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Wednesday
March 23, 1988

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WHO: The Office of the Federal Register.

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

WASHINGTON, DC

WHEN: April 15; at 9:00 a.m.
WHERE: Office of the Federal Register,
First Floor Conference Room,
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RESERVATIONS: Carolyn Payne, 202–523–3187

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Presidential Documents

Title 3—

The President

Presidential Determination No. 88–11 of March 7, 1988

Determination Under Section 2(b)(2) of the Export-Import Bank Act of 1945, as Amended—People's Republic of China

Memorandum for the Secretary of State

Pursuant to Section 2(b)(2) of the Export-Import Bank Act of 1945, as amended, I determine that it is in the national interest for the Export-Import Bank of the United Sates to extend credit in the amount of approximately $151,000,000 to the People's Republic of China in connection with the purchase of equipment and services for the construction of the Shidongkou coal-fired power plant.

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, March 7, 1988.

[FR Doc. 88-6489
Filed 3-21-88; 4:34 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5778 of March 21, 1988

Afghanistan Day, 1988

By the President of the United States of America

A Proclamation

March 21 marks the beginning of a new year in a bitter decade for the people of Afghanistan. This may well be a climactic year, and we hope with the Afghan people that it will see the complete withdrawal of Soviet troops and self-determination for the people of Afghanistan. For more than 8 years, the courageous Afghans have suffered and died under the boot of the Soviet Army, which invaded to prop up an illegitimate, unrepresentative, and discredited regime. Let us take this occasion, therefore, to remember the sorrow and to salute the heroism of the Afghan people. They have fought valiantly and against heavy odds to free themselves from the yoke of oppression—from assaults on their liberty, their sovereignty, their dignity, their lives, and their very way of life.

It now appears possible that the tenacity and tremendous sacrifices of the Afghan people will bear fruit in the coming period. The Soviet leadership seems to have finally recognized that the will of the Afghan people to be free cannot be broken. Indications of Soviet willingness to withdraw are an important step forward, though their seriousness can be proven only by the actual, and total, removal of Soviet troops from Afghan soil. To be acceptable, Soviet withdrawal must be complete, irreversible, and verifiable.

Our objectives have been and remain: prompt and complete withdrawal of Soviet forces; restoration of Afghanistan to an independent, nonaligned status; self-determination for the Afghans; and return of refugees in safety and honor. I reiterated this commitment and our support for the brave Afghan Mujahidin in my meeting last November with Afghan Alliance leader Yunis Khalis. I said the same to General Secretary Gorbachev last December.

The United States Government has also repeatedly told the Soviet leadership that any guarantees of noninterference that they and we would undertake must be symmetrical. An agreement at Geneva must not serve as a pretext for continued Soviet military support to the discredited minority Kabul regime. Some 120 members of the United Nations have voted year after year for self-determination in Afghanistan, recognizing that the present government in Kabul does not represent the Afghan people but is a direct result of outside interference. The Mujahidin and the refugees are the true voice of the Afghan people.

I am proud of the strong support provided the Afghan cause over the past 7 years by my Administration, by the United States Congress, and by the American people. Our commitment to the freedom of the Afghan people will not end should the Soviets withdraw. We will join other nations and international organizations to help the Afghans rebuild their country and their institutions; millions of men, women, and children will be returning to a country devastated by Soviet aggression.

The United States has consistently supported the Afghans in their long ordeal. That support will continue. We will rejoice with them when true peace is achieved and Afghanistan once again takes it rightful place in the community of nations. Let us pray and strive to make sure that this moment of liberation will come soon.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 21, 1988, as Afghanistan Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of March, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 88-6491
Filed 3-21-88; 4:50 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks of Mar. 21 on signing Proclamation 5778, see the *Weekly Compilation of Presidential Documents* (vol. 24, no. 12).

