings. Special efforts were made to contact area industry and environmental groups. Coverage by local television and radio

stations and newspapers provided additional information sharing opportunities. (For more discussion of public involvement in the project planning process, see FEIS, Chapter II, Section "Alternative Development Process.")

The Silver Fire Recovery Project DEIS was released March 21, 1988. The public review period lasted until May 9, 1988. The Siskiyou National Forest received almost 28,000 responses to the DEIS. Responses are individual pieces of mail. Each response contained one or more comments dealing with specific topics.

Public response analysis described what the public had said, as completely and directly as possible. It did not assign any weights or policy recommendations. Decisionmakers need to be aware of all values and opinions expressed. An analysis summary report which states whether public opinion generally favors, does not favor, or is divided on an issue is valuable, because it gives an overall view of the public response. However, public response to the DEIS was not a voting process, and the number of "votes" alone did not prescribe agency decisions.

Responses included original letters and cards, form letters, coupons, petitions, and resolutions. They came from 47 States, the District of Columbia, and the Virgin Islands. The bulk of replies came from Oregon (22,736), followed by California (1,309), and Washington (916).

Form letters and printed post cards made up the majority of responses. A form letter released by Southern Oregon Timber Industries Association (SOTIA), promoting salvage of burned timber, made up the largest group of a single type of form letter. Form letters in support of a Siskiyou National Park also made up a large group.

Numerous comments requested that the EIS analyze an alternative which included a National Park containing part or all of the fire area. Some respondents requested that the selected alternative not preclude the option of designating a park in this area in the future. The establishment of a National Park is a land allocation issue which is outside the scope of this project EIS. The maintenance of present conditions was considered and fully analyzed in Alternatives A and J. The selected alternative does not preclude the establishment of a park, by Congressional action, on the Siskiyou National Forest at a future time.

Many respondents expressed the conviction that the volume of fire-killed timber salvaged in this project should be offset by a reduction of green timber volume harvested on the Forest. Existing resource management plans do not make a distinction between fire-killed and green timber in calculating the maximum amount that can be sold during a period of time. Consequently, the salvage timber will be included in the calculations. The sell volume in Alternative I-Modified is consistent with current resource plans.

About 36,000 comments were made about the alternatives described in the DEIS. Each of the alternatives drew some comments. The largest group expressing support for a particular alternative favored Alternative J (7,593). Comments in support of the DEIS preferred alternative, Alternative 1, totalled 125; those against totalled 1,259. Comments totalling 19,949 were made in support of "Operation Silver Forest," a maximum-salvage proposal promoted by SOTIA and included in their form letter.

Reforestation was the issue which elicited the largest number of comments (34,918). About 97% of these were on SOTIA form letters and favored planting and managing the area for timber production.

Comments totalling 24,126 addressed the issue of recreation. About 79% of these were on SOTIA form letters and supported development of the area's recreation potential. About 19% favored maintaining the area's primitive character.

The question of salvage harvest drew 22,756 comments. Of these, 15,167 were on SOTIA form letters and read, "Maximize salvage of fire-killed timber." Comments totalling 4,459 voiced disapproval of any salvage of fire-killed timber.

Comments about the issue of water quality/fisheries totalled 20,484. Concerns ranged from a general consideration of the resource to specific concerns with things such as anadromous fisheries and water temperature.

A total of 15,121 comments, on SOTIA form letters, indicated support for road construction in the project area. Reasons given included access for salvage harvest, future fire protection, and recreation opportunities. A total of 4,680 comments opposed road construction for salvage harvest; a total of 437 opposed road construction for various other reasons.

The Oregon State Department of Environmental Quality (DEQ) expressed several concerns about streams and watersheds. These concerns dealt specifically with stream sedimentation, the difference between resource impacts caused by the fire and those caused by post-fire recovery activities, stream turbidity, and temperature changes.

In developing Alternative I-Modified, the IDT considered the State's comments, as well as concerns expressed by members of the public and Forest Service management personnel. The IDT consulted both the State and the Federal Environmental Protection Agency (EPA) on watershed management questions.

The EIS was revised to reflect the comments received from the public and other agencies. Changes made between the draft and final stages of the EIS include those discussed below.

Illinois Wild and Scenic River. Many comments expressed concern about potential impacts of recovery activities of the Illinois River. As a result, the FEIS contains expanded discussion about this. Recovery activities will not be injurious to beneficial uses, such as recreation or fisheries.

Antidegradation Policy. The antidegradation policy is part of EPA regulations for implementing the Clean Water Act. The FEIS includes a discussion of how this policy relates to the project.

Turbidity. The FEIS addresses turbidity directly as a water quality parameter and standard separate from sedimentation.

Water Temperature Increases. Based on our analysis, the selected alternative will not cause any measurable water temperature increases. The FEIS contains expanded discussion on this question.

Best Management Practices. BMPs are measures to protect beneficial uses of water. The FEIS includes Appendix F which specifies BMPs for this project.

Monitoring. The FEIS includes Appendix G which describes the monitoring plan that will be used to evaluate effectiveness of mitigation measures and how well project objectives are met.

Public Participation. Chapter V, Public Participation, which discusses public involvement after publication of the DEIS, has been added.

(For more information on public comments on the DEIS and Forest Service response to these comments, see FEIS, Chapter V.)

VII. Mitigation and Monitoring

Mitigation Measures

Mitigation measures are defined as actions taken to avoid, minimize, reduce, eliminate, or rectify the impacts of recovery activities. The measures described in the FEIS, Chapter II are adopted as part of my decision. All practicable means to avoid or minimize environmental harm from the selected

alternative have been adopted. Important measures are summarized below. For a more complete overview of the project mitigation measures, see the accompanying table, "Summary of Mitigation Effectiveness."

—Streams. Several mitigation measures will be used to minimize physical disturbance of streams and to retain as much forest canopy cover as possible. "No cut" buffer zones varying from approximately 150 to 200 feet will be left on each side of larger streams (Class I, II, and III). Class IV seasonal streams, which are dry during the summer, will be protected by leaving some trees in and around the stream banks and slopes. Fire downed trees would be anchored in some larger streams to retain instream logs and maintain existing pool cover. To maintain large woody debris in streams, contract provisions will be used to allow for evaluation of logs in creeks rather than require their removal. Check dams will be constructed across some smaller streams to maintain channel stability and reduce sediment transport. Seedlings will be planted in some riparian areas to improve stream shading, bank stability, and erosion control.

—Wildlife. Habitat for snag and cavity dependent wildlife will be managed according to the current "Forest Snag (Wildlife Tree) Guidelines." An average of at least five standing live or dead trees per acre will be left. In areas that have low amounts of large woody material, an average of seven trees per acre will be left. All trees will be left within meadow complexes. Tree topping or girdling and bird boxes will be used to improve cavity nester habitat. Special wildlife sites will have site specific timber marking to reduce the impact of timber salvage on wildlife. Selected roads will be closed after initial activities to prevent disturbance to wildlife.

—Supplemental Fisheries/Watershed Areas. These areas extend ⅛ mile on each side of the main stem of Indigo and Silver Creeks. Most of these lands maintain mature and old-growth forest characteristics and are important for various resource values. There will be no harvest in any of these areas; however, some areas left in an unstocked condition due to the fire will be planted.

—Site Productivity. An average of at least 20 pieces per acre of large woody material will be left in harvest areas.

—Reforestation. All salvage harvest areas on suitable ground will be planted. Unstocked lands which are suitable for the production of timber and within two miles of a road will be planted, whether harvested or not. Natural regeneration of conifers is expected to occur in some unplanted areas. Regeneration of hardwood trees and shrubs is expected on most forested lands within the project area.

—Erosion Control. Erosion control measures, such as seeding with grasses and water channeling, will be used to reduce soil movement from road cut and fill slopes and in timber harvest areas where necessary. Rock will be used on roads to minimize surface erosion during storms and winter haul. Some trees will be contour felled to control erosion in selected areas which were intensely burned.

—Trails. Roads and trails will be closed when necessary for public safety. Trails scheduled to remain open after activities will be protected with clauses in the timber sale contracts. Trail maintenance will remove hazard trees and rehabilitate fire-related damage.

—Visuals. Exterior boundaries of salvage harvest units will be adjusted to create irregular, natural appearing forms. Road cut and fill slopes will be revegetated to reduce visual contrasts. A "no-cut" buffer varying in width from 100 to 300 feet will be left adjacent to the Hobson Horn-Silver Peak Trail and a 300 foot wide buffer will be left adjacent to the Illinois River Trail to minimize impacts to visual quality. Slash will be hand piled within 100 feet of the Hardscrabble and Lazy Creek Trails.

—Port-Orford Cedar Root Disease (*Phytophthora lateralis*). The objective is to prevent the import of the disease into uninfected areas containing Port-Orford cedar. Due to the accelerated schedule of this project, log trucks will be hauling outside of the normal operating season, during wet weather. At these times, log trucks and other equipment using Road 2512 will be washed to prevent spores from being transported when moving into uninfected areas containing Port-Orford cedar. In one stand along Road 2600.065, Port-Orford cedar will be removed from areas adjacent to the road to reduce the chance of introducing the disease.

Standard Contract Provisions. Standard provisions will be used in timber sale and road construction contracts to protect mining claim improvements; important cultural resources; threatened, endangered, and sensitive plant and wildlife species; and survey monuments and corner locations.

(For a more complete discussion of mitigation measures, see FEIS, Chapter II, Chapter IV.)

BILLING CODE 3410-11-M

Summary of Mitigation Effectiveness

Mitigation /1	Environmental Factor /2	Ability to Implement Action /3	Effectiveness of Mitigation on Site Specific Treatment Areas/4	Estimated Area /5	Effectiveness of Mitigation on Project Area /6
Reforest Suitable Lands	1,3,4,5,6	H	H	7110 Acres	H
SMU Prescriptions (water temperature) Class I & II & III & IV	3,4,5,6	H	H	870 Acres	H
Unsuitable Lands Prescription TML	1,3,4,5	M	M	435 Acres	M
Designated Old Growth Habitat Prescription	2,3,6	H	H	3,000 Acres	H
Meadow, Outcrop, Cliff Prescription	2,3,6	H	H	Approximately 30 Acres	H
Peregrine Falcon Protection	1,2,3,6,7	H	H	4,400 Acres	H
Wildlife Trees Retained	1,3,4,6,7	H	H	5/7 per Acre on 5,319 Acres	H
Large Woody Material Retained	1,3,4,7	H	M	Approximately 5,319 Acres 20 pieces/acre	M
Recreation Trails					
A Buffer	3,6,7	M	M	20 Miles	M
B Relocation	3,6,7	H	H	2 Miles	H
SMU Replanting (Class I-IV)	1,3,4,5,6	H	H	243 Acres	M
SRA Planting	3,4,5,6	M	M	49 Acres	L
TML Planting	3,4,5	M	M	500 Acres	L
Class IV Checkdams	4,5	M	M	180 Check dams	L
Erosion Control (roads)	3,4,5,6	H	H	Cutbank Approximately 16 Acres; 20 Miles Road	M
Contour Felling in High Sensitivity Watersheds	4,5,6	M	M	10 Acres	L
Road Closure After Salvage	1,2,3,4,5,6,7	H	H	15 barriers (close 14 of 20 miles)	H
Road and Trail Closure During Salvage	3,6	H	M	Road=20 Miles Trail=20 Miles	M
Trail Protection and Maintenance	6,7	H	M	20 Miles	M
Cavity Nester Enhancement	3	H	H	Approximately 200 Struct	H
POC Root Rot Disease Prevention	1	H	H	42,910 Acres	H
Irregular Harvest Boundaries	1,5,6	H	H	5,319 Acres	M
Slash Piled Away From Trails	6,7	H	M	20 Miles	M
Cultural Resource/Geographic Inventory	1,3,6,7	M	H	42,910 Acres	H
Sensitive Plant Protection	2	M	H	42,910 Acres	H
Road Construction					
a) Surfacing & Riprap	4,5	H	H	20.0 Miles	H
b) Culverts & Drainage Systems	4,5	H	H	50% Larger Structures	H
c) Embankments	4,5,6	H	H	Planting	M
d) Stream Crossings	4,5	H	H	11 Crossings	M
e) Debris Disposal	4,5,6	H	H	Burn	M
Fish Habitat Structures	5	H	H	Approximately 440 Structures	H

Road/Landing Location Geology/Geotech Review	2,4,5,6	H	H	20.0 Miles	H
New Trail (Administrative) Construction	1,3,6,7	H	M	40 Miles	M
Site Productivity					
a) LWM Prescription with YUM	1,3,4,5,7	M	M	Approximately 700 Acres	M
b) Prescribed Burn	1,4,5,6,7	M	M		M
Operating Periods					
a) Pioneer Roads and Road Construction	4,5	H	H	20 Miles	M
c) Timber Harvest	1,3,4,5	H	M	9,474 Acres	M
Servicing and Refueling of Equipment	5,7	H	H	Site by Site	H
Water Source Development	3,7	H	H	Two Sources	L
Road Maintenance	1,4,5,7	H	H	20.0 Miles	H
Timber Sale Planning	1,2,3,6,7	H	H	42,910 Acres	H
Emergency Watershed Rehabilitation	3,4,5,6	M	M	6,700 Acres	M
Cumulative Off-Site Watershed Effects	1,4,5	H	M	42,910	M
Timber Sale Unit Design					
a) Erosion Potential Evaluation	1,4,5	H	H	9,474 Acres	M
b) Sale Area Maps for Water Quality	1,2,3,4,5,6,7	H	H	9,474 Acres	H
c) Logging System Design	3,4,5,6,7	M	H	9,474 Acres	H

1/ Mitigation technique to be implemented

2/ Environmental factors that would be benefited by the mitigation.

Environmental Factors
1. Vegetation
2. T, E & S
3. Wildlife
4. Soil and Geology
5. Water Quality and Fisheries
6. Visuals and Recreation
7. Fuels

3/ Ability to implement the mitigation as planned. High (H) represents an "almost certain" ability to be implemented. Moderate (M) denotes a "greater than 75% certainty" that the mitigation will be implemented as planned. Low (L) denotes a "less than 75%" ability to implement the mitigation as planned.

4/ Effectiveness of the mitigation on the local area where the mitigation is implemented.

Effectiveness
H - High
M - Moderate
L - Low
U - Undetermined

5/ Degree to which the mitigation will be implemented described in acres or miles.

6/ The effectiveness of the mitigation to impact the analysis on a project level.

BILLING CODE 3410-11-C

Monitoring Plan

Monitoring is the evaluation of project implementation to determine how well objectives are being met, as well as determine the effects of project implementation on the environment. The Forest Service will monitor this project during and after its implementation to ensure that objectives are being met and to gather research data. Information gathered in the monitoring plan will also be used to gauge appropriateness and timing of any future entires and necessity of follow-up rehabilitation measures. Monitoring methods include surveillance, sampling, and measurement.

If preliminary data from monitoring indicates that laws, regulations, or stated objectives are not being met, the project will be modified immediately. Certain measures in the monitoring plan are specifically designed to provide this feedback during on-going operations.

The monitoring plan addresses five basic topics:

Implementation: Was the project completed according to plans?

Effectiveness: Did the mitigation measures accomplish what was expected?

Validation: Were assumptions about resource effects accurate?

Research: Is there something special about this project that could add to our general knowledge?

Inventory: Is there an opportunity to expand or update our resource database?

Following is a summary of the monitoring and research plan. (For a more complete discussion of the monitoring plan, see FEIS, Appendix G.)

Rapid Timber Recovery

Inventory timber in fire areas to gather data on deterioration and felling breakage in fire-killed timber. Inventory break beetle damage in fire areas to gather data on post-fire insect mortality.

Water Quality and Fisheries

Measure changes in stream temperatures, flow and turbidity. Examine stream channels for structural changes. Determine changes in fish populations and habitat. Check width of stream buffers and evaluate their effectiveness.

Measure changes in landslide rates. Check landing, road building, and logging practices to ensure that streams are protected as described in prescriptions.

Site Productivity

Evaluate changes in vegetation, soil, and woody material in burned areas both with and without recovery activities. Gather information to use in managing the burned ecosystem and determine whether we have maintained site productivity in harvest units.

Wildlife

Evaluate occupancy and suitability of designated old-growth habitat areas to ensure that they are adequate. Verify that prescriptions were followed in leaving special wildlife site buffers and wildlife trees.

Monitor peregrine falcon pair in area to ensure they are not disturbed by harvest activity.

Reforestation

Pre-planting stand exams are in progress. Post-salvage planting will begin in spring of 1989. Establish new stands within five years of harvest.

Recreation and Visuals

Evaluate changes in viewsheds over time. Verify that trail buffer prescriptions were followed. Evaluate whether or not the prescriptions met objectives.

VIII. Implementation

The project is divided into four transportation areas, based on transportation systems, and includes twelve separate timber sales. Specific locations and details are available in the sale implementation records at the Galice and Gold Beach Ranger Districts and at the Siskiyou National Forest Supervisor's Office.

Some salvage harvest units, totaling approximately 3000 acres, are being offered as optional units. These are units of low economic return. All would be helicopter yarded and generally have long flight distances and low volumes. They can be included in harest activities by agreement with the Forest Service if the sale purchaser so wishes. The optional units would be paid for at current contract rates and would be subject to the same contract provisions as other units.

The analysis of all environmental effects includes the effects of harvesting these optional units. Two economic analysis were completed, one with the optional units, and one without. The estimated total volume of all sales is 157 MMBF with the optional units and 145 MMBF without. Estimated acres and volume to be harvested are listed in the accompanying table. All figures have been rounded and are approximate.

The Forest Service has continued survey, design, and field layout work on the Silver Fire Recovery Project while making the choice of a selected alternative. No permanent, on-the-ground changes were made during this period. Most of the work consisted of such tasks as flagging boundaries and surveying road locations.

This work was done with the full knowledge that some or all of it might not be used. Due to the urgency of recovery operations, it was not feasible to interrupt field work until selection of the alternative documented in this Record of Decision was made.

As actual field layout of salvage sales progressed, there was some additional refinement of resource data. Layout of some units and roads was adjusted where needed, in order to reduce the environmental effects of activities. Although there may be slight discrepancies between actual unit boundaries and the selected alternative maps, all of the actual layout on the ground is within the area for which site specific analysis was done in the FEIS.

The extension of the Bald Mountain Road is essential to this project. This extension provides access to portions of the Chinaman Hat and North Silver transportation areas, in addition to the Bald Mountain transportation area, for rehabilitation and salvage harvest. In the selected alternative, several roads feed into the Bald Mountain Road. Only a portion of the Bald Mountain Road itself is part of an individual salvage sale. Completion of this road is critical if Alternative I-Modified is to be implemented as planned. For these reasons, a public works contract will be awarded for construction of this road. All other roads will be built as part of individual timber sale contracts.

The public works contract has already been advertised in trade journals, and bids will opened June 26, 1988. The Forest Service expected to award the contract by July 11, 1988. Due to the urgency of completing this road, preparation of contract documents was begun before the final selection of an alternative. Again, this was with the full knowledge that some or all of the contracts preparation work might not be used.

The Forest Service expects construction to begin in the Bald Mountain Road in July, 1988. The required completion date is October, 1988.

Due to the urgency of the Silver Fire Recovey Project, implementation will begin in July, 1988 and continue as follows:

Auction for public works contract: June, 1988

Award of public works contract: Estimated July, 1988

Start Bald Mountain Road construction: Estimated July, 1988.

Auction of the 12 timber sales included in the project: July 11, 12, 13, 14; 1988
Timber sale contract award: Estimated August, 1988
Start timber sale road construction: Estimated August, 1988
Begin cutting of timber: Estimated August, 1988
Finish all project road construction: By October, 1988
Finish hauling logs: By December, 1989
Planting: Spring, 1988 through spring, 1991.

Some planting was done in spring of 1988 within the burn. The remaining planting schedule depends on the progress of recovery activities and the availability of seedings.

All dates in the implementation schedule are subject to change.

BILLING CODE 3410-11-M

Salvage Harvest Acres and Volumes

Bald Mountain Transportation Area:

FIRE SALVAGE SALE NAME	INCLUDED ACRES	OPTIONAL ACRES	INCLUDED VOLUME (MBF)	OPTIONAL VOLUME (MBF)
North Face	600	200	19,100	2,500
Silver Fork	800	200	16,900	3,600
Silver Spoon	400	0	14,500	0
Top	100	0	7,300	0
Total	1,900	400	57,800	6,100
Grand Total	Acres: 2,300		Volume: 63,900	

Chinaman Hat Transportation Area:

FIRE SALVAGE SALE NAME	INCLUDED ACRES	OPTIONAL ACRES	INCLUDED VOLUME (MBF)	OPTIONAL VOLUME (MBF)
Black Hat	600	100	9,500	100
Old Glory	100	400	1,000	300
Total	700	500	10,500	400
Grand Total	Acres: 1,200		Volume: 10,900	

Indigo Transportation Area:

FIRE SALVAGE SALE NAME	INCLUDED ACRES	OPTIONAL ACRES	INCLUDED VOLUME (MBF)	OPTIONAL VOLUME (MBF)
Blue Indigo	200	200	5,700	2,000
Deep Purple	300	700	19,700	700
Hardscrabble	200	0	10,200	0
Total	700	900	35,600	2,700
Grand Total	Acres: 1,600		Volume: 38,300	

North Silver Transportation Area:

FIRE SALVAGE SALE NAME	INCLUDED ACRES	OPTIONAL ACRES	INCLUDED VOLUME (MBF)	OPTIONAL VOLUME (MBF)
Lazy	900	100	18,600	500
Silver Hog	1,500	1,000	14,100	1,500
Sugar Mountain	600	300	8,500	500
Total	3,000	1,400	41,200	2,500
Grand Total	Acres: 4,400		Volume: 43,700	

PROJECT TOTAL	ACRES: 9,500	VOLUME: 157,000

All figures have been rounded and are approximate.

BILLING CODE 3410-11-C

IX. Appeal Rights

This decision is subject to appeal pursuant to 36 CFR 211.16 (published in 53 FR 17029, Friday, May 13, 1988. Notice of appeal must be in writing and submitted to the reviewing officer: James F. Torrence, Regional Forester, UDSA Forest Service, Pacific Northwest Region, 319 SW Pine, PO Box 3623, Portland, OR 97204–3623.

The notice of appeal must be filed within 30 days of the date of this decision. An appeal will not automatically stop implementation. A stay, if granted, stops initial implementation of the decision while appeal is considered on its merits. A request for stay must accompany the notice of appeal, and a copy must be simultaneously provided to the Forest Supervisor.

Under 40 CFR 1506.10, a 30 day review period is required after publication of the FEIS before a decision can be made on the proposed action. The EPA has granted a waiver of this 30 day requirement under § 1506.10, which states "an exception to the rules on timing may be be made in the case of an agency decision which is subject to a formal internal appeal." Richard E. Sanderson of the EPA, in explaining his decision to grant the waiver, states, "Based upon the outstanding job that your agency has done to encourage public participation in your decision-making process, and the existence of a formal Forest Service appeal process, I believe that a 30 day wait period * * * is unnecessary in this case and that adequate safeguards for the public to participate in the full NEPA process are in place."

Date: July 8, 1988.

Ronald J. McCormick,

Forest Supervisor, Siskiyou National Forest.

[FR Doc. 88–15612 Filed 7–12–88; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–614–501]

Low-Fuming Brazing Copper Rod and Wire From New Zealand; Preliminary Results of Countervailing Duty Administration Review

AGENCY: International Trade Administration, Import Administration; Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on low-fuming brazing copper rod and wire from New Zealand. We preliminarily determine the total bounty or grant to be 2.42 percent *ad valorem* for the period August 1, 1986 through July 31, 1987.

EFFECTIVE DATE: July 13, 1988.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 46637) the final results of its last administrative review of the countervailing duty order on low-fuming brazing copper rod and wire from New Zealand (50 FR 31638, August 5, 1985). On August 20, 1987, the respondent, McKechnie Bros. (N.Z.) Ltd., requested in accordance with 19 CFR 355.10 an administrative review of the order. We published the initiation on September 21, 1987 (52 FR 35466). The Department has now conducted that administrative review in accordance with section 751(a) of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to the Harmonized System ("HS"). In view of this, we are providing both the appropriate Tariff Schedules of the United States Annotated ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed HS schedule is available for consultation at the Central Records Unit, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all Customs offices have reference copies, and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments on New Zealand low-fuming brazing copper rod and wire, principally of copper and zinc alloy ("brass"), of varied dimensions in terms of diameter, whether cut-to-length or coiled, whether bare or flux-coated. The chemical composition of the products under investigation is defined by Copper Development Association standards 680 and 681. Such merchandise is currently classifiable under items 612.6205, 612.7220 and 653.1500 of the TSUSA. These products are currently classifiable under HS item numbers 7407.2150, 7408.2100, 8311.3060 and 8311.9000.

The review covers the period August 1, 1986 through July 31, 1987 and 17 programs. McKechnie Metal Products Limited ("MMP") was the only known exporter of low-fuming brazing copper rod and wire ("LFB") to the United States during the period of review.

Analysis of Programs

(1) EMDTI

Under the Export Market Development Taxation Incentive ("EMDTI"), established in the 1979 Amendment to the Income Tax Act of 1976, exporters may receive tax credits for a certain percentage of their export market development expenditures. Qualifying expenditures include those incurred principally for seeking and developing new markets, retaining existing markets, and obtaining market information. An exporter who takes advantage of this tax credit may not deduct the qualifying expenditures as ordinary business expenses in calculating taxable income. Because this tax credit is limited to exporters, we preliminarily determine that it confers a bounty or grant. MMP claimed a 67.5 percent EMDTI tax credit on LFB exports to the United Stastes on its tax return filed in the review period.

To calculate the benefit, we compared the difference in the tax liability between claiming 67.5 percent of the expenditures as a tax credit and deducting those expenditures as ordinary business expenses. The normal corporate tax rate in New Zealand in the period covered by the tax return filed during the review period was 45 percent. Since exporters may claim a tax credit of 67.5 percent but may not deduct the expenditures in calculating taxable income, the net benefit to the exporters is 22.5 percen of the qualifying expenditures.

Therefore, we took 22.5 percent of MMP's qualifying expenditures relating to LFB exports to the United States and allocated that amount over the f.o.b. value of exports of this merchandise to the United States during the period of review. On this basis, we preliminarily determine the benefit from this program to be 0.14 percent *ad valorem* for the period August 1, 1986 through July 31, 1987.

(2) EPTI

Under the Export Performance Taxation Incentive ("EPTI"), exporters are entitled to receive a tax credit based on the f.o.b. value of qualifying goods exported under section 156A of the Income Tax Act of 1976. Credits are available as a deduction against income tax payable. If the tax credit exceeds the income tax payable, the taxpayer receives the difference in cash.

The rate of the tax credit depends on the predetermined value-added category into which the product falls. LFB falls under category C, for which the corresponding rate was 2.275 percent in the period of review. The amount of the tax credit is calculated by multiplying that rate by the f.o.b. value of exports. Because this tax credit is limited to exporters, we preliminarily determine that it confers a bounty or grant. MMP claimed EPTI tax credits on LFB exports to the United States in the review period.

EPTI tax benefits are earned on a sale-by-sale basis at uniform tax credit rates established for specific years. Because a firm can precisely calculate its EPTI benefit for each export sale at the moment the sale is made and because this credit is not subject to change depending on the firm's ultimate tax liability, we calculate the benefit from this program on a credit-as-earned basis. Using the EPTI rate applicable to LFB exports made during the period of review, we preliminarily determine the benefit from this program to be 2.275 percent *ad valorem* for the period August 1, 1986 through July 31, 1987.

Because the New Zealand government reduced the EPTI tax credit rate to zero in the tax year ending March 31, 1988, we preliminarily determine, for purposes of cash deposits of estimated countervailing duties, the benefit from this program to be zero.

(3) Other Programs

We also examined the following programs and preliminarily determine that MMP did not use them during the review period:

(a) Increased Exports Taxation Incentive;

(b) Regional Investment Allowance;

(c) Export Investment Allowance;

(d) Industrial Development Plan Investment Allowance;

(e) Export Programme Grant Scheme;

(f) Export Programme Suspensory Loan Scheme;

(g) Export Credits from the Development Finance Corporation;

(h) Export Suspensory Loans;

(i) Regional Development Investment Incentives;

(j) Research and Development Assistance;

(k) Exemption from Import Duties and Sales Taxes;

(l) Export Production Assistance Scheme;

(m) Export Promotion from the Export-Import Corporation;

(n) Flexible Incentives Under the Investment Unit of the Department of Trade and Industry; and

(o) Regional Development Investigation Grant Scheme.

Preliminary Results of Review

As a result of our review, we preliminarily determine the total bounty or grant to be 2.42 percent *ad valorem* for the period August 1, 1986 through July 31, 1987.

The Department intends to instruct the Customs Service to assess countervailing duties of 2.42 pecent of the f.o.b. invoice price on all shipments of this merchandise exported on or after August 1, 1986 and on or before July 31, 1987.

The termination of the EPTI tax program reduces the total estimated bounty or grant to 0.14 percent *ad valorem*, a rate we consider to be *de minimis*. Therefore, the Department will instruct the Customs Service not to collect cash deposits of estimated countervailing duties on any shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice, and may request disclosure and/or a hearing within 7 days of the date of publication. Any hearing, if requested, will be held 30 days from the date of publication or the next workday following. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.10.

Jan W. Mares,

Assistant Secretary, Import Administration.

Date: July 7, 1988.

[FR Doc. 88-15698 Filed 7-12-88; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Pelagics Fishery Plan Monitoring Team will convene a public meeting on July 18, 1988, at 1:30 p.m., at the Council's office (address below), to focus on the fishery management plan for pelagic species in the Western Pacific Region. Agenda items include review of the modules for the first Annual Report of the Western Pacific Pelagics Fishery for 1987, data and research needs, and discussion of other Team business.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Date: July 7, 1988.

Ann D. Terbush,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-15680 Filed 7-12-88; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atomspheric Administration

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Committee on Fishery Rights of Indigenous People and the External Affairs Committee of the Office of Hawaiian Affairs will convene a joint public meeting on July 15, 1988, at 10 a.m., at the Western Pacific Council's office (address below). The Chairmen of the joint committees will review proposals for the native fishing rights project for Hawaii.

The proposals are for studies to develop evidence for the examination of legal bases to grant preferential treatment to native Hawaiian fishermen under a limited entry management regime for the bottomfish fishery in the Northwest Hawaiian Islands and for other Exclusive Economic Zone fisheries. It is anticipated that the Chairman will make a recommendation at this meeting to the Western Pacific Council for awarding a contract.

FOR FURTHER INFORMATION CONTACT: Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Date: July 11, 1988.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–15908 Filed 7–11–88; 5:05 pm]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Coffee, Sugar & Cocoa Exchange Proposed Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Commodity Futures Trading Commission ("Commission") previously published in the **Federal Register** a proposal of the Coffee, Sugar & Cocoa Exchange ("CSCE") for designation as a futures contract market in the International Market Index. The Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that, in this instance, an additional period for public comment is warranted.

DATE: Comments must be received on or before July 28, 1988.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the CSCE International Market Index futures contract.

FOR FURTHER INFORMATION CONTACT: Richard Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254–7303.

SUPPLEMENTARY INFORMATION: On October 22, 1987, the Commission published in the **Federal Register**, for a 60-day comment period, a notice of availability of the CSCE's proposed terms and conditions for the International Market Index futures contract (52 FR 39555). On February 5 and April 22, 1988, the Commission republished in the **Federal Register**, for 30-day comment periods, notices of the availability of the terms and conditions of this proposed contract (53 FR 3420 and 53 FR 13310). In a July 6, 1988 letter to the Commission, the CSCE requested that the Commission republish the terms and conditions of the proposed contract "so that the public and other interested parties may have the opportunity to comment on the application." As noted, the Director of the Division has determined that, for this proposed contract, an additional comment period is warranted.

Copies of the terms and conditions of the proposed futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CSCE in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's requlations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CSCE in support of the application, should send such comments to Jean a. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on July 7 1988.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 88–15651 Filed 7–12–88; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Advisory Council on Dependents' Education; Meeting

AGENCY: Department of Defense Dependents Schools (DoDDS), Office of the Secretary, DOD.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Dependents' Education. It also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act. Although the meeting is open to the public, because of space constraints, anyone wishing to attend the meeting should contact the DoDDS coordinator.

DATE: August 5, 1988, 9:30 a.m. to 5 p.m.; August 6, 1988, 9 a.m. to 4:30 p.m.

ADDRESS:

August 5, 1988, The Pentagon, Room 3E869, Washington, DC

August 6, 1988, Embassy Suites, Adams Morgan Room, 1402 South Eads Street, Arlington, VA.

FOR FURTHER INFORMATION, CONTACT: Ms. Marilyn Witcher, DoDDS, 2461 Eisenhower Avenue, Alexandria, Virginia, 22331–1100 (202/325–0867).

SUPPLEMENTARY INFORMATION: The Advisory Council on Dependents' Education is established under Title XIV, section 1411, of Pub. L. 95–561, Defense Dependents' Education Act of 1978, as amended by title XII, section 1204(b)(3)–(5), of Pub. L. 99–145, Department of Defense Authorization Act of 1986 (20 U.S.C., Chapter 25A, section 929, Advisory Council on Dependents' Education). The Council is co-chaired by designees of the Secretary of Defense and the Secretary of Education. In addition to a representative of each of the Secretaries, 12 members are appointed jointly by the Secretaries. Members include representatives of educational institutions and agencies, professional employees organizations, unified military commands, school administrators, parents of DoDDS students, and one DoDDS student. The Director, DoDDS, serves as the Executive Secretary of the Council. The purpose of the Council is to advise the Secretary of Defense and the DoDDS Director about effective educational programs and practices that should be considered by DoDDS and to perform other tasks as may be required by the Secretary of Defense. The agenda includes information on weighted grades

in relationship to honors and advance placement courses; grouping of DoDDS students for National Merit Scholarship judging; school bus safety; staff development; programs to combat teenage alcohol abuse; Talented and Gifted program; and responses to the recommendations made by the Council in its April meeting.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 8, 1988.

[FR Doc. 88-15735 Filed 7-12-88; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee, Correction

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DOD.

ACTION: Correction to publication of changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing a correction to the Civilian Personnel Per Diem Bulletin Number 143, previously published in the **Federal Register**, Vol. 53, No. 63, pages 10555 and 10556, effective 1 April 1988. The corrected bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and possessions of the United States. Bulletin Number 143 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: April 1, 1988.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The test of the corrected Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 143 to the Heads of the Executive Departments and Establishments.

Subject: Maximum Per Diem Rates for Official Travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government Civilian Employees.

1. This bulletin is issued in accordance with Executive Order 12561, dated July 1, 1986, which delegates to the Secretary of Defense the authority of the President in 5 U.S. Code 5702(a) to set maximum per diem rates and actual expense reimbursment ceilings for Federal civilian personnel traveling on official business in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates and ceilings may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 142 except for the cases identified by asterisks which rates are effective on the date of this Bulletin unless otherwise indicated.

3. Each Department or establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$25
Anaktuvuk Pass	140
Anchorage	125
Atqasuk	215
*Barrow	146
*Bethel	127
Bettles	110
Cold Bay	120
Coldfoot	122
*College	114
*Cordova	130
Deadhorse	113
Dillingham	114
Dutch Harbor-Unalaska	127
*Eielson AFB	114
Elmendorf	125
*Fairbanks	114
Ft. Richardson	125
*Ft. Wainwright	114
Homer	115
*Juneau	114
Katmai National Park	148
*Kenai	119
*Ketchikan	111
King Salmon [3]	134
Kodiak	118
*Kotzebue [3]	143
Kuparuk Oilfield	127
*Murphy Dome [3]	114
*Noatak	143
Nome	129
*Noorvik	143
*Petersburg	111
Point Hope	160
Point Lay	179
Prudhoe Bay	113
St. Paul Island	115
Sand Point	103
*Seward	122
Shemya AFB [3]	30
*Shungnak	143
*Sirka-Mt. Edgecombe	111
*Skagway	111
Spruce Cape	118
St. Mary's	100
Tanana	129
*Tok	109
Umiat	160
Unakakleet	105
Valdez	147
Wainwright	165
Walker Lake	136
*Wrangell	111
Yakutat	110
All Other Localities [3, 4]	91
American Samoa	81
Guam M. I.	96
Hawaii:	
Hawaii, Island of:	
Hilo	66
Other	88
Kauai, Island of:	
12-20—3-31	127
4-1—12-19	91
Oahu, Island of	102
All Other Islands	88
Johnston Atoll [2]	23
Midway Islands [1]	13
Northern Mariana Islands:	
Rota	76
Saipan	92
Tinian	68
All Other Islands	20
Puerto Rico:	
Bayamon:	
12-16—5-15	134
5-16—12-15	107
Carolina:	
12-16—5-15	134
5-16—12-15	107
Fajardo (Including Luquillo):	
12-16—5-15	134
5-16—12-15	107
Ft. Buchanan (Incl GSA Service Center, Guaynabo):	
12-16—5-15	134
5-16—12-15	107
Roosevelt Roads:	
12-16—5-15	134
5-16—12-15	107
Sabana Seca:	
12-16—5-15	134
5-16—12-15	107
San Juan (Including San Juan Coast Guard Units):	
12-16—5-15	134
5-16—12-15	107
All Other Localities	107
Virgin Islands of U.S.:	
12-1—4-30	180
5-1—11-30	144
Wake Island [2]	20
All Other Localities	20

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidential expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska: on any day when Government quarters are not used and quarters are obtained at a construction camp, a daily travel per diem allowance of $69 is prescribed to cover the costs of lodging, meals and incidental expenses.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

[3] On any day when US Government or contractor quarters and US Government or contractor messing facilities are used, a per diem rate of $13 is prescribed to cover meals and incidental expenses at Shemya AFB and the following Air Force Stations: Cape Lisburne, Cape Newenham, Cape Romanzof,

Clear, Cold Bay, Fort Yukon, Galena, Indian Mountain, King Salmon, Kotzebue, Murphy Dome, Sparrevohn, Tatalina and Tin City. This rate will be increased by the amount paid for US Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

[4] On any day when US Government or contractor quarters and US Government or contractor messing facilites are used, a per diem rate of $34 is prescribed to cover meals and incidental expenses at Amchitka Island, Alaska. This rate will be increased by the amount paid for US Government or contractor quarters and by $10 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

June 29, 1988.

[FR Doc. 88-15630 Filed 7-12-88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Availability of the Draft Environmental Impact Statement for Army Family Housing Construction at Helemano Military Reservation, City & County of Honolulu, HI

July 8, 1988.

AGENCY: Department of the Army, DoD.

BACKGROUND: Operating under the U.S. Army Support Command, Hawaii (USASCH), the Directorate of Oahu Consolidated Family Housing (OCFHO) is responsible for the management, operation, and maintenance of all 18,968 military (Army, Air Force, Marine, and Navy) family housing units on the Island of Oahu (City & County of Honolulu), Hawaii. In the middle 1980s, OCFHO determined there was a need to provide additional family housing units due to housing costs which were among the highest in the U.S. and vacancy rates which were far below the U.S. norm. In 1987, OCFHO determined a long range (thru FY 1992) need for 2,287 dwelling units (DU), most of which were needed by the E-2 to E-5 junior enlisted personnel and junior non-commissioned officers (NCO). Nearly half of those housing needs were for enlisted personnel assigned to Army, Navy or Air Force installations in the vicinity of Schofield Barracks in Central Oahu, Hawaii. The income levels of low ranking (E-2 to E-4) enlisted personnel make the housing problem particularly onerous because of the continuing need to retain those personnel in active service.

Due to the short period available for planning this project, informal scoping began in the Fall 1986. The Army published a Notice of Intent to prepare a Draft Environmental Impact Statement in the June 23, 1987 issue of the **Federal Register.**

ACTION: The Department of the Army announces that the Draft Environmental Impact Statement for Army Family Housing Construction at Helemano Military Reservation, City & County of Honolulu, Hawaii is available for public review and comment.

Three principal alternatives are addressed in the DEIS:

(1) Construction of new military housing at the Helemano Military Reservation (1,000 and 600 DU subalternatives);

(2) Construction of new military housing at alternative sites in the Schofield Barracks region of Oahu; and

(3) No Action, which is no construction of any military housing on or off post on Oahu.

Based on a comparative analysis of housing requirements, radio-frequency interference, utility, environmental, and social impacts, the 600 DU alternative at Helemano Military Reservation was identified as the recommended plan. Current plans and proposed budgeting calls for construction of 200 DU starting in Fiscal Year 1988, 140 DU in Fiscal Year 1989, 150 DU in Fiscal Year 1990, and the remaining 110 DU in Fiscal Year 1991. Each increment of housing will be accompanied by an infrastructure development.

The selection of the recommended alternative in the DEIS does not constitute a final decision. The Final EIS, as well as comments submitted on DEIS, will be used by the Army in reaching a final decision. The final Record of Decision will be made at least 30 days after publication of the Final EIS to allow public review and comment.

Given the "turn-key" design-construction contracting process, supplemental NEPA documents may be prepared after contract award to address specific design details of the project affecting water quality or other significant environmental resources.

Comments on the DEIS should be submitted to: Dr. James E. Maragos, Chief, Environmental Resources Section (CEPOD-ED-PV), U.S. Army Engineer District, Honolulu, Building T-1, Fort Shafter, HI 96858-5440.

These comments can be received no later than August 1, 1988, for consideration in the Final EIS. Copies of the document may be obtained by writing to the above address or by calling (808) 438-2263-8878.

A notice of Availability of this Draft Environmental Impact Statement will also be published by the U.S. Environmental Protection Agency (EPA) in the **Federal Register** and by the local Army command in newspapers or other publicly circulated newsletters in the State of Hawaii.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health, OASA (I&L).

[FR Doc. 88-15652 Filed 7-12-88; 8:45 am]

BILLING CODE 3710-08-M

Defense Mapping Agency

Membership; Defense Mapping Agency; Performance Review Board

AGENCY: Defense Mapping Agency (DMA), DoD.

ACTION: Notice of membership of the Defense Mapping Agency Performance Review Board (DMA PRB).

SUMMARY: This notice announces the appointment of the members of the DMA PRB. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Board provides fair and impartial review of Senior Executive Service (SES) performance appraisals and makes recommendations regarding performance ratings and performance awards to the Director, DMA.

EFFECTIVE DATE: August 1, 1988.

FOR FURTHER INFORMATION CONTACT: Gerald F. Pittman, Defense Mapping Agency, Civilian Personnel Division, Bldg. 56, U.S. Naval Observatory, Washington, DC 20305-3000, telephone (202) 653-1581.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following is a standing register of executives appointed to the DMA PRB; specific PRB panels will be constituted from this standing register. Executive listed will serve a one-year renewable term, effective 1 August 1988.

Berg, Richard A., Chief, Advanced Technology Division, Headquarters, DMA

Brown, William J., Deputy Director for Programs, Production and Operations, DMA Hydrographic/Topographic Center

Daugherty, Kenneth I., Director, DMA Systems Center

Dierdorff, Curtis L., Director, Personnel Office, Headquarters, DMA

Finnegan, Edward W., Deputy Director for Research and Engineering, Headquarters, DMA

Gilliam, Penman R., Deputy Director, Management and Technology, Headquarters, DMA

Hall Charles D., Deputy Director for Programs, Production and Operations, Headquarters, DMA

Hall, Robert H., Chief, Scientific Data Department, DMA Hydrographic/ Topographic Center
Hogan, William N., Deputy Director for Programs, Production and Operations, DMA Aerospace Center
Jackson, Mikel F., Assistant Deputy Director for Production and Operations, Headquarters, DMA
Krygiel, Annette J., Director, Telecommunications Services Center
Labovitz, Mordecai Z., Director of Acquisition, Headquarters, DMA
Mendez, John M., Deputy Director for Program Integration and Operations, DMA Systems Center
Muncy, Larry N., Chief, Scientific Data Department, DMA Aerospace Center
Peeler, Paul L. Jr., Technical Director, DMA Reston Center
Phillips, Earl W., Deputy Director for Programs, Production and Operations, DMA Reston Center
Robinson, Billy E., Assistant Deputy Director for Programming, Headquarters, DMA
Skidmore, James R., Technical Director, DMA Aerospace Center
Smith, Lon M., Technical Director, DMA Hydropgraphic/Topographic Center
Smith, Robert N., Assistant Deputy Director for Plans and Requirements, Headquarters, DMA
Smith, William D., Chief, Program/ Budget Division (Deputy Comptroller), Headquarters, DMA
Stuckey, Maurice S., Technical Director/ Deputy Director, DMA, Combat Support Center
Vaughn, John R., Comptroller, Headquarters, DMA
Ward, Curtis B., Deputy Director for Systems Development, DMA Systems Center

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

July 7, 1988.

[FR Doc. 88-15665 Filed 7-12-88; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Student Financial Assistance Advisory Committee; Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Committee on Student Financial Assistance. This notice also describes the functions of the committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of the opportunity to attend.

DATES: July 20, 1988 beginning at 1:00 p.m. and ending at 4:30 p.m.; July 21, 1988 beginning at 9:00 a.m. and ending at 5:00 p.m.; and July 22, 1988 beginning at 8:00 a.m. and ending at 1:30 p.m.

ADDRESS: Radisson Hotel, 1550 Court Place, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, Room 4600, ROB-3, 7th & D Streets, SW., Washington, DC 20202 (202) 732-3439.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under section 491 of the Higher Education Act of 1965 as amended by Pub. L. 100-50 (20 U.S.C. 1098). The Advisory Committee is established to provide advice and counsel to the Congress and the Secretary of Education on student financial aid matters, including providing technical expertise with regard to systems of need analysis and application forms and making recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

The proposed agenda includes:

Delivery System Issues
Committee Research Agenda and a Report on Committee Organization and Administration

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, Room 4600, 7th and D Streets, SW., Washington, DC from the hours of 9:00 a.m. to 5:00 p.m., weekdays, except Federal holidays.

Dated: July 7, 1988.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 88-15633 Filed 7-12-88; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EF88-4021-000 et al.]

Southwestern Power Administration, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Southwestern Power Administration

[Docket No. EF88-4021-000]

July 5, 1988.

Take notice that on June 27, 1988, the Under Secretary, U.S. Department of Energy, submitted to the Commission for confirmation and approval on a final basis, pursuant to the authority vested in the Commission by Delegation Order No. 0204-108, as amended May 30, 1986 (51 FR 19744), an annual power rate of $1,810,368 for Section 3, Article II, of Contract No. 14-02-0001-1124 between the Southwestern Power Administration and Sam Rayburn Dam Electric Cooperative, Inc. The rate was confirmed and approved on an interim basis by the Under Secretary of Energy in Rate Order No. SWPA-20 for the period July 1, 1988, through September 30, 1991, and has been submitted to the Commission for confirmation and approval on a final basis for the same period. The rate supersedes the annual power rate of $1,715,040 which the Commission approved effective March 13, 1987, under Docket No. EF 86-4021-000. The annual rate of $1,810,368 is based on the 1987 Revised Power Repayment Study for Sam Rayburn Dam and represents an annual increase in revenue of $95,328, or 5.6 percent to recover increased operating expenses.

Comment date: July 19, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power & Light Company

[Docket No. ER88-491-000]

July 5, 1988.

Take notice that on June 29, 1988, Florida Power & Light Company (FPL) tendered for filing: (1) A Contract for Interchange Service Between Florida Power & Light Company and City of Tallahassee, Florida (Contract); and (2) Cost Support Schedules, C, F, and G (together with Cost Support Schedule F Supplements) which support the daily capacity charges for sales under Service Schedule B (Short-Term Firm Interchange Service) of the Contract. The Contract has been executed by both parties.

FPL respectfully waiver of the Commission's notice requirements so that the proposed Contract and Cost Support Schedules C, F, and G (together with Cost Support Schedule F Supplements) may become effective on July 1, 1988. According to FPL, a copy of this filing was served upon the City of Tallahassee, Florida and the Florida Public Service Commission.

Comment date: July 19, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Union Electric Company

[Docket No. ER88-489-000]

July 5, 1988.

Take notice that on June 27, 1988, Union Electric Company tendered for filing a Wholesale Electric Service Agreement and Transmission Service Agreement both dated June 1, 1988 and Transmission Service Transaction 1, dated May 27, 1988, with the City of Jackson, Mo., providing for the sale of electric service and the transmission of power and energy from other sources.

Comment date: July 19, 1988, in accordance with Standard Paragraph E at the end of this document.

4. Southwestern Public Service Company

[Docket No. ER88-490-000]

July 5, 1988.

Take notice that on June 28, 1988, Southwestern Public Service Company (Southwestern) tendered for filing an Experimental Interruptible Irrigation Rider applicable to its full requirements electric service tariff for Roosevelt County Electric Cooperative, Incorporated (Rate Schedule No. 95).

Copies of the filing were served upon Roosevelt County Electric Cooperative, Incorporated and the New Mexico Public Service Commission.

Comment date: July 19, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Portland General Electric Company

[Docket No. ER-88-487-000]

July 5, 1988.

Take notice that on June 27, 1988, Portland General Electric Company (PGE) tendered for filing a Sales Agreement with the Northern California Power Agency (NCPA) for the sale during a five-month period beginning on January 1, 1988, of up to 91,175 MWh of firm energy deliverable at rates not in excess of 25 MW per hour. Upon mutual agreement of all parties, NCPA may assign a portion of their energy delivery to Sacramento Municipal Utility District.

The contract rates for energy to be sold are based upon PGE's incremental cost of production plus an additional amount for fixed charges (not exceeding fully distributed fixed charges) plus the costs of transmission.

PGE states the reason for the proposed Sales Agreement is to allow it to recover a portion of its fixed charges applicable to certain of its thermal generating resources during a short period of time when such thermal resources are not required for its system loads.

PGE requests an effective date of January 1, 1988 and therefore requests a waiver of the Commission's notice requirements.

Copies of the filing have been served upon the Northern California Power Agency, the Sacramento Municipal Utility District, and the Oregon Public Utility Commission.

Comment date: July 19, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Southern Company Service, Inc.

[Docket No. ER88-488-000]

July 5, 1988.

Take notice that on June 27, 1988, Southern Company Service, Inc. tendered for filing a Notice of Suspension, effective the 1st day of July, 1988, for the following rates schedules and that all performance of Southern Companies (Alabama Power Company, Georgian Power Company, Gulf Power Company, Mississippi Power company and Southern Company Service, Inc.) shall cease:

1. The Unit Power Sales Agreement dated February 25, 1982, as amended, between Gulf States Utilities Company and Southern Companies, Rate Schedule FERC No. 60, effective February 25, 1982 and filed with the Federal Energy Regulatory Commission by Southern Company Services, Inc.

2. Service Schedule E (Long Term Power) to the Interchange Contract dated February 25, 1982, as amended, between Gulf States Utilities Company and Southern Companies. Rate Schedule FERC No. 59, Supp. 5, effective December 6, 1983 and filed with the Federal Energy Regulatory Commission by Southern Company Service, Inc.

3. Service Schedule R (UPS Replacement Energy) to the Interchange Contract dated February 25, 1982, as amended, between Gulf States Utilities Company and Southern Companies, Rate Schedule FERC No. 59, Supp. 10, effective August 26, 1985 and filed with the Federal Energy Regulatory Commission by Southern Company Service, Inc.

Notice of Suspension and of Southern Companies' Cessation of Performance has been served upon the Gulf States Utilities Company.

Comment date: July 19, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Montaup Electric Company

[Docket No. ER88-492-000]

July 5, 1988.

Take notice that on June 29, 1988, Montaup Electric Company (Montaup) tendered for filing a contract (Canal contract) which extends an existing 25 megawatt unit sale to Braintree Electric Light Department (Braintree) from the Canal No. 2 generating unit under a 1983 agreement due to expire on October 31, 1988 (Rate Schedule FERC No. 60). Under the Canal contract the Company agreed to convert the existing sale into a life-of-unit sale commencing November 1, 1988 in exchange for Braintree's agreement to make a life-of-unit sale of larger amounts of capacity from Braintree's Potter No. 2 combined cycle unit (Potter No. 2) to Montaup under another, simultaneously executed contract (Potter contract). The Potter contract, which is not under the Commission's jurisdiction, has been in effect since May 1, 1987. The Company requests that the Canal contract be allowed to become effective according to its terms on November 1, 1988.

The Canal No. 2 unit is a base load oil-fired unit with a current net capability of 584 megawatts. Montaup has a 50% ownership interest in the unit. The Potter No. 2 unit is a cycling unit which presently burns oil. Current plans call for its conversion to gas-fired operation in 1989. It has a net capability of 87 megawatts and it is 100% owned by Braintree. The exchange of capacity in these two units as embodied in the Canal and Potter contracts evolved over the course of negotiations which commenced in early 1987.

The energy charges in the Canal and Potter contracts are designed to recover fuel costs as actually incurred. The demand charges are negotiated. The exchange is expected to improve the generation mix of each party to the exchange and to result in net savings to its ratepayers.

Comment date: July 19, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. Golden Spread Electric Cooperative, Inc.

[Docket No. ES88-45-000]

July 6, 1988.

Take notice that on June 24, 1988, the Golden Spread Electric Cooperative, Inc. ("Golden Spread") filed an application seeking an order under section 204 of the Federal Power Act granting Golden Spread authorization to issue securities maturing one year or less after the date of insurance, in an aggregate amount not exceeding $30 million at any time, to be issued from time to time prior to July 31, 1990.

Comment date: July 22, 1988, in accordance with Standard Paragraph E at the end of this notice.

9. Gaston County, North Carolina

[Docket No. QF88-420-000]

July 6, 1988.

On June 20, 1988, Gaston County, North Carolina (Applicant), of 212 West Main Street, Gastonia, North Carolina 28053 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Gastonia, North Carolina. The facility will consist of 400 ton-per-day municipal solid waste-fired steam generators and a single steam turbine-generator set. The net electric power production capacity will be 8.5 megawatt. The primary energy source will be biomass in the form of municipal solid waste. Oil may be used periodically for start-up purposes.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

10. UtiliCorp United Inc.

[Docket No. ES88-46-000]

July 7, 1988.

Take notice that on June 29, 1988, UtiliCorp United Inc. ("Applicant") filed an application seeking an order under section 204(a) of the Federal Power Act authorizing the Applicant to issue up to and including 2,000,000 shares of common stock, par value $1.00, and for exemption from the competitive bidding and negotiated placement requirements.

Comment date: July 28, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15631 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4636-001]

Hydro-Development Group, Inc.; Availability of Environmental Assessment and Finding of No Significant Impact

July 7, 1988.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the application for exemption from license listed below and has assessed the environmental impacts of the proposed development.

LICENSE

Project No	Project name	State	Water body	Nearest town or county	Applicant
4636-001	Long Falls Project	NY	Black River	Village of West Carthage	Hydro-Development Group, Inc.

An Environmental Assessment (EA) was prepared for the above proposed project. Based on independent analysis of the above action as set forth in the EA, the Commission's staff concludes that this project would not have significant effects on the quality of the human environment. Therefore, an environmental impact statement for this project will not be prepared. Copies of the EA are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15641 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-131-001 and CP87-132-001]

Tennessee Gas Pipeline Co.; Ocean State Power Project; Availability of Final Environmental Impact Statement

July 8, 1988.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC), in cooperation with the State of Rhode Island Office of Intergovernmental Relations (OIR), has made available a final environmental impact statement (FEIS) on the natural gas pipeline facilities proposed in the above-referenced dockets, and a related proposal to construct a 500-megawatt power plant in northwestern Rhode Island.

The FEIS was prepared under the dirction of the FERC and OIR staffs to satisfy the requirements of the National Environmental Policy Act and the Rhode Island Energy Facility Siting Act. The staff has determined that approval of the proposed project, with appropriate mitigating measures including receipt of all necessary permits and approvals, would have limited adverse environmental impact. The FEIS evaluates alternatives to the proposals.

The proposed action involves construction and operation of a new natural gas-fired, combined-cycle power plant which would be located on a 40.6-acre parcel in the town of Burrillville, Rhode Island. The proposal includes construction of a 10-mile pipeline to transport process and cooling water to the plant from the Blackstone River, and a 7.5-mile pipeline to deliver No. 2 fuel oil to the site for emergency use when natural gas may not be available.

The natural gas pipeline facilities covered in the FEIS include a total of 25.5 miles of 30-inch diameter looping in 5 separate segments located adjacent to existing gas transmission pipelines in New York and Massachusetts, and approximately 11 miles of new 20-inch-diameter pipeline in Massachusetts and Rhode Island. The FEIS includes analysis of an additional 7,700 horsepower of compression at 3 existing compressor stations in New York and Massachusetts, and a new 4,500

horsepower compressor station in New York.

The FEIS will be used in the regulatory decision-making process at the FERC and may be presented as evidentiary material in formal hearings at the FERC. While the period for filing motions to intervene in this case has expired, motions to intervene out-of-time can be filed with the FERC in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.214(d). Further, anyone desiring to file a protest with the FERC should do so in accordance with 18 CFR 385.211.

The FEIS has been placed in the public files of the FERC and the OIR, and is available for public inspection in the FERC's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426, and at the OIR, 275 Westminster Mall, Providence, Rhode Island 02903. Copies have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, libraries, and parties in this proceeding.

Additional copies of the FEIS, in limited quantities, are available from the FERC's Division of Public Information or from Mr. Lonnie Lister, Project Manager, Environmental Analysis Branch, Office of Pipeline and Producer Regulation, Room 7312, 825 North Capitol Street, NE., Washington, DC 20426, telephone (202) 357–8874 or FTS 357–8874.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–15701 Filed 7–12–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–205–000]

Alabama-Tennessee Natural Gas Co.; Proposed Changes in FERC Gas Tariff

July 7, 1988.

Take notice that on June 30, 1988 Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1:

Original Sheet No. 4A
Third Revised Sheet No. 7
First Revised Sheet No. 7A
Third Revised Sheet No. 8
Fourth Revised Sheet No. 11
Fifth Revised Sheet No. 12
Second Revised Sheet No. 14
Third Revised Sheet No. 17
Second Revised Sheet No. 18
Second Revised Sheet No. 62
Second Revised Sheet No. 63

All of the above tariff sheets are proposed to become effective on July 1, 1988.

Alabama-Tennessee states that the foregoing tariff sheets are being filed pursuant to § 2.104(e) of the Commission's Regulations, to permit it to recover take-or-pay fixed charges which are billed by its upstream pipeline supplier(s) pursuant to Order No. 500. Alabama-Tennessee asserts that it is seeking to recover these costs on an asbilled basis. Original Sheet No. 4A is said to contain the Allocated Take-or-Pay Charges attributable to the firm jurisdicational sales customs which Alabama-Tennessee is billed by Tennessee Gas Pipeline Company (Tennessee). According to Alabama-Tennessee, it has utilized the same base and deficiency periods used by Tennessee in allocating the take-or-pay charges and all interruptible sales have been excluded in calculating such charges.

Alabama-Tennessee proposed that the Allocated Take-or-Pay charges be collected over the six month period ending December 31, 1988. However, Alabama-Tennessee further states that to the extent Tennessee's proposal is modified, it will revise its tariff sheets to reflect such changes.

Alabama-Tennessee has requested any necessary waivers of the Commission's Regulations in order to permit the tariff sheets to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any persons 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, 385.214). All such motions or protests should be filed on or before July 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–15634 Filed 7–12–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP88–207–000 and RP87–55–003]

Columbia Gas Transmission Corp.; Proposed Changes In FERC Gas Tariff

July 7, 1988.

Take notice that Columbia Gas Transmission Corporation (Columbia) on July 1, 1988, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

One Hundred and Twenty-Seventh Revised Sheet No. 16
Sixteenth Revised Sheet No. 16A2
Original Sheet No. 16B3
Original Sheet No. 16B4
Original Sheet No. 16B5
Tenth Revised Sheet No. 18
Third Revised Sheet No. 22C
Fourth Revised Sheet No. 220
Sixth Revised Sheet No. 27
Twelfth Revised Sheet No. 30
Tenth Revised Sheet No. 31
Fourth Revised Sheet No. 46E
Original Sheet No. 68C
Original Sheet No. 68D
Original Sheet No. 68E

Columbia states that the foregoing tariff sheets are being filed pursuant to Order No. 500 to enable Columbia to recover, through a combination of fixed monthly demand surcharges and a volumetric surcharge, 75 percent of approximately $375.2 million of costs it has incurred to reform certain of its Southwest Producer contracts. Columbia states that it is also submitting its instant tariff filing, along with a separate compliance filing, in Docket No. RP87–55 as full compliance with certain directives in the Commission's June 16, 1988, Order on Rehearing issued in Docket Nos. TA81–1–21–028, *et al.*, and RP87–55–002.

In its tariff filing, Columbia proposes to recover 25 percent of the subject contract reformation costs through fixed monthly demand surcharges, to absorb the same amount, and to institute a volumetric surcharge designed to provide it the opportunity to recover the remaining 50 percent of the subject costs. Columbia proposes to amortize the principal amounts underlying both the fixed demand surcharges and the volumetric surcharge over a five-year period and to apply interest to the unamortized balances in accordance with 18 CFR 154.67. Columbia states that in its filing it does not seek recovery of any reformation costs that are attributable to section 107 gas supplies under contracts that fit the Commission's imprudence and abuse findings in Docket Nos. TA81–1–21, *et al.*, or that are attributable to periods prior to April 1, 1987.

For purposes of the fixed monthly demand surcharge, Columbia under the proposed tariff sheets would allocate costs based on a comparison of its customers' average annual firm puchase levels for the period 1983 through 1986 with their average annual firm purchase levels in base period years 1981 and 1982. As support for its cost of service, exclusive of the contract reformation costs, Columbia incorporates by reference its September 30, 1986 section 4(e) filing in Docket No. RP86–168, *et al.*, as revised by filings dated February 27, 1987, and July 31, 1987, as well as Columbia Gulf Transmission Company's initial and revised filings in Docket No. RP86–167.

Columbia states that the proposed 25/25/50 cost-sharing and recovery mechanism would be applicable to the total of approximately $375.2 million of contract reformation costs specified in the filing, as well as to costs in any future Columbia filings, through December 31, 1988, for recovery of additional contract reformation costs, or take-or-pay buyout costs, designated for recovery thereunder. Columbia requests that the proposed tariff sheets be permitted to become effective August 1, 1988.

Columbia also states that, in its tariff filing and separate compliance filing, it has complied with the Commission's directives in the June 16 Order. Columbia explains that, in accordance with the June 16 Order, it has identified the one Columbia contract, in addition to those listed in an Appendix to the June 16 Order, that fits the Commission's imprudence and abuse findings, and that it has identified the reformation costs attributable to NGPA section 107 gas under all contracts that fit those findings. In accordance with Ordering Paragraph (C) of the Commission's June 16 Order, the instant tariff sheets, upon becoming effective, would result in the cessation of recovery of contract reformation costs under Columbia's tariff filing in Docket No. RP87–55. Columbia also states that all contract reformation cost collections under the Docket No. RP87–55 filing, plus interest through July 31, 1988, would be credited, on a customer-by-customer basis, against such customer's share of the costs to be recovered by the fixed monthly demand surcharges. In the event these credits exceed a customer's allocated share of such costs, Columbia would refund the excess to the customer.

Pursuant to § 388.110 of the Commission's Regulations, Columbia has requested that the Commission treat certain contract reformation information and data as commercially sensitive and confidential data, the disclosure of which would be harmful to Columbia. Due to the highly confidential and proprietary nature of the information contained in "Confidential Binder A," Columbia submits that access to the contents thereof be limited to parties other than producers, royalty owners, and interstate pipelines to this proceeding. Columbia will maintain copies of Confidential Binder A at its Charleston, West Virginia, and Washington, DC, offices for parties other than producers, royalty owners, and interstate pipelines to review, subject to appropriate protective conditions. Columbia submits that a protective order of the nature of the one issued by the Presiding Judge in Columbia's Docket No. RP87–55 would be appropriate.

Copies of the filing, except Confidential Binder A, were served upon Columbia's jurisdictional customers and interested state commissions.

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, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 15, 1988. 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 Columbia's filing are on file with Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–15635 Filed 7–12–88; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ88–2–21–000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC gas Tariff

July 7, 1988.

Take notice that Columbia Gas Transmission Corporation (Columbia) on June 30, 1988, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective August 1, 1988:

One hundred and twenty-sixth Revised Sheet No. 16
Fifteenth Revised Sheet No. 16A2
Thirty-fourth Revised Sheet No. 64A

Columbia states that the sales rates set forth on One hundred and twenty-sixth Revised Sheet No. 16 reflect an overall decrease of 18.61¢ per Dth in the Commodity rate, and overall increases of $.109 per Dth in the Demand-1 rate and .65¢ per Dth in the Demand-2 rate. In addition, the transportation rates set forth on Fifteenth Revised Sheet No. 16A2 reflect a decrease in the Fuel Charge component of .51¢ per Dth.

The purposes of the revised tariff sheets are to reflect:

(1) A Current Purchased Gas Cost Adjustment Applicable to Sales Rate Schedules;

(2) The continuation of certain surcharges which were accepted by the Commission to be effective during the 12-month period of March 1, 1988 through February 28, 1989; and

(3) A Transportation Fuel Charge Adjustment.

Columbia's non-gas sales commodity rates, set forth on the tariff sheets submitted herewith, include 15.74 cents per Dth attributable to certain gas purchase contract reformation costs incurred by Columbia. On June 16, 1988, the Commission issued an order on rehearing of its January 19, 1987 orders in Docket Nos. TA81–1–21–028, *et al.* and RP87–55–002 which, among other things, directs Columbia to file revised tariff sheets in Docket No. RP87–55 to eliminate the amortization of reformation costs attributable to NGPA section 107 gas under certain contracts within 30 days. Columbia notes that it intends to make a filing on July 1, 1988 to recover a portion of its eligible contract reformation costs under the procedures of Order No. 500, commencing August 1, 1988. The tariff sheets submitted therewith will reflect the elimination of all reformation costs required by the June 16, 1988 order.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

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, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission' s Rules of Practice and Procedure. All such motions or protests should be filed on or before July 14, 1988. 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 Columbia's filing

are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15636 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-211-000]

CNG Transmission Corp.; Proposed Changes in Rates and Charges

July 7, 1988.

Take notice that CNG Transmission Corporation ("CNG") pursuant to section 4 of the Natural Gas Act and § 154.63 of the Commission's Regulations, filed on July 1, 1988, proposed changes to its FERC Gas Tariff, Original Volume No. 1 to become effective on August 1, 1988.

The proposed rate changes would increase CNG's revenues by $75.8 million annually based on a test period cost of service for the twelve months ended March 31, 1988, as adjusted for known and measurable changes through December 31, 1988.

CNG states that increased rates are necessary to reflect decreased throughput and other billing determinants and to recover increased operation and maintenance expenses, the increased cost of money and take-or-pay costs allowable under Order No. 500. The filed rate of return is based on a capitalization of 34.5 percent debt and 65.5 percent equity, with an equity return of 15.2%.

CNG projects take-or-pay buyout and buydown costs of $20.2 million which it expects to incur by December 31, 1988. CNG seeks to amortize this amount over three years through volumetric rates.

As part of the filing, CNG also makes various proposals to currently recover the cost of transportation under converted gas purchase agreements or under new transportation agreements for system supply, standby charges and gas supply inventory charges billed by its pipeline suppliers and changes in the Federal Income Tax rate. CNG also proposes to transport gas using its capacity on third party pipelines.

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 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.24 and 385.211). All motions or protests should be filed on or before July 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15702 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ88-2-51-000]

Great Lakes Gas Transmission Co., Proposed Changes in FERC's Gas Tariff Purchased Gas Adjustment Clause Provisions

July 8, 1988.

Take notice that Great Lakes Transmission Corporation ("Great Lakes"), on July 1, 1988, tendered for filing Fifteenth Revised Sheet Nos. 57(i) and 57(ii), and Second Revised Sheet No. 57(v) to its FERC Gas Tariff, First Revised Volume No. 1 to be effective August 1, 1988.

The above tariff sheets reflect PGA rates for the months of August, September, and October 1988 as required by Commission Order No. 483, dated November 10, 1987, and Great Lakes' FERC Gas Tariff. As permitted under the transitional rules, Great Lakes will continue to reflect the surcharge rate filed on March 31, 1988, in Docket No. TA88-5-51-000 to be effective for the period May 1, 1988 through October 31, 1988 on Fifteenth Revised Sheet Nos. 57(i) and 57(ii).

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. All such motions or protests should be filed on or before July 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15721 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ88-2-46-000]

Kentucky West Virginia Gas Co.; Proposed Change in FERC Gas Tariff

July 7, 1988.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on July 1, 1988, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective August 1, 1988.

First Revised Sheet No. 23
Fourth Revised Sheet No. 41

Kentucky West states that there is no change in rates and that this quarterly filing is made to conform to the Commission requirements included in FERC Orders No. 483 issued November 10, 1987, and No. 483-A issued March 2, 1988.

Kentucky West states that a copy of its filing has been served upon its purchasers and interested state commissions and upon each party on the service list of Docket No. RP86-52.

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 §§ 385.211 and 385.214 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 July 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15722 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ88-2-47-000]

MIGC, Inc.; Proposed Purchased Gas Adjustment Rate Change

July 8, 1988.

Take notice that on July 1, 1988, MIGC, Inc. (MIGC) tendered for filing revised Tariff Sheet No. 32 to its FERC Gas Tariff Volume No. 1. MIGC states that the purpose of this proposed tariff change is to submit its first quarterly PGA filing pursuant to revised tariff provisions and regulations as filed in Docket No. RP88-143-000 pursuant to

Order No. 483, effective June 1, 1988. The revised tariff sheet is proposed to become effective August 1, 1988.

Forty-Eighth Revised Sheet No. 32 included in the filing reflects both a revised format in MIGC's "Statement of Rates" to conform with the Commission's new PGA rules, and a quarterly PGA increase of $.0038 per MMBtu. MIGC states that, in accordance with § 154.310(c)(4) of the Commission's regulations, the surcharge adjustment included on Revised Sheet No. 32 reflects a continuation of the surcharge proposed by MIGC to become effective May 1, 1988, in its last semi-annual PGA filing at Docket No. TA88-2-47-000.

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 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before July 18, 1988. 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 the public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15723 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-15-000]

Mid Louisiana Gas Co.; Proposed Change of Rates

July 7, 1988.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on July 1, 1988, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective September 1, 1988:

	Superseding
Sixty-Fourth Revised Sheet No. 3a.	Sixty-Third Revised Sheet No. 3a

Mid Louisiana states that the purpose of the filing of Sixty-Fourth Revised Sheet No. 3a is to reflect a 19.88c per Mcf decrease in its current gas cost and a Purchased Gas Cost Surcharge of 17.38¢ per Mcf. Mid Louisiana has requested a waiver of § 154.310(c) of the Commission's Regulations to allow the amortization of the surcharge over a twelve-month period.

This filing is being made in accordance with section 19 of Mid Louisiana's FERC Gas Tariff. Copies of this filing have been mailed to Mid Louisiana's Jurisdictional Customers and interested State Commissions.

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, NW., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rule of Practice and Procedure. All such motions or protests should be filed on or before July 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15637 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ88-3-5-000]

Midwestern Gas Transmission Co.; Rate Filing

July 7, 1988.

Take notice that on July 1, 1988, Midwestern Gas Transmission Company (Midwestern) tendered for filing five copies of Thirty-First Revised Sheet No. 6 of its FERC Gas Tariff, to be effective August 1, 1988. Midwestern states that this filing implement a Purchased Gas Cost Adjustment in the rates for Midwestern's Northern System Rate Schedules CR-2, CRL-2, SR-2 and I-2.

Midwestern states that the Current Purchased Gas Cost Adjustment reflected on Thirty-First Revised Sheet No. 6 consists of Unit Demand Rate Changes of negative $1.43 per Dkt for Rate Schedules CR-2 and CRL-2, negative $0.1175 per Dkt for Rate Schedule SR-2, and negative $0.0470 per Dkt for Rate Schedule I-2 and a Unit Gas Rate Change of ($0.0211) per Dkt. Midwestern states further that the unit rate changes are based upon the demand and commodity gas rates under Midwestern's gas contract with TransCanada allocated in accordance with Midwestern's modified fixed variable rate design.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

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. All such motions or protests should be filed on or before July 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15638 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-209-000]

Natural Gas Pipeline Co. of America; Proposed Changes in FERC Gas Tariff

July 7, 1988.

Take notice that on July 1, 1988, Natural Gas Pipeline Company of America (Natural) tendered for filing proposed changes in its FERC Gas Tariff to become effective August 1, 1988.

Natural states that the purpose of the filing is to provide for the changed level of rates and charges required for Natural to recover its increased operating costs. When compared to the rates currently in effect at Docket No. RP85-150, adjusted to show the same purchased gas cost, the proposed change in rates shows a revenue increase of approximately $153 million. A revenue decrease of $84 million results if present rates were compared to the last base tariff rates approved in Docket No. RP85-150 (both comparisons exclude GRI, ACA and PGA surcharges).

In addition to reflecting the variations in operating costs, the proposed rates reflect the implementation of seasonal rates, modifications to zone boundaries, a revision to the Rate Schedule G-1 rate structure, and continuation of the Modified Fixed Variable rate design methodology. Natural is also proposing an additional set of rates to become effective on a prospective basis only, after resolution of this proceeding, which reflects implementation of a Fixed Variable rate design.

Also included are tariff sheets to incorporate a leased storage cost adjustment mechanism.

A copy of this filing was mailed to each of Natural's jurisdictional sales and transportation customers and to interested state regulatory agencies.

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 Sections 385.214 and 385.211. All such motions or protests must be filed on or before July 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15639 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM88-1-16-000]

National Fuel Gas Supply Corp.; Proposed Change in FERC Gas Tariff

July 7, 1988.

Take notice that National Fuel Gas Supply Corporation ("National") on June 30, 1988, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, six copies of Fifteenth Revised Sheet No. 4.

National states that the purpose of its filing is to reflect the removal of the negative surcharge adjustment currently contained in its Purchased Gas Adjustment, effective as of the close of the current amortization period (July 31, 1988). National further states that the removal of the negative surcharge adjustment is required by the transitional provisions of the Regulations adopted in Order Nos. 483 and 483-A.[1]

Fifteenth Revised Sheet No. 4 reflects an overall increase in National's gas sales rates equal to 24.74 cents per dekatherm, it is stated, solely attributable to removal of the negative surcharge adjustment. No change in National's current purchased gas costs is proposed.

The proposed effective date of Fifteenth Revised Sheet No. 4 is August 1, 1988.

Copies of National's filing were served on National's jurisdictional customers and on interested State Commissions.

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. All such motions to intervene or protests should be filed on or before July 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15640 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-309-002 and RP88-208-000]

Paiute Pipeline Co. and Southwest Gas Corp.; Proposed Tariff Filings

July 7, 1988.

Take notice that on July 1, 1988, Paiute Pipeline Company (Paiute), pursuant to Part 154 of the Commission's Regulations under the Natural Gas Act, tendered for filing the following FERC Gas Tariff in accordance with the Commission's Order Issuing Certificates, Approving Abandonments, and Deferring Request for Blanket Certificate issued May 17, 1988 in Docket No. CP87-309-000:

Original Volume No. 1
Original Sheet Nos. 1 through 99

Paiute states that, pursuant to the above referenced order, Paiute was authorized to, *inter alia*, (1) acquire and operate the certificated interstate natural gas facilities now owned and operated by Southwest Gas Corporation (Southwest), (2) make sales for resale of natural gas in interstate commerce to Sierra Pacific Power Company (Sierra Pacific) and CP National Corporation (CP National) in accordance with outstanding certificates of public convenience and necessity previously issued to Southwest, and (3) make sales for resale of natural gas in interstate commerce to Southwest-Northern Nevada and Southwest-Northern California. Paiute and Southwest state that they have agreed that the effective date of the acquisition, and the date of Paiute's commencement of operations, will be August 1, 1988. Paiute states that it is adopting Original Volume No. 1 of Southwest's FERC Gas Tariff, except with certain modifications as directed or authorized by the Commission in its May 17, 1988 order, and certain other modifications arising from the Commission's new PGA regulations and the change in the status of the regulated company from a dual jurisdictional entity to a pure interstate pipeline company. Paiute requests that its proposed tariff become effective on August 1, 1988.

Paiute and Southwest state that since Paiute will commence operations and adopt Original Volume No. 1 of Southwest's FERC Gas Tariff (as modified) effective August 1, 1988, Southwest will cancel that portion of its FERC Gas Tariff effective as of August 1, 1988. Southwest therefore tendered as part of the filing in these dockets the following revised tariff sheet to be made a part of Southwest's FERC Gas Tariff:

Original Volume No. 1
First Revised Sheet No. 1

Southwest states that this revised tariff sheet reflects the cancellation of Original Volume No. 1 of its FERC Gas Tariff. Southwest requests that this tariff sheet become effective on August 1, 1988.

As part of the instant filing, Paiute and Southwest also tendered a certificate of adoption by Paiute of Original Volume No. 1 of Southwest's FERC Gas Tariff, and copies of two executed service agreements which provide for the sale of natural gas by Paiute to Southwest under Paiute's Rate Schedule G-1 for use in Southwest's northern Nevada and northern California service areas. Paiute requests that the service agreements be accepted for filing and approved to become effective on August 1, 1988.

In addition, Paiute and Southwest state that in their joint application filed in Docket No. CP87-309-000 on April 28, 1987, Southwest proposed to eliminate the surcharge in effect in its rates to amortize its Account No. 191 balance and to clear any balance remaining in its Account No. 191 as of the date of the transfer of its jurisdictional facilities and operations to Paiute, by either remitting a credit balance to Sierra Pacific and CP National in lump sum payments or by billing a debit balance to Sierra Pacific and CP National in equal installments over a six-month

[1] Revisions to the Purchased Gas Adjustment Regulations, Final Rule ("Order No. 483"), III FERC Stats. & Regs. ¶ 30,778 (November 10, 1987); Revisions to the Purchased Gas Adjustment Regulations, Order on Rehearing ("Order No. 483-A"), III FERC Stats. & Regs. ¶ 30,798 (March 2, 1988).

period. It is stated that the purpose of this proposal was to permit Paiute to commence operations with a zero balance in its Account No. 191, and to avoid any inequities in distributing credits or assigning costs in view of the fact that Paiute will be serving two additional jurisdictional sales customers, Southwest-Northern Nevada and Southwest-Northern California. Paiute and Southwest further state that in light of the Commission's approval of the joint application, Paiute and Southwest will implement this procedure, and, accordingly, the rates set forth on Original Sheet No. 10 contained in the proposed Paiute tariff reflect no Account No. 191 surcharge amounts.

Further, Paiute states that in its June 16, 1988 notice of acceptance of the certificate issued by the Commission's May 17, 1988 order, Paiute declared that at the time of its filing of its FERC Gas Tariff, it would make an announcement regarding the commencement of an "open season" period for receiving requests for transportation service, as described in Article 3, Section 1 of the settlement offer submitted by Paiute and Southwest in Docket No. CP87-309-000 on February 10, 1988. Paiute states that in view of the fact that it will submit a general rate change filing on August 1, 1988 that will include certain proposed transportation rate schedules, Paiute will provide the "open season" period from August 1, 1988 through August 31, 1988. According to Paiute, all completed requests for transportation service that conform to the requirements set forth in the proposed transportation rate schedules to be filed on August 1, 1988 and that are received by Paiute during the "open season" period will be treated as having been received at the same time for purposes of determining priority of service status.

Paiute and Southwest state that copies of the instant filing have been served upon all affected customers and interested state regulatory commissions, and upon all parties on the service list in Docket No. CP87-309-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15642 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-203-000]

Panhandle Eastern Pipe Line Co.; Petition for Authority To Institute a Direct Billing Procedure for Order No. 473 Payments

July 7, 1988.

Take notice that on June 30, 1988, Panhandle Eastern Pipe Line Company (Panhandle) filed Nineteenth Revised Sheet Nos. 3-C.1, 3-C.2 and 3-C.3 which reflect a Petition for Authority to Institute a Direct Billing Procedure for Order No. 473 Payments. Panhandle states that it seeks authorization to bill its jurisdictional customers directly for Order No. 473 costs, which have been paid by Panhandle to one of its producer-suppliers, to avoid inequitable cost allocations and incorrect market signals that would otherwise result from recovering such costs through purchased gas adjustment (PGA) filings. As is more fully explained in the filing, Panhandle proposes to allocate such costs based upon each customer's share of Panhandle's total sales for the December 1979-December 1984 period in which such costs were incurred and to directly bill the resulting amounts, including paid and accrued interest. Panhandle proposes to bill customers on August 10, 1988 with Panhandle's regular monthly sales invoices.

Panhandle requests an effective date of August 1, 1988 for the above-referenced tariff sheets.

Panhandle requests any waiver of the Commission the terms of its tariff necessary to effect the proposed direct billing procedure.

Panhandle states that it has served a copy of the Petition on its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211, 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 14, 1988. 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 in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15643 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-210-000]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

July 7, 1988.

Take notice that on July 1, 1988, Southern Natural Gas Company (Southern) tendered for filing the tariff sheets listed on the appendix hereto to be effective August 1, 1988.

Southern states that the proposed tariff sheets are being filed to effect recovery of a portion of Southern's previously incurred buy-out and buy-down costs together with such costs as Southern projects it will incur through December 31, 1988 pursuant to the cost sharing procedures adopted in the Commission's Order No. 500.

Southern states that copies of the filing were mailed to all of Southern's jurisdictional purchasers, shippers, and interested state commissions, as well as to all parties listed on the Commission's official service list compiled in RP88-96-000.

Any person desiring to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before July 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

APPENDIX—SIXTH REVISED VOLUME NO. 1

Tariff sheets	Description
Seventy-Ninth Revised Sheet No. 4A.	Sales Rates.
Eighth Revised Sheet No. 4B.	Sales Rates.

APPENDIX—SIXTH REVISED VOLUME NO. 1—Continued

Tariff sheets	Description
First Revised Sheet No. 4B.1.	Fixed TOP Charge.
First Revised Sheet No. 4B.2.	Fixed TOP Charge.
First Revised Sheet No. 4B.3.	Fixed TOP Charge.
Fourth Revised Sheet No. 45O.	Section 22.
Second Revised Sheet No. 45P.	Section 22.
First Revised Sheet No. 45Q.	Section 22.

[FR Doc. 88-15724 Filed 7-12-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TQ88-2-17-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 7, 1988.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on July 1, 1988 tendered for filing as a part of its FERC Gas Tariff, six copies each of the following tariff sheets:

Fifth Revised Volume No. 1

Fifth Revised Sheet No. 50
Fifth Revised Sheet No. 50A
Fifth Revised Sheet No. 50B
Fifth Revised Sheet No. 50C
Fifth Revised Sheet No. 50D
Fifth Revised Sheet No. 51
Third Revised Sheet No. 51A
Third Revised Sheet No. 51B
Third Revised Sheet No. 51C
Third Revised Sheet No. 51D

Original Volume No. 2

Thirty-first Revised Sheet No. 235
Twenty-third Revised Sheet No. 241
Thirty-first Revised Sheet No. 322
Fifth Revised Sheet No. 1274

Texas Eastern states that the above tariff sheets are being issued pursuant to section 23, Purchased Gas Cost Adjustment, and section 27, Electric Power Cost (EPC) Adjustment, contained in the General Terms and Conditions of Texas Eastern's FERC Gas Tariff. The changes proposed consist of:

(1) PGA decreases of $.118/dth in the Demand-1 component of Texas Eastern's sales rates and $.0058/dth in the Demand-2 component and an increase of $.0535/dth in the commodity component pursuant to section 23 of Texas Eastern's tariff, based upon an increased projected cost of gas purchased from producers and pipeline suppliers and removal of the existing PGA Surcharge Adjustment, which was effective as of February 1, 1988, pursuant to the PGA transition rules in § 154.310 of the Commission's Regulations.

(2) Changes in rates for sales and transportation services pursuant to section 27 of Texas Eastern's tariff to reflect the projected annual electric power cost incurred in the operation of transmission compressor stations with electric motor prime movers for the 12 months beginning August 1, 1988 and to reflect the EPC surcharge which is designed to clear the latest balance in the Deferred EPC account as of April 30, 1988, as adjusted to reflect the reduction of the Base Electric Power Cost Units for the period September, 1985 through January, 1988, necessitated by the Settlement of Texas Eastern's rate case in Docket No. RP85-177.

Texas Eastern states that this filing constitutes its regular quarterly filing to be effective August 1, 1988 pursuant to the Commission's recently revised regulations governing PGA filings as promulgated by its Order No. 483. In compliance with § 154.308(b)(2) of the Commission's Regulations, a report containing detailed computations which clearly show the derivation of the current adjustment to be applied to Texas Eastern's effective rates is included with the filing.

Texas Eastern states that this filing also constitutes its semiannual tracking of changes in electric power costs pursuant to section 27 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff. Texas Eastern proposes to flow through to its customers with this filing an adjustment to its Deferred EPC account balance as of April 30, 1988. The Settlement refund under Docket No. RP85-177 included amounts representing a reduction in the Base Electric Power Cost Units per the settlement. Hence, an adjustment to the Deferred EPC amount is required to reflect Texas Eastern's reduction in Electric Power Cost recoveries for the refund period September 1, 1985 through January 31, 1988. Texas Eastern has requested that the Commission waive the requirements of section 27 of its FERC Gas Tariff to permit the amortization of this settlement adjustment beginning on August 1, 1988 and ending on January 31, 1989, with this semiannual EPC tracker.

The proposed effective date of the above tariff sheets is August 1, 1988.

Texas Eastern requests waiver of any regulations that the Commission may deem necessary to accept the above tariff sheets to be effective on August 1, 1988.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions. 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. All such motions or protests should be filed on or before July 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Acting Secretary.

[FR Doc. 88-15725 Filed 7-12-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TQ88-2-18-000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 8, 1988.

Take notice that Texas Gas Transmission Corporation (Texas Gas), on July 1, 1988, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Third Substitute Eleventh Revised Sheet No. 10
Third Substitute Eleventh Revised Sheet No. 10A

These tariff sheets reflect an increase of purchased gas costs pursuant to the Purchased Gas Adjustment clause of Texas Gas's FERC Gas Tariff and are proposed to be effective August 1, 1988.

Copies of the filing were served upon Texas Gas's jurisdictional customers and interested state commissions.

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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests or motions should be filed on or before July 18, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15726 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-206-000]

Tarpon Transmission Co.; Tariff Filing

July 7, 1988.

Take notice that on June 30, 1988, Tarpon Transmission Company ("Tarpon") tendered for filing with the Commission tariff sheets which reflect the following revisions to its FERC Gas Tariff, Original Volume No. 1: (1) Certain nonsubstantive corrective and clarifying changes; (2) the inclusion of a tariff provision which allows Tarpon to assess the current FERC-prescribed annual charge adjustment (ACA) of 0.21 cents per Mcf; (3) conforming changes to Tarpon's ITS and FTS *pro forma* transportation agreements; and (4) the implementation of a reservation charge for Part 284 firm transportation service.

Tarpon has requested the Commission to waive any and all provisions of Part 154 necessary in order to permit these tariff sheets to become effective on July 1, 1988.

Copies of the filing were served upon all of Tarpon's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capital 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 July 14, 1988.

Protests will be considered by the Commissi n in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person desiring to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15644 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ88-2-58-000]

Texas Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

July 7, 1988.

Take notice that on July 1, 1988, Texas Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 (Tariff), the below listed tariff sheets to be effective August 1, 1988.

Twenty-first Revised Sheet No. 4a

TGPL states that the purpose of the instant filing is to reflect rate adjustments pursuant to section 12 of the General Terms and Conditions to TGPL's Tariff (Purchased Gas Cost Adjustments). Specifically, Twenty-first Revised Sheet No. 4a reflects a net increase in the rate after cumulative adjustment to 155.39¢/Mcf with a rate Surcharge Adjustment of 3.49¢/Mcf yielding a proposd total rate of 188.35¢/Mcf (at 14.65 psia) to be effective August 1, 1988.

Copies of the filing were served upon TGPL's jurisdictional customers.

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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 14, 1988. 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 in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15645 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-204-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

July 7, 1988.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on June 30, 1988 certain tariff sheets in Appendix A attached to the filing. Such sheets are proposed to be effectve August 1, 1988.

Transco states that the purpose of its tariff filing is to establish initial rate schedules and rates for firm (FT-MB) and interruptible (IT-MB) transportation service on Transco's Mobile Bay Pipeline System. Such transportation will be performed pursuant to authority under section 311 of the Natural Gas Policy Act of 1978 and Part 284 of the Commission's regulations thereunder.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

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 July 14, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-15646 Filed 7-12-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180781; FRL-3411-5]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 15 States listed below and two crisis exemptions initiated by the Florida Department of Agriculture and the New York Department of Environmental Conservation. Also listed are denials of requests for specific exemptions from the Michigan Department of Agriculture, the Puerto Rico Commonwealth Department of Agriculture, and the Washington Department of Agriculture and a withdrawal of a request for a specific exemption from the North Dakota Department of Agriculture. These exemptions, issued during the month of April, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent

possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific, crisis, denial, and withdrawal for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons:

By mail: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industries for the use of paraquat on peanuts to control Florida beggarweed and sicklepod; April 1, 1988, to July 1, 1988. (Gene Asbury)

2. California Department of Food and Agriculture for the use of iprodione on sweet cherries to control fruit decay; April 6, 1988, to June 30, 1988. (Libby Pemberton)

3. California Department of Food and Agriculture for the use of methiocarb on globe artichokes to control snails and slugs; April 20, 1988, to March 1, 1989. (Jim Tompkins)

4. California Department of Food and Agriculture for the use of hexakis (Vendex) on marigolds grown for xanthophyll to control two-spotted spider mites; April 7, 1988, to October 1, 1988. (Gene Asbury)

5. Colorado Department of Agriculture for the use of permethrin on small grains to control pale western cutworms and army cutworms; April 21, 1988, to June 15, 1988. (Gene Asbury)

6. Florida Department of Agriculture and Consumer Services for the use of iprodione on cabbage to control white mold; April 13, 1988, to April 30, 1988. Florida had initiated a crisis exemption for this use. (Libby Pemberton)

7. Maryland Department of Agriculture for the use of imazethapyr (Pursuit) on lima beans, snap beans, and green peas to control weeds; April 18, 1988, to May 31, 1988. (Robert Forrest)

8. Massachusetts Department of Agriculture for the use of sodium fluoaluminate on potatoes to control Colorado potato beetles; April 15, 1988, to September 30, 1988. (Gene Asbury)

9. Michigan Department of Agriculture for the use of metolachlor on dry bulb onions to control prostrate spurge and yellow nutsedge; April 18, 1988, to September 15, 1988. (Jim Tompkins)

10. Minnesota Department of Agriculture for the use of clopyralid on sugar beets to control Canada thistle and common cocklebur; April 22, 1988, to July 1, 1988. (Donald Stubbs)

11. Minnesota Department of Agriculture for the use of imazethapyr (Pursuit) on soybeans to control Jerusalem artichokes; April 1, 1988, to June 30, 1988. (Robert Forrest)

12. Missouri Department of Agriculture for the use of metalaxyl on blueberries to control root rot (*Phytophora cinnamomic*); April 1, 1988, to October 31, 1988. (Robert Forrest)

13. New Mexico Department of Agriculture for the use of cypermethrin on dry bulb onions to control western flower thrips; April 18, 1988, to September 1, 1988. (Gene Asbury)

14. New York Department of Environmental Conservation for the use of permethrin on onions to control thrips; April 15, 1988, to November 30, 1988. (Libby Pemberton)

15. North Dakota Department of Agriculture for the use of clopyralid on sugar beets to control Canada thistle and common cocklebur; April 22, 1988, to July 1, 1988. (Donald Stubbs)

16. South Dakota Department of Agriculture for the use of fenvalerate on winter wheat to control pale western cutworms and army cutworms; April 15, 1988, to June 30, 1988. (Gene Asbury)

17. Washington Department of Agriculture for the use of glyphosate on wheat to control volunteer rye; April 5, 1988, to July 1, 1988. (Libby Pemberton)

18. Wisconsin Department of Agriculture, Trade, and Consumer Service for the use of metolachlor on transplanted cabbage to control yellow nutsedge and certain broadleaf weeds; April 13, 1988, to October 31, 1988. (Jim Tompkins)

19. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of metolachlor on dry bulb onions to control prostrate spurge and yellow nutsedge; April 18, 1988, to September 15, 1988. Solicitation of public comment was published in the **Federal Register** of March 23, 1988 (53 FR 9485), no comments were received. The exemption was granted on the basis that there are no registered alternative herbicides which provide effective control of prostrate spurge and yellow nutsedge in organic soils and a significant economic loss is expected if these weeds cannot be controlled or hand-weeding must be employed. (Jim Tompkins)

Crisis exemptions were initiated by the:

1. Florida Department of Agriculture on April 25, 1988, for the use of Tilt (1-((2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl)methyl)-1-H-1,2,4-triazole on sweet corn to control corn rust. This program is expected to end in December 1988. (Jim Tompkins)

2. New York Department of Environmental Conservation on April 29, 1988, for the use of propachlor on dry bulb onions to control certain broadleaf weeds. The program ended June 1, 1988, unless extended by the specific exemption. (Jim Tompkins)

EPA has denied requests from the:

1. Michigan Department of Agriculture for the use of chlorothalonil on tart cherries to control cherry leaf spot and brown rot. The Agency has denies this request on the basis that the dietary toxicological concerns from currently registered uses are already high and the Final Registration and Tolerance Reassessment (FRSTR) due for completion in June of 1988 may place chlorothalonil in Special Review. (Gene Asbury)

2. Puerto Rico, Commonwealth Department of Agriculture for the use of fenvalerate on pineapples to control pineapple moths. The Agency has denied this request because the absence of residue data prevents a determination of residue levels in pineapple. Additionally, there are ecological concerns that have initiated a section 7 consultation in regard to an endangered species. (Gene Asbury)

3. Washington Department of Agriculture for the use of sethoxydim on cannery (green) peas to control annual ryegrass and barnyard grass. The Agency has denied the request because a continuing chronic situation will exist and continued use would represent an abuse of the emergency exemption program and an unwarranted circumvention of the section 3 registration process because of the lack of progress toward registration. (Gene Asbury)

EPA has withdrawn a request from the North Dakota Department of Agriculture for the use of Assert on sunflowers to control wild mustard. A notice of receipt was published in the **Federal Register** of March 30, 1988 (53 FR 10288). The Agency has withdrawn this request on the basis that the use was registered under section 3 of FIFRA on April 11, 1988. (Jim Tompkins)

Authority: 7 U.S.C. 136.

Dated: June 28, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 88–15338 Filed 7–12–88; 8:45 am]

BILLING CODE 6560–50–M

[OPP-42064; FRL-3410-5]

Intent To Approve Department of Energy Plan for Certification of Applicators of Restricted Use Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to approve Department of Energy plan for certification of pesticide applicators.

SUMMARY: In accordance with terms of the **Federal Register** notice of August 19, 1977 (42 FR 41907), the U.S. Department of Energy (DOE) has submitted a Federal Agency Plan for the Certification of its employees to apply restricted use pesticides in the performance of their duties. The Administrator has reviewed this plan and finds that it complies with the terms of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended and the August 19, 1977, **Federal Register** notice. Accordingly, notice is hereby given of the intention of the Administrator to approve the DOE Plan. Interested persons are invited to submit written comments on the proposed plan.

DATE: Comments should be submitted on or before August 12, 1988.

ADDRESSES: Address comments, identified by the docket control number OPP–42064, to: Environmental Protection Agency, Information Service Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Room 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

See **SUPPLEMENTARY INFORMATION** for addresses where the plan is available for public inspection.

FOR FURTHER INFORMATION CONTACT: John MacDonald (202–475–9580).

SUPPLEMENTARY INFORMATION: The DOE Certification Plan at present only applies to employees of the Bonneville Power Administration (BPA). BPA operates and maintains a regional electrical system covering five States: Idaho, Montana, Oregon, Washington, and Wyoming. If the DOE should at a later date wish to include employees other than those employed by BPA under the DOE certification plan, the submission and approval of a new certification plan, an amendment to this certification plan would be required.

Federal employees are considered to be commercial applicators. The DOE has proposed certification in only Right-of-Way Pest Control as defined at 40 CFR 171.3(b)(6). Certification is based upon participation in training and the taking and passing of a written examination. The DOE plan requires recertification every 3 years. However, DOE may initially issue a DOE certification to a BPA employee holding a valid State certification and retain the expiration date on the State certification. Since States in the BPA service area certify for 5 years some of the grandfathered certifications could be in effect for up to 5 years. However, all of the grandfathered applicators will be issued a certification valid for 3 years, when they are recertified. Also new applicators certified under the DOE plan will be issued certificates valid for 3 years. Therefore, after a transition period not to exceed 5 years from the date of plan approval, all DOE certified applicators will be recertified on a 3-year cycle.

DOE will require certification of all applicators using or supervising the use of all pesticides with the exception of general use pesticides applied by non-motorized equipment. DOE anticipates that 150 applicators will be certified under the proposed plan. The DOE plan adopts the direct supervision requirement contained at 40 CFR 171.6 and in addition requires the physical presence of the certified applicator within line of sight or hearing distance of the supervised applicator.

The plan provides for the hiring of non-DOE employees for pest control operations. Such persons must be certified commercial applicators, or under the direct supervision of a certified commercial applicator, holding certification valid in the State where the services are performed. Incidents of misuse of a pesticide or falsification of records by applicators under contract to DOE will be reported to the appropriate State or EPA authority.

Authority for denying, suspending, and revoking DOE certification rests with the officials responsible for carrying out the plan. Any applicator who falsifies records or who violates any provision of FIFRA, including the prohibition against the misuse of pesticides, may have the applicator's certificate suspended or revoked.