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for the 1987–88 Crop Year for Certain Varietal Types of Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule invites comments on the establishment of final free and reserve percentages for Natural (sun-dried) Seedless, Dipped Seedless, and Oleate and Related Seedless raisins from California's 1987 raisin crop production. These percentages are intended to stabilize supplies and prices, and help counter the destabilizing effects of the burdensome oversupply situation facing the raisin industry. Raisins in the free percentage category may be shipped immediately to any market, while reserve raisins must be held by handlers in a reserve pool for the account of the Raisin Administrative Committee (Committee), the administrative agency responsible for local administration of the federal marketing order regulating the handling of raisins produced from grapes grown in California. Under the order, reserve raisins may be: Sold at a later date by the Committee to handlers for free use; used in diversion programs; exported to authorized countries; carried over as a hedge against a short crop the following year; or disposed of in other outlets noncompetitive with those for free raisins.

DATE: Interim final rule effective August 1, 1987 through July 31, 1988. Comments which are received by April 22, 1988, will be considered prior to any finalization of this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085, South Building, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Order No. 989 (7 CFR Part 989), as amended, regulating the handling of raisins produced from grapes grown in California. This 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 interim final rule has been reviewed under Executive Order 12291 and Departmental Regulation No. 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 approximately 23 handlers of California raisins subject to regulation under the raisin marketing order, and approximately 5,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross 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. The majority of handlers and producers of raisins may be classified as small entities.

The order prescribes procedures for computing trade demands and preliminary and final percentages that establish the amounts of raisins that can be marketed throughout the season. The regulations apply to all handlers of California raisins. While this action may restrict the amount of raisins that enter domestic markets, final free and reserve percentages are intended to lessen the impact of the projected oversupply situation facing the industry and promote stronger marketing conditions, thus stabilizing prices and supplies and improving grower returns. In addition to the quantity of raisins released under the preliminary percentages and to be released under the final percentages, the order specifies methods to make available additional raisins to handlers by authorizing sales of reserve pool raisins for use as free tonnage raisins under "10 plus 10" offers, export sales, and school lunch programs.

The U.S. Department of Agriculture's Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders (Guidelines) specify that 110 percent of recent years' sales be made available to primary markets each season. This requirement will be met by the establishment of final percentages which release 100 percent of the computed trade demand for each varietal type, and the additional release of such raisins to handlers under "10 plus 10" offers. The "10 plus 10" offers are two simultaneous sales of reserve pool raisins which are made available to handlers each season. For each such offer, at least 10 percent of the prior year's shipments are made available for free use.

Pursuant to § 989.54(a), the Committee met on August 13, 1987, to review shipment data, inventory data, and other matters relating to the supply of raisins of all varietal types. The Committee computed a trade demand for each varietal type for which a free tonnage percentage may be recommended using

a formula prescribed in that paragraph. The trade demand is 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use for each varietal type into all market outlets, adjusted by subtracting the carryin of each varietal type on August 1 of the current crop year and adding to the trade demand the desirable carryout for each varietal type at the end of that crop year. The order prescribes that the desirable carryout for the 1987–88 crop year shall be 60,000 tons for Natural Seedless and 1,500 tons for Dipped Seedless and Oleate and Related Seedless raisins. The carryins used for adjusting the trade demands were 91,854, 4,177, and 2,659 tons, respectively, for Natural (sun-dried) Seedless, Dipped Seedless, and Oleate and Related Seedless raisins.

In accordance with these provisions, the Committee computed and announced a trade demand of 236,105 tons for Natural (sun-dried) Seedless raisins, 4,501 tons for Dipped Seedless raisins, 994 tons for Oleate and Related Seedless raisins, 12,983 tons for Golden Seedless raisins, 439 tons for Sultanas, −69 tons for Muscat raisins, 3,489 tons for Zante Currant raisins, and 1,210 tons for Monukka raisins.

As required under § 989.54(b), the Committee met on October 5, 1987, and computed and announced preliminary crop estimates and preliminary free and reserve percentages for: Natural (sun-dried) Seedless of 320,836 tons and 48 percent free, 52 percent reserve; Dipped Seedless of 5,531 tons and 53 percent free, 47 percent reserve; and Oleate and Related Seedless of 1,910 tons and 34 percent free, 66 percent reserve. Handlers operate under the preliminary percentages until the industry is able to obtain a more accurate estimate of the raisin production for that year. The field price for all three varietal types had been established. Hence, in accordance with § 989.54(b), the preliminary free and reserve percentages computed and announced by the Committee for the three varietal types released 85 percent of each varietal type's computed trade demand. Preliminary percentages were not announced for the other varietal types; therefore, the total available supply was released for each.