Records regarding the kinds, amounts, uses, dates, and places of use of restricted use pesticides will be maintained for 2 years from the date of application of the restricted use pesticides. Such records will be available for inspection and copying by Federal and State pesticide officials. EPA and State enforcement personnel will have access to DOE property at reasonable times for sampling, inspection, and observation.

The DOE Plan requires personnel to comply with substantive State standards for pesticide regulation which are more stringent than, or are in addition to, standards established in the plan, as required by E.O. 12088. In cases where the State decides its substantive standards are more stringent than those of the DOE, it may notify the Secretary of Energy and request compliance. In any case where the Secretary and the State disagree as to the need for employees to comply with a State standard, the Administrator of EPA will arbitrate the dispute.

Annual reports will be submitted by DOE to the Administrator of EPA. The report will contain information as outlined in 40 CFR 171.7(d)(1), such as, numbers of applicators certified, changes in commercial subcategories, summary of enforcement actions, and significant proposed changes in standards of competency. Other reports will be submitted as required by 40 CFR 171.7(d)(2).

Copies of the proposed plan are available for review at the following locations during normal business hours:

1. Environmental Protection Agency, Information Services Section, Program Management and Suppport Division (TS–757C), Office of Pesticide Programs, Room 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, Telephone: 202–557–3262.
2. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, CO 80202–2405, Telephone: 303–293–1603.
3. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone: 206–442–5810.
4. Public Information Center, Bonneville Power Administration, 905 Northeast Eleventh Avenue, Portland, OR 97232.
5. Selected DOE facilities in the Bonneville Service area. For information telephone the Public Information Center at 503–230–3478.

Interested persons are invited to submit written comments on the proposed DOE Certification Plan.

Dated: June 28, 1988.

A. James Barnes,

Acting Administrator.

[FR Doc. 88–15230 Filed 7–12–88; 8:45 am]

BILLING CODE 6560–50–M

[OPP-30277A; FRL-3411-2]

Penick-Bio Corp.; Approval of Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application

submitted by Penick-Bio Corp., to register the pesticide product Dethmor, involving a changed use pattern pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: George LaRocca, Product Manager (PM) 15, Registration Division (TS–767C), Office of Pesticide Programs, 401 M St., SW., Washington DC 20460.

Office location and telephone number: Rm. 204 TS–767C, Environmental Protection Agency, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–557–2400).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of March 25, 1987 (52 FR 9537), which announced that Penick-Bio UCLAF Corp., 1050 Wall St., West, PO Box 9059, Lyndhurst, NJ 07071, had submitted an application to register the pesticide product D–End, containing the active ingredient (1*R*,3*S*) 3[(1′*RS*)(1,2′, 2′,2′-tetrabromoethyl)]-2,2–dimethylcyclopropanecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester at 3.75 percent (equivalent to 0.3 lbs. active ingredient per gallon); involving a changed use pattern of the product.

The application was approved on May 27, 1988, as Dethmor for general use to include in its presently registered use, a new indoor use in non-food areas of food handling establishments. The product was assigned EPA Registration No. 432–729.

The Agency has considered all required data on the risks associated with the proposed use of (1*R*,3*S*) 3[(1′*RS*)(1′,2′,2′,2′-tetrabromoethyl)]-2,2–dimethylcyclopropanecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of ground (1*R*,3*S*) 3[(1′*RS*)(1′,2′,2′,2′-tetrabromoethyl)]-2,2-dimethylcyclopropanecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on (1*R*,3*S*) 3[(1′*RS*)(1,2′,2′,2′-tetrabromoethyl)]-2,2-dimethylcyclopropanecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from Registration Division (TS–767C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 401 M St., SW., Washington, DC 20460.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703–557–4460). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: June 28, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 88–15341 Filed 7–12–88; 8:45 am]

BILLING CODE 6560–50–M

[OPP–100056; FRL–3413–6]

American Management Systems, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). American Management Systems, Inc. (AMS) will perform work specified under a Task Order of an EPA contract. This work will be done for the EPA Office of Pesticide Programs (OPP), and will require access to certain information submitted to EPA under FIFRA and FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to AMS as authorized by 40 CFR 2.307(h)(3) and 40 CFR 2.308(i)(2), respectively. This action will enable AMS to fulfill the terms of this contract, and serves to notify affected persons.

DATE: AMS will be given access to this information no sooner than July 20, 1988.

FOR FURTHER INFORMATION CONTACT: By mail: Catherine S. Grimes, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557–4460.

SUPPLEMENTARY INFORMATION: Under a Task Order of Contract No. 68–01–7281, AMS will assist OPP in analyzing chemistry review procedures, interview review personnel, study management information materials and systems, and develop plans for organization/reorganization of the Certified Statement Formula (CSF) review. This contract involves no subcontractor.

The Office of Pesticide Programs has determined that access by AMS to information on all pesticide chemicals is necessary for the performance of this contract.

This information in entitled to confidential treatment, having been submitted to EPA under sections 3, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), AMS shall not use the information for any purpose other than purpose(s) specified in the contract; shall not disclose the information in any form to a third party without prior written approval from the Agency or affected business; and shall require that each official and employee of the contractor sign an agreement to protect the information from unauthorized release. In addition, AMS is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to AMS until the above requirements have been fully satisfied. Records of information provided to AMS will be maintained by the Task Officer for this contract in the EPA Office of Pesticides Programs. All information supplied to AMS by EPA for use in connection with this contract will be returned to EPA when AMS has completed its work.

Dated: July 5, 1988.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 88-15675 Filed 7-12-88; 8:45 am]

BILLING CODE 6560-50-M

[PP 6G3438/T567; FRL-3413-7]

Thiodicarb; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for residues of the insecticide thiodicarb and its metabolite methomyl in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire June 8, 1989.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis Edwards, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 205, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703) 557-2386.

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the **Federal Register** of September 9, 1987 (52 FR 33989), announcing the establishment of temporary tolerances for residues of the insecticide thiodicarb (dimethyl-N,N'-[thiobis[[(methylimino)carbonyl] oxy]]bis [ethanimidothioate] and its metabolite methomyl (S-methyl-N-[(methylcarbomyl)oxy]thioacetimidate) in or on the following raw agricultural commodities: broccoli, cabbage, and cauliflower at 7.0 parts per million (ppm) and head lettuce at 25.0 ppm. These tolerances were issued in response to pesticide petition (PP) 6G3438, submitted by Rhone Poulenc Agricultural Co., T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 264-EUP-73, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and its was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active insecticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Rhone Poulenc Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

The tolerances expire June 8, 1989. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice 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).

Authority: 21 U.S.C. 346a(j).

Dated: July 1, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-15676 Filed 7-12-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL ELECTION COMMISSION

Filing Dates for Tennessee Special Elections

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for Tennessee Special Elections.

SUMMARY: Committees required to file reports in connection with only the Special Primary Election to be held in the Second Congressional District of Tennessee on August 25, 1988, should file a 12-day Pre-Primary Report by August 13, 1988. Committees required to file reports in connection with *both* the Special Primary and Special General Election to be held on November 8, 1988, must file a 12-day Pre-Primary Report, a 12-day Pre-General Report by October 27, 1988, and a 30-day Post-General Report by December 8, 1988.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 999 E Street, NW., Washington, DC 20463, Telephone: (202) 376-3120; Toll Free (800) 424-9530.

Notice of Filing Dates for Special Elections; Second Congressional District Tennessee

All principal campaign committees of candidates in the Special Primary Election and all other political committees not filing monthly, which support candidates in the Special Primary must file a 12-day Pre-Primary Report by August 13, 1988, which coverage dates from the last report filed through August 5, 1988. Committees must also file an October Quarterly Report, with coverage dates from August 6, 1988, through September 30, 1988, due October 15, 1988.

All principal campaign committees of candidates in the Special General Election and all other political committees which support candidates in the election shall file a 12-day Pre-General Report due on October 27, 1988, with coverage dates from October 1, 1988, through October 19, 1988, and a 30-day Post-General Report due on December 8, 1988, with coverage dates from October 20, 1988, through November 28, 1988, Committees must also file a Year-End Report due January 31, 1989.

Thomas J. Josefiak,

Chairman, Federal Election Commission.

Dated: July 8, 1988.

[FR Doc. 88-15694 Filed 7-12-88; 8:45 am]

BILLING CODE 6715-01-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.: 203–011201.

Title: Puerto Rico and U.S. Virgin Islands Carriers Discussion Agreement.

Parties: Zim Israel Navigation Co., Ltd., Nedlloyd Lines Trade Directorate Far East.

Synopsis: The proposed agreement would authorize the parties to discuss, consult and develop consensus to foster commerce, service and stability in the trade from ports and points in Hong Kong, Macao, Korea, Taiwan, Japan, Siberia USSR, the People's Republic of China, Thailand, Vietnam, Democratic Kampuchea (Cambodia), Laos, Burma, the Republic of the Philippines, the Republic of Singapore, the Federation of Malaysia, the Sultanate of Brunei, and the Republic of Indonesia to ports and points in Puerto Rico and the U.S. Virgin Islands.

By order of the Federal Maritime Commission.

Dated: July 7, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88–15610 Filed 7–12–88; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, 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.: 224–200137.

Title: Georgia Ports Authority Lease Agreement.

Parties: Georgia Ports Authority, Jugolinija.

Synopsis: The agreement provides for the lease of paved premises to be used only for the storage and handling of containers, trailers and chassis located within Containerport at the Garden City Terminal, Port of Savannah.

Agreement No.: 224–003690–002.

Title: Matson Terminals, Inc. Terminal Agreement.

Parties: Matson Terminals, Inc., Polynesia Line, Ltd.

Synopsis: The agreement amendment provides reference to schedules which may be revised to reflect increases or decreases in shop rates for the maintenance of chassis and the repair of containers.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: July 8, 1988.

[FR Doc. 88–15682 Filed 7–12–88; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First Sioux Bancshares, LTD., 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 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.

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 August 4, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Sioux Bancshares, Ltd.,* Sioux Center, Iowa; to engage *de novo* through its subsidiary, First Sioux Insurance Company, Sioux Center, Iowa, in the sale of insurance to area farmers and to certain consumer loan customers, which will include hail insurance and multi-peril insurance, credit life and mortgage insurance pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. These activities will be conducted in Sioux County, Iowa, and any contiguous counties with Sioux County, whether in or out of the State of Iowa, but not to include any other State than South Dakota.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Mission-Valley Bancorp,* Pleasanton, California; to engage *de novo* in providing data processing services pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 8, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88–15696 Filed 7–12–88; 8:45 am]

BILLING CODE 6210–01–M

Integra Financial Corp.; Formation of, Acquisition by, or Merger of Bank Holding companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR

225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these 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 grains 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 accompained 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 July 28, 1988.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Integra Financial Corporation,* Mt. Lebanon, Pennsylvania; to become a bank holding company by the consolidation of Pennbancorp, Titusville, Pennsylania, and Union National Corporation, Mt. Lebanon, Pennsylvania, and thereby indirectly acquire First Natinoal Bank & Trust Co., Washington, Pennsylvania; Keystone National Bank, Punxsutawney, Pennsylvania; McDowell National Bank, Sharon, Pennsylvania; The Union National Bank of Pittsburgh, Pittsburgh, Pennsylvania; Valley National Bank, Freeport, Pennsylvania; First Seneca Bank, Oil City, Pennsylvania; Gallatin National Bank, Uniontown, Pennsylvania; Pennbank, Titusville, Pennsylvania; and more than 5 percent but less than 7 percent of the outstanding voting shares of Producers Bank and Trust Company, Bradford, Pennsylvania, and Independence Bancorp, Inc., Perkasie, Pennsylvania, and thereby indirectly acquire Bucks County Bank and Trust Company, Union Bank and Trust Company, and The Cheltenham Bank.

In connection with this application, Applicant also proposes to acquire Pennbancorp Life Insurance Company, Phoenix, Arizona, and thereby engage in underwriting credit life and credit accident/disability insurance directly related to extensions of credit by Pennbancorp subsidiary banks pursuant to § 225.25(b)(8); Pennbancorp Brokerage Services Company, Erie, Pennsylvania, and thereby engage in providing securities brokerage services and incidental activities, such as offering individual retirement accounts, pursuant to § 225.25(b)(15); and Union National Life Insurance Company, Phoenix Arizona, and thereby engage in underwriting, as reinsurer, credit life and credit disability insurance directly related to extensions of credit and non-operating fully payout lease transactions by Union National Corporation's bank subsidiaries pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 8, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-15679 Filed 7-12-88; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under OMB Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0118, Statement of Witness (SF 94), which is used by all Federal agencies in reporting accident information involving U.S. Government vehicles.

AGENCY: Fleed Management Division (FBF), GSA.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Office, General Services Administration (CAIR), F Street at 18th, NW., Washington, DC 20405.

Annual Reporting Burden: Firms responding, 955; responses, 1 per year; average hours per response, ⅓; burden hours, 318.

FOR FURTHER INFORMATION CONTACT: Michael W. Moses 703-557-1273.

Copy of Proposal: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephoning 202-535-7074.

Dated: July 5, 1988.

Emily C. Karam,

Director, Information Management Division (CAI).

[FR Doc. 88-15666 Filed 7-12-88; 8:45 am]

BILLING CODE 6820-24-M

Agency Information Collection Under OMB Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0121, Contractor's Report of Orders Received (GSA 72-A), which is for the use of contracting officers to estimate requirements for new contracts, evaluate the effectiveness of a schedule, or negotiate for better prices based on volumes.

AGENCY: Operations Management Division (FCO), GSA.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), F Street at 18th, NW., Washington, DC 20405.

Annual Reporting Burden: Firms responding, 4,300; responses, 26 per year; average hours per response, 17; burden hours, 19,040.

FOR FURTHER INFORMATION CONTACT: Rosa McCullough, 703-557-7950.

Copy of Proposal: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephoning 202-535-7074.

Dated: July 5, 1988.

Emily C. Karam,

Director Information Management Division (CAI).

[FR Doc. 88-15667 Filed 7-12-88; 8:45 am]

BILLING CODE 6820-24-M

Agency Information Collection Activities Under Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to

renew expiring information collection 3090–0104, Report of Employment Under Commercial Activity Contracts. The Report of Employment under Commercial Activities Contracts clause was developed to collect information required by OMB Circular A–76 and information needed by the Office of Personnel Management to comply with 5 CFR 550.701(b)(6) severance pay eligibility requirements.

AGENCY: Office of GSA Acquisition Policy and Regulations (VP), GSA.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), F Street at 18th, NW., Washington, DC 20405.

Annual Reporting Burden: Firms responding, 150; responses, 1 per year; average hours per response, .5; burden hours, 75.

FOR FURTHER INFORMATION CONTACT: Shirley Scott, 202–523–4765.

Copy of Proposal: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephoning 202–535–7074.

Dated: July 5, 1988.

Emily C. Karam,

Director, Information Management Division (CAI).

[FR Doc. 88–15668 Filed 7–12–88; 8:45 am]

BILLING CODE 6820–61–M

Federal Supply Service Consortium of Federal, Academic, and Industry Logistics Experts; Meeting

Meeting Notice: Notice is hereby given that the Consortium of Federal, Academic, and Industry Logistics Experts will meet August 10, 1988 from 10:00 am to 12:00 noon in Crystal Mall Building 3, Room C–43, Arlington, Virginia. The purpose of the meeting is to provide a forum for exchange on logistics issues, among member civilian agencies.

The agenda will include discussions of initiatives on systems, freight transportation, and professionalism relating to Federal Civilian agency logistics operations.

The meeting will be open to the public. For further information, contact William B. Foote, Assistant Commissioner for Customer Service and Marketing GSA/FSS, Washington, DC 20406, telephone (703) 557–7970.

Dated: July 7, 1988.

Donald C.J. Gray,

Commissioner, Federal Supply Service, GSA.

[FR Doc. 88–15693 Filed 7–12–88; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Renewal

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463 (5 U.S.C. Appendix II), the Health Resources and Service Administration announces the renewal the Secretary, HHS, with concurrence by the General Services Administration, of the following advisory committee.

Council	Termination date
Maternal and Child Health Research Grants Review Committee	June 30, 1990.

Dated: July 7, 1988.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 88–15683 Filed 7–12–88; 8:45 am]

BILLING CODE 4160–15–M

Office of Human Development Services

National Advisory Board on Child Abuse and Neglect

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS), Department of Health and Human Services (DHHS).

ACTION: Solication of nominations for appointment to the National Advisory Board on Child Abuse and Neglect.

SUMMARY: Section 3 of the Child Abuse Prevention and Treatment Act, newly reauthorized by Pub. L. 100–294, provides that the Secretary shall appoint an Advisory Board on Child Abuse and Neglect. This notice solicits nominations for appointment to the Board, sets, procedures for the sumbission and receipt of nominations, and provides information concerning the membership, duties, and responsibilities of the Board.

DATES: Nominations must be received by August 29, 1988.

ADDRESS: Nominations must be in writing and submitted as follows.

1—Nominations sent via the U.S. Postal Service should be addressed to: Commissioner, Administration for Children, Youth and Families, P.O. Box 1182, Washington, DC 20013

2—Nominations delivered by hand or via a commercial delivery service should be addressed to: Commissioner, Administration for Children, Youth and Families, Room 5030, Donohoe Building, 400 6th Street, SW., Washington, DC 20024, (202) 755–7762.

FOR FURTHER INFORMATION CONTACT: Josephine Reifsnyder, Chief, Program Policy and Planning Branch, National Center on Child Abuse and Neglect, (202) 245–2860.

SUPPLEMENTARY INFORMATION:

A. Background

The Child Abuse Prevention, Adoption, and Family Services Act of 1988 (Pub. L. 100–294) was enacted April 25, 1988. It reauthorized several services programs including the Child Abuse Prevention and Treatment Act (the Act). Section 3 of the Act requires the Secretary to appoint an Advisory Board on Child Abuse and Neglect and publish a notice in the **Federal Register** soliciting nominations for the appointment of members from the general public to the Board.

The Act specifies the composition of the Board, the number of members, professional and other areas of representation, terms of office, meetings, duties, and compenstation of members. This information is provided below in order to solicit the nomination of highly qualified persons to the Board.

B. Composition of the Board

The Board must consist of 13 members from the general public and two Federal employees who are representatives of the Inter-Agency Task Force on Child Abuse and Neglect established under section 4 of the Act. Each member of the Board must be a person who is recognized for expertise in an aspect of the area of child abuse.

C. Representation on the Board

The public members must be individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research; appointed by the Secretary with due consideration to representation of ethnic or racial minorities and diverse geographic areas; and representatives of:

(1) Law (including the judiciary);

(2) Psychology (including child development);
(3) Social services (including child protective services);
(4) Medicine (including pediatrics);
(5) State and local government;
(6) Organizations providing services to disabled persons;
(7) Organizations providing services to adolescents;
(8) Teachers;
(9) Parent self-help organizations;
(10) Parents' groups; and
(11) Voluntary groups.

D. Terms of Office

Members must be appointed for terms of four years. However, of the members from the general public first appointed to the Board:
(1) Four shall be appointed for terms of 2 years;
(2) Four shall be appointed for terms of 3 years; and
(3) Five shall be appointed for terms of 4 years.
The terms of office shall be determined by the members from the general public during the first meeting of the Board.

E. Meetings

The Board shall meet not less than twice a year at the call of the chairperson.

F. Duties of Board Members

1. The Board must annually submit to the Secretary and the appropriate Committees of the Congress a report containing:
(a) Recommendations on coordinating Federal child abuse and neglect activities to prevent duplication and ensure efficient allocations of resources and program effectiveness; and
(b) Recommendations for carrying out the purposes of the Act.
2. The Board must annually submit to the Secretary and the Director of the National Center on Child Abuse and Neglect a report containing long-term and short-term recommendations on:
(a) Programs;
(b) Research;
(c) Grant and contract needs;
(d) Areas of unmet needs; and
(e) Areas to which the Secretary should provide grant and contract priorities under the Act.
3. The Board must annually review the budget of the National Center on Child Abuse and Neglect and submit to the Director a report concerning such review.

G. Compensation

1. Members of the Board, other than those regularly employed by the Federal government, while serving on business of the Board, may receive compensation at the rate not in excess of the daily equivalent payable to a GS–18 employee under section 5332 of title 5, United States Code, including travel time.
2. Members of the Board, while serving on business of the Board away from their homes or regular places of business, may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.
3. The Director may not compensate a member of the Board under this section if the member is receiving compensation or travel expenses from another source while serving on business of the Board.

H. Nominations

Nominations must be in writing and must include biographical information, vitae, the address and the telephone number of the nominee, as well as a brief description of relevant information to fulfill the requirements stated under sections B and C of this notice.

Dated: July 1, 1988.

Dodie Truman Borup,

Commissioner, Administration for Children, Youth and Families.

Dated: July 1, 1988.

Sydney Olson,

Assistant Secretary for Human Development Services.

[FR Doc. 88–15654 Filed 7–12–88; 8:45 am]

BILLING CODE 4130–01–M

National Institutes of Health

John E. Fogarty International Center for Advanced Study in the Health Sciences; Meeting

Notice of Meeting of the Fogarty International Center Advisory Board Pursuant to Pub. L. 92–463, notice is hereby given of the tenth meeting of the Fogarty International Center (FIC) Advisory Board, September 8, 1988, in the Stone House (Building 16), at the National Institutes of Health.

The meeting will be open to the public from 8:30 a.m. to 3:30 p.m. The morning agenda will include a Report by the Director of the FIC; a report on the meeting of the Advisory Committee to the Director, NIH, on the Health of Universities; a report on a meeting of the Latin American Network of Biological Sciences (LANBIO); a scientific presentation on international activities of one of the NIH research institutes; and a discussion of science policy studies of NIH's Office of Science and Policy and Legislation. The afternoon session will discuss recommendations of the FIC Program Planning Working Group and will include discussion of implementation plans and priorities.

In accordance with the provisions of sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 3:30 p.m. to adjournment for the review, discussion, and evaluation of research fellowship and training grant applications. These applications contain information of a proprietary nature, including detailed research protocols, designs, and other technical information; and personal information about individuals associated with the applications.

Myra Halem, Committee Management Officer, Fogarty International Center, Building 38A, Room 609, National Institutes of Health, Bethesda, Maryland 20892 (301–496–1491), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Coralie Farlee, Assistant Director for Planning and Evaluation, Fogarty International Center (Executive Secretary) Building 38A, Room 609, telephone 301–496–1491, will provide substantive program information.

Dated: June 29, 1988.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 88–15718 Filed 7–12–88; 8:45 am]

BILLING CODE 4140–01–M

Minority Biomedical Research Support Subcommittee of the General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Minority Biomedical Research Support Subcommittee (MBRSS) of the General Research Support Review Committee (GRSRC), Division of Research Resources (DRR), July 21–22, 1988, Building 31, Conference Room 9, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on July 22, from 8:30 a.m. to adjournment to discuss policy matters relating to the Minority Biomedical Research Support Program (MBRSP). Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on July 21, from 8:30 a.m. to 5 p.m. for the review,

discussion, and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B10, Bethesda, Maryland 20892, (301) 496–5545, will provide a summary of the meeting, and a roster of the committee members upon request. Dr. Lawrence J. Alfred, Executive Secretary, (301) 496–4390, will provide substantive program information upon request.

This notice is being published less than 15 days prior to the meeting date because of difficulty of coordinating attendance in order to assure a quorum.

(Catalog of Federal Domestic Assistance Program No. 13.375, Minority Biomedical Research Support, National Institutes of Health).

Dated: July 8, 1988.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 88–15719 Filed 7–12–88; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Research Resources Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council (NARRC), Division of Research Resources (DRR), on September 15–16, 1988, at the National Institutes of Health, Conference Room 6, Building 31C, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on September 15 from 9 a.m. until recess and from 8:30 a.m. until approximately 12:00 p.m. on September 16 during which time there will be discussions on administrative matters such as previous meeting minutes; the Report of the Director, DRR; and review of budget and legislative updates. There will be a presentation on the Biomedical Research Technology Program, led by Dr. Suzanne Stimler, Director, which will include several guest speakers. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on September 16 from approximately 12 p.m. until adjournment for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, DRR, Building 31, Room 5B10, National Institutes of Health, Bethesda, Maryland 20892, 301/496–5545, will provide a summary of the meeting and a roster of the Council members upon request. Dr. James F. O'Donnell, Deputy Director, DRR, Building 31, Room 5B03, National Institutes of Health, Bethesda, Maryland 20892, 301/496–6023, will furnish substantive program information upon request, and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biomedical Research Technology; 13.375, Minority Biomedical Research Support; 13.389 Research Centers in Minority Institutions, National Institutes of Health.)

Dated: June 29, 1988.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 88–15720 Filed 7–12–88; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Interagency Committee on Nutrition Monitoring; Announcement of Committee Formation

AGENCY: Office of the Assistant Secretary for Health, United States Department of Health and Human Services *and* Office of the Assistant Secretary for Food and Consumer Services, United States Department of Agriculture.

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services (DHHS) and the U.S. Department of Agriculture (USDA) announce the establishment of the Interagency Committee on Nutrition Monitoring on June 29, 1988. The committee, chaired by the Assistant Secretary for Health, DHHS, and the Assistant Secretary for Food and Consumer Services, USDA, has responsibility for increasing the overall effectiveness and productivity of national nutrition monitoring efforts.

FOR FURTHER INFORMATION CONTACT: Interagency Committee on Nutrition Monitoring Secretariat: Dr. Catherine Woteki, Division of Health Examination Statistics, National Center for Health Statistics, Centers for Disease Control, Federal Center Building 2, 3700 East-West Highway, Hyattsville, MD 20782, (301) 436–7068.

SUPPLEMENTARY INFORMATION: The Interagency Committee on Nutrition Monitoring (ICNM) is concerned with the operation of the National Nutrition Monitoring System (NNMS) as stated in the 1987 *Operational Plan for the National Nutrition Monitoring System*, and hence with: (1) All federally supported or conducted surveys on human nutrition and food consumption; (2) all federally supported or conducted surveillance of the food supply; and (3) professional personnel needs in nutrition monitoring. This includes nutritional status and related health measurements, food consumption measurements, dietary knowledge and attitudes assessment, food composition measurements, food supply determinations, and training professional personnel necessary to carry out nutrition monitoring. The activities of the Committee will be closely coordinated with those of the Interagency Committee on Human Nutrition Research to ensure complementarity in areas of mutual responsibility and interest, for example food composition data bases.

Purpose. The purpose of the ICNM is to increase the overall effectiveness and productivity of nutrition monitoring efforts, by working to achieve the goals stated in the 1987 *Operational Plan for the National Nutrition Monitoring System.* In fulfilling this purpose, the Committee will:

(a) Improve planning, coordination, and communication among Federal agencies engaged in nutrition monitoring;

(b) Facilitate the development and updating of plans for Federal programs to meet current and future domestic and international needs for nutrition monitoring information, including development of procedures for improving communication with users of nutrition monitoring data and responsibilities to their needs;

(c) Coordinate the collection, compilation, dissemination, and quality assurance of information on nutrition monitoring; and

(d) Prepare reports and make recommendations to the relevant

officials on special topics identified by the Committee.

Organization. The Co-Chairpersons of the ICNM are the Assistant Secretary for Health of the U.S. Department of Health and Human Services and the Assistant Secretary for Food and Consumer Services of the U.S. Department of Agriculture or the designees. The Secretariat will be provided by the Co-Chairpersons on a rotating basis, with the DHHS National Center for Health Statistics taking the first rotation.

In addition to the Co-Chairpersons, the Committee includes one representative each from the following agencies: National Center for Health Statistics, Centers for Disease Control (CDC), DHHS; Center for Health Promotion and Education, CDC, DHHS; Food and Drug Administration, DHHS; National Institutes of Health, DHHS; Human Nutrition Information Service, USDA; Agricultural Research Service, USDA; Food and Nutrition Service, USDA; Economic Research Service, USDA; Agency for International Development; Bureau of Labor Statistics, Department of Labor; Bureau of the Census, Department of Commerce; Department of Defense; and Veterans' Administration. Other Federal agencies may be invited to participate by the ICNM Co-Chairpersons. The Committee will meet at least three times a year.

Dated: July 7, 1988.

J.M. McGinnis,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), Department of Health and Human Services.

[FR Doc. 88-15653 Filed 7-12-88; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-88-1830]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). It is also requesting that OMB complete its review within seven days.

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including the number of respondents, frequency of responses, and hour of response; (8) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507, Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: July 7, 1988.

David S. Cristy,

Deputy Director, Information Policy and Management Division.

Submission of Proposed Information Collection to OMB

Proposal: Assessment of State and Regional PHA Delivery of Section 8 Assistance of Rural Areas.

Office: Housing.

Description of the Need for the Information and its Proposed Use:

The purpose of the survey is to provide HUD with information about: (1) The range of rural delivery systems adopted by state and regional PHAs administering Section 8 assistance; (2) their effectiveness in reaching the eligible population of rural areas; (3) the benefits accruing from various delivery systems and administrative structures; and (4) any problems, including regulatory obstacles, encountered in rural delivery. The information will be used as the basis of a report on findings, including identification of any particularly effective delivery models. The report will be used by HUD in planning rural voucher and certificate program activity.

Form Number: None

Respondents: State and Local Governments

Frequency of Submission: One-time

Reporting Burden:

Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
100 (PHAs)		1		.5		75

Total Estimated Burden Hours: 75
Status: New
Contact: Lark Stevens, HUD, (202) 755–6454; John Allison, OMB, (202) 395–6880

Date: July 7, 1988.

Supporting Statement—Assessment of State and Regional PHA Delivery of Section 8 Assistance of Rural Areas

A. Circumstances That Makes Collection of Information Necessary

Section 8 rental assistance, including vouchers and certificates, has recently become the prominent low-income rental resource administered by HUD. Little is known, however, about the methods by which this resource is delivered at the local level by multicounty or state housing authorities.

Recent collaborative work by HUD and the Housing Assistance Council has revealed that rural coverage by state and regional PHAs is quite extensive. Further, it appears that a variety of administrative structures and evolved to serve rural areas. These administrative structures include branch offices and subcontracts with local housing authorities, community action agencies, and for-profit management entitites, among other arranagements.

This type of information is potentially useful to policy and program planners at the federal, state, and local levels who are attempting to promote the use of Section 8 vouchers and certificates in rural areas and to improve delivery efficiency. However, much more needs to be known. What are the options in delivery systems? Which systems are used most by agencies with extensive rural participation? What problems in rural delivery have regional and state agencies encountered, and do these vary by type of administrative structure? What regulatory impediments to rural delivery have they encountered?

The instrument submitted for clearnace would permit development of a comprehensive data base designed to systematically address these questions. As the only such data base to date, it would greatly advance assessments of the potential participation of rural areas in the Section 8 voucher and certificate programs and offer guidance regarding effective approaches to rural resource delivery.

B. How, by Whom, and for What Purpose the Information is to be Used

The purpose of the research, and hence of the instrument for which clearance is requested, is to provide information about: (1) The range of rural delivery systems adopted by state and regional PHAs administering Section 8 assistance; (2) their effectiveness in reaching the eligible population of rural areas; (3) the benefits accuring from various delivery systems and administrative structures; and (4) any problems, including regulatory obstacles, encountered in rural delivery. The information will be used as the basis of a report on findings, including identification of any particularly effective delivery models. The report will be used by HUD in planning rural coucher and certificate program activity.

C. Use of Improved Information Technology to Reduce Burden

Improved information technology will be used to eliminate the need to include detailed questions on the degree to which jurisdictions served are rural, the demographic and housing characteristics of those jurisdictions, and the distribution of certificates and vouchers. Data on these fundamental variables have already been stored on computerized files within HUD's Office of Policy Development and Reserach, and will be used in analysis of survey responses.

In general, the remaining information sought through the instrument concerned cannot be obtained through improved information technology. It will, however, be electronically filed at HUD, and thus available for other program and policy analysis and reserach.

There are no situations in which legal or technical obstacles prevent the reduction of burden through use of improved information technology.

D. Efforts to Identify Duplication

Efforts were made to identify duplicatory activities. Staff of the Office of Policy Development and Research have met with those of the Office of Housing to compare planned survey activities. The instrument concerned here does not duplicate information sought in the survey instrument proposed by the Office of Housing or in any other instrument employed by HUD.

E. Why Similar Already Available Data Cannot be Used

There are no similar or already available data on rural Section 8 delivery approaches.

F. Efforts to Minimize Burden for Small Entities

Because they are more likely to be directly involved in direct (as opposed to subcontracted) resource delivery, and because they cover fewer and more homogeneous jurisdictions, smaller agencies should have relatively little difficulty in completing their responses.

This assumption is supported by results from a pretest involving one state and one regional agency. The regional housing authority director took "only a few minutes" to complete the questionnaire, in contrast with the hour taken by the state agency employee. The regional housing authority directly provides assistance to a cluster of counties with similar needs; the state housing authority channels its assistance through three types of subcontractors to jurisdictions with a variety of needs.

The instrument was designed to adapt to such differences in response capability, by directing respondents along different question paths as the complexity of the administrative structure demands. Small, centralized authorities are thus directed to skip questions which enabled other agencies to explain complex delivery structures.

G. Consequences of Less Frequent Data Collection

The survey has not been conducted before, and is intended for one-time use. Deletion of any components would result in the lack of information needed to address the issues summarized in Section A.

H. Circumstances Requiring Deviation From Guidelines in 5 CFR 1320.6

The proposed data collection plan is consistent with the guidelines set forth in 5 CFR 1320.6 (Controlling Paperwork Burdens on the Public—General Information Collection Guidelines). There are no circumstances which require deviation from the guidelines.

I. Consultation Outside the Agency

The research design, data collection instruments, and data collection plan were developed in 1987 and 1988 by HUD's Office of Policy Development and Research. It was assisted by the Housing Assistance Council, a subcontractor to the Office of Housing which provides rural housing predevelopment loans, technical assistance, and research services.

J. Arrangements and Assurances Regarding Confidentiality

To ensure repondent privacy, agency contacts will not be identified by name or position in any report made available to the public.

K. Sensitive Questions

There are no questions of a sensitive nature on the instrument proposed for use in this research.

L. Estimated Cost to the Federal Government and Respondents

The costs of conducting the survey and recording the responses will be covered by HUD's current contract with the Housing Assistance Council (providing for HAC to carry out some research and technical assistance tasks on request from HUD) and will not require new federal expenditures.

M. Estimated Respondent Burden

Estimates of respondent burden have been derived from a pretest and after consultation with data collection staff at the Housing Assistance Council. Over a six-week data collection period, it is anticipated that approximately 30 state and 70 regional housing authorities will complete the survey. (All state and regional PHAs providing certificate or voucher assistance in rural areas would be surveyed. A mailing list of such PHAs, with homes and phone numbers of contact persons has already been established.) A pretest suggests that the required response time will range from ten minutes to an hour, depending upon the size and complexity of the respondent agency. Only one response will be required from each respondent. Assuming that each state agency will take an hour and each regional agency as much as 15 minutes, the total annual respondent burden would be 47.5 hours, which we rounded to an estimated 50 hours (an average of half an hour per respondent).

N. Tabulation Plans, Statistical Analysis and Study Schedule

Data collected in this study will be computerized by HUD and provided to the Housing Assistance Council, which will cross-tabulate the data by type of agency, type of delivery structure, degree of ruralness (using 10 breakdowns along a rural/urban continuum established by the Economic Research Service of the U.S. Department of Agriculture), and demographic and housing characteristics, including number of income-eligible households.

No statistical technique more complex than cross-tabulation is planned for analysis.

The survey is proposed to be conducted over a six-week period after receipt of OMB approval; response filing would take about two weeks; analysis and preparation of a draft report would take about two months. Given no unforeseen problems, a final report is planned for completion in October 1988.

Appendix—Proposed Survey Instrument

Agency Name: _____
Contact Person: _____
Telephone: ( ) _____

1. How does your agency deliver Certificate and Housing Voucher assistance? (Check one.)
   [ ] Assistance is provided using subcontracts with other agencies, such as local housing authorities or community action agencies.
   [ ] Assistance is provided directly by the PHA, with no subcontracts. IF YOU CHECKED THIS BOX, GO DIRECTLY TO QUESTION 5 ON PAGE 2.
2. What types of agencies do you subcontract with? (Check as many as are applicable.)
   [ ] Local housing authorities
   [ ] Community action agencies
   [ ] Other non-profit corporations (please explain)

   _____

   [ ] Other (please explain) _____

   _____
3. Do you subcontract with more than one agency? ____ Yes ____ No
   IF YES:
   a. How many agencies do you subcontract with? ____
   b. Do the types of activities carried out by subcontractor agencies vary? ____ Yes ____ No
4. Typically, what types of activities does a subcontractor agency perform? (Check as many boxes as are applicable.)
   [ ] Taking applications
   [ ] Selecting families off waiting list
   [ ] Certifying/verifying family income
   [ ] Briefing families/issuing Certificates or Vouchers
   [ ] Counseling/support as families look for housing
   [ ] Inspecting housing
   [ ] Negotiating rents/rent reasonableness
   [ ] Reviewing the lease
   [ ] Processing assistance payments
   [ ] Counseling/support for families receiving payments
   [ ] Handling complaints (e.g., lease violations, damage claims)
   [ ] Processing annual recertifications of family eligibility
   [ ] Terminating assistance payments
   GO DIRECTLY TO QUESTION 8 ON PAGE 3.
5. Which best describes your delivery method? (Check one)
   [ ] Centralized, with one location (office) for administering Certificates and Housing Vouchers
   IF YOU CHECKED THIS BOX, GO DIRECTLY TO QUESTION 8 ON PAGE 3.
   [ ] Central office and branch offices maintained at the expense of the PHA (number of branch offices ____).
   [ ] Central office and out-stationed employees, but no branch offices maintained at the expense of the PHA.
   [ ] Other (please explain) _____

   _____
6. If you maintain branch offices:
   a. What types of activities are performed by the branch offices? (Check as many boxes as are applicable.)
   [ ] Taking applications
   [ ] Selecting families off waiting list
   [ ] Certifying/verifying family income
   [ ] Briefing families/issuing Certificates or Vouchers
   [ ] Counseling/support as families look for housing
   [ ] Inspecting housing
   [ ] Negotiating rents/rent reasonableness
   [ ] Reviewing the lease
   [ ] Processing assistance payments
   [ ] Counseling/support for families receiving payments
   [ ] Handling complaints (e.g., lease violations, damage claims)
   [ ] Processing annual recertifications of family eligibility
   [ ] Terminating assistance payments
   b. Do the branch offices perform other functions, besides administering Certificates and Housing Vouchers? ____ Yes ____ No
   If yes, please explain: _____

   _____
7. Do you have out-stationed staff (not in branch offices) who perform Certificate and Housing Voucher functions? ____ Yes ____ No
   IF NO, GO DIRECTLY TO QUESTION 8 ON THIS PAGE.
   IF YES:
   a. What types of activity are performed by out-stationed staff? (Check as many boxes as are applicable.)
   [ ] Taking applications
   [ ] Selecting families off waiting list
   [ ] Certifying/verifying family income
   [ ] Briefing families/issuing Certificates or Vouchers
   [ ] Inspecting housing
   [ ] Counseling/support as families look for housing
   [ ] Rent reasonableness/negotiating rents
   [ ] Reviewing the lease
   [ ] Expiration of Certificate or Voucher
   [ ] Processing assistance payments
   [ ] Counseling/support for families receiving payments
   [ ] Complaint handling
   [ ] Terminating assistance payments
   b. Do the out-stationed staff perform other functions besides

administering Certificates and Housing Vouchers? ___ Yes ___ No
If yes, please explain: _____

8. Regardless of the type of staff (i.e., whether PHA or subcontractor) who are performing housing quality inspections, what is the *minimum* and the *maximum* distance (one-way) that staff would normally travel to inspect housing? (Check one in each column.)

Minimum one-way distance	Maximum one-way distance
[ ] Under 10 miles	[ ] Under 10 miles
[ ] 10–25 miles	[ ] 10–25 miles
[ ] 26–50 miles	[ ] 26–50 miles
[ ] 51–100 miles	[ ] 51–100 miles
[ ] more than 100 miles	[ ] more than 100 miles
[ ] don't know	[ ] don't know

9. Attachment A provides an alphabetical list of non-metropolitan or rural counties that are served by your Certificate/Housing Voucher program. (The information is from HUD's files, and from a HAC survey performed last year.) On Attachment A, please:
   a. Add any rural/non-metro counties that you serve with Certificates or Housing Vouchers but are not listed.
   b. Draw a line through any counties that you are *not* serving (i.e., no Certificates or Housing Vouchers under lease.)
   c. If your PHA jurisdiction covers only part of a county, please draw a circle around the name of that county.
   d. Under the column headed "Unusual Family Difficulty" please indicate whether *families* have unusual difficulty finding housing and receiving assistance under the Certificate or Housing Voucher program. (Indicate yes or no.)
   e. Under the column headed "Unusual Administrative Difficulty" please indicate whether *your agency* (including any subcontractors, branch offices, etc.) has unusual difficulty administering Certificates or Housing Vouchers in terms of time, complexity, or cost. (Indicate yes or no.)
   f. Under the column headed "Average Travel Time," enter the *one-way travel time* (hours and minutes) that would normally be required for staff to perform a housing quality inspection in each county listed. In making the estimates, try to reflect the way that inspectors would *normally* travel (e.g., leaving from their home or office versus travelling from county to county).

10. Now please examine the counties for which you indicated in Attachment A that *families* have unusual difficulty. What kinds of difficulties affect families in these counties? Please place numbers in the boxes to indicate rank order, with [1] for the most serious problem [2] for the next most serious problem, etc. (Leave blank if not a problem.)
    [ ] Quality of available housing
    [ ] Willingness of landlords to participate
    [ ] Fair Market Rents or Payment Standard not high enough
    [ ] Discrimination against families based on race, size of household, sex of head of household or source of income
    [ ] Families that need help are over-income or otherwise ineligible to apply
    [ ] Other (please explain) _____

    [ ] Other (please explain) _____

11. Now please examine the counties for which you indicated that *your agency* has unusual difficulty administering Certificates and Housing Vouchers.
    What kinds of difficulties occur? Please place numbers in the boxes to indicate rank order, with [1] for the most serious problem, [2] for the next serious problem, etc. (Leave blank if not a problem).
    [ ] Travel cost to inspect housing or otherwise run the programs
    [ ] Reaching landlords or convincing them to participate in the programs
    [ ] Repairing housing units to pass housing quality inspections
    [ ] High turnover rate for families participating in the program
    [ ] Administrative fee not sufficient to cover costs
    [ ] Other (please explain) _____

    [ ] Other (please explain) _____

12. How could HUD rules or regulations be changed to make it easier to provide Certificate or Housing Voucher assistance in hard-to-serve counties?

Overview

All in all, what do you think would be the most effective administrative approach to rural delivery of Certificate and Housing Voucher assistance? (This is an open-ended question, so please feel free to *be creative*.)

ATTACHMENT A

HUD Code	County name	Unusual family difficulty? (Y or N)	Unusual agency difficulty? (Y or N)	Average travel time
		[ ]	[ ]	___ hr ___ min
		[ ]	[ ]	___ hr ___ min
		[ ]	[ ]	___ hr ___ min
		[ ]	[ ]	___ hr ___ min

[FR Doc. 88–15736 Filed 7–12–88; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–88–1829]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members

of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: July 7, 1988.

David S. Cristy,

Deputy Director, Information Policy and Management Division.

Submission of Proposed Information Collection to OMB

Proposal: Certification Pages for Settlement Statement
Office: Housing
Description of the Need for the Information and Its Proposed Use: HUD needs this information to verify the accuracy of the information included in the closing package and to eliminate errors commonly found in closing packages. HUD uses this information to ensure that the FHA insurance fund is properly credited and to ensure that the Department receives the correct information to maintain their records properly.
Form Number: HUD–9589
Respondents: Individuals or Households and Businesses or Other For-Profit
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Transmittal of closing information	70,000		1		.17		11,900

Total Estimated Burden Hours: 11,900
Status: Revision
Contact: David H. Patton, HUD, (202) 755–5832; John Allison, OMB, (202) 395–6880.

Date: July 7, 1988.

Proposal: Application for Multifamily Housing Projects and for Equity Loans (FR–2450)
Office: Housing
Description of the Need for the Information and Its Proposed Use: This information collection is comprised of basic application packages for HUD insurance of multifamily projects, hospitals, nursing homes, etc., under a variety of programs. HUD needs and use this information to insure equity loans to owners of certain low income projects.
Form Number: HUD–92013, 92013HOSP, and 92013NH–ICF
Respondents: Individuals or Households, State of Local Governments, Businesses or Other For-Profit, and Federal Agencies or Employees
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Multifamily Mortgage Insurance	350		1		64		22,400
Hospital Mortgage Insurance	1,300		1		2		2,600
Section N	1		1		1		1
Nursing Home Mortgage Insurance	150		1		64		9,600
Affirmative Marketing Plan	500		1		2		1,000
Application for Equity Loan	100		2		2		400

Total Estimated Burden Hours: 36,001
Status: Reinstatement
Contact: C. Edward Lewis, Jr., HUD, (202) 755–6223; John Allison, OMB, (202) 395–6880.

Date: July 6, 1988.

[FR Doc. 88–15737 Filed 7–12–88; 8:45 am]
BILLING CODE 4210–01–M

Office of the Secretary

[Docket No. N–88–1831]

Privacy Act of 1974; Proposed Amendment to a System of Records

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notification of a proposed amendment to an existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act system of records: HUD/DEPT–34, Pay and Leave Records of Employees.

EFFECTIVE DATE: This amendment shall become effective without further notice in 30 calendar days August 12, 1988, unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer, Telephone (202) 755–6374. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HUD/DEPT–34 contains information about the pay and leave records the Department maintains on its employees. The Department is amending the system of records to reflect two additional routine uses and the deletion of an existing routine use. The first additional routine use is for disclosure to the Department of Labor to assist in processing workers compensation injury claims under the Federal Employee's Compensation Act, 5 U.S.C. 8101 *et seq.* The other additional routine use is for disclosure to State governments, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands to assist in processing unemployment claims under the Unemployment Compensation for

Federal Employees Program, 5 U.S.C. 8501–8509. The routine use that is being deleted is for disclosure to the General Accounting Office. That routine use was made unnecessary by the addition of subsection (b)(10) of the Privacy Act in the 1982 amendments. The amended portion of the system notice is set forth below. Previously, a prefatory statement containing the general routine uses applicable to most of the Department's systems of records was published by the **Federal Register** in the Privacy Act Issuances, 1986 Compilation, Volume II. HUD/DEPT–34 was published for comment on March 7, 1988, at 53 FR 7242. A report of the Department's intention to amend this system was filed with the Speaker of the House, the President of the Senate, and the Office of Management of Budget on June 20, 1988.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; Section 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued At Washington, DC, July 8, 1988.

Judith L. Hofmann,

Assistant Secretary for Administration.

HUD/DEPT–34

SYSTEM NAME:

Pay and Leave Records of Employees.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other Routine Uses: Transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes. Annual reporting of W–2 statements to Internal Revenue Service, Social Security Administration, the individual, and taxing authorities of the States, the District of Columbia, territories, possessions, and local governments, except Social Security Numbers shall be reported only to such authorities that have satisfied the requirements set forth in Section 7(a)(2)(B) of the Privacy Act of 1974. To the Office of Personnel Management concerning pay, benefits, retirement deductions, and other information necessary for the office to carry on its Governmentwide personnel functions; to other Federal agencies to facilitate employee transfers; to the Department of Labor to process workers compensation injury claims; to other Federal agencies for the purpose of collecting debts owed to the Federal Government by administrative or salary offset; to the Federal Retirement Thrift Investment Board to administer the Thrift Savings Plan; to the Department of Agriculture's National Finance Center for payroll/personnel action, receipt account, time and attendance, and administrative overpayment processing; to the Department of Agriculture, Office of Inspector General, for audits of the payroll personnel system; to Federal, State, and local agencies to assist in the enforcement of child and spousal support obligations; to State governments, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands to assist in processing unemployment claims under the Unemployment Compensation for Federal Employees Program.

[FR Doc. 88–15738 Filed 7–12–88; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR120–6310–02: GP8–177]

Coos Bay District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Coos Bay District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579 and 43 CFR Part 1780 that a meeting of the Coos Bay District Advisory Council will be held on Tuesday, August 9, 1988, beginning at 8:00 a.m. The meeting will be held as a tour of a small portion of the Coos Bay District, departing from the BLM Coos Bay District Office.

Agenda: The agenda for the meeting will include:

1. A tour of certain BLM lands to show Council members various classifications of lands under the Timber Production Capability classification (TPCC) system.
2. Arrangements for the next meeting.

The meeting is open to the public and news media, but not transportation will be provided for either public or news media representatives. Interested persons may make oral statements to the council at 8:00 a.m. on Tuesday, August 9, before the tour departs, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager by close of business on Tuesday, August 2, 1988 (Telephone 503–269–5880).

ADDRESS: Bureau of Land Management, Coos Bay District Office, 333 South Fourth Street, Coos Bay, OR 97420.

Minutes of the meeting will be maintained at the District Office and made available during regular business hours (7:45 am. to 4:30 p.m.) for public inspection or reproduction at the cost of duplication.

Date: June 27, 1988.

Melvin E. Chase,

District Manager.

[FR Doc. 88–15728 Filed 7–12–88; 8:45 am]

BILLING CODE 4310–33–M

[UT 050–08–4322–14]

Grazing Advisory Board Meeting and Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: District Grazing Advisory Board Meeting & Tour.

SUMMARY: The Richfield District Grazing Board will hold a meeting and tour August 3, 1988. The meeting will start at 9:00 a.m. at the Area Office, 15 East 500 North, Fillmore, Utah. The tour will take place in the afternoon. The agenda will be:

1. Discussion of the New Grazing Regulations.
2. The District's Weed Program.
3. Range Improvement Update.
4. Grasshopper/Cricket Control Program.
5. Update on Henry Mountain Coordinated Resource Management Proposal.
6. Status of Wildhorse Program.
7. Proposed Grazing Decisions.
8. Management of Riparian Areas.

The field tour, scheduled for the afternoon upon completion of agenda items will be to review the clear spot range rehabilitation. Individuals wishing to go on the tour need to furnish their own tranportion.

Interested persons may make oral statements to the Board between 1:15 p.m. and 2:15 p.m. or file written comments from the Board's consideration. Anyone wishing to make an oral statement or participate on the tour must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 (801–896–8221). For further information contact: Bert Hart, District Public Affairs Specialist at the above address.

Neil Thomas,

Acting District Manager, Richfield District Office.

[FR Doc. 88–15627 Filed 7–12–88; 3:45 am]

BILLING CODE 4310–DQ–M

[OR-943-08-4220-11; GP-08-180; OR-21315]

Proposed Continuation of Withdrawal; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service proposes that an existing withdrawal continue for 20 years and requests that the land remain closed to mining and be opened to surface entry.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–231–6905.

SUPPLEMENTARY INFORMATION: The Forest Service proposes that the withdrawal made by the Secretarial Order of December 20, 1907 continue for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land involved is located in the Rogue River National Forest and contains 93 acres in T. 37 S., R. 4 E., W.M., Jackson County, Oregon.

The purpose of the withdrawal is to protect the Big Elk Administrative Site. The withdrawal currently segregates the land from operation of the public land laws generally, including the mining laws. The Forest Service requests no changes in the purpose or segregative effect of the withdrawal except that the land be opened to operation of the public land laws generally.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned oficer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: July 5, 1988.

B. Lavelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 88–15626 Filed 7–12–88; 8:45 am]

BILLING CODE 4310-33-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the Twentieth meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on August 3rd and 4th, 1988.

Among the most important agenda items are the forthcoming charges from the BIFAD to JCARD regarding: (1) The BIFAD Task Force on Environment and Natural Resources: Strategies for Sustainable Agriculture and (2) the forthcoming CRSP Triennial Reviews on Bean/Cowpeas, Soil Management, Aquaculture (Pond Dynamics and Fisheries and Stock Assessment.

JCARD will hold the August 3rd portion of the meeting, 1:30–5:00 pm in Room 1107, Department of State, 21st and C Street, Washington, DC 20523 and the August 4th, 9:00–11:30 am, portion of the Meeting also in the Department of State in Room. 3637. Any interested person may attend, may file written statements with the Committee before or after the meetings, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

It is suggested that those desiring further information write to Dr. Lynn Pesson, Executive Director, BIFAD Staff if desiring further information, in care of the Agency for International Development, BIFAD/S, Washington, DC 20523, or telephone him at (202) 647–79048.

Dated: June 30, 1988.

Lynn Pesson,

Executive Director, BIFAD/Staff.

[FR Doc. 88–15628 Filed 7–12–88; 8:45 am]

BILLING CODE 6116-01-M

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the Eighty-Ninth Meeting of the Board for International Food and Agricultural Development (BIFAD) on August 5, 1988.

The purposes of the Meeting are: (a) To discuss the BIFAD Charter, (b) to discuss Women in Development, (c) to hear a Report of the Task Force on Participant Training, (d) to hear a report on the proposed project evaluation procedure and (e) to take action on the recommendations of the budget panel.

The August 5, 1988 Meeting will be held in the Pan American Health Organization building, 525 Twenty-Third Street, NW Washington, DC 20037. Any interested person may attend and may present oral statements in accordance with procedures established by the Board and to the extent the time available for the meeting permits.

Curtis Jackson, Bureau of Science and Technology, Office of University Relations, Agency for International Development is designated as A.I.D. Advisory Committee Representative at this Meeting. It is suggested that those desiring further information write to Dr. Jackson, in care of the Agency for International Development, Rm. 309, SA–18, Washington, DC 20523, or telephone him on (703) 235–8929.

Dated: July 5, 1988.

Lynn Pesson,

Executive Director, BIFAD.

[FR Doc. 88–15629 Filed 7–12–88; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–267]

Certain Minoxidil Power, Salts and Compositions for Use in Hair Treatment; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, Deborah D. Sorkin, Esq., of the Office of Unfair Import Investigations 500 E St. SW, Washington, DC 20436, will be the Commission investigative attorney in the above-cited investigation instead of Jeffrey L. Gertler, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

Dated: July 5, 1988.

[FR Doc. 88–15733 Filed 7–12–88; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-No. 240X)]

CSX Transportation, Inc., Abandonment Between Big Pool and Tonoloway in Washington County, MD

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc. of 20.35 miles of track in Washington County, MD, subject to standard labor protection and certain environmental conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 12, 1988. Formal expressions of intent to file an offer [1] of Financial assistance under 49 CFR 1152.27(c)(2) and petitions to stay must be filed by July 25, 1988, and petitions for reconsideration must be filed by August 2, 1988. Requests for a public use condition must be filed by July 25, 1988.

ADDRESSES: Send pleadings referring to Docket No. AB–55 (Sub-No. 240X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative:
Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201
and
Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289–4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: July 6, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 88–15655 Filed 7–12–88; 8:45 am]

BILLING CODE 7035–01–M

[1] *See Exemption of Rail Line Abandonments or Discontinuance—Offers of Financial Assistance*, 4 I.C.C. 2d 164, (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440–48446).

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act; Sandidge, Inc. et al.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on June 24, 1988, a proposed consent decree in *United States v. Sandidge, Inc. et al,* Civil Action No. 87–2386, was lodged with the United States District Court for the District of Columbia. The proposed consent decree resolves a judicial enforcement action brought by the United States against Sandidge, Inc., Unity Construction, Inc. and Martin O. Sandidge for violations of the Clean Air Act.

The proposed consent decree requires the three defendants to comply with the notification provisions of the National Emission Standard for Hazardous Air Pollutants for asbestos, 40 CFR Part 61, Subpart M. The consent decree also requires the defendants to provide their employees with training, approved by the United States Environmental Protection Agency, in asbestos demolition and removal practices. Finally, the consent decree requires the defendants to pay a total penalty of $30,000 in several installments within one year of entry of the Decree by the Court.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Sandidge, Inc. et al,* D.J. Ref. 90–5–2–1–1128.

The proposed consent decree may be examined at the office of the United States Attorney, Judiciary Center Building, 555 Fourth Street, NW., Washington, DC 20001, and at the Region III office of the United States Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.60 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

James L. Byrnes,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–15625 Filed 7–12–88; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Companies Section) to the National Council on the Arts which was to have been held on July 18–22, 1988, from 9:00 a.m.–9:00 p.m., and on July 23, 1988, from 9:00 a.m.–5:00 p.m. in room M–07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 has been changed. It will be held on July 18–21, 1988 from 9:00 a.m.–9:00 p.m. and on July 22, 1988 from 9:00 a.m.–7:00 p.m.

If time permits, a portion of the meeting will be open to the public on July 22, 1988, from 3:00 a.m.–7:00 p.m. for a guidelines and policy issues discussion.

The remaining sessions of this meeting on July 18–21, 1988, from 9:00 a.m.–9:00 p.m., and on July 22, 1988, from 9:00 a.m.–3:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(b) of

section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

July 8, 1988.

[FR Doc. 88–15734 Filed 7–12–88; 8:45 am]

BILLING CODE 7537–01–M

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786–0322.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9) (B) of section 552 or Title 5, United States Code.

1. *Date:* August 1, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in American History and American Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

2. *Date:* August 2, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Comparative Literatures; Germanic, Slavic and Non-Western Literatures; and Literacy Theory and Criticism, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

3. *Date:* August 2–3, 1988.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Research, Scholarship and Graduate Education, submitted to the Office of Challenge Grants, for projects beginning after December 1, 1988.

4. *Date:* August 3, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Political Science, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

5. *Date:* August 4, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

6. *Date:* August 4, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

7. *Date:* August 4–5, 1988.
Time: 8:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for Museums and Historical Organizations, submitted to the Division of General Programs, for projects beginning after January 1, 1989.

8. *Date:* August 5, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in American History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

9. *Date:* August 5, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Anthropology, Sociology, Psychology and Education, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

10. *Date:* August 8, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers applications in Political Science, Law and Economics, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

11. *Date:* August 8, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Romance and Classical Languages and Literatures, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

12. *Date:* August 9, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholarships applications in European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

13. *Date:* August 9, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

14. *Date:* August 15, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships and Independent Scholars applications in Philosophy, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

15. *Date:* August 15, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in European History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

16. *Date:* August 16, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for University Teachers and Fellowships for College Teachers and Independent Scholars applications in Latin American and Non-Western History, submitted to the Division of Fellowships and Seminars.

17. *Date:* August 16, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in British Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

18. *Date:* August 17, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Religious Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

19. *Date:* August 17, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in American Literature and Studies; Literary Theory and Criticism; and Film Studies, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

20. *Date:* August 17, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in American Literature and Studies, Communications, Speech, and Media, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

21. *Date:* August 18, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers applications in Art History and Criticism, submitted to the Division of Fellowships and Seminars, for projects in January 1989.

22. *Date:* August 18, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College and Independent Scholars applications in Classical and Romance Languages, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

23. *Date:* August 19, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Fellowships for University Teachers and Fellowships for College Teachers and Independent Scholars applications in Music and Dance History and Criticism, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

24. *Date:* August 22, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in Sociology, Anthropology, Psychology and Education, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

25. *Date:* August 23, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in German, Slavic, and Oriental Languages and Literatures; Theater and Film; Linguistics, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

26. *Date:* August 24, 1988.
Time: 8:30 a.m. to 5:30 p.m.
Room: 316–2.
Program: This meeting will review Fellowships for College Teachers and Independent Scholars applications in English Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1989.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 88–15658 Filed 7–12–88; 8:45 am]
BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 and 50–249]

Commonwealth Edison Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to the Licenses and Technical Specifications in support of refueling and startup to the Commonwealth Edison Company (CECo, the licensee) for the Dresden Nuclear Power Station, Unit Nos. 2 and 3, located at the licensee's site in Grundy County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed action would amend the Technical Specifications to correct the discrepancy between the Table 3.2.2 value for the 4KV emergency bus undervoltage trip (3092V) and the current trip value (2930V). It has been determined that the value in Table 3.2.2 is not consistent with the engineering and design basis upon which the actual trip value is based.

This amendment request is consistent with the NRC letter dated March 25, 1988 granting a temporary waiver of compliance.

The Need for the Proposed Action

By letter dated March 28, 1988, the licensee requested review and approval of a change to the Technical Specifications to correct a discrepancy in Table 3.2.2. Should this approval not be granted, the Technical Specification would not be consistent with the design basis and existing relays and could possibly lead to a misinterpretation in the future.

Environmental Impacts of the Proposed Action

The proposed action corrects a number in Table 3.2.2 of the Technical Specification which is related to the degraded voltage on the 4KV emergency buses. Based on the staff's evaluation, the level of safety in the operation of the plant is equivalent to that anticipated when the license was granted. There is no signficant change in probability or consequence of a serious accident. Radiological releases will not differ from those determined previously and the proposed amendments do not otherwise affect facility radiological effluents or occupational exposures. The proposed amendments do not affect plant nonradiological effluents and have no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed amendments.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental

impact associated with the proposed exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the exemption would be to deny the amendment. Such action would not enhance the protection of the environment and would result in unjustifiable costs for the licensee.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Dresden, Units 2 and 3 dated November 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the Environmental Assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the NRC letter dated March 25, 1988 confirming a temporary waiver of compliance and the licensee's letter dated March 28, 1988. These letters are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Dated at Rockville, Maryland this 6th day of July 1988.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V, and Special Projects.

[FR Doc. 88–15686 Filed 7–12–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–334]

Duquesne Light Co. et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–66 issued to Duquesne Light Company, et al. (the licensee), for operation of the Beaver Valley Power Station, Unit 1, located in Beaver County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The proposed amendment changes Technical Specifications (TS) Section 4.2.1.4 to require determination of the flux difference by interpolating to the design end-of-life value, instead of interpolating to 0% at the end-of-life.

The proposed amendment is in accordance with Duquesne Light Company's application dated December 7, 1987.

The Need for the Proposed Action

The proposed change to the TS is needed since the revised method will provide a target flux difference that reflects actual core conditions more closely, and will aid the operators in maintaining reactor operation within allowable limits.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to Technical Specifications. The proposed revision would only improve calculation of the target flux difference, and would have no other effect on plant design or operation. Therefore, the proposed change does not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed change to the TS involves the reactor system which is located within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on February 2, 1988 (53 FR 2896). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would only continue to yield an operational parameter in a less accurate way than is actually possible.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Beaver Valley Power Station, Unit 1, dated July 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding Of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated December 7, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Dated at Rockville, Maryland, this sixth day of July, 1988.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88–15690 Filed 7–12–88; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Decay Heat Removal Systems; Revised Meeting

The ACRS Subcommittee on Decay Heat Removal Systems scheduled for July 20, 1988, has been *rescheduled for Wednesday, July 27, 1988, 8:30 a.m., Room 1046, 1717 H Street, NW., Washington, DC.* All other items pertaining to this meeting remain the same as published on Tuesday, July 5, 1988 (53 FR 25220).

Date: July 6, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88-15685 Filed 7-12-88; 8:45 am]

BILLING CODE 7590-01-M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 18, 1988 through June 30, 1988. The last biweekly notice was published on June 29, 1988 (53 FR 22396).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration and Resource Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By August 12, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the 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 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, 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.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station (PVNGS), Units 1, 2 and 3, Maricopa County, Arizona

Date of amendment request: May 27, 1988

Description of amendment request: The proposed amendment consists of changes to the Technical Specifications (Appendix A to Facility Operating License Nos. NPF-41, NPF-51, and NPF-74 for PVNGS Units 1, 2 and 3 respectively).

The proposed change will modify Technical Specification 3.2.3 to require that the measured Azimuthal power tilt be less than the allowance used in the Core Protection Calculators (CPCs) at all times. A wording change is also proposed for Surveillance Requirement 4.2.3.2 to refer to the Core Operating Limits Supervisory System (COLSS) as being "in service" or "out of service," as opposed to operable or inoperable.

In addition, the azimuthal power tilt limits with COLSS in service are increased for Unit 2 only. This would allow the operators to better mitigate the consequences of Xenon transients occurring below 40 percent power.

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; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee provided the following discussion of the proposed changes as they relate to these standards:

Standard 1 - Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated since the results of the Unit 2 Cycle 2 analysis incorporate the higher tilt values (with COLSS in service). This assures that there is sufficient margin in the safety analysis for the most limiting Design Basis Event.

The analyses performed included physics calculations for all reactivity insertion events for which the azimuthal power tilt is an explicit input. These analyses include Control Element Assembly (CEA) Ejection, Single Full-Length CEA Withdrawal, and Single Part-Length CEA Drop events.

For the remaining Design Basis Events there is sufficient conservatism in the increased azimuthal power tilt allowed below 40% power. At greater than 40% power the proposed limits are identical to the reference cycle (cycle 1) and are bounded by that analysis.

The generic change that requires that the measured azimuthal power tilt be less than the CPC allowance provides an additional restriction, therefore, the probability or consequences of an accident previously evaluated will not be increased.

Standard 2 - Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated

The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed T.S. Amendment only changes the azimuthal power tilt limits, and does not modify any plant equipment or operating procedures. The generic change that requires the measured azimuthal power tilt to be less than the azimuthal power tilt allowance used in the CPC's is more restrictive than the present T.S. requirement. The relaxation of the azimuthal power tilt limit for Unit 2 allows the operators to better mitigate xenon transients below 40% power. Therefore, the possibility of a new or different kind of accident from any previously evaluated will not be created.

Standard 3 - Involve a Significant Reduction in a Margin of Safety

The proposed change will not involve a significant reduction in a margin of safety since additional restrictions are being imposed to ensure that the azimuthal power tilt is less than or equal to the allowance used in the CPCs at all times. The results of the analyses assuming the higher tilt values assure that there is sufficient margin for the most limiting Design Basis Event. Therefore, the margin of safety will not be reduced.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis.

Accordingly, the Commission has proposed to determine that the above change does not involve a significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: Mr. George W. Knighton

Arkansas Power & Light Company, Docket No. 50-313, Arkansas Nuclear One, Unit 1, Pope County, Arkansas

Date of amendment request: June 10, 1988

Description of amendment request: The amendment would delete Figure 6.2-1, "Management Organization Chart"

(offsite), and Figure 6.2-2, "Functional Organization For Plant Operations."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated, (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 Arkansas Power & Light Company (AP&L) reviewed the proposed change and determined, and the NRC staff agrees, that:

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because deletion of the organization charts from the Technical Specifications does not affect plant operation. As in the past, the NRC will continue to be informed of organizational changes through other required controls. In accordance with 10 CFR 50.34(b)(6)(i) the applicant's organizational structure is required to be included in the Final Safety Analysis Report. Chapter 12 of the Final Safety Analysis Report provides a description of the organization and detailed organization charts. As required by 10 CFR 50.71(e), AP&L submits annual updates to the FSAR. Appendix B to 10 CFR Part 50 and 10 CFR 50.54(a)(3) govern changes to organization described in the Quality Assurance Program. Some of these organizational changes require prior NRC approval. Also, it is AP&L's practice to inform the NRC of organizational changes affecting the nuclear facilities prior to implementation.

(2) The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed change is administrative in nature, and no physical alterations of plant configuration or changes to setpoints or operating parameters are proposed.

(3) The proposed amendment does not involve a significant reduction in a margin of safety because AP&L, through its Quality Assurance programs, its commitment to maintain only qualified personnel in positions of responsibility, and other required controls, assures that safety functions will be performed at a high level of competence. Therefore, removal of the organization chart from the Technical Specifications will not affect the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination. 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: Tomlinson Library, Arkansas Technical University, Russelville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036

NRC Project Director: Jose A. Calvo

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: June 10, 1988

Description of amendment request: The amendment would delete Figure 6.2-1, "Management Organization Chart" (offsite), and Figure 6.2-2, "Functional Organization For Plant Operations."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated, (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 Arkansas Power & Light Company (AP&L) reviewed the proposed change and determined, and the NRC staff agrees, that:

(1) The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because deletion of the organization charts from the Technical Specifications does not affect plant operation. As in the past, the NRC will continue to be informed of organizational changes through other required controls. In accordance with 10 CFR 50.34(b)(6)(i) the applicant's organizational structure is required to be included in the Final Safety Analysis Report. Chapter 13 of the Final Safety Analysis Report provides a description of the organization and detailed organization charts. As required by 10 CFR 50.71(e), AP&L submits annual updates to the FSAR. Appendix B to 10 CFR Part 50 and 10 CFR 50.54(a)(3) govern changes to organization described in the Quality Assurance Program. Some of these organizational changes require prior NRC approval. Also, it is AP&L's practice to inform the NRC of organizational changes affecting the nuclear facilities prior to implementation.

(2) The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed change is administrative in nature, and no physical alterations of plant configuration or changes to setpoints or operating parameters are proposed.

(3) The proposed amendment does not involve a significant reduction in a margin of safety because AP&L, through its Quality Assurance programs, its commitment to maintain only qualified personnel in positions of responsibility, and other required controls, assures that safety functions will be performed at a high level of competence. Therefore, removal of the organization chart from the Technical Specifications will not affect the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination. 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: Tomlinson Library, Arkansas Technical University, Russelville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036

NRC Project Director: Jose A. Calvo

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Dates of application for amendments: March 13, 1987, as supplemented January 6, 1988 and March 10, 1988

Description of amendments request: The proposed amendments would change the Technical Specifications (TS) for Brunswick Steam Electric Plant, Units 1 and 2, with respect to the Jet Pump Surveillance Requirement 4.4.1.2.

Two cases of BWR/3 jet pump hold down beam failures during plant operation have occurred which have caused jet pump mixer displacement. In

both cases, significant recirculation system performance degradation occurred prior to beam failure (no failures involved BWR/4 beams). In response to these failures, General Electric (GE) investigated the occurrences and performed structural tests of both BWR/3 and BWR/4 beams. GE released its findings in Service Information Letter No. 330, Supplement 1 (SIL 330). The letter recommends that licensees with BWR/4 jet pump beam designs modify their surveillance requirements which when implemented would provide more reliable indications of jet pump performance. Thus, the proposed change to Surveillance Requirement 4.4.1.2, Jet Pumps, would revise the surveillance requirements to provide more reliable indications of jet pump performance, following the applicable guidance as discussed in SIL 330. This will be accomplished by providing new test criteria and by using deviations from established pump relationships, as an indication of potential problems, as opposed to using deviations from analytical evaluations, which is the current practice. Also, Surveillance Requirement Section 4.4.1.2 will be renumbered to 4.4.1.2.1 and Surveillance Requirement Section 4.4.1.2.2 is being added. Bases sections 3/4.4.2 and 3/4.4.3 which were inadvertently deleted in an earlier amendment and are now being reinserted.

Basis for proposed no significant hazard consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards in 10 CFR 50.92 and the licensee's findings are summarized below:

1. The proposed change does not increase the probability or consequences of an accident previously evaluated. The changes are enhancements to surveillance requirements to provide more reliable indications of jet pump operability. This change does not involve a design change or affect design basis accidents.

2. The proposed change would not create a possibility of a new or different kind of accident for an accident previously evaluated because it does not require a physical modification to the plant, nor a change in operation of the facility. Only surveillance requirements would be changed to be more restrictive, conforming to guidance provided in SIL 330.

3. The proposed change does not involve a significant reduction in the margin of safety, because the change in the surveillance program provides a more reliable indication of jet pump operability and thereby enhances the ability to detect degradation of jet pump performance. Based on this reasoning, the margin of safety would not be reduced.

Therefore, the licensee has determined that the proposed amendment meets the criteria of 10 CFR 50.92(c) and, thus, does not involve a significant hazards consideration.

The NRC Staff has reviewed the licensee's no significant hazards consideration and agrees with the licensee's analysis. Based on this review, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Elinor G. Adensam

Commonwealth Edison Company, Docket Nos. STN 50-237 and STN 50-249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of amendment request: April 28, 1988

Description of amendment request: The amendment would make the following three revisions to the existing Sections 3.1 and 4.1 of the Dresden Nuclear Power Station Units 2 and 3 Technical Specifications (TS):

1. Eliminate from Tables 3.1.1 and 4.1.1 and notes to Table 3.1.1 requirements associated with the Average Power Range Monitor (APRM) downscale scram (also referred to as the "APRM/IRM companion scram"). This also eliminates the IRM scram which occurs in the Run Mode with the simultaneous APRMs downscale scram.

2. Eliminate from Table 3.1.1. the bypass permissive in the main steam line high radiation scram which was inadvertently added in a previous amendment.

3. Reinsert in Table 3.1.1 the bypass permissive on the turbine control-loss of control oil pressure scram, when the first stage turbine pressure is less than that which corresponds to 45% rated steam flow, which was inadvertently deleted in a previous amendment. In addition, a typographical error in these sections has been corrected.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application as follows:

(1) The proposed amendment does not involve an increase in the probability or consequences of any previously evaluated accident. The accidents of concern with respect to the APRM/IRM companion scram (APRM downscale/IRM "high high" or inoperable trip) are the Rod Drop Accident (RDA) and the low power Rod Withdrawal Error (RWE). FSAR and reload safety analyses do not credit this scram function in the termination of either of these accidents. Since this scram function is not credited in the termination of these accidents, the elimination of this scram function in Tables 3.1.1 and 4.1.1 has no adverse effect on previously evaluated accidents.

The elimination from Table 3.1.1 of the Main Steam Line High Radiation (MSLHR) bypass permissive is conservative in that it will ensure that the original plant design requirements are met. This permissive was erroneously incorporated into the Technical Specifications but does not exist.

The reinsertion in Table 3.1.1 of the bypass permissive for loss of turbine control oil pressure is consistent with original plant design and construction. This change corrects an error in that the

bypass permissive was erroneously excluded from the Technical Specifications in previous amendments.

(2) The proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

The limiting accidents (i.e., RDA and RWE) in the operating region of transition between the Startup and Run Modes are well understood and are evaluated in FSAR and/or reload safety analyses. Elimination of the APRM Technical Specification requirement in Tables 3.1.1 and 4.1.1 for the downscales/IRM "high high" or inoperable trip does not introduce any new accident scenario since it is not credited in the termination of these limiting events. Other control rod initiated events which are less limiting in this region, such as fast period events (either due to operator error or control rod drive malfunction), are subsets of the low power RWE event and are bounded by both it and the Design Basis RDA. General Electric has indicated that, for reactivity insertion mechanisms at very low power (if postulated to occur coincident with an inappropriate mode switch position), the only effect of the deletion of the APRM downscale scram would be that the initial power level could be a few percent lower which would not have a significant effect on the severity of the event. In addition, proper overlap between the IRMs and APRMs is not affected since the calibration requirements are not being changed.

The elimination from Table 3.1.1 of the MSLHR bypass permissive is consistent with original plant design and FSAR requirements. This change is conservative and will ensure that the level of reactor protection is maintained at original design levels.

The reinsertion in Table 3.1.1 of the loss of turbine control oil pressure bypass permissive does not create any new accident scenario. This change is consistent with original plant design and was erroneously omitted from the Technical Specifications.

(3) The proposed amendment will not involve a significant reduction in the margin of safety.

The APRM downscale/IRM "high high" or inoperable trip function in Tables 3.1.1 and 4.1.1 is not credited in the termination of any FSAR or reload safety analysis event. As such, the elimination of this scram function has no effect on any Technical Specification defined safety margin.

The elimination of the MSLHR bypass permissive in Table 3.1.1 is conservative and will ensure that original plant design requirements are met. Since this change is conservative, it will provide an increase rather than a decrease in Technical Specification safety margins.

The loss of turbine control oil pressure bypass permissive in Table 3.1.1 was part of the original plant design. It was erroneously omitted from the Technical Specifications. As such, inclusion of this permissive does not decrease any Technical Specification defined safety margin.

The staff has reviewed the licensee's no significant hazards analysis given above. Based on this review, the staff proposes to determine that the proposed amendments meet the three 10 CFR 50.92(c) standards and do not involve a significant hazards consideration.

Local Public Document Room locations: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Michael I. Miller, Esquire, Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Leif J. Norrholm

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: May 9, 1988

Description of amendment request: Pursuant to 10 CFR 50.90, Commonwealth Edison Company (CECo) proposed to amend Appendix A, Technical Specifications (TS), to Facility Operating Licenses DPR-29 and DPR-30. The proposed changes would clarify the applicability of containment oxygen concentration and drywell torus differential pressure Limiting Conditions for Operation (LCO) and Surveillance Requirements. Additionally, the proposed changes would provide clearer action statements if the oxygen concentration or torus drywell differential pressure LCO's are exceeded. Similar changes were submitted for Dresden Station Units 2 and 3 on March 18, 1988. These changes have been patterned after the BWR Standardized TS.

Administrative and editorial changes to the TS LCOs and Bases were also proposed to enhance clarity, renumber and reformat for textual continuity, and maintain consistency between revised action statements and existing TS.

The intended purpose of an inerted containment (i.e. oxygen less than 4%) is to provide protection from the possibility of hydrogen combustion following a loss-of-coolant accident (LOCA). And, by maintaining the drywell suppression chamber differential pressure (DP) at 1.2 psid, integrity of the suppression chamber when subjected to post-LOCA hydrodynamic forces is assured.

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, (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. Pursuant to 10 CFR 50.91(a) the licensee has provided the following evaluation of their amendment application addressing these three standards.

CECo has evaluated the proposed Technical Specifications changes, and determined that they do not represent a significant hazards consideration. Based on the criteria for defining a significant hazards consideration established in 10 CFR 50.92(c), operation of QCNPS in accordance with the proposed changes:

(1) Will not involve a significant increase in the probability or consequences of an accident previously evaluated because the effects of short-term containment deinerting have been analyzed in the Final Safety Analysis Report (FSAR). Also, the torus has been analyzed for less than the TS required 1.2 psid as part of the QCNPS, Units 1 and 2, Plant Unique Analysis Report (Volume 2, "Suppression Chamber Analysis", Revision 0, May 1983) and was found to meet acceptance criteria. Power operation is presently permitted with containment oxygen concentration greater than 4% and/or drywell-suppression chamber DP less than 1.2 psid, only during the 24 hours after going to the RUN mode, and 24 hours prior to a scheduled reactor shutdown. The proposed change would permit 24 hours of power operation with the primary containment deinerted, and/or lack of drywell suppression chamber DP, independent of whether the reactor is in startup or shutdown. Personnel drywell entries at power are necessary to identify water leakage, effect minor repairs, and enable equipment lubrication. In general, drywell entries other than during startup are quite rare. Permitting time restricted personnel access into the deinerted drywell is judged prudent in terms of ensuring critical plant systems are maintained in optimum condition, without significantly

increasing the probability of a LOCA occurring during deinerted conditions. Similarly, LOCA probabilities have not been significantly changed for the restricted time allowed for reduced drywell-suppression chamber DP.

(2) Will not create the possibility of a new or different kind of accident from any accident previously evaluated because the effects of short-term deinerting have already been analyzed and described in the FSAR. Additionally, the torus was analyzed for 0.0 psid drywell to torus differential pressure as part of the Mark I containment Short Term Program and was found to meet acceptance criteria.

(3) Will not involve a significant reduction in the margin of safety because FSAR analyses have shown that for design basis accidents, the long term combustible gas control system (ACAD/CAM) can prevent a combustible gas mixture of 4% hydrogen even with a deinerted containment. Therefore, peak containment pressure is bounded by the FSAR LOCA analysis. The margin of safety for the torus drywell differential pressure is not degraded as a result of this change because analysis of the 0.0 psid drywell to torus differential pressure concludes that acceptable criteria were met. Therefore, the pressure suppression is maintained. Hence, the changes do not reduce the margin of safety.

The NRC staff ours after going to the RUN mode, and 24 hours prior to a scheduled reactor shutdown. The proposed change would permit 24 hours of power operation with the primary containment deinerted, and/or lack of drywell suppression chamber DP, independent of whether the reactor is in startup or shutdown. Personnel drywell entries at power are necessary to identify water leakage, effect minor repairs, and enable equipment lubrication. In general, drywell entries other than during startup are quite rare. Permitting time restricted personnel access into the deinerted drywell is judged prudent in terms of ensuring critical plant systems are maintained in optimum condition, without significantly increasing the probability of a LOCA occurring during deinerted conditions. Similarly, LOCA probabilities have not been significantly changed for the restricted time allowed for reduced drywell-suppression chamber DP.

(2) Will not create the possibility of a new or different kind of accident from any accident previously evaluated because the effects of short-term deinerting have already been analyzed and described in the FSAR. Additionally, the torus was analyzed for 0.0 psid drywell to torus differential pressure as part of the Mark I containment Short Term Program and was found to meet acceptance criteria.

(3) Will not involve a significant reduction in the margin of safety because FSAR analyses have shown that for design basis accidents, the long term combustible gas control system (ACAD/CAM) can prevent a combustible gas mixture of 4% hydrogen even with a deinerted containment. Therefore, peak containment pressure is bounded by the FSAR LOCA analysis. The margin of safety for the torus drywell differential pressure is not degraded as a result of this change because analysis of the 0.0 psid drywell to torus differential pressure concludes that acceptable criteria were met. Therefore, the pressure suppression is maintained. Hence, the changes do not reduce the margin of safety.

The NRC staff has reviewed the licensee's evaluation related to the proposed changes and concurs with their conclusions.

In addition the aforementioned administrative and editorial TS changes described above are considered representative of example (i) in the Commission's guidance (51 FR 7751) for examples of no significant hazards, which is defined as "a purely administrative change to TS; for example a change to achieve consistency throughout the Technical Specifications, correction of an error, or change in nomenclature."

Therefore the NRC staff proposes to determine that these amendment requests do not involve significant hazards considerations based upon a preliminary review of the application, the licensee's evaluation of no significant hazards, and NRC guidance.

Local Public Document Room location: Dixion Public Library, 221 Hennepin Avenue, Dixion, Illinois 61021.

Attorney for licensee: Michael Miller, Esquire; Sidley and Austin, One First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: Daniel R. Muller, Director

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: December 2, 1986, as supplemented on November 9, 1987, and January 15, 1988.

Description of amendment request: In accordance with the requirements of 10 CFR 73.55, the licensee submitted amendments to the Physical Security Plan for the Oconee Nuclear Station, Units 1, 2, and 3 to reflect recent changes to that regulation. The proposed amendments would modify paragraph 3F. of the Facility Operating Licenses Nos. DPR-38, DPR-47, and DPR-55 to require compliance with the revised Plan.

Basis for proposed no significant hazards consideration determination: On August 4, 1986 (51 FR 27817 and 27822), the Nuclear Regulatory Commission amended Part 73 of its regulations, "Physical Protection of Plants and Materials," to clarify plant security requirements to afford an increased assurance of plant safety. The amended regulations required that each nuclear power reactor licensee submit proposed amendments to its security plan to implement the revised provisions of 10 CFR 73.55. The licensee submitted its revised plan to satisfy the requirements of the amended regulations. The Commission proposes to amend the licenses to reference the revised Plan.

In the Supplementary Materials accompanying the amended regulations, the Commission indicated that it was amending its regulations "to provide a more safety conscious safeguards system while maintaining the current levels of protection" and that the "Commission believes that the clarification and refinement of requirements as reflected in these amendments is appropriate because they afford an increased assurance of plant safety."

The Commission has provided guidance concerning the application of the criteria for determining whether a significant hazards consideration exists by providing certain examples of actions involving no significant hazards considerations and examples of actions involving significant hazards considerations (51 FR 7750). One of these examples of actions involving no significant hazards considerations is example (vii) "a change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." The changes in this case fall within the scope of the example. For the foregoing reasons, the Commission proposes to determine that the proposed amendments involve no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Bishop, Lieberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-424, Vogtle Electric Generating Plant, Unit 1, Burke County, Georgia

Date of amendment request: June 7, 1988

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 4.8.4.2, "Safety-Related Motor-Operated Valves Thermal Overload Protection and Bypass Devices." The revision would change the surveillance requirement to verify that required thermal overload protection bypass devices are operable from "At least once per 18 months during shutdown" to "At least once per 18 months."

Basis for proposed no significant hazards consideration determination: The requested change allows verification of safety-related valve motor operator thermal overload protection bypass devices to be performed during any mode of plant operation. The nature of the surveillance activity does not require that it be limited to shutdown modes.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; 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 regard to the proposed amendment, the licensee has determined the following:

(1) The proposed change does not significantly increase the probability or consequences of previously evaluated accidents. Performance of the subject surveillance requirement during modes other than shutdown does not affect operation of the applicable valves since no manipulation of the bypass devices is involved. Operation or mitigation of previously evaluated accidents is, therefore, not adversely affected by the change. The probability and consequences of such accidents are therefore not increased.

(2) The proposed change does not create the possibility of a new or different kind of accident than any accident previously evaluated. The change affects only the operating mode in which a surveillance requirement may be performed. Performance of the surveillance during power operation does not introduce a new failure mode since the surveillance consists of a visual inspection only. The change does not introduce any new equipment into the plant or require any existing equipment to be operated in a different manner from which it was designed to operate. Since no new mode of failure is created, a new or different kind of accident could not result.

(3) The proposed change does not significantly reduce a margin of safety. The change does not reduce the frequency of the subject surveillance activity or decrease the effectiveness of the surveillance test. The change does not affect operation of the thermal overload protection bypass devices. The change does not affect any safety limit or limiting safety system setting. Margins of safety are therefore not reduced.

The NRC staff has reviewed the licensee's determination and concurs with its findings.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards considerations.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Chandler Building, Suite 1400, 127 Peachtree Street, N.E., Altanta, Georgia 30043.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-424, Vogtle Electric Generating Plant, Unit 1, Burke County, Georgia

Date of amendment request: June 14, 1988

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 6.3, "Training." The revision would include changing a training requirement from 10 CFR 55 Appendix A to 10 CFR 55.59 in accordance with a recent revision to 10 CFR 55. The revision would also allow an accredited program endorsed by the NRC to satisfy training requirements in lieu of the training requirements specified in TS 6.3.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; 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 regard to the proposed amendment, the licensee has determined the following:

(1) The proposed change does not significantly increase the probability or consequences of an accident previously evaluated. This change allows recognition of a training program that has received an NRC endorsement or approval. Since the plant operating staff will be "approved," the probability of any previously evaluated accident is not affected. The consequences of previously analyzed accidents are not significantly increased.

(2) The proposed change does not create the possibility of a new or different kind of accident than any accident previously evaluated. The plant operating staff is still subject to an NRC approved program. A new or different failure mode should not result from the training given to the operating staff.

(3) The proposed change does not involve a significant reduction in the margin of safety. Plant operations personnel, both before and after the change, operated the plant subject to NRC review and approval of their training. In this case, the NRC is approving or endorsing a performance based training program. Safety margins are therefore not reduced since the operation training program is still subject to NRC review and approval.

The NRC staff has reviewed the licensee's determination and concurs with its findings.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards considerations.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Attorney for licensee: Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Chandler Building, Suite 1400, 127 Peachtree Street, N.E., Altanta, Georgia 30043.

NRC Project Director: David B. Matthews

Illinois Power Company, Docket No. 50-461, Clinton Power Station, Unit 1, Dewitt County, Illinois

Date of application for amendment: February 5, 1988

Description of amendment request: This proposed amendment would revise Technical Specification Section 3.3.2 (Tables 3.3.2-1 and 4.3.2.1-1). Technical Specification 3.3.2 requires the Containment Building Fuel Transfer Pool Ventilation Plenum Radiation Monitors (1RIX-PROO8A-D) to be operable when handling irradiated fuel in primary or secondary containment, during core alterations and operations with a potential for draining the reactor vessel (note ""), and during operational conditions 1, 2, and 3 (Power Operation, Startup and Hot Standby, respectively). Illinois Power Company has requested that this Technical Specification be changed to be consistent with the intended purpose of these monitors by only requiring operability when handling irradiated fuel in the primary containment (building) during core alterations and operations with the potential for draining the reactor vessel. Action 29 associated with operational conditions 1, 2, 3 should also be deleted.

Illinois Power Company has stated that the function of monitoring containment exhaust air under all normal operating conditions is adequately performed by two fully redundant safety-grade radiation monitoring systems. Thus, the radiation monitors (1RIX-PR008A-D) are not required for the purpose of monitoring containment exhaust air during conditions other than when fuel handling is in progress. Maintaining these instruments operable is relatively labor intensive; requiring these monitors to be operable when no fuel handling is in progress takes resources away from other tasks.

Basis for proposed no significant hazards consideration determination: The staff has evaluated the proposed amendment and determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the 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.

This proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated nor does it alter the intent or implementation of the applicable Technical Specifications since the affected radiation monitor will supply the necessary containment isolation signals following a fuel handling accident inside the containment building. Other designated radiation monitors are the primary instruments for initiating a containment isolation during operating conditions 1, 2, and 3. Operability of these instruments is not affected by this change.

This proposed change does not create the possibility of a new or different kind of accident from any previously evaluated, nor does it affect plant design or operation. This proposed change involves changing the operability requirements only for the noted monitor. The monitor will be required to be operable only when it is needed to perform its design function consistent with the accident (fuel handling accident inside the primary containment building) for which its response is required. No other changes in plant operation are required. This change will make the Technical Specifications reflect the actual plant design and will not change the plant's physical configuration.

The proposed change does not involve a significant reduction in a margin of safety because while in operating conditions 1, 2 and 3, sufficient redundant process radiation instrumentation is available to initiate a containment isolation when a high radiation condition exists. The proposed change does not impact the operability or trip setpoints for these instruments.

For the reasons stated above, the staff believes this proposed amendment involves no significant hazards considerations.

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Attorney for licensee: Sheldon Zable, Esq., of Schiff, Hardin & Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606.

NRC Project Director: Leif J. Norrholm

Illinois Power Company, Docket No. 50-461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: February 5, 1988

Description of amendment request: This proposed amendment would revise Technical Specification Sections 6.2.2 and 6.5.3. The proposed change is an administrative change which would replace the position title of "Power Plant Manager" with "Manager-Clinton Power Station." On pages 6-2, 6-13 and 6-14 the position title of "Power Plant Manager" is used several times. The correct title as used in the rest of the Technical Specifications and in Chapter 13 of the Final Safety Analysis Report (FSAR) is "Manager-Clinton Power Station." These pages should be revised to incorporate the correct title and achieve consistency throughout the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no signficant hazards considerations if operation of the facility in accordance with the 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.

This proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because this change does not affect any previous analyses nor does it alter the intent or implementation of the applicable Technical Specifications. The purpose of this administrative change is to achieve textual consistency between the FSAR and the Technical Specifications.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. The proposed change is administrative in nature and thus does not affect the plant design or operation.

The proposed change does not involve a significant reduction in a margin of safety. The proposed change is administrative in nature and thus does not alter the intent of the existing Technical Specification requirements. The proposed change does not impact plant design and therefore does not affect a margin of safety.

For the reasons stated above, the staff believes this proposed amendment involves no significant hazards considerations.

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Attorney for licensee: Sheldon Zable, Esq., of Schiff, Hardin & Waite, 7200

Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606.

NRC Project Director: Leif J. Norrholm

Illinois Power Company, Docket No. 50-461, Clinton Power Station, Unit 1, DeWitt County Illinois

Date of application for amendment: February 5, 1988

Description of amendment request: This proposed amendment would revise Technical Specification Tables 3.3.2-1 and 3.3.3-1. The proposed change is an administrative type of change to add clarifying information to the existing Clinton Power Station instrumentation Technical Specifications.

One proposed change is requested to clarify the divisional assignment for the reactor vessel water level and drywell pressure instruments listed on Technical Specification Table 3.3.2-1, items 1.c and 1.f, and Table 3.3.3-1, items C.1.a, C.1.b and C.1.c. This is consistent with other instrumentation for which the divisional assignment was specified (items 1.b and 1.e of Table 3.3.2-1) and helps to emphasize that some of the instrumentation for High Pressure Core Spray System (HPCS) is associated with two divisions. Another proposed change would provide clarification of the combinational logic scheme for the Reactor Vessel Water Level-Low, Low Level 2 and Drywell Pressure-High channels (Table 3.3.2-1, items 1.c and 1.f, and Table 3.3.3-1, items C.1.a and C.1.b.). This enhancement is requested to ensure that the corresponding action statements are properly followed if one or more of the affected channels is declared inoperable.

Basis for proposed no significant hazards consideration determination: The staff has evaluated this proposed amendment and determined that it involve no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect any previous analyses nor do they alter the intent or implementation of the applicable Technical Specifications.

The proposed changes to Tables 3.3.2-1 and 3.3.3-1 are administrative changes that clarify but do not change the intent of the Specifications. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated. The proposed changes to Tables 3.3.2-1 and 3.3.3-1 are limited to the clarification of existing requirements and thus do not involve any design changes, new requirements, or new modes of operation.

The proposed changes do not involve a significant reduction in a margin of safety. The intent of the existing Technical Specification requirements would remain unchanged.

The proposed changes to Tables 3.3.2-1 and 3.3.3-1 are administrative changes that do not affect a margin of safety.

For the reasons stated above, the staff believes this proposed amendment involves no significant hazards considerations.

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Attorney for licensee: Sheldon Zable, Esq., of Schiff, Hardin & Waite, 7200 Sears Tower, 233 Wacker Drive, Chicago, Illinois 60606.

NRC Acting Project Director: Leif Norrholm

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: March 31, 1988 as supplemented by letter dated June 2, 1988.

Description of amendment request: The proposed amendment would change the Technical Specifications for hydrogen analyzers to replace the 31 day Channel Functional Test and the 92 day Channel Calibration with a Channel Calibration Test at least once per 31 days.

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 7751) of amendments that are not likely to involve a significant hazards consideration. One of these examples, (ii), involves a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications. The proposed amendment, as supplemented by the licensee's June 2, 1988 letter, is directly related to this example in that the proposed 31 day Channel Calibration encompasses the 31 day Channel Functional Test; is performed on an increased frequency (31 days) than the previous requirement of every 92 days, and is, therefore, more restrictive. On this basis, the staff proposes to determine that the changes do not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: May 4, 1988

Description of amendment request: The proposed amendment would change the Technical Specifications on Engineered Safety Features Actuation System Instrumentation as it relates to actions required for loss of one and loss of two relays that protect against loss of voltage and/or degraded voltage on the 4.16 kv Emergency Bus and 480 v Emergency Bus undervoltage circuits. With the loss of a relay, operation may continue for 48 hours if the relay is placed in a tripped condition. Surveillance requirements are for daily testing of the circuits; however, under the current design and technical specifications this cannot be done and the full 48-hour action time would not be available for repair. The change would continue to allow the 48-hour action time and subsequently the declaration of that associated diesel generator as being inoperable. The appropriate action on the diesel generator would be followed which would lead to the desired action and protection as if the relay circuits were lost.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The undervoltage circuitry is designed to start the emergency diesel generators (EDG's) on bus undervoltage. Failure of the direct current (DC) relays to perform their intended function would prevent the associated EDG from starting on undervoltage. The proposed change would revise Action 17 of Table 3.3-3 such that the affected EDG would be declared inoperable at the end of the 48-hour period. The actions for an inoperable diesel generator would then apply. Action 18 will be added for those conditions in which the relay in Action 17 cannot be placed in the trip condition within 1 hour, and for conditions in which more than one DC relay is inoperable.

The proposed change would also waive the daily surveillance requirements for the DC relays specified in Table 4.3-2 while operating within the revised Action 17. The intent is to allow, as before, 48 hours to return the inoperable relay to service. The 24-hour surveillance frequency being waived would inappropriately, if not changed, place Waterford 3 in Tech Spec 3.0.3 before the end of the 48 hours allotted because of system design and test mode. This change would result in the waiver of one or at most, two Channel Functional Tests and would apply only when one relay is placed in the trip condition. This delay in the Functional Tests would be insignificant during the period when efforts are underway to return the relays to operable. Should a problem result in which the operability of more than one DC relay is in question, the EDG is immediately declared inoperable and the daily surveillance waiver does not apply. Thus the change would not significantly increase the probability or consequences of any accident previously evaluated.

The proposed changes are consistent with system design and Tech Spec philosophy. No component changes are being made as a result of the proposed change. Since the ability of the EDG's to start on bus undervoltage continues to be assured, the proposed change does not create the possibility of a new or different kind of accident.

The undervoltage circuitry is designed to start the EDG on bus undervoltage. The proposed change will relate the operability of the DC relays to the operability of the EDG's. The proposed change is consistent with system design and the intent of the current technical specification and, therefore, will preserve the safety function of the EDG's. The request to waive the daily surveillance requirements while complying with proposed Action 17 will not affect operability of the remaining DC relays and is equivalent to the intent of the present requirements. Therefore, the proposed change does not involve a significant reduction in a safety margin.

Based on the above, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: May 27, 1988

Description of amendment request: The proposed amendment would change the Technical Specification requirements for control element assembly drop times from 3.0 seconds to 3.2 seconds. The facility passed the tests, all rods dropped within 3.0 seconds, at the conclusion of the refueling outage and the emergency request was not implemented.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The proposed change to increase the control element assembly (CEA) drop time from 3.0 to 3.2 seconds is a change in the acceptance criteria only and does not involve any change in plant configuration. All accidents previously analyzed were evaluated for significance of the impact and were determined to be either unrelated to CEA drop time consideration or not significantly impacted. The conclusions were based largely on the demonstration of significant conservatism within the analytical inputs such that the effects of the increased CEA drop time were shown to be offset. Several cases required an increase in the Core Protection Calculator departure from nucleate boiling ratio (DNBR) power uncertainty multiplier which effectively provides for a quicker reactor trip in response to this event, thus offsetting the larger CEA drop times. Since the increase in the allowable CEA drop time does not involve a change in plant configuration and the evaluation of the affected analyses demonstrated that the consequences remain unchanged or are bounded, the proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed change does not involve any new or modified structure, systems, or components; rather it affects only an acceptance criteria for confirming the required performance of the existing CEA hardware. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The margins of safety related to CEA drop times are defined in the analyzed events which credit their insertion time. The evaluation of each affected analysis confirmed the previously accepted results were either preserved or not significantly affected. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, the Commission proposed to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: June 7, 1988

Description of amendment request: The proposed amendment would change the Technical Specifications for the Reactor Coolant Flow-Low trip to allow the operator to bypass the trip below 10 *% of Rated Thermal Power.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed

amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The proposed amendment to allow the operator to bypass the Reactor Coolant Flow-Low trip below 10^{-4}% of Rated Thermal Power involves consideration of the reactor coolant pump sheared shaft accident at very low power. The trip is required in Modes 1 and 2 to minimize possible fuel failures should the power level be sufficient to exceed the Departure from Nucleate Boiling Ratio (DNBR) limits. Below 10^{-4}% of Rated Thermal Power, the potential for exceeding the DNBR in the sheared shaft accident is not a concern and the licensee proposed to install a bypass which would also automatically reinstate the trip if power exceeded the 10^{-4}% level. The accident previously analyzed would still be applicable and analyzed at power levels of concern, therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously analyzed.