Pursuant to § 989.54(c), the Committee may adopt interim free and reserve percentages. Interim percentages may release up to 99 percent of the computed trade demand for each varietal type for which preliminary percentages have been computed and announced. On November 30, 1987, for Oleate and Related Seedless raisins, interim percentages of 90 percent free and 10 percent reserve were adopted. Interim percentages for Natural (sun-dried) Seedless of 66 percent free and 34 percent reserve and for Dipped Seedless of 72 percent free and 28 percent reserve, were computed and announced on January 21, 1988, when final percentages were recommended. The interim percentages for Natural (sun-dried) Seedless and Dipped Seedless released 99 percent of their computed trade demands, while for Oleate and Related Seedless raisins 97 percent of the trade demand was released.

Under § 989.54(d) of the order, the Committee is required to recommend to the Secretary, no later than February 15 of each crop year, final free and reserve percentages which, when applied to the final production estimate of a varietal type, will tend to release the full trade demand for any varietal type for which preliminary or interim percentages have been computed and announced. At that time, the Committee has more information available, including the final crop estimate and other information, on which to base the determination of final free and reserve percentages.

On January 21, 1988, the Committee met and recommended final free and reserve percentages for the 1987–88 crop year and made its final production estimates for Natural (sun-dried) Seedless, Dipped Seedless, and Oleate and Related Seedless raisins.

The Committee's final estimate of 1987–88 production of Natural (sun-dried) Seedless raisins totaled 350,630 tons, which includes the 1987 diversion tonnage of 30,000 tons (29,794 tons more than its preliminary estimate). Dividing the computed trade demand of 236,105 tons by the final estimate of production results in a final free percentage of 67.33 percent. The Committee rounded that percentage to 67 percent which results in a final reserve percentage of 33 percent.

For Dipped Seedless raisins, the Committee's final estimate of 1987–88 production totaled 6,150 tons (619 tons more than its preliminary estimate). Dividing the computed trade demand of 4,501 tons by the final estimate of production results in a final free percentage of 73.18 percent. The Committee rounded that percentage to 73 percent which results in a final reserve percentage of 27 percent.

For Oleate and Related Seedless raisins, the Committee's final estimate of 1987–88 production totaled 1,071 tons (839 tons less than its preliminary estimate). Dividing the computed trade demand of 994 tons by the final production estimate results in a free percentage of 92.81 percent. The Committee rounded that percentage to 93 percent which results in a final reserve percentage of 7 percent.

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

After consideration of all relevant information presented, including the Committee's recommendations, and other information, it is found that this regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The relevant provisions of this part require that the percentages designated herein for the 1987–88 crop year apply to all Natural (sun-dried) Seedless, Dipped Seedless and Oleate and Related Seedless raisins acquired from the beginning of that crop year; (2) handlers are currently marketing 1987–88 crop raisins of these varietal types and this action must be taken promptly to achieve its purpose of making the full trade demand quantities computed by the Committee for these varietal types available to handlers; and (3) handlers are aware of this action which was recommended by the Committee at an open meeting and need no additional time to comply with these percentages.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, California.

For the reasons set forth in the preamble, 7 CFR Part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 989 continues to read as follows:

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

2. Section 989.240 is added to Subpart—Supplementary Regulations to read as follows:

(This section will not appear in the annual Code of Federal Regulations):

§ 989.240 Final free and reserve percentages for the 1987–88 crop year.

The final percentages of standard Natural (sun-dried) Seedless, Dipped Seedless, and Oleate and Related Seedless raisins acquired by handlers during the crop year beginning August 1, 1987, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

	Free percentage	Reserve percentage
Natural (sun-dried) Seedless	67	33
Dipped Seedless	73	27
Oleate and Related	93	7

Dated: March 18, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88-6349 Filed 3-22-88; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Reconsideration of Enforcement Policy Provision Involving Reopening Closed Cases

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Modification.

SUMMARY: The NRC is publishing a minor modification to its Enforcement Policy to clarify its policy on reopening closed enforcement actions. This policy is codified as Appendix C to 10 CFR Part 2.

DATES: Since this action concerns a general statement of policy, no prior notice is required and, hence, this modification to the Enforcement Policy is effective March 23, 1988. Comments may be submitted on or before May 23, 1988.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Service Branch. Hand deliver comments to: Room 1121, 1717 H Street NW., Washington, DC between 7:30 a.m. to 4:15 p.m.

Copies of comments may be examined at the NRC Public Document, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301–492–0741).

SUPPLEMENTARY INFORMATION: The Commission on September 23, 1987 issued a revised Enforcement Policy (52 FR 36215, September 28, 1987) in which Section V.F. addressed reopening closed enforcement actions. Section V.F. provided that if significant new information is received which indicates that a previous enforcement sanction was incorrectly applied, the action could be reopened. The policy also stated that (1) reopening should occur only if remedial action is necessary to abate a continued harm or if the new information shows that the violation was less serious than originally believed or that the violation did not occur, and (2) normally actions would not be reopened where the only change to the prior action would be to increase the severity level of a violation or to impose or increase a civil penalty.

While comments submitted in response to the September 28, 1987 Policy Statement were generally favorable to the wording of section V.F, the Commission has reconsidered this policy because it implies that an enforcement action would not normally be reopened to increase a sanction even if such action was warranted. For example, reopening may be warranted to increase a sanction such as civil penalty on the basis of new information if the reason NRC did not have the information initially was because the licensee misled the NRC by providing false information or withholding the information from the NRC. In such a case, any prejudice to the licensee is the result of its own action. Reopening would be justified under the terms of the current enforcement policy to impose the appropriate sanction. Not to do so would reward a licensee's failure to cooperate with the NRC, which of course cannot be tolerated.

It should be noted that the issue here is reconsidering the existence of the original violation or the circumstances and severity of the original violation. If the new information supports a different violation, then reopening is not the issue because a new and different enforcement action can be taken.

Whether or not to reopen a completed enforcement action requires the exercise of sound discretion and judgment. It is difficult in the absence of a specific case to establish what action if any should be taken as a result of new information. Considerations in making a determination to reopen a closed case might include: Whether the licensee knew or should have known of the information at the time the original action was closed, whether the doctrine of *res judicata* applies, the opportunities available to learn of the information earlier and the reason for NRC not obtaining it earlier, the significance of the new information, the extent of the charge to the enforcement action warranted by the new information, the resources necessary to reopen the case, the need for an increased sanction to provide additional deterence for the impacted licensee and other similar licensees, whether the licensee acquiesced to the original enforcement action, whether remedial action is needed to abate the effect of the original violation, whether the original violation in fact occurred, and whether the licensee would be severely or unjustly prejudiced by a reopening decision (apart from receiving a more severe sanction).

Recognizing that this is an issue which arises infrequently and that there are many considerations relevant to a reopening decision on the basis of new information, the Commission has determined to modify Section V.F. of the Enforcement Policy to emphasize that the decision to reopen a case is to be made on a case-by-case basis.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following modification to its statement of Enforcement Policy in Appendix C to 10 CFR Part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

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

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552. Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs.

186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Appendix A also issued under sec. 6, Pub. L. 91–580, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Section V.F. of Appendix C is revised to read as follows:

Appendix C—General Statement of Policy and Procedure for NRC Enforcement Actions

* * * * *

V. Enforcement Actions * * *

F. Reopening Closed Enforcement Actions

If significant new information is received or obtained by NRC which indicates that an enforcement sanction was incorrectly applied, consideration may be given, dependent on the circumstances, to reopening a closed enforcement action to increase or decrease the severity of a sanction or to correct the record. Reopening decisions will be made on a case-by-case basis, are expected to occur rarely, and require the specific approval of the Deputy Executive Director for Regional Operations.