The low flow trip is to minimize the amount of fuel failure in the event of a sheared shaft where DNBR is a concern. Below the 10^{-4}% of Rated Thermal Power, exceeding DNBR limits is not a concern and the trip is no longer required to protect for the sheared shaft event. The trip will be automatically reinstated but by bypassing the trip at the low power levels, the proposed change will not create the possibility of a new or different accident than previously analyzed.

The safety margin for the sheared shaft accident below the 10^{-4}% Rated Thermal Power does not depend on the low flow trip to protect against fuel failures or exceeding the DNBR limits. The proposed change, therefore, does not involve a significant reduction in a margin of safety.

Based on the above, the Commission proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: April 22, 1988

Description of amendment request: The proposed amendment to the Technical Specifications will remove the requirement to monitor temperatures at the reactor vessel bottom head drain during heat-up/cooldown and during operation with the core critical. It is also proposed to add a provision to Technical Specification 4.6.B.3 to allow for up to 48 hours without recording the temperatures of the vessel shell or fluid, as specified in Technical Specification 4.6.A.1, to conduct maintenance on the monitoring equipment, provided that no heat-up or cooldown evolution is in progress.

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 determined and the NRC staff agrees that the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of any accident previously evaluated.

The monitoring of temperatures at the vessel bottom head and the other locations stated in Specification 4.6.A.1 assures the necessary monitoring of the temperatures at all the critical locations of the reactor vessel is being provided. Therefore, temperature at the bottom head drain need not be monitored. The monitored locations provide the temperature measurement necessary to assure operation at or to the right of the operating limit curves on Figures 3.6.2 and 3.6.3 of the Technical Specifications. The deletion of the requirement to monitor the bottom head drain and the proposed provision to allow for up to 48 hours without temperature measurement recording capability do not involve an increase in the probability of reactor vessel failure.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

This change, which involves a change in reactor vessel shell temperature monitoring location requirements, does not modify the plant response for any transient, accident or operational event. There are no failure modes associated with this proposed change which could represent a new unanalyzed accident. Reactor vessel/primary system boundary integrity with respect to nil ductility transition temperature (NDT) concerns is assured by monitoring the locations specified in Technical Specification 4.6.A.1.

3. Involve a significant reduction in a margin of safety.

This change does not impact the basis of the Technical Specifications (i.e., does not impact the margin of safety) since the monitored points provide sufficient temperature measurement to assure operation with the entire reactor vessel/primary system boundary at or to the right of the operating limit curves in Figures 3.6.2 and 3.6.3.

Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: April 29, 1988

Description of amendment request: By application for license amendment dated April 29, 1988, Northeast Nuclear Energy Company, et al. (the licensee), requested changes to the Technical Specifications (TS) for Millstone Unit 2. The proposed change to the TS would allow a decrease in the boron concentration of the water contained in the Boric Acid Storage Tanks (BASTs). The following TS would be changed:

Specification 3/4.1.2.1 Boration Systems Flow Paths - Shutdown

The requirement for operability of heat tracing would be deleted from the LCO.

The seven-day surveillance to verify that heat traced portions of the boric acid system are at an acceptable temperature would be replaced with a 24-hour surveillance to ensure that each BAST and piping contents are above 55° F.

Specification 3/4.1.2.2 Boration Systems Flow Paths - Operating

Existing Specification 3.1.2.2.1 (Modes 1 and 2) and 3.1.2.2.2 (Modes 3 and 4) and their associated surveillance requirements would be incorporated into one new specification. The LCO for this specification requires that sufficient boric acid redundant flow paths are available to perform boration of the

reactor coolant system (RCS) from the BAST(s) and the refueling water storage tank (RWST).

Redundant flow paths from the BAST to the charging pump suction would be assured by the requirement to have an operable boric acid pump and gravity feed valve available for each tank which is used as a source. The flow path from the RWST to the charging pumps is required to be operable in Modes 1, 2, 3, and 4. The surveillance requirement to demonstrate operability of the heat tracing would be deleted. A surveillance requirement to verify at least once per 24 hours that the temperature of the BASTs and piping is above 55° F would be added.

Specification 3/4.1.2.7 Borated Water Sources - Shutdown

In Specification 3.1.2.7.b, the volume of water required in the RWST would be increased by 300 gallons.

Specification 4.1.2.7 would increase the frequency of the solution temperature verification for the BASTs from once per seven days to once per 24 hours.

Specification 3/4.1.2.8 Borated Water Source - Operating

Technical Specification 3.1.2.8.a would be modified to permit operations with a variety of BAST volume, tank selections, and BAST boron concentration and would require that the RWST be operable with a minimum contained volume of 370,000 gallons of water and a minimum boron concentration of 1720 ppm.

Specification 4.1.2.8 would be modified to change the surveillance requirement for the BAST concentration from once per seven days to once per 24 hours.

Basis for proposed no significant hazards consideration determination: Millstone Unit 2 utilizes a concentrated boric acid system to control reactor core reactivity, independently of the control rods. A concentrated boric acid solution (approximately 6.25 weight percent boric acid) is stored in two 870 ft^3 boric acid storage tanks (BASTs). Each BAST is equipped with a pump, and an alternate gravity feed system, to supply concentrated boric acid to the charging pumps and then into the reactor via the charging system. Since the solubility of boric acid is temperature sensitive, all piping that contains concentrated boric acid must be heated, via "heat tracing", to prevent the temperature of the pipe from decreasing to a point where boric acid precipitation and subsequent flow blockage would result. The concentrated boric acid system is not credited for reactivity control during any analyzed accident. Concentrated boric acid is required, however, to maintain shutdown margin. Shutdown margin is the degree to which the reactor is subcritical with all control rods inserted except the most reactive control rod which is assumed to be fully withdrawn.

The boric acid heat tracing at Millstone Unit 2 has been found to be troublesome and the need to keep it operable has contributed to the radiation exposure to operating personnel. Accordingly, the licensee has proposed an operational system which would allow a reduction in the boric acid concentration in the BASTs to the extent that precipitation would not occur under expected ambient conditions (above 55° F). Under these conditions, the heat tracing on the concentrated boric acid piping would no longer be needed. Borated water from the refueling water storage tank (RWST) would supplement the contents of the BASTs in order to maintain the required shutdown margin when cooling down the plant from post-power production to refueling conditions (RCS temperature is less than or equal to 140° F.) During plant cooldown, positive reactivity is introduced as a result of a negative isothermal temperature coefficient and the decay of Xenon which was produced during power operation. The only safety function credited to the boric acid in the BASTs is the above described maintenance of post-operation shutdown margin.

The proposed changes to the TS will not involve a significant increase in the probability or consequences of an accident previously analyzed. The proposed TS would allow the reduction in the boric acid concentration in the BASTs. The shutdown (negative reactivity) contribution of the boric acid in the BASTs was never credited in the accident analyses and thus does not impact the probability or consequences of accidents previously considered. In addition, the proposed change to the TS would not create the possibility of a new and different type of accident. The boric acid in the BASTs and the RWST are credited with maintenance of the shutdown margins when cooling down the RCS from post-power production to refueling conditions. These shutdown margins, or safety margins, (2.9 percent delta K/K above 200° F and 2.0 percent delta K/K below 200° F) are substantial and it is unlikely that any combination of operational or equipment failures would result in a return to critical conditions during RCS cooldown. Moreover, the redundancy and diversity inherent in the borated water sources (BASTs and RWST) and flow paths assures that sufficient quantities and concentrations of boric acid will be available to the RCS during cooldown. Thus, shutdown margins will be maintained preventing a return to critical conditions. Accordingly, the proposed change to the TS does not involve the possibility of a new or different type of accident and does not involve a reduction in safety margins.

Based upon the above, the Commission proposes to determine that the proposed changes to the TS involve no significant hazards considerations.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: June 14, 1988

Description of amendment request: By application for licensee amendment dated June 14, 1988, Northeast Nuclear Energy Company et al. (the licensee), requested a change to Technical Specifications (TS) 4.8.1.1.2b, "A.C. Sources", for Millstone Unit 2. The proposed change to the TS would change the industry standard for acceptability of emergency diesel generator (EDG) fuel oil, referenced in the TS, from ASTM D975-74 to ASTM D975-78.

Basis for proposed no significant hazards consideration determination: At the present time, TS 4.8.1.1.2b requires that EDG fuel oil, tested every 92 days, be within the acceptability limits specified in ASTM D975-74 when tested for viscosity, water and sediment. The licensee has proposed that the specified standard ASTM D975-74 be replaced by ASTM D975-78 for determining the periodic acceptability of fuel oil.

The Millstone Unit 2 EDGs utilize Grade No. 2-D Diesel Fuel Oil. A comparison between the acceptability standards for Grade No. 2-D Diesel Fuel Oil, between ASTM D975-74 and ASTM D975-78, indicates minor differences in kinematic viscosity. The 1974 edition presents an acceptable range of 2.0 to 4.3 and the 1978 edition requires 1.9 to 4.1. The upper end of the range is limited by the engine and injection system design and the minimum limit is specified to minimize power loss caused by injector pump and injector leakage. The reduction in Cloud Pt is greater than 10° F from 1.8 to 1.7 in a conservative direction in that it increases the

temperature at which cloudiness would be detected in diesel fuel oil.

The reduction from 4.3 to 4.1 is conservative in that it reduces the maximum allowable viscosity, thus ensuring that the engine or injection system limitations are not exceeded. The reduction from 2.0 to 1.9 is in the direction which would tend to increase system leakage, but the change is within the recommended range of the EDG manufacturer. In summary, the proposed change in the referenced standard for diesel fuel oil acceptability represents a minor change in fuel oil properties that are well within the acceptable range for reliable operation of the EDGs.

The proposed change to the TS will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed standard for diesel fuel oil acceptability will assure that, so far as the fuel is concerned, the EDGs will continue to function reliably and can continue to be credited for operation in those instances presently required in the safety analysis. No new or different type of accident will be created since no change in EDG operation or reliability will result from the proposed change in allowable fuel oil properties. Finally, since the EDGs will continued to start and run reliably, no safety margins will be reduced for those accidents where EDG operation is credited.

Based upon the above, the Commission proposes to determine that the proposed change to TS 4.8.1.1.2b involves no significant hazards considerations.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Project Director: John F. Stolz

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: May 19, 1988

Description of amendment request: The proposed amendment would change Technical Specification Section (TSS) 4.6.1.3.a. to permit three alternative surveillance methods for demonstrating the containment air lock operable: (1) pressure decay of pressurized volume between the door seals, (2) precision measurement of flow from pressurized volume between the door seals, and (3) overall air lock leakage test per TSS 4.6.1.3.b. Alternative (1) and (3) above are permitted in the existing TS. Alternative (2), which is permitted in the Westinghouse Standard Technical Specifications, Revision 5, is to be added in the proposed amendment.

Basis for proposed no significant hazards consideration determination: NNECO has reviewed the proposed change in accordance with 10 CFR 50.92 and has concluded that it does not involve a significant hazards consideration in that the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. The proposed change adds two methods of surveillance for the containment air lock. Both methods provide assurance that containment leakage is within the limits assumed in the radiological consequences of the design basis events. Therefore, previously analyzed accidents are not affected.

2. Create the possibility of a new or different kind of accident from any previously analyzed. There are no changes in the way the plant is operated, and no new failure modes are introduced. Therefore, the potential for an unanalyzed accident is not created.

3. Involve a significant reduction in a margin of safety. The revised surveillance requirements do not have any impact on the containment integrity. The proposed change does not affect the consequences of any accident previously analyzed. Therefore, there is no reduction in a margin of safety.

The NRC staff has reviewed the NNECO's no significant hazards consideration determination and agrees with the analyses. Based on this review, the NRC staff proposes to determine that the requested 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, Esquire, Day, Berry & Howard, One Constitution Plaza, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

Date of amendment request: April 18, 1988 (Reference LAR 88-04)

Description of amendment request: The proposed amendment would revise the Diablo Canyon Power Plant (DCPP) combined Technical Specifications for Units 1 and 2 to allow a turbine trip without a reactor trip below 50 percent thermal power. Specifically, the proposed change would amend Technical Specification (TS) 2.2.1, "Reactor Trip System Instrumentation Trip Setpoints," and TS 3.3.1 "Reactor Trip System Instrumentation," to change the current reactor trip on turbine trip when thermal power is greater than 10 percent to a reactor trip on turbine trip when thermal power is greater than 50 percent. TS 2.2.1 and 3.3.1 are proposed to incorporate the Power Range Neutron Flux reactor trip system interlock P-9 having a trip setpoint of no greater than 50 percent of rated thermal power with 2 out of 4 logic and to require a minimum of 3 channels operable in Mode 1. The associated bases are proposed to be revised to indicate that with a setpoint of 50 percent of rated thermal power, on power below the setpoint interlock P-9 automatically blocks reactor trip on turbine trip and on power above the setpoint interlock P-9 automatically enables reactor trip on turbine trip. TS 4.3.1 "Reactor Trip System Instrumentation Surveillance Requirements" is proposed to be amended to include the applicable surveillance requirements for power range neutron flux reactor trip system interlock P-9.

Basis for proposed no significant hazards consideration determination: The Commission proposes to determine that this amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92 a proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with 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 determined that the proposed revision would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the Westinghouse evaluation provided in the letter dated October 30, 1987 from J. C. Hobel, Westinghouse to J. D. Shiffer, PG&E, demonstrates that the consequences of a loss of load (turbine trip) below 50 percent power without a subsequent reactor trip are bounded by the analyses presented in the FSAR Update. Specifically, calculated peak pressure is within the FSAR Update value for the Loss of Load/Turbine Trip event and calculated minimum DNBR is

within the FSAR Update value for the Complete Loss of Flow event. Westinghouse also performed a best estimate analysis to determine if the PORVs would be challenged to relieve pressure following a turbine trip without a direct reactor trip at 50 percent power. Analysis results show that RCS pressure will not reach the pressurizer or steam generator PORV setpoints, even with a single failure in the control system. Actuation of RCS PORVs would therefore not be expected, eliminating the possibility of a stuck-open PORV.

The reactor trip upon turbine trip is an anticipatory trip and no credit is taken for this trip in the FSAR Update Chapter 15 accident analysis. The loss of load (turbine trip) accident analysis assumes that a reactor trip would be initiated from the reactor protection system. As a result, revising the setpoint for enabling this anticipatory trip will have no impact on the accident analysis. Therefore, this proposed license amendment request does not 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 because increasing the power level at which a reactor trip is actuated on turbine trip does not introduce a significant change to the plant design bases. Pressurizer and steam generator safety valves are designed to prevent the steam system and reactor coolant system from exceeding 100 percent of design pressure in the event that a control grade system should fail during a load rejection. As discussed in Item 1 above, the reactor trip on turbine trip is an anticipatory trip for which no credit is taken in the accident analysis for the plant. Therefore, the proposed license amendment request does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Involve a significant reduction in the margin of safety because load rejection from 50 percent power without a direct reactor trip is within the design and operating limits of the plant and has been shown to be bounded by the present FSAR Update safety analysis. Margins of safety with respect to peak pressure and minimum DNBR are preserved by the reactor protection system, pressurizer safety valves, and steam generator safety valves, none of which are affected by the proposed changes. Therefore, the changes do not involve a significant reduction in the margin of safety.

Accordingly, the licensee has determined that the proposed changes to the Technical Specifications involve no significant hazards consideration.

The NRC Staff has reviewed the proposed amendments and the licensee's determination and find them acceptable. Therefore, the Staff proposes to determine that the amendment requests do not involve a significant hazards consideration.

Local Public Document Room location: California Polytechnic State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorneys for licensee: Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: George W. Knighton

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: May 17, 1988

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to clarify and eliminate inconsistencies within the TS related to spiral core off-load/on-load refueling, refueling interlocks, and control rod drive maintenance. These revisions represent administrative changes to the TS. Specifications to permit spiral core off-load/on-load refueling were originally incorporated into the TS by issuance of Amendment No. 59.

Additionally, one proposed revision would provide the option to begin spiral on-loading around a Source Range Monitor (SRM) as well as around a centrally installed dunking chamber. This revision would represent a minor procedural change. Another proposed revision would permit up to four fuel assemblies to be loaded around each SRM for use as a neutron source to verify SRM operability. The current TS permit only two fuel assemblies to be used for this purpose.

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 amendment 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.

Those proposed revisions which are intended to clarify and eliminate inconsistencies within the current TS are administrative in nature and involve no physical modifications or changes in plant operating procedures. All of these revisions are consistent with the changes previously approved by Amendment No. 59. Therefore, operation of the plant in accordance with those revisions will satisfy the three above criteria.

The proposed revision to permit spiral on-loading to start around an SRM will not result in conditions significantly different than for on-loading around a centrally installed dunking chamber. The possibility of an inadvertent criticality is unchanged, core flux levels are monitored by the SRMs, and the required margin to criticality is not reduced. Therefore, operation of the plant in accordance with this proposed revision will satisfy the three above criteria.

The proposed revision which permits up to four assemblies to be loaded around each SRM (instead of the current limit of two assemblies) for use as a neutron source to verify SRM operability, has no significant effect on the spiral on-loading process. There is no increase in an inadvertent criticality occurring as a result of this change. Four adjacent fuel assemblies are subcritical, even with no rods inserted, and the SRM groups are sufficiently separated to preclude interaction. Because the TS require control rods to be inserted before fuel is on-loaded, subcriticality is further assured. Therefore, operation of the plant in accordance with the proposed revision will satisfy the three above criteria.

Since the application for amendment involves proposed changes that are encompassed by the criteria for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra, Director

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: May 27, 1988

Description of amendment request: The proposed amendment contains revisions to the Technical Specifications (TS) which fall into three categories (A, B, C). The Category A changes would revise the TS to reflect modifications made to the reactor water level instrumentation to comply with the requirements of Regulatory Guide 1.97, Revision 2 and Generic Letter 84-23. These modifications are intended to reduce instrument errors resulting from post-accident containment heat-up and to increase the redundancy and reliability of control room indication.

The Category B revisions are administrative changes and include the removal of obsolete reactor vessel water level instrument setpoints from the TS. In accordance with the guidance of NUREG-0737 Item II.K.3.27, a common instrument zero corresponding to the top of active fuel (TAF) has been implemented in the TS and is to be fully integrated into plant instrumentation, procedures, and training. The original setpoints, referenced to the bottom of the steam separator skirts (the original instrument zero), have been rendered obsolete. Several miscellaneous changes have also been proposed to correct errors and clarify the TS.

The Category C revisions reflect a plant modification performed to meet the requirements of NUREG-0737 Item II.K.3.13. The modification to the RCIC system replaced the turbine trip at high reactor water level with a recoverable steam line isolation. This modification was previously approved by the NRC and allows auto-restart of the RCIC system upon receipt of a low water level signal.

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 amendment 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 previously evaluated, or (3) involve a significant reduction in a margin of safety.

The Category A changes support modifications which improve the reliability and availability of reactor water level signals which are used to initiate ECCS systems and provide control room indication. The modifications are not accident initiators. The Category B changes are administrative in nature and do not involve a physical change to the facility or a change in operating procedures and, therefore, cannot affect any accident as analyzed in the FSAR. The Category C changes improve the reliability and availability of a system which can be used under accident conditions. Because no credit has been taken for the RCIC system in the FSAR accident analyses, the Category C changes do not affect the probability or consequences of previously analyzed accidents.

As stated above, the proposed changes increase the reliability of systems or functions which mitigate accident conditions (Category A and C) or are purely administrative in nature (Category B). No new or different types of accidents can occur as a result of improving the availability and reliability of the reactor water level instrumentation system, eliminating obsolete instrumentation set point references, or improving the availability of the RCIC system.

The proposed changes improve the performance of instrumentation and systems which mitigate transients and accidents. Elimination of obsolete reactor water level instrument zeros achieves consistency in the reactor vessel instrumentation setpoints. This reduces the probability of an misinterpretation of the specifications. Therefore, operation in accordance with the proposed amendment will not involve a reduction in a margin of safety.

Since the application for amendment involves proposed changes that are encompassed by the criteria for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra, Director

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit 1, San Diego County, California

Date of amendment request: October 30, 1987

Description of amendment request: The proposed amendment would revise the Technical Specifications to delineate the limiting conditions of operation (LCOs) and surveillance requirements for reactor coolant system (RCS) leakage and the leakage detection systems.

Basis for proposed no significant hazards consideration determination: The Commission proposes to determine that this amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92 a proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with 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 its analysis as to whether or not the proposed amendment involves a significant hazards consideration and has concluded that the proposed changes do not constitute a significant hazards consideration, based on the following discussion.

(1) Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No, the revisions to the technical specifications contained in this proposed change require the operability and the performance of surveillance for systems that are currently necessary to meet technical specification requirements but do not have explicit operability and surveillance requirements. The imposition of these additional requirements merely formalizes what is now an informal requirement, and provide actions to be performed in the event of the systems' unavailability. The requirement to perform a reactor coolant system water inventory balance already exists, the proposed change merely increases the required frequency. The allowance of 4 hours to reduce leakage to within the specifications allows personnel a reasonable amount of time to locate and mitigate a leak. This increased time for

action does not involve a significant increase in system failure probability and is consistent with the STS provisions. The remaining changes are only clarifying in nature and do not affect the specification content. Therefore, it is concluded that this proposed change will not cause a significant increase in the probability or consequences of an accident previously evaluated.

(2) Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No, the systems covered by the revisions in this proposed change are already used and surveilled in a manner similar to that proposed. Therefore, the proposed revisions will merely formally require their operability and surveillance. The requirement to perform a reactor coolant system water inventory balance already exists, the proposed change merely increases the required frequency. The proposed surveillance requirements, in three cases, reference surveillance requirements that already exist in other sections of the technical specifications. The format changes the addition of a new leakage action statement, merely allows a similar action time similar to that in the STS. Therefore, it is concluded that this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No, as previously stated, the systems whose operability and surveillance requirements are proposed to be added are systems already in use at San Onofre Unit 1. Accordingly, it is not expected that the imposition of these operability and surveillance requirements on these systems would impact any margin of safety and considering their purpose, these additional requirements result in a net increase in the margin of safety. The allowance for action time to respond to exceedance of leakage limits is similar to that in the STS that is allowed for other safety systems. Therefore, it is concluded that this proposed change will not result in a significant reduction in a margin of safety.

The NRC staff reviewed the request and the licensee's analysis and agrees that the criteria of 10 CFR 50.92 appear to be satisfied. The NRC staff, therefore proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: George W. Knighton

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: October 30, 1987

Description of amendment request: The proposed change is a request to revise the Technical Specifications on "Inservice Inspections of Steam Generator Tubing" to delete certain special inspection requirements. The proposed deletion is based on results of a recent inspection which indicate that the special inspection requirements are no longer justified.

Basis for proposed no significant hazards consideration determination: The Commission proposes to determine that this amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92 a proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with 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 differnt kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has provided its analysis as to whether or not the proposed amendment involves a significant hazards consideration and has concluded that the proposed changes do not constitute a significant hazards consideration, based on the following discussion.

(1) Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No, the proposed change revises only the magnitude of the inspection scope. The areas in question will continue to be inspected, but in a scope consistent with the safety significance. Given that recent operating experience and inspection results have demonstrated a reduction to the significance of the steam generator tube degradation mechanisms and the inspection scope requirements of Specification 4.16.A includes the areas currently specified in Specification 4.16.C, a deletion of the special inspection requirements will not result in any significant accident or accident consequence increase. Also, the mandatory inspection of these areas in the manner described required an expenditure of man-rem and resources that is inconsistent with the safety significance. The remaining changes are administrative in nature and do not affect plant safety. Therefore, it is concluded that this proposed change will not cause a significant increase in the probability or consequences of an accident previously evaluated.

(2) Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No, the impact of steam generator tube failure is a previously analyzed scenario for San Onofre Unit 1. The revisions proposed herein do not alter the assumptions in those analyses. The proposed steam generator inspection requirement will still require that the inspection scope include "problem areas." These requirements assure that the steam generator tube rupture analysis assumptions remain valid. Therefore, it is concluded that this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No, as stated above, the assumptions of the steam generator tube rupture analysis remain unchanged. The licensee states that the conditions in these two special areas of the steam generators are not changing with time. Therefore, the margin provided by the plugging limit of 4.16.E, "Acceptance Criteria" is adequate to assure the proper margin to safety. Therefore, it is concluded that this proposed change will not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the request and the licensee's analysis and agrees that the criteria appear to be satisfied. The NRC staff, therefore, proposes to determine that the proposed amendment involves no significant hazard consideration.

Local Public Document Room location: General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: George W. Knighton

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: June 13, 1988 (TS 243)

Description of amendment requests: The proposed amendment would modify the Browns Ferry Nuclear Plant (BFN) Units 1, 2 and 3 Technical Specifications (TS) to add instruments to Table 3.2.B, Instrumentation that Initiates or Controls the Core and Containment Cooling Systems, and Table 4.2.B, Surveillance Requirements for Instrumentation that Initiates or Controls the Core Standby Cooling System. The four additional instruments to be listed are to trip and isolate the High Pressure Coolant Injection (HPCI) System and Reactor Core Isolation Cooling (RCIC) System on low steam supply pressure and high turbine exhaust pressure. The proposed amendment would also modify the BFN TS to add turbine exhaust diaphragm high pressure to the lists of conditions that cause Group 4 and 5 (HPCI and RCIC) isolation in the Notes for Table 3.7.A.

Basis for proposed no significant hazards consideration determination: The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

NRC has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from an accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The subject HPCI/RCIC instrumentation provides system/equipment protection as addressed in the BFN-FSAR [Final Safety Analysis Report] Section 4.3, 6.4, and 7.3. This instrumentation and allowable values not only protects this equipment, it also provides assurance that radioactive gases do not escape through the rupture in the HPCI/RCIC pump shaft seals upon turbine stall. This instrumentation provides additional pressure boundary protection by assuring HPCI/RCIC pump casing integrity.

The BFN FSAR provides various analyses for potential BFN accidents. Adding these instruments to the BFN Technical Specifications does not change any operational characteristics, modify any equipment or minimize any mitigation responsibilities of the HPCI/RCIC Systems as analyzed in the BFN FSAR. The main function of the HPCI/RCIC Systems is to assure that the reactor is adequately cooled to limit fuel cladding temperature in the event of a small break in the nuclear system and a loss of coolant which does not result in a rapid depressurization of the reactor vessel. These changes do not alter the function of these systems; therefore, their intended safety function is maintained as previously analyzed. This change is also being made to bring the BFN Technical Specifications in compliance with the as-built plant, BFN FSAR, and GE Standard Technical Specifications.

2. This change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This change does not eliminate, modify nor provide any new operational conditions. These changes provide assurance that these systems operate as designed and analyzed in the BFN FSAR.

3. This change does not involve a significant reduction in a margin of safety. Adding these instruments to the BFN Technical Specifications provides additional safety to the HPCI/RCIC Systems. The proposed changes do not eliminate or decrease any operational characteristics or processes of the plants. These instruments are presently installed and operational. Adding these instruments to the BFN Technical Specifications also assures that they are incorporated into the plant surveillance testing program. This program includes verification on a specified frequency that the subject instrumentation functions as designed.

The allowable setpoints used for these instruments are within their calculated maximum values. This provides adequate margin such that instrument drift or inadvertent transients will not affect the intended safety function of the HPCI/RCIC Systems.

The addition of this instrumentation does not alter any seismic or environmental qualification criteria for BFN. Based on the above, this change does not involve a significant reduction in the margin of safety to the BFN HPCI/RCIC Systems.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendments involves no significant hazards considerations.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment requests: June 13, 1988 (TS 88-01)

Description of amendment requests: The Tennessee Valley Authority (TVA) proposes to change the Sequoyah (SQN) Units 1 and 2 Technical Specifications (TS). The changes are to Table 3.6-2, "Containment Isolation Valves." The changes are to add five motor-operated butterfly valves (MOV) to the table. These MOVs are being proposed to replace check valves as containment isolation valves. The proposed change also adds a note to Table 3.3-5, "Engineered Safety Features Response Times," item 7.b, to reflect the response times for the new valves when actuated by a phase B containment isolation signal.

Basis for proposed no significant hazards consideration determination: TVA provided the following description in its submittal on the five check valves which are to be replaced by motor-operated butterfly valves:

Check valves 67-562A, -B, -C, and -D are the inboard containment isolation valves for the essential raw cooling water (ERCW) supply headers to lower containment. The lower compartment coolers, the reactor coolant pump (RCP) motor coolers, and the control rod drive ventilation coolers are supplied by these headers. The flow diagram for these headers is Final Safety Analysis Report (FSAR) Figure 9.2.2-3.

Check valve 70-692 is the inboard containment isolation valve for the component cooling system (CCS) supply header to the RCP oil coolers. The flow diagram for this header is FSAR figures 9.2.2-1 (unit 1) and 9.2.1-3 (unit 2).

The Commission has provided Standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). 10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide to the Commission its analyses, using the standards in Section 50.92, on the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the

licensee has performed and provided the following analysis:

TVA has evaluated the proposed technical specification change and determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of SQN in accordance with the proposed amendment will not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated. Containment isolation provides the means of isolating fluid systems that pass through containment penetrations so as to confine to the containment any radioactivity that may be released in the containment following a postulated accident. Containment isolation is required following a postulated accident to isolate various fluid systems penetrating containment. SQN does not have a particular system for containment isolation, but isolation design is achieved by applying common criteria to penetration[s] in many different fluid systems and by using engineered safety feature signals to actuate appropriate valves. The proposed change in the containment isolation scheme will not affect any components capable of initiating any accident as evaluated in the FSAR. The installation of the additional MOV in the CCS supply line to the RCP motor oil coolers could increase the probability of a spurious isolation of the CCS supply. Plant instructions require the RCPs to be shut down if CCS flow is lost to the RCP motor oil coolers. This would result in a complete loss of forced reactor coolant flow, which is evaluated in section 15.3.4 of the FSAR. The FSAR analysis assumes a simultaneous loss of the power supplies to the RCPs initiates the event. It is concluded that the small increase in the probability of a spurious isolation will not significantly increase the probability of the complete loss of forced RCS flow as evaluated in the FSAR. The increased reliability of the isolation mechanism can potentially reduce the consequences of evaluated accidents.

(2) create the possibiltiy of a new or different kind of accident from any previously analyzed. The loss of CCS flow to the RCP oil coolers has been previously identified as a condition that would require shutdown of the affected RCP because of high motor-bearing temperatures. This condition is addressed in plant instructions. The resulting loss of forced reactor coolant flow, either partial or total, has been analyzed in the FSAR. The ERCW supplies to lower containment were evaluated when the lower compartment coolers were upgraded to ensure reliability under postaccident conditions. All safety system interfaces were evaluated to ensure that the use of these supply headers will not degrade other safety systems used to mitigate postulated accidents.

(3) involve a significant reduction in a margin of safety. The proposed change is made as the result of replacing containment isolation check valves with MOVs. This was done to provide a more reliable isolation mechanism for the associated penetrations. This in turn provides a better assurance of meeting the leakage limits of 10 CFR 50, Appendix J, and specification 3.6.1.2. Inclusion of the valves in Table 3.6-2 properly reflects the automatic isolation valves used in the SQN containment isolation design. The addition of the note to Table 3.3-5, item 7.b, reflects that the new containment isolation MOVs have slightly longer response times associated with a phase B isolation signal because their closure times are slightly longer than other phase B isolation presently installed. This ensures that the appropriate testing for these valves is performed. Because of the enhancements, the margin of safety will not be reduced, but increased.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis with the following supplement by the staff to the licensee's evaluation: The proposed change is to replace five check valves by more leak tight and isolation reliable MOVs for containment isolation. These valves will be in a closed, water containing system. They will not be for isolating the containment ventilation to prevent the release of radioactivity from the containment atmosphere directly to the environment. The check valves are proposed to be replaced to reduce the leakage and improve the leak tightness of the containment. The new valves must meet the Appendix J Type C test for containment isolation valves and the required reliability, control, power, configuration and design of containment isolation valves in the FSAR. The new valves will be automatically isolated on Phase B containment isolation consistent with the other ERCW and CCS MOVs. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The new containment isolation valve design, power, configuration and control are consistent with that for other containment isolation valves. The new MOVs are similar to other MOVs used as containment isolation valves. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously analyzed.

The new MOVs will be in closed, water containing systems and will not interface with the environment. The new valve closure times will be 5 to 10 seconds longer than the existing valve closure time of 60 seconds. For the proposed use of the MOVs, this is not considered a significant increase in the existing valve closure time. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

Therefore, the staff proposes to determine that the amendments involves no significant hazards considerations.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Suzanne Black

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: June 10, 1988

Description of amendment requests: The proposed amendments would revise the Technical Specifications for Surry Units 1 and 2 by deleting the requirements for and references to the Control Room Chlorine Monitoring System. Chlorine gas storage bottles at the sewage treatment plant are scheduled to be permanently removed from the site by June 30, 1988. Since these bottles were the only significant source of chlorine, the need for the chlorine detection system will be eliminated with this removal.

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 considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed changes in accordance with the requirements of 10 CFR 50.92 and has determined that the request does not involve significant hazards considerations. The licensee's analysis is provided below:

Following the removal of the source of chlorine gas, the subsequent removal of the control room chlorine monitors poses no significant hazard as defined in 10 CFR 50.92.

a. The implementation of this modification does not involve a significant increase in the probability or consequences of an accident previously evaluated. The [c]ontrol [r]oom chlorine monitors provide an alarm and control of the [c]ontrol [r]oom isolation dampers in the event of chlorine gas release creating a hazardous environment in the [c]ontrol [r]oom. As identified in our 1981

NUREG-0737, Item III.D.3.4. submittals, the sewage treatment plant is the only regulatory significant source of chlorine gas from which a release could cause [c]ontrol [r]oom habitability concerns. Chlorine gas storage at the sewage treatment plant is being eliminated. Based on our previous studies, the chlorine gas release which could adversely affect [c]ontrol [r]oom habitability will be eliminated after removal of the chlorine gas storage from the site. The chlorine monitors are then no longer required since the chlorine gas source will have been eliminated. The chlorine monitors can be removed and the associated modifications can be completed without increasing the probability of occurrence or consequences of an accident previously evaluated.

b. The implementation of this modification does not create the possibility of a new or different kind of accident from any accident previously evaluated. The monitors are very specific in that they detect the presence of chlorine. The source of chlorine gas will be removed prior to the removal of the chlorine monitors. The associated modifications to the ventilation system damper controls and annunciator will eliminate unnecessary alarms and damper controls. These modifications will not change the function of or impinge upon any other existing safety system.

c. The implementation of this modification does not involve a significant reduction in a margin of safety. The proposed removal of the chlorine monitors is a result of eliminating the presence of chlorine gas. Eliminating the source of chlorine gas from the site eliminates the need to depend on equipment to monitor for and initiate safety systems based on detection of chlorine.

Therefore, pursuant to 10 CFR 50.92, the licensee has determined that the proposed changes do not involve a significant hazards consideration.

After a preliminary review of the licensee's analysis, the staff agrees with the licensee's conclusions as stated above. Therefore, the staff proposes to determine that the proposed amendments do not involve significant hazards considerations.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

Washington Public Power Supply System, Docket No. 50-397, WNP2, Richland, Washington

Date of amendment request: April 21, 1987 as supplemented May 10, 1988.

Description of amendment request: By letter dated April 21, 1987 the licensee submitted an application to amend the "Administrative Controls" section of the WNP-2 Technical Specifications. The proposed amendment involved changes of position titles and changes in responsibilities of designated positions. The licensee also asked to remove certain positions from the organization charts in the Technical Specification. On September 9, 1987 a notice of this amendment request and the Commission's proposed determination that the proposed changes involve no significant hazards consideration was published in the Federal Register (52 FR 34022).

On March 22, 1988 the Commission issued a letter to all power reactor licensees encouraging the removal of organization charts from technical specifications (Generic Letter 88-06). The Commission provided guidance to licensees for amendments that may be proposed for accomplishing the removal of the organization charts.

By letter dated May 10, 1988 the licensee submitted a supplement to the earlier amendment application. The May 10, 1988 supplement requested that the organization charts in Figures 6.2.1-1, 6.2.2-1a, and 6.2.2-1b be removed from the Technical Specifications. In accordance with guidance provide in the Generic Letter, the amendment would add language to Section 6.2.1, to be titled "Offsite and Onsite Organization," describing the organization.

The May 10 supplement made two other minor revisions to the original submittal. The position title, Plant Quality Assurance Manager, will be retained rather than changed. On page 6-1 a change is made to clarify that it is the Shift Manager rather than the Shift Supervisor who is prohibited from belonging to the site fire brigade.

These latter two changes are considered insignificant. This notice is being made to give recognition to the request for removal of the organization charts.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated, (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 Washington Public Power Supply System has evaluated the augmented material per 10 CFR 50.92 and provides the following in support of a finding for no significant hazards consideration.

(1) The proposed changes do not involve a significant increase in the probability or consequence of an accident previously evaluated because no physical modification of the plant or equipment is involved. Removal of the organization charts does not alter compliance of the WNP-2 Technical Specifications to 10 CFR 50.36. The added text ensures that the essential aspects for responsibility, authority and communication with regard to safe operation of the plant remain clear and evident. The organization charts will continue to be maintained in the WNP-2 FSAR with changes reviewed per 10 CFR 50.59 and reported through annual updates as required by 10 CFR 50.71. Therefore, for the above reasons, the probability or consequences of accidents previously evaluated will not be adversely affected.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because as discussed, no physical changes to the plant or equipment are involved and the added text ensures the responsibility, authority, and communication for safe plant operation are not changed and remain clear and evident. Hence, no possibility for a new or different kind of accident from an previously evaluated is represented in the proposed change.

(3) The proposed changes do not involve a significant reduction in a margin of safety because the revision in no way alters the licensee's commitment to maintain a management structure that contributes to the safe operation and maintenance of WNP-2. The added text ensures that clarity of responsibility, authority, and communication remains in the Technical Specifications. Since no physical change to the plant or equipment is involved and responsibility for safety is not diminished, no significant reduction in a margin of safety is presented in this change.

The staff is in agreement with the licensee's evaluation. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Richland Public Library, Swift and Northgate Streets, Richland, Washington, 99352.

Attorney for the Licensee: Nicholas S. Reynolds, Esq., Bishop, Cook, Purcell and Reynolds, 1400 L Street NW., Washington, DC 20005-3502.

NRC Project Director: George W. Knighton

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: October 26, 1987

Description of amendment request: The proposed amendment would involve editorial changes that clarify existing technical specifications and increase the consistency within Technical Specifications (TS). The amendment would modify the Technical Specifications to: (1) Change the phrase in TS 3.10.i and TS 3.10.j from "... after [greater than] 30 in. of control rod motion..." to "... after [greater than] 24 steps of control rod motion ..."; (2) Delete the last sentence in TS 4.5.a.2.A; (3) Change the phrase in Table TS 4.1-1 (items 9 and 10) from "Following rod motion in excess of six in. ..." to "Following rod motion in excess of 24 steps ..."; and (4) Add a note to the bottom of Table 4.2-2 that clarifies that second and third steam generator sample inspections can be conducted in accordance with TS 4.2.b.2.d. The amendment also involves several minor editorial changes that clarify the TS Bases.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of criteria for a no significant hazards consideration determination by providing examples of amendments that are considered not likely to involve significant hazards considerations (51 FR 7751). The examples include: (i) a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature; (ii) a change that constitutes on additional limitation, restriction, or control not presently included in the Technical Specifications; and (vi) a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan.

Change (1) would help establish a consistent measure for control rod motion in the Technical Specifications. In addition, this change is more restrictive because it requires individual rod position be logged after more than 24 steps (15 inches) instead of after more than 30 inches in the event that the rod deviation monitor is inoperable.

Change (2) would delete the last sentence in Technical Specification 4.5.a.2.A in order to clarify the surveillance requirements for the internal containment spray (ICS) system. The last sentence currently reads, "Operation of the system is initiated by tripping the normal actuation instrumentation." However, the existing surveillance procedure directs the operator to initiate the ICS system by pushing the manual actuation pushbuttons. Manual action of the ICS is preferable because normal actuation of the ICS (i.e., by injecting false pressure signals into the containment pressure transmitters) would require seven additional starts and would lead to excessive and unnecessary wear of the pumps, which are run against their shut off head. The normal actuation instrumentation, including the bistables, actuation relays and high containment pressure logic, are tested using other surveillance procedures for the ICS system. Change (2) would not result in a decrease in surveillance requirements.

Change (3) would make items 9 and 10 of Table TS 4.1-1 consistent with change (1). Presently items 9 and 10 of Table TS 4.1-1 require rod position to be logged when the plant computer is out of service following rod motion in excess of 6 inches. Change (3) would change "six inches" to "24 steps", which is consistent with change (1). This change would be less conservative since 6 inches of rod motion is roughly equivalent to about 10 steps. The basis for the 24 step rod misalignment specification is a 7½-inch rod misalignment (12 steps) with an allowance of 12 steps for analog instrument inaccuracy. Because the rod motion indication used to initiate the action required by items 9 and 10 of Table TS 4.1-1 is the digital control rod group demand position indicator, and not the analog rod position indicator, no allowance for analog instrument error is applied. Change (3) is also consistent with Standard TS.

Change (4) would add a note to the bottom of Table TS 4.2-2 clarifying that second and third steam generator tube sample inspections during each inservice inspection may be less than the full length of the tube by concentrating the inspection on those areas of the tube sheet array and on those portions of the tube where imperfections were previously found. This change does not remove any existing inspection requirements and is purely administrative in nature.

Change (1) is more restrictive in nature (i.e., requires additional surveillance) and, therefore, falls within the scope of example (ii). Changes (2) and (4) are "purely administrative changes" intended to clarify existing specifications. These changes will have no effect on safety, involve no changes to limiting conditions for operation or surveillance requirements, and are within the scope of example (i).

Change (3) would result in TS which would be consistent with change (1), existing TS 3.10.f.1.A and Standard TS 3.1.3.2. Since the proposed change would result in TS which would be consistent with standard TS, the proposed change is within the safety margin defined by the Standard Review Plan and falls within the scope of example (vi).

Since the application for amendment involves proposed changes that are encompassed by the criteria or an example for which no significant hazards consideration exists, the staff has made the proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq. Foley and Lardner, P.O. Box 2193 Orlando, Florida 31082.

NRC Project Director: Kenneth E. Perkins

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 either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or 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.

Alabama Power Company, Docket No. 50-348, Joseph M. Farley Nuclear Plant, Unit No. 1, Houston County, Alabama.

Date of amendment request: April 28, 1988

Brief description of amendment request: The proposed amendment would modify Section 6 of the Technical

Specifications to remove organizational charts in accordance with Generic Letter 88-06.

Date of publication of individual notice in **Federal Register:** June 6, 1988 (53 FR 20700).

Expiration date of individual notice: July 6, 1988

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303

Carolina Power & Light Company, North Carolina Eastern Municipal Power Agency, Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: May 10, 1988

Brief description of amendment request: The proposed amendment would revise the operability requirements of Technical Specification 3.3.3.7, Chlorine Detection Systems.

Date of publication of individual notice in **Federal Register:** June 21, 1988 (53 FR 23324).

Expiration date of individual notice: July 21, 1988

Local Public Document Room location: Richard B. Harrison Library, 1313 New Bern Avenue, Raleigh, North Carolina 27610

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arkansas Power & Light Company, Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2, Pope County, Arkansas

Date of applications for amendments: December 4, 1987 as supplemented April 14, 1988.

Brief description of amendments: Changes the Administrative Controls sections of the Technical Specifications to reflect organizational changes in the Nuclear Operations Department of the Arkansas Power & Light Company. Additionally the management position designated to serve as the Plant Safety Committee chairman is changed.

Date of issuance: June 24, 1988

Effective date: June 24, 1988

Amendment Nos.: 109 and 85

Facility Operating License Nos. DPR-51 and NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 27, 1988 (53 FR 2309 and 2310). The April 14, 1988 submittal provided additional clarifying information and did not change the finding of the initial notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Technical University, Russelville, Arkansas 72801

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: April 8, 1988 (partial response)

Brief description of amendment: Deletion of Organization Charts on Figures 6.2.1-1 and 6.2.2-1 of the Technical Specifications and addition of the essential elements of organizational structure to the administrative control section of the Technical Specifications.

Date of issuance: June 30, 1988

Effective date: June 30, 1988

Amendment No. 13

Facility Operating License No. NPF-58. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1988 (53 FR 19832). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 1988.

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 Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: January 29, 1988

Brief description of amendments: Technical Specifications (TS) amendments were issued to delete the bounding tolerance of the Reactor Low-Low Water Level setpoint for ECCS initiation. Associated TS Bases were revised accordingly, and typographical errors were corrected.

Date of issuance: June 23, 1988

Effective date: June 23, 1988

Amendment Nos.: 109 and 105

Facility Operating License Nos. DPR-29 and DPR-30. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 9, 1988 (53 FR 7588). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 23, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Consolidated Edison Company of New York, Docket Nos. 50-003 and 50-247, Indian Point Nuclear Generating Unit Nos. 1 and 2, Westchester County, New York

Date of application for amendments: April 15, 1988

Brief description of amendments: The amendments revise the Indian Point 1 and 2 Technical Specifications to incorporate changes to the Facility Organization. The amendments revise the organizational figures contained in the Technical Specifications.

Date of issuance: June 21, 1988

Effective date: June 21, 1988

Amendment Nos.: 38 and 131

Facility Operating License Nos. DPR-5 and DPR-26: Amendments revise the Technical Specifications.

Date of initial notice in Federal Register: May 18, 1988 (53 FR 17785). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 21, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: June 12, 1987, as supplemented August 3, 1987 and May 10, 1988.

Brief description of amendment: The amendment revises Sections 3.3.B.2.b and 5.2.C of Technical Specifications, requested on June 12, 1987, as supplemented on August 3, 1987 and modified on May 10, 1988, concerning allowable time for one containment spray pump being inoperable and containment spray flow and fan cooler heat removal performance. The June 12, 1987 amendment application also requested the deletion of the fan cooler unit HEPA filters, charcoal adsorbers and associated fire protection and detection equipment. This issue will be the subject of a separate review.

Date of issuance: June 29, 1988

Effective date: June 29, 1988

Amendment No.: 132

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: December 16, 1987 (52 FR 47782). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 29, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: April 27, 1987, as supplemented August 14, 1987.

Brief description of amendment: This amendment revises the Fermi-2 Technical Specifications to change the drywell air temperature limit from 135° F to 145° F to ensure plant operation during the summer months without need to derate plant operations.

Date of issuance: June 23, 1988

Effective date: June 23, 1988

Amendment No.: 20

Facility Operating License No. NPF-43. The amendment revises the Technical Specifications.

Date of initial notice in Federal Register: May 20, 1987 (52 FR 18976). The substance of the changes noticed in the Federal Register on May 20, 1987, and the proposed determination of no significant hazards consideration were not affected by the August 14, 1987, supplement which responded to an NRC question. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 23, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: January 11, 1988

Brief description of amendments: The amendments changed Technical Specifications Sections 3.0 and 4.0 to conform to Generic Letter 87-09.

Date of issuance: June 21, 1988

Effective date: June 21, 1988

Amendment Nos.: 87 and 68

Facility Operating License Nos. NPF-9 and NPF-17: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 20, 1988 (53 FR 13014). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 21, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: June 1, 1987, as supplemented November 24, 1987.

Brief description of amendments: The amendments revised the Station's common Technical Specifications to update the LOCA-Limited Maximum Allowable Linear Heat Rates.

Date of issuance: June 23, 1988

Effective date: June 23, 1988

Amendment Nos.: 168, 168, and 165

Facility Operating License Nos. DPR-38, DPR-47 and DPR-55. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: May 18, 1988 (53 FR 17787). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 23, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: August 22, 1986, supplemented by letter dated April 16, 1987.

Brief description of amendment: The amendment deletes from Technical Specification Table 3.6-1 the inside-containment isolation valves 1HY-120 and -119, and adds the outside-containment isolation valves 1HY-197 and -196. These valves all pertain to the hydrogen recombiner system.