* * * * *

Dated at Washington, DC, this 17th day of March 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88–6333 Filed 3–22–88; 8:45 am]

BILLING CODE 7590–01–M

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10 CFR Part 50

Final Commission Policy Statement on Maintenance of Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statement.

SUMMARY: The Commission believes safety can be enhanced by improving the effectiveness of maintenance programs throughout the nuclear industry. The Commission is proceeding with rulemaking consistent with this belief. This Policy Statement is being issued to provide guidance to the industry while the rulemaking proceeds.

EFFECTIVE DATE: This Final Policy Statement is effective March 23, 1988.

FOR FURTHER INFORMATION CONTACT: Jack W. Roe, Director, Division of Licensee Performance and Quality Evaluation, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–1004.

Policy

Background

The Commission has a program to continually evaluate the operational performance of nuclear power plants. Analysis of operational events has shown that, in some cases, nuclear power plant equipment is not being maintained at a level which ensures, with a high degree of reliability, that the equipment will perform its intended function when required. A limited NRC examination of nuclear power plant maintenance programs has found a wide variation in the effectiveness of these programs. Inadequate maintenance at some plants has been a significant contributor to plant reliability problems and, hence, is of safety concern. The Commission believes safety can be enhanced by improving the effectiveness of maintenance programs throughout the nuclear industry. The Commission is proceeding with rulemaking consistent with this belief. This Policy Statement is being issued to provide guidance to the industry while the rulemaking proceeds.

Policy Statement

It is the objective of the Commission that all components, systems and structures of nuclear power plants be maintained so that plant equipment will perform its intended function when required. To accomplish this objective, each licensee should develop and implement a maintenance program which provides for the periodic evaluation, and prompt repair of plant components, systems, and structures to ensure their availability.

Definition of Maintenance

The Commission defines maintenance as the aggregate of those functions required to preserve or restore safety, reliability, and availability of plant structures, systems, and components. Maintenance includes not only activities traditionally associated with identifying and correcting actual or potential degraded conditions, i.e., repair, surveillance, diagnostic examinations, and preventive measures; but extends to all supporting functions for the conduct of these activities. These activities and functions are listed below under "Activities Which Form the Basis of a Maintenance Program."

Maintenance Programs

Each commercial nuclear power plant should develop and implement a well-defined and effective program to assure that maintenance activities are conducted to preserve or restore the availability, performance and reliability of plant structures, systems, and components. The program should clearly define the components and activities included, as well as the management systems used to control those activities. Further, the program should include feedback of specific results to ensure corrective actions, provisions for overall program evaluation, and the identification of possible component or system design problems.

Activities Which Form the Basis of a Maintenance Program

An adequate program should consider:

- Technology in the areas of
  - —Corrective maintenance,
  - —Preventive maintenance,
  - —Predictive maintenance,
  - —Surveillance;
- Engineering support and plant modifications;
- Quality assurance and quality control;
- Equipment history and trending;
- Maintenance records;
- Management of parts, tools, and facilities;
- Procedures;
- Post-maintenance testing and return-to-service activities;
- Measures of overall program effectiveness;
- Maintenance management and organization in the areas of
  - —Planning,
  - —Scheduling,
  - —Staffing,
  - —Shift coverage,
  - —Resource allocation;
- Control of contracted maintenance services;
- Radiological exposure control (ALARA);
- Personnel qualification and training;
- Internal communications between the maintenance organization and plant operations and support groups;
- Communications between plant and corporate management and the maintenance organization.

Maintenance recommendations or requirements of individual vendors should receive appropriate attention in the development of the maintenance program.

Future Commission Action

The Commission intends this Policy Statement to provide guidance to the industry in improving maintenance programs for their power reactor facilities. The Commission will continue to enforce existing requirements including those that address maintenance practices and will take whatever action that may be necessary to protect health and safety.

The Commission expects to publish a Notice of Proposed Rulemaking in the near future that will establish basic requirements for plant maintenance programs. We believe that the contents and bounds of the proposed rule will fall within the general framework described in this Policy Statement.

Consideration will also be given to industry-wide efforts that already have been initiated. We encourage interested parties to provide their views on this important subject to the Commission, even at this early stage of the rulemaking process. Any notice of proposed rulemaking that is published will provide, of course, a period for public comment on its contents.

Dated at Washington, DC, this 17th day of March, 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88-6334 Filed 3-22-88; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket Number 86-ANE-21; Amdt. 39-5869]

Airworthiness Directives; General Electric (GE) CT7-5A, -5A1, and -5A2 Turbopropeller Engines as Installed in Saab-Fairchild SF340A Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the installation of a second overspeed protection system on certain GE CT7-5A series turbopropeller engines as installed in Saab-Fairchild SF340A aircraft. This AD also supersedes AD 86-10-51, Amendment 39-5473 (51 FR 44439; December 9, 1986). This AD is needed to prevent engine power turbine (PT) overspeed and resulting uncontained failure caused by reaction of the fuel control to an erroneous PT speed signal during ground operation with the bottoming governor (BG) enabled.

DATES: *Effective*—May 9, 1988.

Compliance Schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register as of May 9, 1988.

ADDRESSES: The applicable service bulletins (SB's) may be obtained from Dowty Rotol Limited, Cheltenham Road East, Gloucester, England GL2 9QH; General Electric Company, 1000 Western Avenue, Lynn, Massachusetts 01910; and Saab-Scania AB, S-581 88, Linkoping, Sweden.

A copy of each SB is contained in Rules Docket Number 86-ANE-21, in the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Garian, Engine Certification Branch, ANE-141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7086.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include a new AD requiring the installation of a second overspeed protection system on certain GE CT7-5A series turbopropeller engines as installed in Saab-Fairchild SF340A aircraft was published in the **Federal Register** on October 16, 1987, (52 FR 38458).

The proposal was prompted by an engine PT overspeed and resulting uncontained failure caused by reaction of the fuel control to an erroneous PT speed signal during ground operation with the BG enabled.

Since this condition is likely to exist or develop on other engines of the same type design, a new AD is being issued that requires installation of a second overspeed protection system on GE CT7-5A series turbopropeller engines as installed in Saab-Fairchild SF340A aircraft. This AD also requires incorporation of engine BG deactivation switches in the power lever quadrant to prevent an adverse yaw condition in the aircraft that could occur due to a mismatched aircraft power condition resulting from an uncommanded power increase of one engine. This would also prevent the crew from misinterpreting the uncommanded power increase of one engine as a failure of the other engine. This AD supersedes AD 86-10-51, Amendment 39-5473 (51 FR 44439; December 9, 1986).

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

AD 86-10-51, Amendment 39-5473 (51 FR 44439), issued November 18, 1986, requires that the engine BG be disabled when the aircraft power lever is positioned in the beta range (below flight idle). The AD was needed to prevent PT overspeed and resulting uncontained failure caused by reaction of the fuel control to an erroneous PT speed signal during ground operation with the BG enabled.

AD 86-10-51 provides interim instructions to prevent PT overspeed and uncontained failure. Since these instructions require special aircraft and engine operating procedures which increase crew workload and invalidate the constant torque on takeoff function, the FAA has determined that a second overspeed protection system with an improved level of safety precludes the need for these interim instructions and returns the aircraft and engine to pre-AD 86-10-51 operation.

Conclusion

The FAA has determined that this regulation affects 107 aircraft all of which are in compliance with this AD. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal; and (4) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Engines, Air transporation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD) which supersedes AD 86-10-51, Amendment 39-5473 (51 FR 44439; December 9, 1986):

General Electric: Applies to General Electric (GE) CT7-5A, -5A1, and -5A2 turbopropeller engines as installed in Saab-Fairchild SF340A aircraft.

Compliance is required as indicated, unless already accomplished.