Date of issuance: June 22, 1988

Effective date: June 22, 1988

Amendment No. 127

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 29, 1987 (52 FR 28375). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 22, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: April 29, 1988, as supplemented May 11, 1988.

Brief description of amendment: The amendment revises Technical Specifications 3.13.B.2 and 3.13.B.3 by adding a note which would permit a one time change, for current operating Cycle 11 only, which allows continued power operation if both of the primary and backup safety valve position indicators become inoperable on no more than two safety valves.

The amendment also makes an administrative change to Technical Specification Sections 3.13.A, 3.13.B and 3.13.C to capitalize Technical Specifications definitions where they appear in these sections.

Date of Issuance: June 28, 1988

Effective date: June 28, 1988

Amendment No.: 123

Provisional Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 26, 1988 (53 FR 19069). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated June 28, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Gulf States Utilities Company, Docket No. 50-458, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of application for amendment: June 5, 1987 as modified May 13, 1988.

Brief description of amendment: This amendment increases (1) the allowable drywell air temperature from 140° F to 145° F; and (2) the area temperature limit for the main steam tunnel (north) from 122° F to 135° F.

Date of issuance: June 29, 1988

Effective date: June 29, 1988

Amendment No.: 25

Facility Operating License No. NPF-47. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 29, 1987 (52 FR 28378). The May 13, 1988 letter withdrew a portion of the amendment request and did not change the finding of the original notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 29, 1988 and a supplement to the Safety Evaluation in support of Amendment No. 24.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: August 17, 1987

Brief description of amendment: The Technical Specifications change would revise Section 3.5.C, Feedwater Coolant Injection (FWCI) Subsystem, by increasing the minimum required condensate storage tank volume from 225,00 gallons to 250,000 gallons of water to provide added assurance for achieving cold shutdown in the event of a reactor building fire.

Date of issuance: June 27, 1988

Effective date: June 27, 1988

Amendment No.: 18

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 7, 1987 (52 FR 37549). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 27, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: April 15, 1988

Brief description of amendment: The amendment revised Technical Specification 3/4.6.3 Containment Isolation Valves to allow entry into an operational mode with inoperable containment isolation valves if the LCO for operation for an unlimited time is met.

Date of issuance: June 22, 1988

Effective date: June 22, 1988

Amendment No.: 20

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 18, 1988 (53 FR 17790). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 22, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: March 1, 1988

Brief description of amendment: The amendment revises Technical Specification Section 6.2.3.1 to state that Independent Safety Engineering Group (ISEG) recommendations, records and reports are provided to appropriate station and corporate management instead of to the Vice President-Nuclear and Environmental Engineering.

Date of issuance: June 29, 1988

Effective date: June 29, 1988

Amendment No.: 21

Facility Operating License No. NPF-49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 4, 1988 (53 FR 15914). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 29, 1988.

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 amendment request: February 19, 1988

Brief description of amendment: The amendment revises the thermal shock analysis in the Technical Specifications to reflect the new fluence prediction developed and the more limiting chemistry factor associted with the 3-410 weld.

Date of issuance: June 28, 1988

Effective date: June 28, 1988

Amendment No.: 114

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 23, 1988 (53 FR 9510). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 28, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: May 23, 1988

Brief description of amendment: The amendment revised Section 5 of the Technical Specifications to delete the offsite and onsite organizational charts, to revise composition of the Plant Review Committee and Safety Audit and Review Committee, and to revise position titles to reflect organizational changes.

Date of issuance: July 1, 1988

Effective date: 30 days from date of issuance in order to fully implement the revised specifications.

Amendment No.: 115

Facility Operating License No. DPR-40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 31, 1988 (53 FR 19835). The licensee's May 23, 1988 submittal supersedes the previous submittal dated April 15, 1988. This submittal was supplemented by a letter dated June 7, 1988 which had no effect on the No Significant Hazards Determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: February 17, 1988

Brief description of amendment: The amendment revises Trojan Technical Specification Section 3/4.3.3.10, "Radioactive Liquid Effluent Instrumentation," by adding two new instruments for monitoring steam generator blowdown liquid effluent discharge.

Date of issuance: June 16, 1988

Effective date: June 16, 1988

Amendment No.: 143

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 6, 1988 (53 FR 11375). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 16, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location Portland State University Library, 731 S. W. Harrison St., Portland Oregon 97207

NRC Project Director: George W. Knighton

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: April 12, 1988

Brief description of amendment: The amendment revises the Trojan Technical Specifications regarding the referencing of the remote shutdown station.

Date of issuance: June 22, 1988

Effective date: June 22, 1988

Amendment No.: 144

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 18, 1988 (53 FR 17792). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 22, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Portland State University Library, 731 S. W. Harrison St., Portland Oregon 97207

NRC Project Director: George W. Knighton

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: December 18, 1987, as supplemented March 15, 1988.

Brief description of amendment: The amendment revises the means by which source range neutron flux instrumentation calibration will be performed. The March 15, 1988 supplement did not effect the staff's initial determination as published in the Federal Register.

Date of issuance: June 23, 1988

Effective date: June 23, 1988

Amendment No.: 145

Facilities Operating License No. NPF-1: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 24, 1988 (53 FR 5496). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 23, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Portland State University Library, 731 S. W. Harrison St., Portland Oregon 97207

NRC Project Director: George W. Knighton

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: July 2, 1987, as supplemented July 7, 1987

Brief description of amendments: The amendments revised the reactor trip block with a turbine trip from P-7 (11%) permissive up to P-9 (50%) permissive.

Date of issuance: June 27, 1988

Effective date: For Unit 1, as of the next refueling outage, cycle 8, currently scheduled for April 1989. For Unit 2, as of the next refueling outage, cycle 4, currently scheduled for September 1988.

Amendment Nos.: 85 and 58

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 21, 1987 (52 FR 39305). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 27, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: December 2, 1986 and September 4, 1987

Brief description of amendments: The amendments combined paragraphs 2.D and 2.E to become paragraph 2.E in the Unit 1 license and modified paragraph 2.E in the Unit 2 license to require compliance with the amended Physical Security Plan. This plan was amended to conform to the requirements of 10 CFR 73.55. Consistent with the provisions of 10 CFR 73.55, search requirements must be implemented within 60 days and miscellaneous amendments within 180 days from the effective date of this amendment.

Date of issuance: June 27, 1988

Effective date: June 27, 1988

Amendment Nos. 86 and 59

Facility Operating License Nos. DPR-70 and DPR-75. These amendments revised the License.

Date of initial notice in **Federal Register:** March 9, 1988 (53 FR 7600) The Commission's related evaluation of the amendments is contained in a letter to the Public Service Electric and Gas Company dated June 27, 1988 and a Safeguards Evaluation Report dated June 27, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: February 8, 1988

Brief Description of amendment: This amendment revises the Technical Specifications associated with monitoring releases through the containment mini-purge system and to clarify action statements following inoperability of the mini-purge system for 31 days.

Date of issuance: June 23, 1988

Effective date: June 23, 1988

Amendment No.: 29

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 23, 1988 (53 FR 9514). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 23, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

NRC Project Director: Richard H. Wessman, Director

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: July 7, 1987

Brief description of amendment: The amendment changes the Technical Specifications to reflect the appropriate channel calibrations for the source range fission detectors installed as a result of the implementation of the modifications of Regulatory Guide 1.97, Revision 3.

Date of issuance: June 27, 1988

Effective date: June 27, 1988

Amendment No.: 73

Facility Operating License No. NPF-12. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** August 26, 1987 (52 FR 32211). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 27, 1988.

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 Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendment: December 30, 1987, as supplemented by letters dated January 12, February 22, March 11, 18 and 23, 1988.

Brief description of amendment: The amendments revised the licenses to allow storage of spent fuel produced by the operation of Unit 1 in either Unit 2 or Unit 3.

Date of issuance: June 22, 1988

Effective date: June 22, 1988

Amendment Nos.: 63 and 52

Facility Operating License Nos. NPF-10 and NPF-15: Amendments revised the licenses.

Date of initial notice in **Federal Register:** February 12, 1988 (53 FR 4947). The supplemental letters of January 12, February 22, March 11, 18 and 23, 1988 did not change the initial proposed determination of no significant hazards consideration. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 22, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: General Library, University of California at Irvine, Irvine, California 92713.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: September 15, and November 23, 1987

Brief description of amendments: The amendments modified paragraph 2.E of the licenses to require compliance with the amended Physical Security Plan. This plan was amended to conform to the requirements of 10 CFR 73.55. Consistent with the provisions of 10 CFR 73.55, search requirements must be implemented within 60 days and miscellaneous amendments within 180 days from the effective date of these amendments.

Date of issuance: June 24, 1988

Effective date: June 24, 1988

Amendment Nos.: 73 and 65

Facility Operating Licenses Nos. DPR-77 and DPR-79. Amendments revised the Licenses.

Date of initial notice in **Federal Register:** May 4, 1988 (53 FR 15917). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: September 9, 1987 and April 13, 1988.

Brief description of amendment: The amendment deleted the offsite and unit organizational charts and added the essential aspects of organizational structure to the Technical Specifications.

Date of issuance: June 21, 1988

Effective date: June 21, 1988

Amendment No.: 37

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 4, 1987 (52 FR 42372). The April 13, 1988 supplement added the essential aspects of organizational structure to the Technical Specifications and is, therefore, more conservative than the original application. It was consistent with the staff's original findings. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 21, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: November 21, 1986, and November 17, 1987

Brief description of amendment: The amendment modified paragraph 2.E of Facility Operating License No. NPF-30 to require compliance with the revised Physical Security Plan for the Callaway Plant. The Plan was revised to reflect recent changes to the requirements of 10 CFR 73.55.

Date of issuance: June 21, 1988

Effective date: June 21, 1988

Amendment No.: 38

Facility Operating License No. NPF-30. Amendment revised the license.

Date of initial notice in **Federal Register:** May 18, 1988 (53 FR 17793). The Commission's related evaluation of the amendment is contained in a Safeguards Evaluation dated June 21, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: March 30, 1988

Brief description of amendments: The amendments added in-core thermocouples to the Accident Monitoring Instrumentation, NA-1&2 TS Tables 3.3-10 and 4.3-7. The addition is in conformance with NUREG-0737 and Generic Letter 83-37.

Date of issuance: June 20, 1988

Effective date: June 20, 1988

Amendment Nos.: 104 and 91

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 18, 1988 (53 FR 17795). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 20, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: 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, 1986, as supplemented October 16, 1987 and February 24, 1988.

Brief description of amendments: The amendments modified paragraph 3.J of the licenses to require compliance with the amended Physical Security Plan. This Plan was amended to conform to the requirements of 10 CFR 73.55. Consistent with the provisions of 10 CFR 73.55, search requirements must be implemented within 60 days and miscellaneous amendments within 180 days from the effective date of these amendments.

Date of issuance: June 20, 1988

Effective date: June 20, 1988

Amendment Nos.: 121 and 121

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Licenses.

Date of initial notice in **Federal Register:** May 18, 1988 (53 FR 17796). The Commission's related evaluation of the amendments is contained in a letter to Virginia Electric and Power Company dated June 20, 1988 and a Safeguards Evaluation Report dated June 20, 1988.

No significant hazards consideration comments received: No

Local Public Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: January 5, 1988 and as supplemented March 11, 1988

Brief description of amendment: The amendment removes from the Technical Specifications the requirements for the Plant Operations Manager to maintain a Senior Reactor Operator's license.

Date of Issuance: June 28, 1988

Effective date: June 28, 1988

Amendment No.: 111

Facility Operating License No. DPR-3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 6, 1988 (53 FR 11379). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 28, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01201.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION

During the period since publication of the last biweekly notice, individual notices of issuance of amendments have been issued for the facilities as listed below. These notices were previously published as separate individual notices. They are repeated here because this biweekly notice lists all amendments that have been issued for which the Commission has made a final determination that an amendment involves no significant hazards consideration.

In this case, a prior Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing was issued, a hearing was requested, and the amendment was issued before any hearing because the Commission made a final determination that the amendment involves no significant hazards consideration.

Details are contained in the individual notice as cited.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendment: November 19, 1987 as augmented by information in the "Plan for Restart of Peach Bottom Atomic Power Station, Section I, Corporate Action" dated November 25, 1987 and in revisions to Section I of the Plan submitted on April 8, 1988.

Brief description of amendment: These amendments modified Section 6 of the facility Technical Specifications to reflect (I) a new corporate and (II) a new plant staff organizational structure, (III) a revised composition of the Plant Operations Review Committee and (IV) several administrative changes.

Date of Issuance: June 22, 1988

Amendment Nos.: 132 and 135

Effective date: For Units 2 and 3, as of the date of issuance. The subject changes in the organizational structure are to be completed within ninety (90) days of the issuance of the amendments.

Facility Operating License Nos. DPR-44 and DPR-56. The Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 23, 1987 (52 FR 48593)

Dated at Rockville, Maryland, this 7th day of July, 1988.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation

[Doc. 88-15574 Filed 7-12-88; 8:45 am]

BILLING CODE 7590-01-D

[Docket No. 50-341]

Detroit Edison Co. et al.; Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. NPF–43, issued to the Detroit Edison Company and Wolverine Power Supply Cooperative,

Inc. (the licensees), which revised the Technical Specifications (TSs) for operation of Fermi-2 located in Monroe County, Michigan. The amendment is effective as of the date of issuance.

This amendment revises the Fermi-2 Technical Specifications to delete the Non-regenerative Heat Exchanger Outlet Temperature-High signal from the listing of the Reactor Water Cleanup system isolation signals.

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.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing in connection with this action was published in the **Federal Register** on May 11, 1988 (53 FR 16801). No request for hearing or petition to intervene was filed following this notice.

Also in connection with this action, the Commission prepared an Environmental Assessment and Finding of No Significant Impact which was published in the **Federal Register** on July 5, 1988, at 53 FR 25219.

For further details with respect to this action, see (1) the application for amendment dated March 10, 1988, as supplemented April 21, 1988, (2) Amendment No. 21 to License No. NPF-43, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V, and Special Projects.

Dated at Rockville, Maryland, this 6th day of July.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Project Manager, Project Directorate III-1, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 88-15687 Filed 7-12-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-19498, License No. 35-17186-02, EA 87-184]

Precision Logging and Perforating Co., Order Imposing Civil Monetary Penalty

I

Precision Logging and Perforating Company, Cleveland, Oklahoma (the licensee) is the holder of Materials License No. 35-17186-02 issued by the Nuclear Regulatory Commission (NRC/Commission) on December 2, 1981, and amended last in its entirety on January 21, 1988. The license authorizes the licensee to use sealed sources for oil and gas well logging in accordance with the conditions specified therein.

II

A routine inspection of the licensee's activities was conducted on August 18 and 19, 1987. The results of this inspection indicated that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated December 10, 1987. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty by two letters, both dated January 7, 1988.

In its response, the licensee contested Violations A and D but not the other violations. In addition, the licensee requested that the proposed civil penalty be rescinded for several stated reasons, including financial hardship. By letter dated February 16, 1988, the NRC provided the licensee with the opportunity to submit specific financial information on the company's recent profit and loss and its net worth. The licensee submitted this information by letter dated February 15, 1988.

III

After consideration of the licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the Deputy Executive Director for Regional Operations has determined as set forth in the Appendix to this Order that the violations occurred as stated, but that the civil penalty proposed in the Notice of Violation would constitute an excessive financial hardship for the licensee, and therefore should be mitigated by 50 percent.

IV

In view of the foregoing and pursuant to sections 81, 161b, 182, and 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Five Hundred Dollars ($500) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of Section IV.A. of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the Licensee was in violation of Violations A and D of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and

(b) Whether, on the basis of the admitted violations, this Order should be sustained.

Dated at Rockville, Maryland, this 7th day of July 1988.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

Appendix—Evaluations and Conclusions

On December 10, 1987, a Notice of Violation and Proposed Imposition of Civil Penalty (NOV) was issued for violations identified during an NRC inspection. Precision Logging and Perforating Company responded to the

Notice by two letters dated January 7, 1988, and by subsequent statement of the corporate financial status sent by letter dated February 15, 1988. In its response, the licensee claimed that two of the violations should not have been cited. In addition, the licensee requested that the proposed civil penalty be rescinded for several reasons, including financial hardship. The NRC's evaluation and conclusion regarding the licensee's arguments are as follows:

I. Restatement of Violation A

10 CFR 20.201(b) requires that each licensee shall make or cause to be made such surveys as: (1) May be necessary for the licensee to comply with the regulations in 10 CFR Part 20 and (2) are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present.

10 CFR 20.105(b) requires, in part, that radiation levels in unrestricted areas be limited so that an individual who was continuously present in the area could not receive a dose in excess of 2 millirems in any one hour or in excess of 100 millirems in any seven consecutive days.

Contrary to the above, surveys had never been made in the unrestricted areas adjacent to the radioactive source storage area to determine compliance with 10 CFR 20.105(b) and 20.201(b).

Summary of Licensee's Response

The licensee contends that the violation should not have been cited. The licensee claims that previous surveys revealed no reading above 2 millirems in any hour, and since the number of sources and the other factors did not vary, it did not realize that it was necessary to make additional surveys.

NRC Evaluation of Licensee's Response

The licensee admits that no previous surveys were recorded. During the NRC inspector's survey of the storage area, the licensee's representative stated, when asked, that he had never performed such a survey and knew of no records of anyone having performed one previously. During the Enforcement Conference, the licensee's representatives acknowledged this violation. Given these statements and the absence of records of previous surveys, the NRC has no evidence that such surveys were performed. Because no basis has been submitted in the licensee's response that would support withdrawal of the violation, the violation remains as stated.

Restatement of Violation B

10 CFR 20.203(e) requires, in part, that areas in which specified amounts of licensed material are stored or used be conspicuously posted with a sign or signs bearing the radiation caution symbol and either the words "CAUTION RADIOACTIVE MATERIAL" or "DANGER RADIOACTIVE MATERIAL."

Contrary to the above, during the NRC inspection, the area of the shop in which the storage wells were located contained stored licensed material in the specified amounts and was not posted.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation C

10 CFR 20.207(a) requires that licensed materials stored in an unrestricted area be secured against unauthorized removal from the place of storage. As defined in 10 CFR 20.3(a)(17), an unrestricted area is any area to which access is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive materials.

Contrary to the above, on August 18, 1987, an americium-beryllium source, serial no. T-222, was found by the NRC inspector to be stored in an unlockable shipping container, in an unlocked outer compartment of a truck parked in an unlocked garage.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation D

License Condition 14 requires that the licensee shall conduct a physical inventory every 6 months to account for all sources received and possessed under the license. Records of inventories shall be maintained for 2 years from the date of each inventory.

Contrary to the above, records of inventories, to account for all sources received and possessed under the license, were not available for any time during the 2 years prior to the inspection.

Summary of Licensee's Response

The licensee contends that this violation should not be cited. The licensee claims that it has maintained leak test procedures on each source and used the sources at least monthly. The licensee argues that the leak tests as well as use of the sources constitutes inventories, and that while the regulation may be appropriate to a large company, it should not be enforced in this case because it has complied with the intent of the regulation through its leak test records.

NRC Evaluation of Licensee's Response

The violation was not that inventories were not performed, but rather that proper records of these inventories were not maintained.

Additionally, while records of leak tests and inventories may be combined, the leak test record in itself does not provide all the information required by the inventory record. In addition to indicating the date of inventory and the quantity and type of material, an inventory record includes the location of the licensed material and the individual conducting the inventory. Furthermore, the NRC emphasizes that the regulation applies to all licensees, regardless of their size, and that a licensee is expected to comply with NRC regulations, not what they perceive as "the intent" of the regulations. Because no basis has been provided by the licensee for withdrawal of the violation, the violation remains as stated.

Restatement of Violation E

License Condition 15 requires the licensee to transport licensed material in accordance with the provisions of 10 CFR Part 71. 10 CFR 71.5(a) requires, in part, that the licensee comply with applicable requirements of the Department of Transportation in 49 CFR Parts 170–189.

1. 49 CFR 172.403 requires that each package of radioactive material be labeled, as appropriate, with a RADIOACTIVE WHITE–1, a RADIOACTIVE YELLOW–II, or a RADIOACTIVE YELLOW–III label.

Contrary to the above, the transportation containers housing source Nos. T–222 containing 4.6 curies of americium-berylium, 71–1–422B containing 5 curies of americium-berryllium, and CSV–969 containing 2 curies of cesium-137, were transported during approximately the last 2 years without the appropriate labels.

This is a repeat violation.

2. 49 CFR 172.200 requires that each person who transports or offers a package of hazardous material for

transport describe the material on a shipping paper as described in this subpart.

Contrary to the above, the licensee's representative stated that shipping papers were not prepared and carried during transportation for approximately the last 4 years.

This is a repeat violation.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

Restatement of Violation F

License Condition 16 requires that licensed material shall be possesed and used in accordance with statements, representations, and procedures contained in the application dated November 4, 1981; and letters dated October 10, 1986, and January 7, 1987.

Section 3 of the procedures submitted with the license application requires that all sources of radioactivity be kept locked in storage unless actually in use. The letter of October 10, 1986, confirms that storage wells are to be used.

Contrary to the above, on August 18, 1987, a 4.6 curie americium-beryllium source, T–222; a 5-curie americium-beryllium source, 71–1–422B; and a 2-curie cesuium-137 source, CSV–H50, were stored on trucks rather than in storage wells.

Summary of Licensee's Response

The licensee does not deny the violation.

NRC Evaluation of Licensee's Response

Since the licensee does not deny the violation, the violation remains as stated.

II. Summary of Licensee's Request for Mitigation

The licensee contests the proposed civil penalty for two basic reasons. These can be summarized as follows: (1) The severity of the violations does not warrant a penalty. In this connection, the licensee argues that the statement in the December 10, 1987, cover letter transmitting the Notice of Violation that these violations collectively demonstrate a significant breakdown in management oversight and control over its licensed program is erroneous, and that the violations do not constitute a health physics problem but a procedural problem and, as such, do not warrant a cumulative civil penalty in the amount proposed. (2) In light of the financial hardhsip experienced by the licensee as a result of the current economic depression being experienced by the oil industry, and the expense which the licensee has undergone in order to "accommodate the enforcement actions which resulted from the inspection," the proposed civil penalty is excessive

NRC Evaluation of Licensee's Request for Mitigation

Regarding the licensee's request for mitigation of the civil penalty based on its contention that the severity of the violations does not warrant a penalty and that the violations do not constitute a health physics problem but a procedural problem, the NRC maintains that the severity of the violations do warrant a penalty because the violations collectively demonstrate a significant breakdown in the licensee's oversight and control of its radiation safety program. In addition, the NRC considers these violations to be more than procedural problems and proposed a penalty to emphasize that the NRC considers these violations to be a serious matter, and to emphasize the need to take timely and comprehensive corrective actions. The NRC expects licensees to maintain a high level of compliance with NRC requirements. The base civil penalty was increased by 100 percent because of the licensee's poor prior performance, the multiple occurrences of most of the violations, and the licensee's failure to take adequate corrective actions to preclude repeat violations identified during the previous inspection.

The NRC Enforcement Policy recognizes that a licensee's ability to pay is a proper consideration in determining the amount of the civil penalty. The licensee's financial information submitted in its February 15, 1988 letter demonstrates that imposition of a civil penalty in the amount proposed would create a severe financial burden. In light of the licensee's current financial situation, the penalty is being mitigated by 50 percent.

III. NCR Conclusion

The NRC staff has carefully reviewed the licensee's response and the financial information submitted by the licensee, and has concluded that the violations occurred as stated. However, the NRC has determined that in light of the licensee's financial situation, the proposed civil penalty should be mitigated by 50 percent.

[FR Doc. 88–15688 Filed 7–12–88; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–25889; File No. SR–NASD–88–25]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Proposed Rule Change Relating to Amendments to Procedures for the Imposition of Remedial Business Limitations for Member Firms in or Approaching Financial or Operational Difficulty

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 June 24, 1988, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("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

Article III, section 38 of the NASD's Rules of Fair Practice provides for the imposition of remedial business limitations upon member firms in or approaching financial or operational difficulty. The procedures implementing the substantive provisions of Article III, section 38 are set forth in Article V, Part A of the NASD's Code of Procedure. In SR–NASD–87–42, approved by the Commission on April 18, 1988, the NASD amended these procedures to clarify the selection of members and the composition of District Surveillance Committees ("DSCs"), to permit DSCs to appoint subcommittees to hear proceedings, and to provide for terms of office of up to three years for DSC members. Whereas section 2 of Article V formerly prescribed a five-member DSC, the approved amendments provide for a DSC of *at least* five members. The approved amendments eliminate the requirement that each DSC carry a complement of two current members of the Board of Governors' Surveillance Committee. Under the approved rule, each DSC will consist of current members of the District Committee and/or persons who have been members of a District Committee or the NASD Board of Governors within the last five years. The instant proposed rule change provides that decisions of a DSC imposing sanctions for failure to comply with previous limitations imposed by a

DSC or the Board of Governors pursuant to Section 5(c) of Article V, Part A of the NASD Code of Procedure constitute final action which is appealable directly to the Commission.

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 statutory 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

Article III, section 38 of the NASD's Rules of Fair Practice provides for the imposition of remedial business limitations upon member firms in or approaching financial or operational difficulty. The procedures implementing the substantive provisions of Article III, section 38 are set forth in Article V, Part A of the NASD's Code of Procedure. The NASD is proposing to amend sections 5(c) and 6 of Part A of Article V of the Code of Procedure.

The proposed amendment to Article V, Part A, section 5(c) would further clarify that District Surveillance Committee action taken pursuant to Article V, Part A, section 5(c) constitutes a final action of the NASD which is reviewable by the Commission. It is contemplated that the issues involved in 5(c) proceedings, imposing sanctions for violation of previously established business limitations, would be limited, and that the effect of immediate imposition of sanctions, if any, would be counterbalanced by the availability of immediate review on the part of the Commission.

The proposed amendment to Article V, Part A, section 6 would further clarify that in contrast to determinations made pursuant to section 5(c), written decisions issued pursuant to section 5 (a) or (b) remain subject to review by the NASD's Board of Governors upon application of the member.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(2) of the Act because it will enable the NASD more effectively to enforce compliance with its rules by clarifying minor ambiguities in the present procedural scheme.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, 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 Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-88-25 and should be submitted by August 3, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: July 7, 1988.

[FR Doc. 88-15706 Filed 7-12-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25890; File No. SR-NASD-87-1]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change

On March 17, 1987, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change SR-NASD-87-1, ("Proposed Rule Change") pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 ("Act") to offer a new service consisting of a low-speed ticker signal by which subscribers can obtain a moving display of last sale reports for all NASDAQ/NMS securities from any of a number of vendors, and to set applicable subscriber fees.[1] In response to concerns raised by public commentators and expressed by the Commission to the NASD, the NASD on July 1, 1988, submitted a letter to the Commission amending its proposed fee structure.[2] The Commission is hereby publishing this ORDER approving the proposed rule change.

I. Background and Comments

The proposed rule change consisted of (1) a ticker service consisting of a moving display of last sale reports on all NASDAQ/NMS securities and (2) related subscriber charges of $5/month for terminal devices and $50/month for wall display units carrying the NASDAQ/NMS Ticker Service ("Ticker Service"). As proposed, the Ticker Service would not be available on any display unit owned by the NASD or its subsidiaries with the exception of those devices used for marketing purposes. Hence, the NASD intended that its low-speed ticker signal would be distributed to end users by vendors of securities information or other third party facilitators. The end users (*i.e.*, the vendors' subscribers) would incur either

[1] The proposed rule change was noticed in Securities Exchange Act Release No. 24260 (March 25, 1987), 52 FR 10649.

[2] A copy of the letter will be available at the Commission's Public Reference Room at 450 5th Street, NW., Washington, DC 20549.

the $5 or $50 monthly service charge depending upon the display mode chosen for receipt of the Ticker Service.

On June 29, 1988, the Board of NASD Market Services, Inc. ("MSI") reconsidered the proposed fees for the Ticker Service in light of the vendors' comments and concerns raised by the Commission staff regarding justification of disparate charges for terminal devices and wall units carrying ticker displays of NASDAQ/NMS trade reports.[3] Accordingly, the following changes in the proposed fee structure where authorized:

1. Elimination of the proposed charge of $5/month for any terminal device receiving a low-speed ticker signal created by a vendor's reprocessing of the NMTS high-speed data feed.

2. Elimination of the proposed charge of $50/month for any wall unit carrying a ticker display of NASDAQ/NMS trade reports regardless of whether such displays are driven by the NASD's ticker signal or a vendor's reprocessing of the NMTS high-speed feed.

The amended fee structure would result in the NASD assessing only one charge for Ticker Service, *i.e.*, $5 per month for every terminal device receiving the NASD's low-speed ticker signal. The NASD will impose no service-based charge for wall units carrying a seriatim display of NASDAQ/NMS trade reports. Several factors were considered in justifying the elimination of a charge for wall displays of the NASDAQ/NMS ticker:

First, access to ticker displays via wall units is not subject to the control of a registered person engaged in the securities business. By their nature, wall-mounted ticker displays enable broad public access to last sale information and provide opportunities for identification of market trends based upon independent observation of such displays. The NASD has determined to promote these benefits to public investors by levying no service charge for wall displays of NASDAQ/NMS trade reports.

Second, it was noted that one vendor already provides wall displays of NASDAQ/NMS trade reports based upon reprocessing of the NMTS last sale feed. If another vendor were to provide this service utilizing the NASD's ticker signal, potential subscribers might incur disparate charges for receipt of identical wall displays. The MSI Board determined that a charge payable to the NASD should not be the cause of any such disparity respecting wall-mounted ticker displays of NASDAQ/NMS trade reports.

Third, the MSI Board believed that the costs of developing and operating the Ticker Service could be recovered through the $5 charge for terminal devices receiving the Service.

Finally, the Board reasoned that elimination of the proposed charge for wall displays, which are primarily used by public investors, was consistent with the concept of providing market information to non-professionals at the lowest possible cost. The Commission has frequently advocated that concept in the course of evaluating the reasonableness of charges proposed by self-regulatory organizations/exclusive processors for receipt of market information.

II. Staff Response

The Commission believes that the amended fee structure eliminates the anti-competitive concerns raised by the commentators; the NASD no longer charges a retransmission fee, and, in addition, it does not charge its direct subscribers a fee for a wall display.

Accordingly, the Commission finds that the proposed rule change, together with the amended fee structure is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the above-mentioned proposed rule change be approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.

Dated: July 7, 1988.

[FR Doc. 88-15707 Filed 7-12-88; 8:45 am]

BILLING CODE 8010-01-M

[3] Five comment letters dealing primarily with the proposed subscriber fees were received.

Three of them (Quotron, the Information Industry Association ("IIA"), and Instinet) opposed the proposal on the basis of unjustifiable fees, undue burden on competition, and the inapplicability of the retransmission release of 1980 (Securities Exchange Act Release No. 16589, 45 FR 12377 (February 26, 1980)) to the low-speed ticker. The letter from the NYSE discussed comparable Network A and B fees and the applicability of the retransmission release. The Amex, finally, explained in its comment letter the operation and fee structure of Network B.

With respect to the proposed fee schedule, Quotron argued that such a fee schedule would result in charging subscribers twice for the same information, because end-users will have to pay for the low-speed ticker in addition to paying for last sale prices. Similarly, Instinet stated that "* * * either the fee schedule * * * does not adequately pass on to subscribers the cost associated with providing this service, or the fee applicable to the current NMTS service overcharges subscribers to that service." Instinet further argued that the fee schedule does not accurately reflect the costs associated with providing the underlying service to vendors.

As for the burden on competition, Quotron, IIA, and Instinet argued that the NASD proposal would result in hampering competition, because the fees imposed would hinder the development of new and more competitive services by vendors. In effect, the NASD would be collecting for a service it has not created or provided, thus removing any incentive for vendors to develop new services. IIA argued that "(i)f, by inaugurating a slow ticker service, NASD is able to develop new revenue sources from the new services created and derived by the vendors, the result will be a dampening of the innovative efforts of vendors on which so much depends" Both IIA and Quotron agreed, however, that, at the moment, there are no other comparable ticker services.

With respect to the applicability of retransmission rules, the NYSE stated in its letter that the "rules are clearly applicable and were originally written to address just this type of situation." Instinet and IIA raised the issue that what the NASD is attempting to charge for is not "retransmission," but simply the use of the NMTS high-speed line. IIA stated in its letter that "the slow ticker services already offered in the marketplace are not retransmissions of last sale data since the products offered have been developed at vendor expense from the high-speed line, product development previously open to vendors without charge."

[Released No. 34-25888; File Nos. SR-Phlx-87-05; SR-Amex-87-09; SR-PSE-87-21; SR-CBOE-88-11; SR-NYSE-87-40]

Self-Regulatory Organizations; Philadelphia Stock Exchange Inc.; American Stock Exchange, Inc.; Pacific Stock Exchange, Inc.; Chicago Board Options Exchange, Inc.; New York Stock Exchange, Inc.; Notice and Order Granting Accelerated Approval to Proposed Rule Changes

On June 15, 1988, the Philadelphia Stock Exchange, Inc. ("Phlx"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] Amendment No. 3 to a proposed rule change to extend the market index option escrow receipt ("MIOER") pilot program until October 31, 1988.[3]

In August 1985, the Commission approved a one-year pilot program to permit the use of cash, cash equivalents, one or more qualified securities, or a combination of the foregoing, as collateral for escrow receipts issued to cover short call positions in broad-based

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1988).

[3] On June 20, 23, 27, and 30, 1988, the American Stock Exchange, Inc. ("Amex"), the Pacific Stock Exchange, Inc. ("PSE"), the Chicago Board Options Exchange, Inc. ("CBOE"), and the New York Stock Exchange, Inc. ("NYSE"), submitted, respectively, essentially identical proposals for the extension of the MIOER pilot. *See* File Nos. SR-Amex-87-09, Amendment No. 3; SR-PSE-87-21, Amendment No. 2; SR-CBOE-88-11; SR-NYSE-87-40, Amendment No. 2.

stock index options.[4] The proposed rule changes are designed to amend previously filed rule changes respecting extension of the pilot program and to provide a workable mechanism through which index call options could be written in a cash account.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the proposal in the **Federal Register** for several reasons. First, the extension will allow for uninterrupted continuation of a program designed to reduce operational difficulties of banks and trust companies while the options exchanges and the Options Clearing Corporation continue their review of the receipt format. Second, the extension will allow the Commission to continue its evaluation of the program's effectiveness, especially during the October 1987 market break. Third, the pilot was previously approved by the Commission and no adverse comments have been received regarding its operation.

It is therefore ordered, pursuant to section 19(b)(2) of the Act[5] that the proposal to extend the operation of the pilot through October 31, 1988, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

Dated: July 6, 1988.

[FR Doc. 88-15708 Filed 7-12-88; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

July 7, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Alberto-Culver Company
Class A Common Stock, $0.22 Par Value (File No. 7-3591)
Kansas City Southern Industries, Inc.
Non-Cumulative Preferred Stock (File No. 7-3592)
Genesco Incorporated
Common Stock, $1.00 Par Value (File No. 7-3593)
Prudential Intermediate Income Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-3594)
Sun Electric Corporation
Common Stock, $1.00 Par Value (File No. 7-3595)
Tacoma Boatbuilding Co.
Common Stock, $0.01 Par Value (File No. 7-3596)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 28, 1988, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-15709 Filed 7-12-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16472; 812-7039]

FG Series, Inc., et al.; Application

July 6, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: FG Series, Inc. (the "Company") and Financial Programs, Inc. ("Programs") (collectively, "Applicants").

Relevant 1940 Act Sections: Order requested under section 11(a).

Summary of Application: Applicants seek an order, on behalf of themselves and other registered open-end diversified management investment companies distributed by Programs which may be organized in the future, under section 11(a) of the 1940 Act approving certain offers of exchange.

FILING DATE: The application was filed on May 19, 1988, and amended on June 24, 1988.

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 p.m., on August 1, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, 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 a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 6312 South Fiddler's Green Circle, Suite 100N, Englewood, Colorado 80111.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Staff Attorney, (202) 272-2847, or Curtis R. Hilliard, Special Counsel, (202) 272-3030 (Division of Investment Management, 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 who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. The Company is an open-end management investment company registered under the 1940 Act. The Company is a series company which currently intends to offer investors a selection of four investment funds (such investment funds being referred to individually as a "Fund" and in the aggregate as the "Funds"): the FG Money Fund (the "No-Load Fund"), the Global Bond Fund, the Asset Allocation Aggressive Fund, and the Asset Allocation Conservative Fund (collectively, the "Load Funds"). Additional investment funds may be added prior to the time the Company's registration statement is declared effective or thereafter.

2. Shares of all of the Funds are distributed by Programs. Financial Trust Company serves as investment adviser

[4] *See* Securities Exchange Act Release No. 22323 (August 13, 1985) 50 FR 33439 for a description of the pilot.

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30-3(a)(12) (1988).

of each Fund. Programs will maintain a continuous public offering of shares of the No-Load Fund at its current net asset value without a sales charge (but, as is the case with the Load Funds, Programs will receive certain fees for distribution services and expenses pursuant to the Company's distribution plan adopted under Rule 12b–1 of the 1940 Act, as described below) and a continuous public offering of shares of the Load Funds at their respective current net asset values plus a sales charge that is expected to equal 4.25% of the public offering price (4.4% of the net amount invested). Programs will be paid an annual fee, authorized under a distribution plan adopted under Rule 12b–1 of the 1940 Act, for certain services rendered and expenses incurred in connection with the offer and sale of the Company's shares.

3. Applicants seek the flexibility to allow shareholders of any No-Load Fund or any Load Fund to exchange all or a portion of their shares (including shares acquired through the reinvestment of dividends and capital gains distributions) for shares of any other Fund as specified in the application.

4. The Company reserves the right to terminate the exchange privilege of any shareholder who requests more than 4 exchanges during any one year. The Company would consider exercising its right to terminate the exchange privilege of any shareholder who requests more than four exchanges a year only where the Company's investment adviser believes such action is necessary in order to prevent abuse of the exchange privilege to the disadvantage of other shareholders. In particular, the Company is concerned about the adverse impact frequent exchanges of substantial size in and out of the various portfolios of the Company could have on effective portfolio management of each portfolio. Exchanges of a lesser magnitude which (viewed individually and without regard to the actions of other shareholders) do not necessitate the liquidation of portfolio securities in order to fund the request or which, in the judgment of the Company's investment adviser, are not likely to have an adverse impact upon the yield or total return of a portfolio would not be impeded by the foregoing policy. Accordingly, shareholders not making frequent exchanges of substantial blocks of shares will not be limited in their ability to exercise their exchange privilege as a result of such policy.

5. Applicants seek the ability to permit the following exchange offers between Funds:

(i) Shares of a Load Fund may be exchanged for shares of another Load Fund on the basis of relative net asset value without the payment of a sales load;

(ii) Shares of a Load Fund may be exchanged for shares of a No-Load Fund on the basis of relative net asset value without the payment of a sales load; and

(iii) Shares of a No-Load Fund may be exchanged for shares of any Load Fund subject to the sales load normally charged by the Load Fund (unless those shares were previously charged a sales load by one of the Funds).

6. It is currently contemplated that exchanges between individuals Funds would not be subject to the payment of any service charge. However, the Company reserves the right to impose a nominal administrative fee in the future, in an amunt not to exceed $5.00 per exchange, payable to the Fund from which the exchange was made and applied uniformly to all shareholders. Any administrative fee imposed would be disclosed in the Company's prospectus and in advertising and sales literature that described the exchange offers. Each exchange will be subject to the minimum investment requirements of the Fund's shares that are to be acquired in the exchange.

7. In each of the exchanges described above, shares acquired through reinvestment of dividends and capital gains distributions will be deemed to have been sold with a sales load equal to the sales load previously paid on the shares on which the dividend was paid or distributions made. Moreover, where a shareholder exchanges less than all of his shares of a particular Fund, the shares upon which the highest sales load was previously paid will be deemed to be exchanged first.

8. Applicants submit that the proposed exchange privilege between individual Funds would permit a shareholder of any Fund to exchange, in a simple transaction, his Fund shares for shares of any other Fund on a fair and equitable basis when market, tax considerations or changes in the shareholder's investment objectives warrant such an exchange. Thus, Applicants believe that the proposed offers of exchange are fair and equitable to all shareholders, while at the same time giving them necessary flexibility in their financial planning.

9. If any administrative fee were to be imposed on exchanges, the purpose of the fee would be to defray the administrative expenses incurred in the exchanges.

10. Applicants request that any order issued on the application also be applicable to any other registered investment company or series thereof distributed by Programs which may be organized in the future, provided that the shares of such investment company or series thereof are sold either without any sales load or with a front-end sales charge in a manner substantially similar to the manner described in the Application.

Applicants' Conditions

1. Shareholders of each Fund will be notified of the exchange privilege by means of the Company's prospectus and possibly in other communications.

2. Shareholders of the Compamy will be notified by means of the Company's prospectus of the fact that the Company reserves the right to modify or terminate its exchange privilege, including exchanges of shares between two Funds as described more fully in the application.

3. In connection with sales literature and advertising that refers to the Company's exchange privilege, the Company undertakes to consider the desirability of disclosing the fact that the Company reserves the right to modify or terminate its exchange privilege.

4. Shareholders will be notified in writing at least 60 days prior to any modification or termination of the Company's exchange privilege, except in the case of a reduction of any administrative fee in which case prior notice shall not be required; provided, however, that the temporary cessation of the sale of Company shares under extraordinary circumstances such as when the Company is unable to effectively invest amounts in accordance with applicable investment objectives, policies and restrictions, or the suspension of the redemption of Company shares pursuant to section 22(e) of the 1940 Act and the rules and regulations thereunder shall not be considered a modification or termination of the Company's exchange privilege.

5. The Applicants undertake to obtain an amended order from the Commission prior to any modification (i.e., manner, frequency or basis) or the Company's exchange privilege in a manner not described in the Application; provided, however, that an amended order is not required in order to terminate the Company's exchange privilege.

6. Applicants will comply with the provisions of proposed Rule 11a–3, as, if and when such Rule may be adopted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-15710 Filed 7-12-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24675]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

July 7, 1988.

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 August 1, 1988 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 address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Pennsylvania Electric Company (70-7518)

Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, a wholly owned subsidiary of General Public Utilities Corporation, a registered holding company, has filed an application pursuant to sections 9(a) and 10 of the Act.

Penelec proposes to lease certain tracts of land which are located in Western Pennsylvania and all or unused portions of various buildings it owns to unaffiliated third parties, through December 31, 1997, for annual rentals of from $1 to $2,400 and for terms of up to 25 years. Such proposed leases would enable Penelec to employ currently underutilized assets in a manner useful to the communities it serves.

The real property was acquired by Penelec for use as sites for electric facilities, such as generating stations, substations and transmission lines. Some of these properties are being used as originally intended while others are currently being held by Penelec for future use. The buildings are now used only in part, not used full time, or are not now used but which are being held for future use. It is stated that Penelec regularly receives requests to lease these real properties, including, for example, land for farming, grazing of livestock, public recreation facilities and timber rights, and all or unused portions of various buildings. Penelec anticipates that its investment of capital or employees' time in connection with the proposed transactions will not exceed $100,000.

Public Service Company of Oklahoma (70-7526)

Public Service Company of Oklahoma ("PSO"), 323 East 6th Street, Tulsa, Oklahoma 74102, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed an application pursuant to sections 9(a)(1) and 10 of the Act.

PSO proposes to purchase the electric distribution system currently owned by the Town of Chelsea, Oklahoma ("Chelsea"). Under the purchase agreement, PSO would acquire all the utility assets included in Chelsea's electric distribution system, including all easements and right-of-way interests on which the assets are located. The purchase price would be $2.2 million, and the acquisition would represent an addition of less than 1% to PSO's property accounts.

The Southern Company (70-7527)

The Southern Company ("Southern"), 64 Perimeter Center East, Atlanta, Georgia 30346, a registered holding company, has filed a declaration pursuant to sections 6(a) and 7 of the Act of 1935 and Rule 50(a)(5) thereunder.

Southern proposes to issue and sell from time to time, through December 31, 1991, pursuant to an exception from the competitive bidding requirements of Rule 50 (b) and (c) under Rule 50(a)(5), up to 31,119,000 shares of its authorized but unissued common stock, par value $5 per share. A maximum of 20 million of those shares, in addition to the balance of 5,425,126 shares (as of May 31, 1988) approved by a previous order of the Commission (HCAR No. 23966, December 30, 1985), would be sold to Southern's Dividend Reinvestment and Stock Purchase Plan. The remaining 11,119,000 shares, in addition to the balance of 454,893 shares (as of May 31, 1988) approved by a previous order of the Commission (HCAR No. 24544, December 17, 1986), would be available to be sold to Southern's Employee Savings Plan.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-15711 Filed 7-12-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 88-054]

Houston/Galveston Navigation Safety Advisory Committee; Solicitation for Membership

SUMMARY: The U.S. Coast Guard is seeking applications for appointment to membership on the Houston/Galveston Navigation Safety Advisory Committee. Present appointments will expire with the present committee charter on 6 November 1988. Approximately sixteen memberships will be filled.

Applicants may be State and local government, the marine industry, environmental groups, academia, and other interested parties. To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women.

The purpose of the committee is to provide local expertise on such matters as communication, surveillance, traffic control, anchorages, and other related topics dealing with navigation safety in the Houston/Galveston area as required by the Coast Guard. The committee normally meets once a quarter at various locations in the Houston/Galveston area. Members serve voluntarily, without compensation from Federal Government for salary, travel, or per diem. Term of membership will not exceed the expiration of the charter, 6 November 1990.

DATES: Requests for applications should be received no later than 25 July 1988. Completed applications should be returned no later than 15 August 1988.

ADDRESS: Persons interested in applying should write to Commander, Eighth Coast Guard District (oan), Hale Boggs

Federal Building, 500 Camp Street, New Orleans, LA 70130–3396.

FOR FURTHER INFORMATION CONTACT: Commander Gary A. Bird, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander Eighth Coast Guard (oan) Room 1141, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130–3396, telephone number (504) 589–6234.

Dated: June 29, 1988.

W.F. Merlin,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 88–15621 Filed 7–12–88; 8:45 am]

BILLING CODE 4910–14–M

[CGD 88–055]

Working Groups for the Subcommittee on Vapor Control, Chemical Transportation Advisory Committee; Meetings

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of meetings of the Waterfront Facilities Working Group, Tankship Working Group, and Tank Barge Working Group for the Subcommittee on Vapor Control of the Chemical Transporation Advisory Committee (CTAC). The Subcommittee is considering requirements for tank vessels and waterfront facilites which use vapor control systems. The working groups are to address new work items from the Subcommittee's Work Plan, and to finalize recommendations on the new work items. The new work items which will be addressed are listed on the Subcommittee's Work Plan, which was enclosed in the minutes of the Subcommittee meeting of May 4 and 5, 1988. The meetings of the working groups will be held on Wednesday, August 3, and Thursday, August 4, 1988 in Room 2230, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, DC. Prior to convening the working groups, members of each working group will meet jointly in order to coordinate efforts. The meeting is scheduled to begin at 9:00 a.m. on Wednesday and 8:00 a.m. on Thurday.

The agenda is as follows:

1. Call to order.
2. Opening remarks.
3. Break up into individual working groups.
4. Discussion and development of recommendations on new work items from the Subcommittee's Work Plan.
5. Adjournment.

Attendance is open to the public. Members of the public may present oral statements at the meetings. Persons wishing to present oral statements should notify the Executive Director of CTAC no later than the day before the meeting. Any members of the public may present a written statement to the Subcommittee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R.H. Fitch, U.S. Coast Guard Headquarters (G–MTH–1), 2100 Second St. SW., Washington, DC 20593–0001, (202) 267–1217.

Dated: July 6, 1988.

N.W. Lemley,

Acting Executive Director, Chemical Transportation Advisory Committee.

[FR Doc. 88–15620 Filed 7–12–88; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Noise Exposure Map Determination and Receipt of Noise Compatibility Program and Request for Review; Dayton International Airport, Dayton, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Dayton for Dayton International Airport 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 Dayton International Airport under Part 150 in conjunction with the noise exposure map, and that this progam will be approved or disapproved on or before December 19, 1988.

DATES: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is June 12, 1988. The public comment period ends August 6, 1988.

FOR FURTHER INFORMATION CONTACT: Prescott C. Snyder, Federal Aviation Administration, Great Lakes Region, Airports Division, AGL–611, 2300 East Devon Avenue, Des Plaines, Illinois 60018, (312) 694–7538.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Dayton International Airport are in compliance with applicable requirements of Part 150, effective June 22, 1988. Further, the FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before December 19, 1988. 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 the FAA to be in compliance with the requirements of the Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for the FAA's 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 city of Dayton submitted to the FAA in November of 1985 noise exposure maps, descriptions and other documentation subsequently revised in October of 1986 and again in June of 1988, which were produced during the Airport Noise Compatibility Planning (Part 150) Study at Dayton International Airport from May 1984 to June 1988. 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 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 city of Dayton. The specific maps under consideration are Noise Exposure Maps: 1984 Noise Contours and 1989 Noise Contours (abated conditions). They are included along with supporting documentation found in the noise

exposure map documentation of the Part 150 Study in the submission. The FAA has determined that these maps for Dayton International Airport are in compliance with applicable requirements. This determination is effective on June 22, 1988. The airport operator has also submitted and addendum to the Noise Compatibility Study for Dayton International Airport based on changes in operations since the first submittal of the Noise Compatibility Program for review in 1985, and a subsequent revision in October of 1986. The city of Dayton has formally requested that FAA review this addendum documentation as part of its review of the Noise Compatibility Program for Dayton International Airport, and make a determination at the time of approval of the noise compatibility program that the following noise exposure maps found in this Addendum are the official Noise Exposure Maps: 1987 Noise Contours (current conditions) and 1992 Noise Contours (abated conditions). 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 procedures 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 a noise exposure map 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 the 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 map depicting properties on the surface rests exclusively with the airport operator who 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 section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Dayton International Airport, also effective on June 22, 1988. 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 December 19, 1988.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of 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. 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 Independence Avenue SW., Room 617, Washington, DC 20591

Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Room 261, Des Plaines, Illinois 60018

Federal Aviation Administration, Detroit Airports District Office, East Willow Run Airport, 8800 Beck Road, Belleville, Michigan 48111

City of Dayton, Department of Aviation, Terminal Building, Dayton International Airport, Vandalia, Ohio 45377.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Des Plaines, Illinois, June 22, 1988.

William H. Pollard,

Director, Great Lakes Region.

[FR Doc. 88-15613 Filed 7-12-88; 8:45 am]

BILLING CODE 4910-13-M

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, St. Lucie County International Airport, Fort Pierce, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Ft. Pierce Port and Authority for St. Lucie County International Airport 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 St. Lucie County International Airport under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before December 16, 1988.

DATES: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is June 20, 1988. The public comment period ends August 18, 1988.

FOR FURTHER INFORMATION CONTACT: Pablo G. Auffant, Airport Planning Specialist, Orlando Airports District Office, 4100 Tradecenter Street, Orlando, Florida 32827, Telephone (407) 648-6583.

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 St. Lucie County International Airport are in compliance with applicable requirements of Part 150, effective June 20, 1988. Further, the FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before December 16, 1988. 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 submissions 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 consulation 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 the 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 the FAA's 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 Fort Pierce Port and Airport Authority submitted to the FAA on March 31, 1988 noise exposure maps, description and other documentation which were produced during an airport noise compatibility planning study from March 7, 1986 to January 2, 1987. 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 Ft. Pierce Port and Airport Authority. The specific maps under consideration are "Existing (1986) Ldn Contours" and "Future (1992) Ldn Contours." The FAA has determined that these maps for St. Lucie County International Airport are in compliance with applicable requirements. This determination is effective on June 20, 1988. 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 a noise exposure map 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 the 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 map depicting properties on the surface rests exclusively with the airport operator who submitted those maps, or with those public agencies and planning agencies with whom 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 has formally received the noise compability program for St. Lucie County International Airport also effective on June 20, 1988. 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 December 16, 1988.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of 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. 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 Independence Avenue, SW., Room 617, Washington, DC.

Orlando Airports District Office, 4100 Tradecenter Street, Orlando, Florida 32827.

Fort Pierce Port and Airport Authority, 2300 Virginia Avenue, Room 104, Fort Pierce, FL 33482-5652.

Questions may be directed to the individual named above under the heading, **"FOR FURTHER INFORMATION CONTACT."**

Issued in Orlando, Florida, June 20, 1988.

James E. Sheppard,

Manager, Orlando Airports, District Office.

[FR Doc. 88-15614 Filed 7-12-88 8:45 am]

BILLING CODE 4910-13-M

Informal Airspace Meetings; Mississippi el al.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of informal airspace meetings.

SUMMARY: This notice announces informal airspace meetings to discuss the following: 1. Establishment of an Airport Radar Service Area (ARSA) at Gulfport, MS; 2. Establishment of an ARSA at Tri-City, TN; 3. Modification of the Chicago, IL, Terminal Control Area (TCA); and 4. Establishment of a TCA at Salt Lake City, UT.

SUPPLEMENTARY INFORMATION: The informal airspace meeting dates and places are as follows:

Gulfport, MS, ARSA

Date: September 13, 1988
Time: 7:00 p.m.
Location: Mississippi Air National Guard Site Auditorium, Gulfport Municipal Airport, Gulfport, MS.

Tri-City, TN, ARSA

Date: September 20, 1988
Time: 7:00 p.m.
Location: Tri-City Technical College Auditorium, Tri-City Regional Airport, Blountsville, TN.

Chicago, IL, TCA

Date: September 28, 1988
Time: 7:30 p.m.
Location: Maine West High School Auditorium, 1755 Wolfe Road, Des Plaines, IL.

Salt Lake City, UT, TCA

Date: October 4, 1988
Time: 7:00 p.m.
Location: National Guard Armory, 625 East 5300 South, Ogden, UT.

and

Date: October 5, 1988
Time: 7:00 p.m.
Location: Utah Air National Guard Base Theater, 765 North 2200 West, Salt Lake City, UT.
and
Date: October 6, 1988
Time: 7:00 p.m.
Location: National Guard Armory, 222 West 500 North, Provo, UT.

FOR FURTHER INFORMATION CONTRACT: Joe Gill, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

Issued in Washington, DC, on July 7, 1988.

Temple H. Johnson,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-15616 Filed 7-12-88; 8:45 am]

BILLING CODE 4910-13-M

Flight Service Station At Ephrata, WA; Closing

Notice is hereby given that on or about July 7, 1988, the Ephrata, Washington, Flight Service Station will be closed. Services to the aviation public formerly provided by this facility will be provided by the Automated Flight Service Station at Seattle, Washington. This information will be reflected in the FAA Organization Statement the next time it is issued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Seattle, Washington, on June 20, 1988.

Thomas J. Howard,

Acting Director, Northwest Mountain Region.

[FR Doc. 88-15617 Filed 7-12-88; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Surry County, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice of advise the public that an environmental impact statement will be prepared for a proposed highway project in Surry County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Bellamy Division Administrator, Federal Highway Administration, Suite 470, 4505 Falls of Neuse Road, P O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 790-2850.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposed connector from US 52 to I-77 in Surry County. The proposed action would be the construction of an expressway on new location from US 52 south of Mount Airy to I-77 near Pine Ridge, a distance of approximately 11 miles. The proposed project is needed to serve the existing and anticipated traffic demand in the area. It will provide a much needed alternative route south of existing NC 89 and will help relieve the congestion, delay, and inconvenience currently being experienced by removing through traffic from this local highway. The proposed connector will also serve as a bypass for Mount Airy.

Alternatives under consideration include (1) the "no-build", (2) improving existing NC 89, and (3) the construction of an expressway on new location.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. Public meetings and meetings with local officials will be held in the project area. A corridor public hearing and a design public hearing will also be held. Information on the time and location of the public meetings and public hearings will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the corridor public hearing. No formal scoping meeting is planned at this time.

To insure that the full range of issues relating to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on June 23, 1988.

J.M. Tate,

District Engineer, FHWA, Raleigh, North Carolina

[FR Doc. 88-15624 Filed 7-12-88; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ.; Public Debt Series No. 18-88]

Treasury Notes of July 15, 1995; Series G-1995

July 6, 1988.

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 $6,500,000,000 of United States securities, designated Treasury Notes of July 15, 1995, Series G-1995 (CUSIP No. 912827 WK 4), 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 July 15, 1988, and will accrue interest from that date, payable on a semiannual basis on January 15, 1989, and each subsequent 6 months on July 15 and January 15 through the date that the principal becomes payable. They will mature July 15, 1995, 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 business day.

2.2. The Notes are subject top 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. Sales Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, July 12, 1988. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, July 11, 1988, and received no later than Friday, July 15, 1988.

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 Friday, July 15, 1988. 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 Wednesday, July 13, 1988. 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 Friday, July 15, 1988. 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 anouncement 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. 88-15678 Filed 7-8-88; 2:26 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 134
Wednesday, July 13, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

July 7, 1988.

TIME AND DATE: 10:00 a.m., Thursday, July 14, 1988.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Mettiki Coal Corporation*, Docket No. YORK 87-1-R, etc. (Issues include whether the judge erred in finding that Mettiki did not violate 30 CFR 75.305)
2. *Peabody Coal Company*, Docket No. KENT 86-94-R, etc. (Issues include whether the judge erred in finding violations of 30 CFR 75.1710-1)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION Jean Ellen (202) 653-5629/ (202) 566-2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 88-15727 Filed 7-11-88; 9:09 am]

BILLING CODE 6735-01-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-88-16]

TIME AND DATE: Monday, July 18, 1988 at 10:00 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification.
4. Petitions and Complaints.
5. Inv. No. 731-TA-409 and 410(P) (Certain light-walled rectangular pipes and tubes from Argentina and Taiwan)—Briefing and vote.
6. Any item left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Kenneth R. Mason,

Secretary.

July 6, 1988

[FR Doc. 88-15730 Filed 7-11-88; 9:10 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-88-17]

TIME AND DATE: Monday, July 22, 1988 at 10:00 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Inv. TA-201-61 (Certain Knives)—briefing and vote on injury.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Kenneth R. Mason,

Secretary.

July 6, 1988

[FR Doc. 88-15731 Filed 7-11-88; 9:10 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

[USITC SE-88-15A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 24398—dated June 28, 1988.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 3:00 p.m., Monday, July 11, 1988.

CHANGE IN TIME OF THE MEETING: 10:00 a.m., Monday, July 11, 1988.

In conformity with 19 CFR 201.37(b), Commissioners Brunsdale, Eckes, Lodwick, Rohr, and Cass determined that Commission business required the change in time of the meeting on July 11, 1988, and affirmed that no earlier announcement of the change to the time was possible, and directed the issuance of this notice at the earliest practicable time. Commissioner Liebeler was not available to participate in the decision.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Kenneth R. Mason,

Secretary.

July 6, 1988.

[FR Doc. 88-15732 Filed 7-11-88; 9:10 am]

BILLING CODE 7020-02-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

AGENCY: Institute of Museum Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub. L. 94-409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

TIME & DATE: 10:00 a.m., Thursday, July 21, 1988.

STATUS: Open and closed.

ADDRESS: The New England Aquarium, Central Wharf, Boston, Massachusetts, 02110, (617) 973-5209.

FOR FURTHER INFORMATION CONTACT: S. William Laney, Executive Assistant to the National Museum Services Board, Room 510, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202) 786-0536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Pub. L. 94-462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under this Title. Grants are awarded by the Institute of Museum Services after review by the Board.

The meeting of July 21, 1988 will be open to the public from 10:00 a.m. until the closed session portion of item V, section C and D, and open again to the public from item V, section E through discussion of item VI. The meeting will be closed to the public for the portion relating to discussion of PSP applications in agenda item V, section C and pursuant to paragraphs 6, 9(B), and other relevant provisions of subsection (c) of section 552b of Title 5, United States Code and pursuant to 45 CFR 1180.88, because the Board will consider

information that may disclose: Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of privacy; and information the disclosure of which might significantly impede implementation of proposed agency actions related to the grant award process.

If you need special accommodations due to a disability, please contact: Institute of Museum Services, Room 510 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202) 786–0536, TDD (202) 682–5496 at least seven (7) days prior to the meeting.

National Museum Services Board

July 21, 1988 Meeting Agenda

I. Approval of Minutes of April 22, 1988 Meeting.
II. Director's Report.
III. Legislative and Regulatory Update.
IV. Program Report.
A. Museum Assessment Program.
B. General Operating Support.
C. Conservation Program—There will be a closed session portion of this agenda item.
D. Professional Services Program—There will be a closed session portion of this agenda item.
V. Presentation of Reports.
VI. Other Business.

Dated: July 6, 1988.

Lois Burke Shepard,

Director.

Certification of Closed Meeting

In accordance with section 3(f)(1) of the Government in the Sushine Act (5 U.S.C. 552b (c)) and with the applicable regulations of the Institute of Museum Services (45 CFR 1180.88), I hereby certify that the portion of the meeting of the National Museum Services Board ("Board"), scheduled for July 21, 1988 in Boston, Massachusetts, at which the Board will consider applications for assistance from IMS, may properly be closed to the public on the basis of the exemption set forth in the regulations of the Institute, 45 CFR Part 1180, Subpart G, Appendix A, paragraph 6.

Lois Burke Shepard,

Director, Institute of Museum Services.

[FR Doc. 88–15876 Filed 7–11–88; 3:11 pm]

BILLING CODE 7036-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (53 FR 24399 June 28, 1988 and 53 FR 25567 July 7, 1988).

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, June 23, 1988 and Friday, July 1, 1988.

CHANGES IN THE MEETING: Deletion.

The following item was not considered at an open meeting scheduled for Thursday, July 7, 1988, at 2:00 p.m.

Consideration of whether to authorize for publication (1) a release adopting amendments to Regulation S–X that would require accountants' reports included in Commission filings to be signed by an independent accountant who within the last three years has undergone a peer review of its accounting and auditing practice, and (2) a release publishing for comment proposals to specify procedures to be used for review an accountant's audit work pending the accountant's compliance with peer review requirements when the accountant first becomes subject to the requirement due to accepting a Commission registrant as a client or a current client becoming a Commission registrant. For further information, please contact John Heyman at (202) 272–2130.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kevin Fogarty at (202) 272–3195.

Jonathan G. Katz,

Secretary.

July 8, 1988.

[FR Doc. 88–15712 Filed 7–11–88; 9:08 am]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 53, No. 134
Wednesday, July 13, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

Correction

In notice document 88-15199 beginning on page 25526 in the issue of Thursday, July 7, 1988, make the following correction:

On page 25527, in the table, in the entry opposite "341", "325,000" should read "525,000".

BILLING CODE 1505-01-D

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 62

National Flood Insurance Program; Assistance to Private Sector Property Insurers

Correction

In rule document 88-9378 beginning on page 15208 in the issue of Thursday, April 28, 1988, make the following correction:

Appendix B [Corrected]

On page 15219, in the second column, in Appendix B to Part 62, **Part 6**, the 17th and 18th lines should read as follows:

"—Large/unusual balance in Cash-Other (Receivable and/or Payable)."

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 85

Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Health and Human Services

Correction

In rule document 88-15382 beginning on page 25595 in the issue of Friday, July 8, 1988, make the following corrections:

1. On page 25597, in the second column, in the fourth complete paragraph, in the ninth line, "by" should read "be".

2. On page 25600, in the third column, in the third complete paragraph, in the fourth line, "form" should read "for".

3. On page 25607, in § 85.61(d), in the first line, "the" should read "and".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 84F-0408]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Sucrose Fatty Acid Esters

Correction

In rule document 88-13434 beginning on page 22294 in the issue of Wednesday, June 15, 1988, make the following correction:

On page 22297, in the first column, in the first complete paragraph, in the second line, "test" should read "text".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Animal Drugs, Feeds, and Related Products; Hyaluronate Sodium Injection

Correction

In rule document 88-13432 beginning on page 22297 in the issue of Wednesday, June 15, 1988, make the following correction:

On page 22297, in the third column, after paragraph 2., the part heading should read:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 355

[Docket No. 80N-0042]

Anticaries Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

Correction

In proposed rule document 88-13431 beginning on page 22430 in the issue of Wednesday, June 15, 1988, make the following corrections:

1. On page 22442, in the third column, in the second complete paragraph, in the ninth line, "calories" should read "caries".

2. On page 22444, in the third column, in paragraph 14., in the ninth line from the bottom, after "Edition III," insert "page 271,".

§ 355.70 [Corrected]

3. On page 22447, in the third column, in § 355.70, in the 14th line, "or" should read "on".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88N-0248]

Drug Export; Platinol AQ Injection 1 mg/1 mL (Cisplatin)

Correction

In notice document 88-15006 appearing on page 25212 in the issue of Tuesday, July 5, 1988, make the following corrections:

In the second column, in the second line of the subject heading, and under **SUMMARY** in the last line, "ml" should read "mL".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

48 CFR Parts 1452 and 1480

Acquisition Regulations; Buy Indian Act; Procedures for Contracting Pursuant to the Act of June 25, 1910

Correction

In proposed rule document 88-14583 beginning on page 24738 in the issue of Thursday, June 30, 1988, make the following corrections:

1. On page 24738, in the third column, in the second complete paragraph, in the second line, "public" was misspelled.

2. On page 24740, in the second column, in the 11th line from the bottom, "sure" should read "aware".

1480.401 [Corrected]

3. On page 24742, in the third column, in section 1480.401, in the last line, "place" should read "price".

1480.700 [Corrected]

4. On page 24745, in the first column, section 1480.700(a), in the first line "contracting" was misspelled.

5. On the same page, in the same column, in section 1480.700(d), in the second line, "complied" should read "compiled".

1480.702 [Corrected]

6. On the same page, in the second column, in section 1480.702(c)(4), in the first line, "Department" should read "Debarment".

1480.802 [Corrected]

7. On page 24746, in the second column, in section 1480.802(b), in the 13th line, "materials" was misspelled.

1480.803 [Corrected]

8. On the same page, in the same column, in section 1480.803, in the ninth line, "question" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-5600]

Amendments to Prohibited Transaction Exemption (PTE) 82-87 for Transactions Involving Certain Residential Mortgage Financing Arrangements

Correction

In notice document 88-14794 beginning on page 24811 in the issue of Thursday, June 30, 1988, make the following corrections:

1. On page 24812, in the second column, in the ninth line, "prohibitions" was misspelled.

2. On page 24813, in the second column, in the last paragraph, in the 13th line, "tandem" was misspelled.

3. On page 24816, in the second column, in paragraph "D", in the 21st line, insert "under" after "applicable".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 193

[Docket No. PS-96, Amdts. 191-6, 192-59, 193-5, 195-39]

Reporting Unsafe Conditions on Gas and Hazardous Liquid Pipelines and Liquefied Natural Gas Facilities

Correction

In rule document 88-14758 beginning on page 24942 in the issue of Friday, July 1, 1988, make the following corrections:

1. On page 24959, in the first column, under amendatory instruction 8. in the section heading "§ 191.605" should read "§ 192.605".

2. On the same page, in the same column, under amendatory instruction 10, in the section heading "§ 191.2605" should read "§ 193.2605".

BILLING CODE 1505-01-D

Federal Register

Wednesday
July 13, 1988

Part II

Office of Personnel Management

5 CFR Part 930

Training Requirement for the Computer Security Act; Interim Regulation

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 930

Training Requirement for the Computer Security Act

AGENCY: Office of Personnel Management.

ACTION: Interim regulation.

SUMMARY: This regulation implements Pub. L. 100–235, the Computer Security Act of 1987, which requires training for all employees responsible for the management and use of Federal computer systems that process sensitive information. Under the regulation agencies will be responsible for identifying the employees to be trained and providing appropriate training.

DATES: Interim rule effective July 13, 1988. Submit written comments on or before September 12, 1988.

ADDRESSES: Send written comments to Mr. Harold Segal, Chief, Policy and Oversight Branch, Office of Training and Development, Training and Investigations, Office of Personnel Management, P.O. Box 7230, Washington, DC 20044, or deliver to 1121 Vermont Avenue NW., Room 1215, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Ms. Constance Guitian, Policy and Oversight Branch, (202) 632–9769.

SUPPLEMENTARY INFORMATION: Public Law 100–235, the "Computer Security Act of 1987", requires mandatory periodic training for all employees involved in the management or use of Federal computer systems that contain sensitive information. In order to accomplish this goal the law requires the National Bureau of Standards (NBS) to develop guidelines for the training of employees in security awareness and accepted security practices. The Office of Personnel Management (OPM), however, is required to issue regulations for the training within six months (July 8, 1988) of the passage of the law. The law further requires that agencies initiate training within 60 days of the issuance of the regulation. This means that agencies should start their training programs by September 8, 1988.

The preparation of these regulations required extensive coordination with NBS. Pursuant to sections 553 (b)(3) and (d)(3) of title 5 of the United States Code, I find that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately in order to meet a statutory deadline. Even though we are issuing these regulations as interim effective immediately, we are inviting comments for a 60-day period. Those comments will be given consideration in the final regulations which we plan to issue within 120 days after the comment period. OPM has worked with NBS in defining areas that should be included in training activities and these are embodied in the regulation. The principal features of the regulation are:

(1) The subject matter of the training should stress awareness of the computer system's vulnerabilities and risks and be organized around each agency's computer security policies, practices and procedures;

(2) Training is a continuing process; and,

(3) Refresher training must be provided as appropriate.

The depth of coverage for each of the subjects listed in the regulation should depend on the sensitivity of the data to which the employee has access and the employee's level of responsibility and authority with respect to the information. Each agency will have to decide the appropriate level of training for its employees. The agency may include computer security awareness as a part of existing computer training, management courses and employee orientation. In addition, agencies should explore non-classroom modes of delivery of training such as computer assisted training, video tapes, workbooks, job aids and desk guides.

The Congressional Budget Office estimates that about half of all Government employees will need computer security training to make them aware of the vulnerability of sensitive information and the risks of unauthorized use. Training for most of these employees will not be technical in nature but will teach them how to safeguard the information to which they have access. Although training is of vital importance to a security program, it is only a part of a larger information management system. Agency management needs to foster a work environment where information security is seen as critical to accomplishing the agency's mission.

This regulation will be issued in Part 930 of the Code of Federal Regulations and subsequent Federal Personnel Manual guidance will be issued as an appendix to Chapter 410. The regulation may be changed when NBS issues its guidelines. The law allows the agency head the option to exempt the agency from the training requirements of the guidelines if it is determined that the agency has an alternative training program at least as effective as the one described in the guidelines.

Office of Personnel Management.

Constance Horner,

Director.

Accordingly, the Office of Personnel Management adds Subpart C to Part 930 to read as follows:

Subpart C—Employees Responsible for the Management or Use of Federal Computer Systems

Sec.

930.301 Training requirement.
930.302 Initial training.
930.303 Continuing training.
930.304 Refresher training.

Subpart C—Employees Responsible for the Management or Use of Federal Computer Systems

Authority: 40 U.S.C. 759 note.

§ 930.301 Training requirement.

(a) The head of each agency shall identify and provide training in computer security, which emphasizes an awareness of the vulnerabilities and risks of the systems, to all employees responsible for the management or use of Federal computer systems[1] that process sensitive information.[2]

(b) The objective of the training is to provide employees an awareness of the vulnerabilities and risks of the computer system. The training should also provide the knowledge and skills needed to apply an agency's computer security policies, practices, and procedures.

(c) The training shall include as appropriate agency computer security practices and procedures for:

(1) Meeting information security objectives;

(2) Responsibility and accountability;

(3) Information accessibility, handling, and storage;

(4) Physical and environmental hazard protection;

(5) System and data access controls;

(6) Emergency and disaster situations;

[1] Under the statute, the term "Federal computer system": (A) means a computer system operated by a Federal agency or by a contractor of a Federal agency or other organization that processes information (using a computer system) on behalf of the Federal Government to accomplish a Federal function; and

(B) includes automatic data processing equipment as that term is defined in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949.

[2] Under the statute, the term "sensitive information" means any information, the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

(7) Identification of threats and vulnerabilities; and

(8) Other security related matters.

§ 930.302 Initial training.

The head of each agency shall start the initial required training for all employees responsible for the management or use of Federal computer systems that process sensitive information within 60 days of the effective date of this regulation. The head of the agency shall provide the initial required training to all such new employees within 60 days of their appointment.

§ 930.303 Continuing training.

The head of each agency shall provide training whenever there is a significant change in the agency information security environment or procedures.

§ 930.304 Refresher training.

Computer security awareness refresher training which covers, as appropriate, the topics outlined in § 930.301 of this part shall be given as frequently as determined necessary by the agency based on the sensitivity of the information.

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July 13, 1988

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Programs for the Conduct of Surface Mining Operations Within Each State; Tennessee; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Programs for the Conduct of Surface Mining Operations Within Each State; Tennessee

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the United States Department of the Interior (DOI) proposes to amend its regulations governing the Federal surface mining regulatory program in Tennessee. The amendment is being proposed in response to a petition for rulemaking. The effect of this action would be to codify criteria for determining whether a proposed revision to an existing coal mining permit is significant. A significant revision to a permit involves public notice and hearing requirements.

DATES: *Written comments:* OSMRE will accept written comments on the proposed rule until 4:00 p.m. Eastern time on September 12, 1988.

Public hearings: Upon request, OSMRE will hold a public hearing on the proposed rule in Knoxville, Tennessee on September 6, 1988 at 9:30 a.m. local time. OSMRE will accept requests for public hearings until 4:00 p.m. Eastern time on August 12, 1988. Individuals wishing to attend but not testify at any hearing should contact the person identified under **"FOR FURTHER INFORMATION CONTACT"** beforehand to verify that the hearing will be held.

ADDRESSES: *Written comments:* Hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Suite 500, 530 Gay Street SW., Knoxville, Tennessee, or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, 530 Gay Street SW., Knoxville, Tennessee 37902.

Public hearings: The Hyatt Regency, 500 Hill Avenue SE., Knoxville, Tennessee.

Requests for public hearings: Submit requests orally or in writing to the person and address specified under **"FOR FURTHER INFORMATION CONTACT."**

FOR FURTHER INFORMATION CONTACT: Mr. J. Hammond Eve, Division of Tennessee Permitting, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street SW., Knoxville, TN 37902; Telephone (615) 673–4349 or Dr. Fred Block, Branch of Federal and Indian Programs, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone (202) 343–1864 (Commercial or FTS).

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 rules should be specific, should be confined to issues pertinent to the proposed rules, and should explain the reason for any recommended change. Where possible, commenters should submit three copies of their comments (see **"ADDRESSES"**). Comments received after the close of the comment period (see **"DATES"**) or delivered to addresses other than those listed above may not necessarily 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 time, date and address scheduled for the hearing in Knoxville, Tennessee is specified previously in this notice (see **"DATES"** and **"ADDRESSES"**). Any person interested in participating at the hearing should inform Mr. Eve or Dr. Block (see **"FOR FURTHER INFORMATION CONTACT"**) either orally or in writing by 4:00 p.m. Eastern time August 12, 1988. If no one has contacted Mr. Eve or Dr. Block to express an interest in participating in a hearing 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 in attendance 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 copy of their testimony. To assist OSMRE in preparing appropriate questions, OSMRE also requests that persons who plan to testify submit an advance copy of their testimony to OSMRE, at least two working days prior to any hearing. The testimony should be submitted at the address previously specified for the submission of written comments (see **"ADDRESSES"**).

II. Background

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (SMCRA) sets forth the general statutory requirements governing surface coal mining operations and the surface impacts of underground coal mining. The Office of Surface Mining Reclamation and Enforcement (OSMRE) has implemented by regulations, the general requirements of SMCRA, and the requirements specific to the States with approved regulatory programs. In the case of Tennessee, there is no approved State regulatory program. OSMRE directly regulates the surface coal mining operations in Tennessee through regulations contained in 30 CFR Part 942. This part was promulgated on October 1, 1984 (49 FR 38892), and revised on May 29, 1986 (51 FR 19462).

OSMRE, through the Division of Tennessee Permitting (DTP), has been developing criteria for use in Tennessee in determining whether a proposed revision to an existing coal mining permit is significant and therefore subject to the public notice and hearing requirements of 30 CFR Part 774 as incorporated by 30 CFR 942.774(a). In direct response to draft guidelines developed by DTP, Ms. Carol S. Nickle and Mr. Mark Squillace, representing four organizations (Environmental Policy Institute, Legal Environmental Assistance Foundation, Illinois South Project and Save Our Cumberland Mountains), filed a petition for rulemaking on February 19, 1986. Pursuant to section 201(g) of SMCRA, any person may petition the Director, OSMRE, "to initiate a proceeding for the issuance, amendment, or repeal of a rule." The principal concerns of the petitioners are that the DTP failed to incorporate all of the petitioners' comments on earlier draft guidelines and that the guidelines are rules and can only be implemented by following the requirements of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*).

OSMRE published a notice on March 5, 1987, granting the petition for the Federal program for Tennessee and accepting the petitioners' proposed criteria in principle (52 FR 6827). In the decision on the petition it was noted that section 511 of SMCRA requires the regulatory authority to establish guidelines for determining when a proposed revision to a permit is significant. As the regulatory authority in Tennessee, OSMRE is developing guidelines for use in that State. OSMRE would not develop such guidelines for States with approved regulatory programs, because under 30 CFR 774.13(b)(2) the regulatory authorities in primacy States develop such guidelines to reflect their own unique circumstances and interests. In granting

the petition, for the Federal program in Tennessee, OSMRE decided to provide criteria for review of permit revision applications in that State by rule.

III. Discussion of Proposed Rule

Under the provisions of 30 CFR 774.13, OSMRE, as the regulatory authority for surface coal mining and reclamation activities in Tennessee, is proposing criteria to determine when a proposed permit revision is significant. These criteria for significant revisions to permits, and the public notice and hearing requirements to which they are subject will both be detailed in proposed amendments to 30 CFR 942.774.

Under the proposed amendments, OSMRE would review each administratively complete application for a permit revision to determine if any of the proposed revisions included in the application match the criteria proposed herein as significant revisions. Should any one of the proposed revisions be found to be significant, the permit application information requirements and procedures of Subchapter G, including public notice, public participation and notice of decision requirements of §§ 773.13, 773.19(b) (1) and (3), and 778.21, would be followed for the evaluation of the proposed revisions in that application.

OSMRE has gained considerable experience with significant revisions in the review of revision applications received during the conduct of the Federal Program for Tennessee. This experience together with the comment letters received pursuant to the June 13, 1986 **Federal Register** notice soliciting comments on this petition, and the concerns rulemaking expressed in the petition itself, aided in identifying those revisions that would constitute significant revisions.

Section 942.774

Proposed § 942.774 would codify criteria for determinations of significant revisions at 30 CFR 942.774 paragraph (c). Existing paragraph (c) would be redesignated as paragraph (d). Existing paragraph (b) contains material on both revisions in general and significant revisions. The material on significant revisions would be removed from paragraph (b) and added to proposed new paragraph (c) which would consolidate requirements for significant revisions.

The proposed rule at 30 CFR 942.774(b) would contain general requirements for permit revisions. It would provide that any revision to the approved mining or reclamation plan would be subject to review and approval by the Office.

The proposed rule at 30 CFR 942.774(c) would state that a significant revision to the mining or reclamation plan would be subject to the permit application information requirements and procedures of Subchapter G, including notice, public participation, and notice of decision requirements of §§ 773.13, 773.19(b) (1) and (3), and 778.21, prior to approval and implementation. Any proposed revision would be considered significant if it meets any of the specific requirements contained in §§ 942.774(c)(1) through (c)(8).

The proposed rule at 30 CFR 942.774(c)(1) would provide that revisions resulting in adverse impacts beyond those previously considered, that would affect cultural resources listed on or eligible to be listed on the National Register of Historic Places, would constitute a significant revision.

The proposed rule at 30 CFR 942.774(c)(2) would provide that any changes to an approved blasting plan which would be likely to cause adverse impact beyond those previously considered, to persons or property outside of the permit area, would constitute a significant revision. A proposal for a change in the blasting plan that expedites the reasonable course of mining and which is proposed only for that purpose, may in and of itself be considered a non-significant revision if there is no potential for injury to persons or damage to property outside the permit area.

The proposed rule at 30 CFR 942.774(c)(3) would provide that a proposed revision that would result in adverse impacts beyond those previously considered, affecting a legitimate water supply to which the requirements of 30 CFR 816.41(h) apply, would constitute a significant revision. A proposed revision that is not reasonably expected to impact a legitimate or reasonable water use may be considered non-significant.

The proposed rule at 30 CFR 942.774(c)(4) would provide that a proposed revision which would require a new or updated probable hydrologic consequences determination or cumulative hydrologic impact analysis as required under 30 CFR 780.21(f)(4) or 780.21(g)(2) would be considered a significant revision.

The proposed rule at 30 CFR 942.774(c)(5) would provide that a proposed revision that requires a change in procedures for identification, disturbance, or handling of toxic- or acid-forming materials different from those previously considered, where the changes have the potential for causing additional impacts not previously considered (such as long-term environmental, public health or safety effects beyond the permit boundary), would be considered significant revisions. A proposed revision to incorporate an equivalent or better, demonstrated and proven methodology for the identification, disturbance, or handling of toxic- or acid-forming materials from those previously considered may be considered non-significant.

The proposed rule at 30 CFR 942.774(c)(6) would provide that a proposed revision which would result in adverse impacts on fish, wildlife and related environmental values beyond those previously considered, would be considered a significant revision.

The proposed rule at 30 CFR 942.774(c)(7) would provide that a proposed revision which provides for the addition of a coal processing facility or any permanent support facility, where the addition of the facility would cause impacts not previously considered, would be considered as a significant revision, except for a coal processing facility used exclusively for crushing and screening. The addition of coal processing facilities, such as a wash plant, which have the potential effect of concentrating toxic materials from the coal in the form of coarse refuse which must be disposed of by proper means would be considered a significant revision. The addition of a temporary crusher, screener, or similar non-permanent facility which does not concentrate coal wastes and that expedites the reasonable course of mining may be considered a non-significant revision.

The proposed rule at 30 CFR 942.774(c)(8) would provide that a revision would be considered significant if it involves a change in the postmining land use to a residential, industrial/commercial, recreation or developed water resources land use, as defined in 30 CFR 701.5; except that a change to a developed water resource not meeting the size criteria of the Mine Safety and Health Administration (MSHA) standards at 30 CFR 77.216(a) need not be considered a significant revision.

Consideration of a proposed revision to an existing permit is not to be confused with incidental boundary revisions. Under 30 CFR 774.13(d) the only extensions allowed in the size of a permit area without requiring a new permit are incidental boundary revisions. Any other extensions to the area covered by a permit are not considered revisions, and must be made by application for a new permit.

IV. Procedural Matters

Federal Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Executive Order 12291 and Regulatory Flexibility Act

The DOI has determined that this document is not a major rule under the criteria of Executive Order 12291 (February 17, 1981) and certifies that it would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The rule would affect a relatively small number of surface coal mining operations. The rule does not distinguish between small and large entities. The economic effects of the proposed rule are estimated to be minor and no incremental economic effects are anticipated as a result of the rule.

National Environmental Policy Act

Section 702(d) of the Surface Mining Control and Reclamation Act provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no environmental assessment is required for this rulemaking.

Author

The principal authors of this rule are Mr. J. Hammond Eve, Division of Tennessee Permitting, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Knoxville, TN 37902; Telephone (615) 673–4349, and Dr. Fred Block, Branch of Federal and Indian Programs, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: (202) 343–4553.

List of Subjects in 30 CFR Part 942

Intergovernmental relations, Reporting and recordkeeping requirements, Surface mining, Underground mining.

Accordingly, 30 CFR Part 942 is proposed to be amended to read as follows:

Dated: June 21, 1988.

J. Steven Griles,

Assistant Secretary—Land and Minerals Management.

PART 942—TENNESSEE

1. The authority citation for Part 942 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended; and Pub. L. 100–34.

2. Section 942.774, is amended by revising paragraph (b) redesignating paragraph (c) as paragraph (d), and adding new paragraph (c) to read as follows:

§ 942.774 Revision; renewal; and transfer, assignment or sale of permit rights.

* * * * *

(b) Any revision to the approved mining or reclamation plan will be subject to review and approval by the Office.

(c) A significant revision to the mining or reclamation plan will be subject to the permit application information requirements and procedures of Subchapter G, including notice, public participation, and notice of decision requirement of §§ 773.13, 773.19(b) (1) and (3), and 778.21, prior to approval and implementation. The Office will consider any proposed revision to be significant if it:

(1) Will result in adverse impacts beyond those previously considered, affecting cultural resources listed on, or eligible to be listed on, the National Register of Historic Places;

(2) Involves changes to the blasting plan that will be likely to cause adverse impacts beyond those previously considered, to persons or property outside of the permit area;

(3) Will result in adverse impacts beyond those previously considered, affecting a legitimate water supply to which the requirements of 30 CFR 816.41(h) apply;

(4) Will cause a new or updated probably hydrologic consequence determination or cumulative hydrologic impact analysis to be required under 30 CFR 780.21(f)(4) or 780.21(g)(2) as a a result of an increase in impacts;

(5) Requires a change in the identification, disturbance, or handling of toxic- or acid-forming materials different from those previously considered, where the changes have the potential for causing additional impacts not previoiusly considered;

(6) Will result in adverse impacts on fish, wildlife and related environmental values beyond those previously considered;

(7) Includes the proposed addition of a coal processing facility, or any permanent support facility, where the addition of the facility will cause impacts not previously considered, except that the addition of a temporary coal processing facility used exclusively for crushing and screening shall not be considered a significant revision; or

(8) Involves a change in the postmining land use to a residential, industrial/commercial, recreation or developed water resources land use, as defined in 30 CFR 701.5; except that, a change to a developed water resource not meeting the size criteria of § 77.216(a) of this title need not be considered a significant revision.

* * * * *

[FR Doc. 88–15672 Filed 7–12–88; 8:45 am]

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July 13, 1988

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 905

Surface Coal Mining and Reclamation Operations Under a Federal Program for California; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 905

Surface Coal Mining and Reclamation Operations Under a Federal Program for California

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the Department of the Interior (DOI) promulgates a Federal program to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in the State of California. This includes surface effects of underground coal mining. This program is necessary in order to regulate surface coal mining activities in the absence of a State program.

EFFECTIVE DATE: August 12, 1988.

FOR FURTHER INFORMATION CONTACT: Robert Hagen, Director, Albuquerque Field Office, OSMRE, 625 Silver Avenue SW., Suite 310, Albuquerque, New Mexico 87102; Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Federal Programs Generally
II. California Federal Program
A. Background
B. Content and Organization of the Program
C. Detailed Discussion
D. Response to Comments
III. Procedural Matters

I. Federal Programs Generally

The Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, established a nationwide program for the regulation of surface coal mining and reclamation operations. To provide a consistent regulatory framework for this nationwide program, section 501(b) of SMCRA requires the Secretary of the Interior (the Secretary) to promulgate a permanent regulatory program. The permanent program regulations are grouped in 30 CFR Chapter VII. These regulations include performance standards for surface coal mining and reclamation operations (Subchapter K) and procedures for establishing State and Federal programs (Subchapter C).

Pursuant to section 503 of SMCRA, a State program may be established that, with certain exceptions, gives a State exclusive jurisdiction over the regulation of surface coal mining and reclamation operations within its borders. Where a State does not establish a State program, section 504 of SMCRA requires the Secretary to establish a Federal program for that State. Standards and procedures that govern Federal programs and their promulgation appear in Subchapter C at 30 CFR Part 736.

Once the decision is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of SMCRA and 30 CFR 736.22(a)(1) require that the Secretary take into consideration the nature of the State's soils, topography, climate, and biological, chemical, geological, hydrological, agronomic, and other relevant physical conditions. Section 505(b) of SMCRA provides that if a State has more stringent land use and environmental protection laws or regulations, they shall not be construed to be inconsistent with SMCRA or the Secretary's regulations. The Secretary believes that the requirements of section 505(b) of SMCRA can best be met by identifying any State laws and regulations that may impose more stringent environmental controls and by listing them in the Federal program. If the State's laws or regulations establish more stringent standards than those of SMCRA or the Secretary's regulations, or if the State regulates any aspect of the environment that neither SMCRA nor the Secretary's regulations protect, the Secretary would then specifically preserve those State standards in the Federal program and any permits issued pursuant thereto.

Section 504(g) of SMCRA specifies that any State statutes or regulations that regulate surface mining and reclamation operations are to be identified by the Secretary and will be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of SMCRA and the Federal program. This provision is reinforced by section 505(a) of SMCRA, which states that only inconsistent State laws shall be superseded by any provision of SMCRA or regulation. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and that do not provide as much protection as do the Federal law and regulations are considered to interfere with the achievement of the purposes and requirements of SMCRA. Accordingly, they must be identified and preempted.

Finally, a Federal program, according to section 504(h) of SMCRA, must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes for which compliance must be coordinated in the issuance of a surface mining permit are set out in 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the permit review and issuance procedures. To the degree practicable, OSMRE will coordinate coal mining permit requirements with State agencies to avoid unnecessary duplication.

Federal programs are based on the Secretary's permanent program regulations, 30 CFR Subchapters A, F, G, H, J, K, L and M. The permanent program regulations implement five essential aspects of the surface coal mining regulatory program: permitting, performance standards, designation of lands as unsuitable for mining, bonding and inspection and enforcement. These rules form the benchmark for State and Federal regulatory programs.

The permanent program rules refer to the "regulatory authority," which, under a Federal program, is the Secretary. The Secretary has delegated all of his authority under SMCRA to the Assistant Secretary-Land and Minerals Management (Secretarial Order Nos. 3013 and 3099 of November 9, 1977 and December 22, 1983 respectively). With limited exceptions, the Assistant Secretary has in turn redelegated all of this authority under SMCRA to the Director, OSMRE, through the DOI Departmental Manual (216 DM 1, November 9, 1977). Thus, the Director, OSMRE, is the official directly responsible for the implementation of a Federal regulatory program.

The parts of the permanent regulatory program rules that must be included in a Federal program are listed in 30 CFR 736.22(b). They include the general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands as unsuitable for surface mining (Parts 761, 762 and 764), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843 and 845) and blaster training and certification (Subchapter M).

To take full advantage of the existing permanent program regulations while avoiding unnecessary repetition, most of the rules that make up each Federal program do not themselves set out detailed requirements, but instead cross-

reference a corresponding part in the permanent program. In situations where a cross-reference to the permanent program does not meet the needs of a particular State, the Federal program rule for that State also includes an additional paragraph or paragraphs with appropriate detailed requirements. For example, the Federal program for California will be codified at 30 CFR Part 905. The general requirements for permits and permit applications, § 905.773, in paragraph (a) cross-references the corresponding Part 773 of the permanent program regulations. In addition, paragraphs (d) through (g) provide State-specific permit application review procedures.

One effect of this cross-referencing from the Federal program to the permanent program is that whenever a permanent program rule is revised, each Federal program rule that cross-references that particular permanent program rule is similarly revised. The notice of proposed rulemaking to revise the permanent program rule would invite comments not only on the proposed rule generally, but also on how the change might affect a particular Federal program. If certain changes are needed for a Federal program, then a separate provision would be added to the Federal program rule that is the counterpart of the permanent program rule.

Several provisions of the permanent program rules already apply to all Federal programs because they were promulgated for application to all regulatory programs and therefore need not be cross-referenced. These provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees, Part 706—Restrictions on Financial Interests of Federal Employees. Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining, Subchapter D—Federal Lands Program and Part 955—Certification of Blasters in Federal Program States and on Indian Lands.

II. California Federal Program

A. Background

On July 28, 1982, OSMRE published a proposed Federal program for California to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in that State (47 FR 32686). On August 12, 1982, OSMRE postponed the scheduled public hearing and extended the comment period indefinitely (47 FR 35011). During the comment period, OSMRE was informed by the California Division of Mines and Geology that all known coal deposits in California were too small and of too poor quality for commercial recovery in the foreseeable future.

As a result of California's comments, it was determined that development of the State's known coal reserves on non-Federal and non-Indian lands was extremely unlikely and that a regulatory program was not needed. Publication of this determination was made in the May 10, 1983, **Federal Register** (48 FR 20939). The notice also provided that, "Should information come to light which indicates an increased likelihood of coal exploration or surface coal mining on non-Federal and non-Indian lands within the State, promulgation of the required program will be reinitiated by subsequent rulemaking notice."

Subsequent information available to OSMRE indicated that coal exploration and coal surface mining operations do exist in the State, and OSMRE determined it was necessary to promulgate a Federal program for the State of California. Therefore, on October 22, 1987, OSMRE published a proposed Federal program for California in the **Federal Register** (52 FR 39594). The proposal was consistent with the previous proposed rulemaking of July 28, 1982 (47 FR 32690) although some modifications were made to take into account revisions OSMRE had made to its permanent program rules since that date. The notice announced a 70-day comment period ending on December 31, 1987, and a public hearing on December 24, 1987, in Sacramento, California. Shortly afterward, OSMRE extended the comment period to January 21, 1988, and rescheduled the public hearing for January 14, 1988 to avoid conflict with the holiday season (52 FR 44918, November 23, 1987).

Section 504(a) of SMCRA and 30 CFR 736.22(a)(1) require that each Federal program consider the nature of the State's soils, topography, climate, and biological, chemical, geological, hydrological, agronomic, and other relevant physical conditions. Section 505(b) of SMCRA provides that if a State has more stringent land use and environmental protection laws or regulations, they shall not be construed to be inconsistent with SMCRA or the Secretary's regulations. Section 504(g) of SMCRA specifies that any State statutes or regulations that regulate surface coal mining and reclamation operations are to be identified by the Secretary and will be superseded and preempted by the Federal program to the extent that they interefere with the achievement of the purposes and requirements of SMCRA and the Federal program.

OSMRE reviewed California statutes to determine which ones provide regulatory requirements for coal exploration and surface coal mining and reclamation operations as defined by SMCRA, and to identify provisions that might be either more stringent than or inconsistent with the requirements of SMCRA. The more stringent requirements, whether State or Federal, have been adopted for this program. Section 905.700(e) lists the State statutes that set more stringent controls and for which compliance is required in the surface coal mining and reclamation operation. Although OSMRE has made a comprehensive search of California law, the list in § 905.700(e) may not be complete. OSMRE does not intend an omission to mean that a permittee does not have to meet those obligations under State law. To the contrary, any relevant State law not superseded by these rules must be complied with by permittees and permit applicants.

Determining whether State statutes are more stringent than the Federal regulations will often require a case-by-case analysis, the result of which cannot be predetermined. Citation in the program of State statutes with which compliance is required is not meant as an adoption of those State statutes for purposes of enforcement by OSMRE. Citation of such statutes is instead intended as an aid to persons who must comply with both the Federal program requirements and State statutes.

OSMRE has primarily cited statutes, and has minimized citations to the California Administrative Code, in the various parts of the California Federal program. This is because State regulations can readily change and OSMRE's incorporation of these changes would necessarily lag behind them. However, if an operator must comply with a State statute, the operator must also comply with the State regulations that implement the statute.

In accordance with 30 CFR 736.23, OSMRE has identified the California statutes cited at § 905.700(f) as inconsistent with the requirements of SMCRA and the Federal program and thus superseded by the Federal program to the extent they relate to coal exploration or surface coal mining and reclamation operations subject to regulation under SMCRA. Permittees will be required to conduct surface coal mining activities in compliance with all other existing State statutes and regulations.

Section 504(h) of SMCRA requires that each Federal program include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. OSMRE will coordinate permit requirements with State agencies to the degree practicable to avoid unnecessary duplication. The California Department of Conservation, Division of Mines and Geology, has statutory responsibility for administering and enforcing the laws and rules pertaining to surface mining.

OSMRE has concluded that this responsibility interferes with the achievement of the purposes of the Federal program. Therefore, after the effective date of the Federal program, the California statutes cited in § 905.700(f) will no longer be applicable to the regulation of coal exploration, surface coal mining operations or the reclamation of surface coal mined lands in the State of California except insofar as they are as stringent as or more stringent than the Federal provisions.

The Federal statutes for which compliance must be coordinated in the issuance of a surface mining permit are set out in 30 CFR 736.22(c). Federal and State statutes for which a permit is required are identified in § 905.773(b). The California Federal program provides for coordination with these permit review and issuance procedures by stipulating that no person may conduct coal exploration or surface coal mining operations without first obtaining all other necessary permits from the State in § 905.773(c).

B. Content and Organization of the Program

The content and organization of the Federal program for California follows the permanent program regulations. As discussed above, however, instead of the full text appearing, each section includes only a reference to the pertinent permanent program regulation part. Sections 905.700 (e) and (f) set out more stringent and inconsistent State statutes and regulations respectively. A separate paragraph has been added under any section where there are deviations from the Federal permanent program regulation for the California Federal program. These paragraphs will generally be found in a subsection (b).

The content and organization of the Federal program for California is based on the following provisions of the Federal permanent program regulations, 30 CFR Chapter VII:

Subchapter A—General

Subchapter F—Areas Unsuitable for Mining

Subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems Under Regulatory Programs

Subchapter H—Small Operator Assistance

Subchapter J—Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations

Subchapter K—Permanent Program Performance Standards

Subchapter L—Permanent Program Inspection and Enforcement Procedures

Part 955—Certification of Blasters in Federal Program States and on Indian Lands

Technical literature cited by OSMRE in the preambles to the permanent regulatory program and subsequent rulemaking notices revising those rules was relied upon in developing the California Federal program. The reader is referred to those preambles for a discussion of the basis and purpose of the permanent program rules proposed to be referenced in the California program without substantive change.

The numbering system of the permanent program regulations has been incorporated into the numbering system for the proposed California Federal program. Subchapter T in 30 CFR Chapter VII has been established to include regulatory programs by State in alphabetical order. Each State is assigned a part number; the regulatory program for California is assigned Part 905. Program elements have been categorized under headings similar to the subchapter titles of the permanent program in 30 CFR Chapter VII.

C. Detailed Discussion

General—Section 905.700 contains six subsections. The first four, subsections 905.700 (a), (b), (c) and (d), contain general statements on the scope and applicability of the program. Section 905.700(e) lists California State laws that have been identified as having provisions that regulate activities involved in surface coal mining operations and are more stringent than SMCRA and the Secretary's regulations. The second sentence of the subsection provides for an instance when a provision of one of the listed State laws establishes less environmental protection than does the Federal program, and the operator is placed in a situation of complying with one and violating the other. Section 905.700(f) identifies the California State laws interfering with the achievement of the purposes of SMCRA and Federal regulations and, therefore, being preempted and superseded by this Federal program insofar as they pertain to surface coal mining. The subsection also allows preemption of other State laws in an instance where the Federal act or regulations set more stringent standards than an unpreempted State law.

Sections 905.701 through 905.707 establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter A, General. Section 905.701(a) contains all applicable general requirements, including the definitions in 30 CFR 700.5 and 701.5. Subsection (b) makes clear that beginning on the effective date of this program and continuing until an operation has a permanent program permit issued by OSMRE, compliance with the initial program standards in 30 CFR Chapter VII, Subchapter B is required. Section 502(c) of SMCRA provides that all surface coal mining operations on lands on which such operations are regulated by a State shall comply with the initial program standards until a permanent program permit is issued. Paragraph (c) provides that records required by 30 CFR 700.14 to be made available locally to the public shall be retained at the OSMRE Albuquerque Field Office. Section 905.707 establishes the same requirements as 30 CFR Part 707, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction.

Areas Designated Unsuitable for Mining—Sections 905.761 through 905.764 establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter F, Areas Unsuitable for Mining. However, 30 CFR 736.15(b)(1) provides that the procedures and criteria for designating lands unsuitable shall be implemented one year after a Federal program is made effective for a State. Therefore, § 905.764 provides that Part 764 shall apply beginning one year after the effective date of the California program. No separate section for Federal lands is included because 30 CFR Part 769 is directly applicable and need not be made a part of a Federal program for a State.

Permits and Coal Exploration Approvals—Sections 905.772 through 905.785 establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter G, Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems under Regulatory Programs. The following amplifications have been made:

For exploration applications where 30 CFR 772.12 applies, § 905.772(b) requires

publication by the applicant of public notice of the filing upon submission of an administratively complete application. Section 905.772(c) allows ten days after publication of the public notice for persons adversely affected to file written comments. Section 905.772(d) requires the regulatory authority to act upon a complete exploration application and any written comments within 15 days from the close of the comment period.

In § 905.773, Requirements for permits and permit processing, subsection (b) has been added to list Federal laws and corresponding or relevant State laws that need to be coordinated by OSMRE in order to prevent or minimize duplication of effort with California. Section 905.773(c) has been added that contains the stipulation that no person may conduct coal exploration or surface coal mining and reclamation operations without first obtaining all other necessary permits from the State and lists State laws with which the Secretary will endeavor to coordinate when issuing a surface mining permit under this Federal program.

In addition to the requirements under the permanent program rules, other provisions are added for permit review. More detail is necessary when OSMRE is the regulatory authority in order to provide direction to the permit applicant. Section 905.773(d) establishes specific permit application review procedures. This is necessary to dispose of grossly deficient applications early in processing, to provide a procedure for obtaining additional information, and to indicate the procedure for determinations of completeness. Section 905.773(e) allows OSMRE to require an applicant to submit supplemental information to ensure compliance with applicable Federal laws and regulations other than SMCRA and its implementing regulations. Section 905.773(f) establishes, pursuant to 30 CFR 773.15(a)(1), a time period of 60 days from the close of the comment period for the regulatory authority to issue a written decision. Section 905.773(g) establishes a procedure for ensuring confidentiality of qualified permit application information. Such information must be labeled confidential and submitted separately to be reviewed by OSMRE for withholding from disclosure. In addition, § 905.773(g)(1) requires the public notice required by § 905.773(d)(3) to identify the type of information considered to be confidential. Finally, § 905.773(g)(2) requires OSMRE to rule on the confidentiality of labeled application information within ten days of the last publication of the notice required under § 905.773(d)(3).

Section 905.774(b) provides that a revision of the permit will be considered significant if it has the potential to adversely affect the achievement of reclamation as specified in the approved plan. A significant revision requires public notice and is subject to a formal hearing if one is requested. Section 905.774(c) specifies a period of 30 days within which OSMRE must approve or disapprove non-significant permit revisions. Section 905.774(d) allows 30 days for any person having in interest that is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights to submit written comments after publication of the notice required by 30 CFR 774.17(b)(2). The proposed rule would have allowed 10 days but has been revised in the final version to be consistent with the time period allowed in other Federal program States for such comments. Section 905.774(e) allows interested persons and public entities 30 days from the last publication of the notice to submit written comments or objections on an application for significant revision or renewal of a permit.

In § 905.777, a new subsection (b) has been added to provide that any person wishing to conduct new surface coal mining and reclamation operations shall file a complete application as early as possible prior to the date permit issuance is desired and to pay a permit fee in accordance with 30 CFR 777.17. Also, a new subsection (c) has been added that requires any person wishing to revise a permit to file a complete application as early as possible prior to the date approval of the permit revision is desired and to pay a permit fee in accordance with 30 CFR 777.17. OSMRE is currently in the process of establishing fees for permits and permit revisions. Therefore, payment of a permit fee will be deferred until final promulgation of a fee schedule. Prospective permit applicants should contact OSMRE's Western Field Operations office in Denver, Colorado, to determine the format for an application.

The permanent program regulations at 30 CFR 779.19(a) give the regulatory authority discretion to require a map that delineates vegetation types in the proposed permit area. Section 905.779(b) requires the applicant for a surface mining permit to submit such a map. Similarly, § 905.783(b) exercises the discretion provided to the regulatory authority by 30 CFR 783.19(a) to require a vegetation map for underground mining permits.

Small Operator Assistance—Section 905.795 establishes the same standards for the small operator assistance program (SOAP) as are found in Part 795 of the permanent program rules. OSMRE expects during its administration of the SOAP in California that Federal funds will be sufficient to provide for authorized services and does not expect to exercise its option at 30 CFR 795.11(b). That option allows OMSRE to establish a formula for allocating limited funds to provide the service pursuant to Part 795. OSMRE will award SOAP contracts to qualified laboratories utilizing a streamlined procurement system that complies with the Federal Acquisition Regulations. Prior to issuing a Request for Proposals, OSMRE will announce its intention through publication in the Commerce Business Daily. OSMRE will qualify laboratories as part of its contracting process.

Bonding—Section 905.800 establishes the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter J, Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations. Section 905.800(b) requires the operator to file an application for release of performance bond no later than 30 days prior to the end of the growing season. Section 905.800(c) specifies the three types of acceptable bonds, surety bond, collateral bond and self-bond. These terms are defined in 30 CFR 800.5. Section 905.800(d) allows a permittee to replace existing bonds with other bonds that provide equivalent coverage.

Performance Standards—Sections 905.815 through 905.828 establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter K, Permanent Program Performance Standards. The following changes have been made:

Section 905.816(b) has been added that lists State laws with which compliance generally will be required notwithstanding the preemption of the State's Surface Mining Act. When the unpreempted State statute or regulation establishes a less stringent standard than does the Federal program, the operator may be in a position of not being able to comply with both State and Federal provisions. In such cases, OSMRE will make a determination that compliance with the State law or regulation, as provided by section 504(g) of SMCRA, interferes with the purposes of the Federal program. Thus, the State statute or regulation will be preempted in that instance so that compliance with a particular law could not be required by the State. In order to effect the *ad hoc* preemption, OSMRE will publish a

notice in the **Federal Register** identifying the particular State law or regulation that is being preempted. Section 905.816(c) requires that the standards for revegetation success for surface mining activities shall be those specified in 30 CFR 816.116(a)(2) and that the statistically valid sampling techniques for measuring success shall be included in the mining and reclamation plan. Section 905.817(b) has been added that lists for underground mining the same State laws with which compliance is required under § 905.816(b) for surface mining. In some instances these statutes and their implementing regulations establish more stringent standards than those found in 30 CFR Parts 816 and 817.

Determinations of stringency, however, will be made on a case-by-case basis. Section 908.817(c) requires that the standard for revegetation success for underground mining activities shall be those specific in 30 CFR 817.116(a)(2) and that the statistically valid sampling technique for measuring success shall be included in the mining and reclamation plan.

Inspection and Enforcement Procedures—Sections 905.842, 905.843 and 905.845 establish the same provisions as 30 CFR Chapter VII, Subchapter L, Permanent Program Inspection and Enforcement Procedures. No changes to the inspection and enforcement provisions of the permanent program regulations have been made for the California Federal program. Sections 905.842(b) and 905.843(b) require OSMRE to furnish the California Department of Conservation, Division of Mining and Geology, or request, copies of inspection reports and enforcement actions, respectively. Section 905.846 incorporates Part 846 of the permanent program regulations, *Individual Civil Penalties*, into the California Federal program. Section 905.846 was not included in the proposed California Federal program because Part 846 had not been promulgated at the time the proposal was published. Subsequently Part 846 was promulgated (53 Fr 3664, February 8, 1988) and is therefore incorporated by reference into the final California Federal program.

Blaster Training and Certification—Section 905.955 establishes the same provisions, where applicable, as 30 CFR Part 955.

D. Response to Comments

On October 22, 1987, OSMRE published a proposed Federal program for California in the **Federal Register** (52 FR 39594). In the preamble to the proposed program, OSMRE invited comments from all interested persons. A public hearing was scheduled for December 24, 1987 in Sacramento, California, and later rescheduled for January 14, 1988. Since no one requested to testify at the hearing, it was not held. The extended comment period closed on January 21, 1988. During this time, OSMRE received comments from three State agencies, the California Department of Forestry and Fire Protection, the California Department of Health Services and the California State Water Resources Control Board, and from one Federal agency, the Advisory Council on Historic Preservation.

Most of the comments received by OSMRE concerned the State laws identified in the proposed program as being either more stringent than or superseded by the Federal regulations, in paragraphs (e) and (f) respectively of proposed § 905.700. The California State agencies identified State laws that they believed were more stringent than the requirements of the Federal program. The changes made to the proposed program in response to these comments are discussed more fully in the responses to individual comments below. Specific regulatory provisions addressing the permit coordination process required pursuant to section 504(h) of SMCRA have been added to the final rule at §§ 905.773(b) and (c), 905.816(b) and 905.817(b).

One commenter identified the Z'berg-Nejedly Forest Practice Act of 1973, Cal. Pub. Res. Code section 4511 *et seq.* as containing reforestation requirements and timberland conversion mitigation requirements that are more stringent than the proposed regulations. The commenter suggested that the Forest Practice Act be listed at § 905.700(e) of the California Federal program rules. OSMRE has examined the State statute and agrees that the Forest Practice Act may establish more stringent standards than those contained in SMCRA or the Secretary's regulations or may regulate an aspect of the environment that neither SMCRA nor the Secretary's regulations protect. The Forest Practice Act has been added to the list of more stringent State laws at § 905.700(e). It should be emphasized that determining whether State statutes are more stringent than the Federal regulations will be handled on a case-by-case basis. For the same reason, the Forest Practice Act has been added to the Federal program provisions concerning permit coordination (§§ 905.773, 905.816 and 905.817).

One commenter recommended changing paragraph (e)(1) of proposed § 905.700 to read, "California Hazardous Waste Control Law, Cal. Health & Safety Code section 25100 *et seq.*" instead of "California Hazardous Waste Management Act of 1986, Cal. Health & Safety Code section 25179.1 *et seq.*" The commenter indicated that his recommendation is the correct citation for the body of State laws addressing control of hazardous waste. OSMRE has accepted this change. The revised citation appears in paragraph (e)(3) of § 905.700 of the final rule.

The commenter recommended that two California State laws be added to the list of more stringent State laws at paragraph (e) of § 905.700 of the proposed rule. These State laws are: The Porter-Cologne Water Quality Control Act, Cal. Water Code section 13000 *et seq.*; and The State Underground Storage of Hazardous Substances Law, Cal. Health & Safety Code section 25280 *et seq.*; OSMRE has examined these State statutes and agrees that they may establish more stringent standards than those contained in SMCRA of the Secretary's regulations or may regulate an aspect of the environment that neither SMCRA nor the Secretary's regulations protect. They have been added to the list of more stringent State laws at paragraphs (e)(2) and (e)(4) respectively of § 905.700 of the final rule.

The commenter also opposed the proposed preemption of the State Hazardous Waste Control Law and implementing regulations in paragraphs (f)(4) and (f)(5) of proposed § 905.700. According to the commenter, this law should be identified as more stringent than SMCRA and the Federal regulations; it was specifically enacted to provide additional protection to the environment. OSMRE agrees with the commenter and has deleted the State statute and its implementing regulations from paragraph (f) of § 905.700 and added the State statute as paragraph (e)(3) of § 905.700 of the final rule.

In addition, the commenter identified several State statutes for which a permit is required, including section 1225 of the State Water Code, the Porter-Cologne Act, the Toxic Injection Well Control Act of 1985 and the Toxic Pits Cleanup Act of 1984. OSMRE has examined these State statutes and agrees that the California Federal program should provide for coordination with them, where applicable. OSMRE has added section 1225 of the State Water Code and the Porter-Cologne Act to paragraphs (b) and (c) of § 905.773 of the final rule. OSMRE did not include specific references to the Toxic Injection Well Control Act of 1988 and the Toxic Pits Cleanup Act of 1984 in the final rule. Citation in the final rule of the California Hazardous Waste Control Law (Cal. Health & Safety Code Ann.

section 25100 *et seq.*) which is the body of State laws addressing control of hazardous waste, is sufficient to provide for coordination with the provisions of these two State laws.

One commenter suggested that the preamble to the proposed rule did not provide sufficient background information to allow the commenter "to provide constructive comments on the proposed rule." In reference to § 905.700(e)(1), (f)(4) and (f)(5) of the proposed rule, the commenter requested that additional information be sent to him concerning the proposed preemption of the California Hazardous Waste Control Act and implementing regulations along with identification of a portion of the same statute as more stringent than SMCRA and the Federal regulations. OSMRE believes that the commenter's concerns are addressed by the changes made to § 905.700(e) and (f) in response to other commenters.

One commenter suggested that the proposed program failed to provide clearly for OSMRE to meet its responsibilities under section 106 of the National Historic Preservation Act, 16 U.S.C. 470 *et seq.* The commenter recommended integrating provisions for compliance with the Act and its implementing regulations, 36 CFR Part 800, into the special provisions for compliance with the National Environmental Policy Act in proposed § 905.773. OSMRE agrees with the commenter and has modified § 905.773(d)(5) and (f) accordingly.

The commenter also suggested that the California Environmental Quality Act (CEQA), Cal. Pub. Res. Code Ann. section 21000 (West), be added to the list of State statutes found to be more stringent than SMCRA or the Federal regulations by virtue of CEQA's provisions for the protection of historic properties. OSMRE agrees and has added CEQA as paragraph (e)(1) of § 905.700 of the final rule. In addition, CEQA is listed in the final rule at paragraphs (b) and (c) of § 905.773 as one of the State statutes requiring coordination during permit review and issuance.

III. Procedural Matters

Federal Paperwork Reduction Act

The recordkeeping and reporting requirements of this rule are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Executive Order 12291 and Regulatory Flexibility Act

The DOI has determined that this document is not a major rule under the criteria of Executive Order 12291 (February 17, 1981) and has determined that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The rule would affect a relatively small number of surface coal mining operations. The rule does not distinguish between small and large entities. The economic effects of the proposed rule are estimated to be minor, and no incremental effects are anticipated as a result of this rule.

National Environmental Policy Act

Section 702(d) of SMCRA provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no environmental assessment or environmental impact statement is required for this rulemaking.

Author

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List of Subjects in 30 CFR Part 905

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting and recordkeeping requirements.

Accordingly, 30 CFR Chapter VII, Subchapter T, is amended by adding Part 905.

Date: June 21, 1988.

J. Steven Griles,

Assistant Secretary—Land and Minerals Management.

30 CFR Chapter VII, Subchapter T.

1. Part 905 is added to read as follows:

PART 905—CALIFORNIA

Sec.

905.700 California Federal Program.
905.701 General.
905.707 Exemption for coal extraction incident to government-financed highway or other construction.
905.761 Areas designated unsuitable for surface coal mining by act of Congress.
905.762 Criteria for designating areas as unsuitable for surface coal mining operations.
905.764 Process for designating areas unsuitable for surface coal mining operations.
905.772 Requirements for coal exploration.
905.773 Requirements for permits and permit processing.
905.774 Revision; renewal; and transfer, assignment, or sale of permit rights.
905.775 Administrative and judicial review of decisions.
905.777 General content requirements for permit applications.
905.778 Permit applications—Minimum requirements for legal, financial, compliance, and related information.
905.779 Surface mining permit applications—Minimum requirements for information on environmental resources.
905.780 Surface mining permit applications—Minimum requirements for reclamation and operation plan.
905.783 Underground mining permit applications—Minimum requirements for information on environmental resources.
905.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.
905.785 Requirements for permits for special categories of mining.
905.795 Small operator assistance program.
905.800 Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.
905.815 Performance standards—Coal exploration.
905.816 Performance standards—Surface mining activities.
905.817 Performance standards—Underground mining activities.
905.819 Special performance standards—Auger mining.
905.822 Special performance standards—Operations in alluvial valley floors.
905.823 Special performance standards—Operations on prime farmland.
905.824 Special performance standards—Mountaintop removal.
905.827 Special performance standards—Coal preparation plants not located within the permit area of a mine.
905.828 Special performance standards—In situ processing.
905.842 Federal inspections.
905.843 Federal enforcement.
905.845 Civil penalties.
905.846 Individual civil penalties.
905.955 Certification of blasters.

Authority: 30 U.S.C. 1201 *et seq.*, as amended.

§ 905.700 California Federal Program.

(a) This part contains all rules that are applicable to surface coal mining operations in California which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) Certain of the rules in this part cross-reference pertinent parts of the permanent program regulations in this Chapter. The full text of a cross-referenced rule is in the permanent program rule cited under the relevant section of the California Federal program.

(c) This part applies to all coal exploration and surface coal mining and

reclamation operations in California conducted on non-Federal and non-Indian lands. To the extent required by 30 CFR Part 740, this part also applies to operations on Federal lands in California.

(d) The information collection requirements contained in this part have already been approved by the Office of Management and Budget under 44 U.S.C. 3507 in its approval of the information collection requirements contained in the permanent regulatory program.

(e) The following provisions of California law generally provide for more stringent land use and environmental control and regulation of some aspects of surface coal mining operations than do the provisions of the Surface Mining Control and Reclamation Act of 1977, and the regulations in this chapter. Therefore, pursuant to section 505(b) of SMCRA, these provisions shall not generally be considered to be inconsistent with SMCRA unless, in a particular instance, the Federal program regulations establish more stringent environmental or land use controls:

(1) The California Environmental Quality Act, Cal. Pub. Res. Code section 21000 *et seq.* (West 1986).

(2) The Porter-Cologne Water Quality Control Act, Cal. Water Code section 13000 *et seq.* (West 1971).

(3) California Hazardous Waste Control Law, Cal. Health & Safety Code section 25100 *et seq.* (West 1984).

(4) The State Underground Storage of Hazardous Substances Law, Cal. Health & Safety Code section 25280 *et seq.* (West 1984).

(5) California Coastal Act of 1976, Cal. Pub. Res. Code Section 30000 *et seq.* (West 1986).

(6) The Z'berg-Nejedly Forest Practice Act of 1973, Cal. Pub. Res. Code section 4511 *et seq.* (West 1984).

(7) Cal. Pub. Res. Code section 4656 (West 1984), requiring a permit for mining in State forests.

(f) The following are the California laws that generally interfere with the achievement of the purposes and requirements of SMCRA and are, in accordance with section 504(g) of SMCRA, preempted and superseded. Other California laws may in an individual situation interfere with the purposes and achievements of SMCRA and may be preempted and superseded with respect to the performance standards of §§ 905.815 through 905.828 as they affect a particular coal exploration or surface mining operation by publication of a notice to that effect in the **Federal Register**.

(1) The California Surface Mining and Reclamation Act of 1975, Cal. Pub. Res. Code section 2710 *et seq.* (West 1984), as it relates to coal mining, except to the extent that it regulates other activities that are not regulated by SMCRA.

(2) Cal. Labor Code section 7990 *et seq.* (West Supp. 1988) (licensing of blasters), except as it applies to other activities that are not regulated by SMCRA.

(3) California Solid Waste Management and Resource Recovery Act of 1972, Cal. Gov. Code section 66770 *et seq.* (West 1983), except to the extent that it regulates other activities that are not regulated by SMCRA.

§ 905.701 General.

(a) Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to coal exploration and surface coal mining and reclamation operations in California.

(b) Beginning on the effective date of this program, each surface coal mining and reclamation operation in California shall comply with Subchapter B of this chapter until issuance of a permanent program permit under the provisions of Subchapter C of this chapter.

(c) Records required by § 700.14 of this chapter to be made available locally to the public shall be made available in the OSMRE Albuquerque Field Office.

§ 905.707 Exemption for coal extraction incident to government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

§ 905.761 Areas designated unsuitable for surface coal mining by act of Congress.

Part 761 of this chapter, Areas Designated by Act of Congress, shall apply to surface coal mining operations.

§ 905.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mining operations.

§ 905.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitions, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mining operations beginning one year after the effective date of this program.

§ 905.772 Requirements for coal exploration.

(a) Part 772 of this chapter, Requirements for Coal Exploration, shall apply to any person who conducts coal exploration. For applications where § 772.12 applies, the requirements of paragraphs (b) through (d) apply in place of § 772.12(c) (1) and (3) and § 772.12(d)(1).

(b) Upon submission of an administratively complete application for an exploration permit, the applicant shall publish one public notice of the filing in a newspaper of general circulation in the county of the proposed exploration area, and provide proof of this publication to the regulatory authority within one week after the newspaper notice is published.

(c) Any person having an interest which is or may be adversely affected, shall have the right to file written comments for 10 days after the advertisement appears in the newspaper.

(d) The regulatory authority shall act upon an administratively complete application for a coal exploration permit and any written comments within 15 days from the close of the comment period. The approval of a coal exploration permit shall be based only on a complete and accurate application.

§ 905.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, Requirements for Permits and Permit Processing, shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) The Secretary shall coordinate, to the extent practicable, his responsibilities under the following Federal laws with the relevant California State laws to avoid duplication:

Federal law	State law
(1) Clean Water Act, as amended, 33 U.S.C. 1251 *et seq*	The Porter-Cologne Water Quality Control Act, Cal. Pub. Res. Code section 13000 *et seq.* (West 1971).

Federal law	State law
(2) Clean Air Act, as amended, 42 U.S.C. 7401 *et seq*	California Air Pollution Control Laws, Cal. Health & Safety Code section 39000 *et seq.* (West 1986).
(3) Resource Conservation and Recovery Act, 42 U.S.C. 3251 *et seq*	Hazardous Waste Control Law, Cal. Health & Safety Code section 25100 *et seq.* (West 1984); Solid Waste Mgmt. and Resource Recovery Act of 1972, Cal. Gov. Code section 66770 *et seq.* (West 1983).
(4) National Environmental Policy Act, 42 U.S.C. 4321 *et seq*	California Environmental Quality Act (CEQA), Cal. Pub. Res. Code section 21000 (West 1986).
(5) Archeological and Historic Preservation Act, 16 U.S.C. 469a	CEQA.
(6) National Historic Preservation Act, 16 U.S.C. 470 *et seq*	CEQA.
(7) Coastal Zone Management Act, 16 U.S.C. 1451, 1453–1464	California Coastal Act of 1976, Cal. Pub. Res. Code section 30000 *et seq.* (West 1986).
(8) Section 208 of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq*	The Porter-Cologne Act.
(9) Endangered Species Act, 16 U.S.C. 1531 *et seq*	California Endangered Species Act of 1984, Cal. Fish & Game Code section 2060 *et seq.* (West Supp. 1988).
(10) Fish and Wildlife Coordination Act, 16 U.S.C. 661–667	
(11) Noise Control Act, 42 U.S.C. 4903	California Noise Control Act of 1973, Cal. Health & Safety Code section 46000 *et seq.* (West Supp. 1986).
(12) Bald Eagle Protection Act, 16 U.S.C. 668–668(d)	

(c) Where applicable, no person shall conduct coal exploration operations which result in the removal of more than 250 tons in one location or surface coal mining and reclamation operations without a permit issued by the Secretary pursuant to 30 CFR Parts 772 and 773 and permits, leases and/or certificates required by the State of California, including compliance with the Porter-Cologne Water Quality Control Act, Cal. Pub. Res. Code section 13000 *et seq.*; the California Water Code section 1200 *et seq.*; the California Air Pollution Control Laws, Cal. Health & Safety Code section 39000 *et seq.*; the Hazardous Waste Control Law, Cal. Health & Safety Code section 25100 *et seq.*; the State Underground Storage of Hazardous Substances Law, Cal. Health & Safety Code section 25280 *et seq.*; the Solid Waste Management and Resource Recovery Act of 1972, Cal. Gov. Code section 66770 *et seq.*; the California Environmental Quality Act, Cal. Pub. Res. Code section 21000; the California Coastal Act of 1976, Cal. Pub. Res. Code section 30000 *et seq.*; the Z'berg-Nejedly Forest Practice Act of 1973, Cal. Pub. Res. Code section 4511 *et seq.*; and the California Public Resources Code section 4656.

(d) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Western Field Operations office (WFO) in Denver, Colorado.

(2) The WFO shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The WFO may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) When the application is judged administratively complete, the applicant shall be advised by the WFO to file the public notice required by § 773.13 of this chapter.

(4) A representative of the WFO shall visit the proposed permit area to determine whether the operation and reclamation plans are consistant with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other signficant features contained in the application marked by flags.

(5) Adequacy of information to allow the WFO to comply with the National Environmental Policy Act, 42 U.S.C. 4332, and the National Historic Preservation Act, 16 U.S.C. 470 *et seq.*, shall be considered in the determination of a complete application. The WFO may require specific additional information from the applicant as any environmental review progresses when such specific information is needed.

(e) In addition to the information required by Subchapter G of this chapter, the WFO may require an applicant to submit supplemental information to ensure compliance with applicable Federal laws and regulations other than the Act.

(f) The regulatory authority shall review the application for a permit, written comments and objections submitted; and records of any informal conference or hearing held on the application and, where there is no environmental impact statement (EIS) and the WFO has found, pursuant to 36 WFO 800.4(d) and 800.5(b), that the operation will not affect historic properties, issue a written decision within 60 days from the close of the comment period or if an informal conference is held under § 773.13(c), 60 days from the close of the informal conference. Where an EIS has been prepared for the application and/or the WFO must comply with 36 CFR 800.5 (d) or (e), the written decision shall be issued within 60 days from the Environmental Protection Agency's publication of the notice of availability of the final EIS in the **Federal Register** or the completion of OSMRE's responsibilities under 36 CFR Part 800, whichever is later.

(g) Only application information that is labeled confidential by the applicant and submitted separately from the remainder of the application will be reviewed by OSMRE for withholding from disclosure under § 773.13(d).

(1) If the application contains information identified as confidential by the applicant, the public notice required by § 905.773(d)(3) must identify the type of information considered to be confidential.

(2) OSMRE shall determine in regard to qualification of any application information labeled confidential within 10 days of the last publication of the notice required under § 905.773(d)(3) of this chapter, unless additional time is necessary to obtain public comment or in the event of unforeseen circumstances.

§ 905.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, Revision; Renewal; and Transfer, Assignment, or

Sale of Permit Rights, shall apply to any such actions involving surface coal mining and reclamation operations permits, except as specified below.

(b) Any revision to the approved mining or reclamation plan will be subject to review and approval by the WFO. A significant revision to the reclamation plan will be subject to the public notice and hearing provisions of §§ 905.773(d)(3) and 773.13 (b) and (c) prior to approval and implementation. A revision to the reclamation plan will be considered significant if it has the potential to adversely affect the achievement of reciamation as specified in the approved plan.

(c) The regulatory authority will approve or disapprove non-significant permit revisions within 30 days of receipt of the administratively complete revision. Significant revisions and renewals will be approved or disapproved under the provisions of § 905.773(f).

(d) In addition to the requirements of part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within 30 days of the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter, or receipt of an administratively complete application, whichever is later.

(e) Within 30 days from the last publication of the newspaper notice, written comments or objections on an application for significant revision, or renewal of a permit under § 774.15 of this chapter may be submitted to the regulatory authority by any person having an interest that is or may be adversely affected by the decision on the application, or by public entities notified under § 773.13(a)(3) of this chapter with respect to the effects of the proposed mining operations on the environment within their areas of responsibility.

§ 905.775 Administrative and judicial review of decisions.

Part 775 of this chapter, Administrative and Judicial Review of Decisions, shall apply to all decisions on permits.

§ 905.777 General content requirements for permit applications.

(a) Part 777 of this chapter, General Content Requirements for Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

(b) Any person who wishes to conduct new surface coal mining and reclamation operations shall file a complete application as early as possible prior to the date permit issuance is desired and shall pay to the Secretary a permit fee in accordance with 30 CFR 777.17.

(c) Any person who wishes to revise a permit shall submit a complete application as early as possible prior to the date approval of the permit revision is desired and to pay a permit fee in accordance with 30 CFR 777.17.

§ 905.778 Permit application—Minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

§ 905.779 Surface mining permit applications—Minimum requirements for information on environmental resources.

(a) Part 779 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Informaton on Environmental Resources, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 779, the permit application shall contain a map that delineates existing vegetative types and a description of the plant communities within the proposed permit area and within any proposed reference area.

§ 905.780 Surface mining permit applications—Minimum requirements for reclamation and operation plan.

Part 780 of this chapter, Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

§ 905.783 Underground mining permit applications—Minimum requirements for information on environmental resources.

(a) Part 783 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, shall apply to any person who makes application to conduct underground coal mining operations.

(b) In addition to the requirements of Part 783, the permit application shall contain a map that delineates existing vegetative types and a description of the plant communities within the area affected by surface operations and facilities and within any proposed reference area.

§ 905.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.

Part 784 of this chapter, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan, shall apply to any person who makes application for a permit to conduct underground coal mining operations.

§ 905.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, Requirements for Permits for Special Categories of Mining, shall apply to any person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

§ 905.795 Small operator assistance program.

Part 795 of this chapter, Small Operator Assistance Program, shall apply to any person making application for assistance under the small operator assistance program.

§ 905.800 Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.

(a) Part 800 of this chapter, Bond and Insurance requirements for Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to all surface coal mining and reclamation operations, except for § 800.40(a)(1) regarding the bond release application, for which paragraph (b) of this section substitutes and except as provided in paragraphs (c) and (d) of this section.

(b) The permittee may file an application with the regulatory authority for the release of all or part of a performance bond. The application shall be filed no later than 30 days prior to the end of the vegetation growing season in order to evaluate properly the completed reclamation operations. The appropriate season for evaluating reclaimed operations shall be identified in the mining and reclamation plan required by Subchapter G of this chapter approved by the regulatory authority.

(c) The following bonds are acceptable for compliance with the California Federal Program.

(1) A surety bond;

(2) A collateral bond;

(3) A self-bond; or

(4) A combination of these bonding methods.

(d) A permittee may replace existing bonds with other bonds that provide equivalent coverage.

§ 905.815 Performance standards—Coal exploration.

Part 815 of this chapter, Permanent Program Performance Standards—Coal Exploration, shall apply to any person who conducts coal exploration.

§ 905.816 Performance standards—Surface mining activities.

(a) Part 816 of this chapter, Permanent Program Performance Standards—Surface Mining Activities, shall apply to any person who conducts suface mining activitites, except for § 816.116(a)(1) regarding revegetation success standards, for which paragraph (c) of this section substitutes.

(b) All operators shall comply with the Porter-Cologne Water Quality Control Act, Cal. Pub. Res. Code section 13000 *et seq.*; the California Water Code section 1200 *et seq.*; the California Air Pollution Control Laws, Cal. Health & Safety Code section 39000 *et seq.*; the Hazardous Waste Control Law, Cal. Health & Safety Code section 25100 *et seq.*; the State Underground Storage of Hazardous Substances Law, Cal. Health & Safety Code section 25280 *et seq.*; the Solid Waste Management and Resource Recovery Act of 1972, Cal. Gov. Code section 66770 *et seq.*; the California Environmental Quality Act, Cal. Pub. Res. Code section 21000; the California Coastal Act of 1976, Cal. Pub. Res. Code section 30000 *et seq.*; the Z'berg-Nejedly Forest Practice Act of 1973, Cal. Pub. Res. Code section 4511 *et seq.*; the California Public Resources Code section 4656; and regulations promulgated pursuant to these laws.

(c) Standards for success shall be those identified in § 816.116(a)(2) of this chapter. Statistically valid sampling techniques for measuring success shall be included in the mining and reclamation plan, and approved by the regulatory authority.

§ 905.817 Peformance standards—Underground mining activities.

(a) Part 817 of this chapter, Permanent Program Performance Standards—Underground Mining Activities, shall apply to any person who conducts underground mining activities, except for § 817.116(a)(1) regarding revegetation success standards, for which paragraph (c) of this section substitutes.

(b) All operators shall comply with the Porter-Cologne Water Quality Control Act, Cal. Pub. Res. Code section 13000 *et seq.*; the California Water Code section 1200 *et seq.*; the California Air Pollution Control Laws, Cal. Health & Safety Code section 39000 *et seq.*; the Hazardous Waste Control Law, Cal. Health & Safety Code section 25100 *et seq.*; the State Underground Storage of Hazardous Substances Law, Cal. Health & Safety Code section 25280 *et seq.*; the Solid Waste Management and Resource Recovery Act of 1972, Cal. Gov. Code section 66770 *et seq.*; the California Environmental Quality Act, Cal. Pub. Res. Code section 21000; the California Coastal Act of 1976, Cal. Pub. Res. Code section 30000 *et seq.*; the Z'berg-Nejedly Forest Practice Act of 1973, Cal. Pub. Res. Code section 4511 *et seq.*; the California Public Resources Code section 4656; and regulations promulgated pursuant to these laws.

(c) Standards for success shall be those identified in § 817.116(a)(2) of this chapter. Statistically valid sampling techniques for measuring success shall be included in the mining and reclamation plan, and approved by the regulatory authority.

§ 905.819 Special performance standards—Auger mining.

Part 819 of this chapter, Special Permanent Program Performance Standards—Auger Mining, shall apply to any person who conducts surface coal mining operations which include auger mining.

§ 905.822 Special performance standards—Operations in alluvial valley floors.

Part 822 of this chapter, Special Permanent Program Performance Standards—Operations in Alluvial Valley Floors, shall apply to any person who conducts surface coal mining and reclamation operations on alluvial valley floors.

§ 905.823 Special performance standards—Operations on prime farmland.

Part 832 of this chapter, Special Permanent Program Performance Standards—Operations on Prime Farmland, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmland.

§ 905.824 Special performance standards—Mountaintop removal.

Part 824 of this chapter, Special Permanent Program Performance Standards—Mountaintop Removal, shall apply to any person who conducts surface coal mining and reclamation operations constituting mountaintop removal mining.

§ 905.827 Special performance standards—Coal preparation plants not located within the permit area of a mine.

Part 827 of this chapter, Permanent Program Performance Standards—Coal Preparation Plants Not Located Within the Permit Area of a Mine, shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of a coal preparation plant not located within the permit area of a mine.

§ 905.828 Special performance standards—In situ processing.

Part 828 of this chapter, Special Permanent Program Performance Standards—In Situ Processing, shall apply to any person who conducts surface coal mining and reclamation operations which include the in situ processing of coal.

§ 905.842 Federal inspections.

(a) Part 842 of this chapter, Federal Inspections, shall apply to all coal exploration and surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 842, copies of inspection reports will be furnished, upon request, to the California Division of Mining and Geology.

§ 905.843 Federal enforcement.

(a) Part 843 of this chapter, Federal Enforcement, shall apply regarding enforcement action on coal exploration and surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 843, copies of enforcement actions and orders to show cause will be furnished, upon request, to the California Division of Mining and Geology.

§ 905.845 Civil penalties.

Part 845 of this chapter, Civil Penalties, shall apply to the assessment of civil penalties for violations on coal exploration and surface coal mining and reclamation operations.

§ 905.846 Individual Civil Penalties.

Part 846 of this chapter, Individual Civil Penalties, shall apply to the assessment of individual civil penalties under section 518(f) of SMCRA.

§ 905.955 Certification of blasters.

Part 955 of this chapter, Certification of Blasters in Federal Program States and on Indian Lands, shall apply to the training, examinatioin and certification of blasters for surface coal mining operations.

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Part V

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 762

Surface Coal Mining and Reclamation Operations; Unsuitability Criteria; Substantial Legal and Financial Commitments; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 762

Surface Coal Mining and Reclamation Operations; Unsuitability Criteria; Substantial Legal and Financial Commitments

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

ACTION: Final rule.

SUMMARY: The Surface Mining Control and Reclamation Act of 1977 (the Act) provides that the regulatory authority shall establish a planning process to enable it to make an objective decision as to which, if any, lands are unsuitable for all or certain types of surface coal mining operations. That process does not apply to lands where substantial legal and financial commitments in surface coal mining operations were in existence prior to January 4, 1977. The definition of "substantial legal and financial commitments" (SLFC) is found at 30 CFR 762.5. The final rule revises the definition of SLFC to clarify that the presence of an existing mine is not necessary to demonstrate SLFC.

EFFECTIVE DATE: August 12, 1988.

FOR FURTHER INFORMATION CONTACT: James M. Kress, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–343–5145 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background and Discussion of Proposed Rule
II. Rule Adopted and Response to Public Comments
III. Procedural Matters

I. Background and Discussion of Proposed Rule

The Act provides that each State regulatory authority must establish a "planning process enabling objective decisions based upon competent and scientifically sound data and information as to which, if any, land areas of a State are unsuitable for all or certain types of surface coal mining operations * * *." (unsuitability process). 30 U.S.C. 1272(a)(1). The same requirements apply to Federal land and in States with a Federal program where the Office of Surface Mining Reclamation and Enforcement (OSMRE) is the regulatory authority. 30 U.S.C. 1272(b). The unsuitability process may be used to prohibit or limit surface coal mining operations which (1) would be incompatible with existing State or local land use plans or programs; or (2) would affect fragile or historic lands and could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems; or (3) affect renewable resource lands and could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, which lands include aquifers and aquifer recharge areas; or (4) affect natural hazard lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology. 30 U.S.C. 1272(a)(3)(A)–(D). Also, areas must be designated as unsuitable for all or certain types of surface coal mining operations if the State regulatory authority determines that reclamation pursuant to the requirements of the Act is not technologically and economically feasible. 30 U.S.C. 1272(a)(2).

However, the Act provides that the unsuitability process does not apply (1) to lands on which surface coal mining operations were conducted on the date of its enactment; (2) under a permit issued pursuant to the Act; or (3) where SLFC were in existence prior to January 4, 1977. 30 U.S.C. 1272(a)(6). OSMRE first defined SLFC in its regulations on March 13, 1979. 44 FR 15344. The 1979 definition provided in part that "(a)n example (of SLFC) would be an existing mine, not actually producing coal, but in a substantial stage of development prior to production. Costs of acquiring coal in place or the right to mine it without an existing mine, * * * alone are not sufficient to constitute substantial legal and financial commitments." *Id.* OSMRE retained the 1979 definition in its 1983 revision of Part 762. 48 FR 41351, September 14, 1983.

The coal industry challenged the 1983 revisions, asserting, among other arguments, that the definition of "substantial legal and financial commitments" was too narrow and rigid to define the universe of circumstances in which the term should apply. Industry objected to the predominant features of the definition which incorporated an example suggesting that there be an existing mine and a long-term coal contract. *In re: Permanent Surface Mining Regulation Litigation II,* Civil Action No. 79–1144 (D.D.C., July 15, 1985) (Hereafter *In re II*). It claimed that the language in the House of Representatives committee report, on which the Secretary relied for his definition, did not mandate the definition chosen, but was merely intended to be illustrative, and therefore should not have set the outer bounds of the definition. The committee report declared:

> The phrase "substantial legal and financial commitments" in the designation section and other provisions of the act is intended to apply to situations where, on the basis of a long-term coal contract, investments have been made in power plants, railroads, coal handling and storage facilities and other capital-intensive activities. The Committee does not intend that mere ownership on acquisition costs of the coal itself or the right to mine it should constitute "substantial legal and financial commitments." H.R. Rep. No. 218, 95th Cong., 1st Sess. 95 (1977).

During oral argument in response to this industry challenge, counsel for the government explained that the use of the term, "an existing mine," as an example in the rule language "is simply an example of a situation where SLFC will be found." The court noted that the Secretary had filed a memorandum which stated that the definition is not limited to existing coal mines. The court concluded that the use of the example in the rule suggested that there had to be an existing mine to establish SLFC, and that this was inconsistent with the Secretary's memo. Therefore, the court remanded the rule to the Secretary for the express purpose of clarifying his position that an existing mine is not necessary for SLFC. *In re II*, at 55. The court did not remand the definition with respect to long-term coal contracts. Pursuant to the court's remand, OSMRE is promulgating this final rule.

On October 20, 1987 (52 FR 39186) OSMRE published a proposed rule that would delete all reference to an existing mine in the definition of SLFC. The proposal announced a 70-day comment period ending on December 29, 1987. OSMRE also offered to hold public hearings upon request in Washington, DC on December 22, 1987, and in each Federal program State. It was announced that requests for public hearings would be accepted until November 15, 1987. However, no requests for public hearings were made, and none were held.

II. Rule Adopted and Response to Public Comments

A. Summary of the Final Rule

This final rule adopts the proposal to delete all language describing "an existing mine" from the definition as a requirement for a finding of "substantial legal and financial commitment." The rule adopted here and found at section 762.5 now reads:

> *Substantial legal and financial commitment in a surface coal mining operation* means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction, or storage facilities, and other capital-intensive

activities. Costs of acquiring the coal in place, or the right to mine it alone without other significant investments, as described above, are not sufficient to constitute "substantial legal and financial commitments."

This final definition remains unchanged from the proposed rule.

B. Public Comments

Three States and one industry group commented on the proposed rule. The comments addressed the proposed changes. A discussion of the comments and OSMRE's response follows.

Three commenters supported OSMRE's deletion of the phrase containing the example. Two of those commenters suggested that OSMRE had not gone far enough in revising the definition. The commenters stated that the definition should be expanded to include those operators who have made considerable investments in exploration, scientific analysis, environmental monitoring and studies, planning and legal fees, permitting, the regulatory approvals, but have not concluded a long-term coal contract. The commenters suggested that OSMRE include additional language in the definition to reflect this point of view. The commenters also stated that this aspect of the definition is on appeal before the U.S. Court of Appeals for the District of Columbia Circuit. Finally, the commenters stated that the definition of SLFC should be changed to recognize that, where an operator has made a substantial financial investment in acquiring coal rights, depending on the size of the company, or setting a minimum investment amount, that alone should be considered as being SLFC.

The items enumerated by the commenters, including acquisition of the coal, may be considered collectively in determinations of whether substantial investments have been made. They may be considered under the term "capital-intensive activities" already included in the definition. However, with respect to the cost of acquiring the coal, OSMRE determined in promulgating the March 13, 1979, definition of SLFC that acquisition of the coal alone as a criterion for SLFC is inconsistent with the House of Representatives committee report discussed above. OSMRE believes that retention of the language on long term contracts is appropriate since it mirrors the language in the House of Representatives committee report as discussed earlier and as upheld by the District Court. Further, this intepretation of SLFC has recently been upheld by the U.S. Court of Appeals for the District of Columbia Circuit. *NWF v. Hodel*, C.A. 87-5743, January 29, 1988. Therefore, with the exception of removing references to existing mines, OSMRE has decided to finalize this rule as proposed.

One commenters stated that the comma after the word "facilities" altered the meaning of the sentence so that it could be read that "other capital intensive activities" in and of themselves could satisfy the definition of SLFC without being based on the existence of a long-term contract. OSMRE disagrees. The insertion of the comma after "facilities" simply makes the sentence grammatically correct, showing that "other capital-intensive activities" is simply the last item in a series of items that together with a long-term coal contract is necessary to meet the requirements for a finding of SLFC. The same commenter contends that the phrase in the last sentence "without other significant investments, as described above" is both redundant and creates another ambiguity as to whether OSMRE intends that acquisition of coal or the right to mine when coupled with one or more of the investments earlier identified would satisfy SLFC, without the linchpin of the long-term coal contract underlying the investments. The commenter suggests that the phrase "without other significant investments, as described above" should be revised to read "without other significant investments *made on the basis of a long-term coal contract,*" in order to remove any ambiguity. OSMRE disagrees. OSMRE believes that the grammatical construction of the definition of the rule makes it perfectly clear that all of the items in the series in the first sentence are capital-intensive activities, and include other unenumerated capital-intensive activities (thus the phrase "other capital-intensive activities") which are dependent upon long-term coal contracts. Thus, when the phrase "other significant investments as described above" is used in the second sentence, OSMRE believes that phrase refers to the other items in the series, and that those items depend on long-term coal contracts in order to make a finding of SLFC.

III. Procedural Matters

Effect in Federal Program States

The final rule applies through cross-referencing in those States with Federal programs. The States include Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. OSMRE has proposed a Federal program for California (52 FR 39594, October 22, 1987). When that program becomes final this final rule will apply to that State as well. The Federal programs for these States appear at 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively.

Effect on State Programs

Following promulgation of the final rule, OSMRE will evaluate permanent State regulatory programs approved under section 503 of the Act to determine whether any change in these programs will be necessary. If the Director determines that certain State program provisions should be amended in order to be made no less effective than the revised Federal rules, the individual States will be notified in accordance with the provisions of 30 CFR 732.17.

Federal Paperwork Reduction Act

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

Executive Order 12291, Regulatory Flexibility Act, and Federalism

The DOI has determined that this document is not a major rule under the criteria of Executive Order 12291 (February 17, 1981) and certifies that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The rule does not distinguish between small and large entities. These determinations are based on the findings that the regulatory additions proposed by the rule will not change costs to industry or to the Federal, State, or local governments. Furthermore, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets. Finally, in accordance with the Executive Order on Federalism, OSMRE has determined that the rule described above does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

OSMRE has prepared a final environmental assessment (EA), and has determined that the final rule will not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). A Finding of No Significant Impact has been approved for the final rule in accordance with OSMRE procedures under NEPA. The EA is on

file in the OSMRE Administrative Record at the address previously specified (see "**ADDRESSES**").

Author

The principal author of this rule is James Kress, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–343–5145 (Commercial or FTS).

List of Subjects in 30 CFR Part 762

Historic preservation, Wildlife refuges, Surface mining, Underground mining.

Accordingly, 30 CFR Part 762 is amended as follows:

Dated: May 11, 1988.

James E. Cason,

Acting Assistant Secretary—Land and Minerals Management.

PART 762—CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

1. The authority citation for Part 762 is revised to read as follows:

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, and Pub. L. 100–34.

2. The definition of "substantial legal and financial commitments in a surface coal mining operation" in § 762.5 is revised to read as follows:

§ 762.5 Definitions.

* * * * *

Substantial legal and financial commitments in a surface coal mining operation means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction or storage facilities, and other capital-intensive activities. Costs of acquiring the coal in place, or the right to mine it alone without other significant investments, as described above, are not sufficient to constitute substantial legal and financial commitments.

[FR Doc. 88–15669 Filed 7–12–88; 8:45 am]

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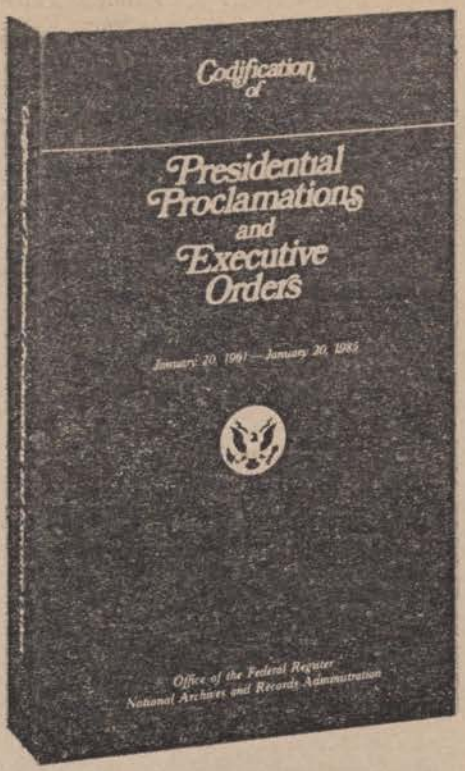

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