To prevent power turbine (PT) overspeed resulting in an uncontained failure or adverse aircraft yaw due to reaction of the fuel control to an erroneous PT speed signal during ground operation with the bottoming governor (BG) enabled, accomplish the following no later than May 16, 1988:

(a) Remove propeller overspeed governor (OSG), Dowty Rotol (DR) Part Number (P/N) 661001001, and replace with OSG, DR P/N 661001002, in accordance with procedures contained in DR Service Bulletin (SB) SF340-61-11, dated October 8, 1986.

(b) Install cable, GE P/N 6068T47P01, between the propeller OSG and the hydromechanical unit in accordance with GE CT7 Turboprop SB 74-09, dated October 10, 1986.

(c) Install engine BG deactivation switches, Mod Kit Saab SF340-76-018-01, in the power lever quadrant in accordance with procedures contained in Saab SB SF340-76-018, dated October 24, 1986.

(d) Upon accomplishment of paragraphs (a) through (c) above:

(1) Remove from the SF340A Aircraft Flight Manual (AFM) the BG disabling procedures required by AD 86-10-51, paragraphs (a)(1) and (a)(2).

(2) Discontinue operating in accordance with the procedures listed in AD 86-10-51, paragraph (b).

Note: Subsequent to compliance with this AD, aircraft operation shall be conducted in accordance with the latest AFM revision.

(e) Aircraft may be ferried in accordance with the provisions of Federal Aviation Regulations (FAR) 21.197 and 21.199 to a base where the AD can be accomplished.

(f) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

(g) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

Dowty Rotol SB SF340-61-11, dated October 8, 1986; General Electric CT7 Turboprop SB 74-09, dated October 10, 1986; and Saab SB SF340-76-018, dated October 24, 1986, identified and described in this document are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552 (a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Dowty Rotol Limited, Cheltenham Road East, Gloucester, England GL2 9HQ; General Electric Company, 1000 Western Avenue, Lynn, Massachusetts 01910; and Saab-Scania AB, S-581 88, Linkoping, Sweden.

This document may also be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, Rules Docket Number 86-ANE-21, Room 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

This amendment supersedes Amendment 39-5473 (51 FR 44439; December 9, 1986), AD 86-10-51.

This amendment becomes effective on May 9, 1988.

Issued in Burlington, Massachusetts, on February 26, 1988.

Lawrence C. Sullivan,

Acting Director, New England Region.

[FR Doc. 88-6251 Filed 3-22-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 88-ANE-01; Amdt. 39-5865]

Airworthiness Directive; Glasflugel H301 Libelle, H301B Libelle, Standard Libelle (Standard Libelle 201), Standard Libelle 201B, Standard Libelle 203, Kestrel, 604, and BS-1 Model Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Glasflugel Libelle, Kestrel, 604, and BS-1 model gliders which requires inspection and replacement of specified rudder cables. This action was prompted by the findings of certain sleeves not meeting specifications which could result in a reduction of cable strength. This condition, if not corrected, could result in the loss of rudder control.

DATES: *Effective*—March 23, 1988.

Compliance Schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register as of March 23, 1988.

ADDRESSES: The Technical Note referenced in this amendment may be obtained from Hansjorg Streifeneder Glasflaser Flugzeug Service GmbH, Hofener Weg, 7431, Grabenstetten, Federal Republic of Germany.

A copy of the Technical Note is contained in the Rules Docket, Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except federal holidays, between 8:00 a.m. and 4:30 p.m..

FOR FURTHER INFORMATION CONTACT: Munroe Dearing, Brussels Aircraft Certification Office, AEU-100, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, 15 Rue de la Loi B-1040 Brussels, Belgium; telephone 513.38.30, extension 2710, or John J. Maher, New York Aircraft Certification Office, ANE-172, Aircraft Certification Division, Federal Aviation Administration, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; Telephone (516) 791-6221.

SUPPLEMENTARY INFORMATION: Hansjorg Streifeneder has determined that on hemp core rudder cables, sleeve installations have not been according to specification, causing a reduction in cable strength which, if not corrected, could result in the loss of rudder control. The manufacturer made this determination from the results of inspections required by German AD 71-10 (FAA AD 71-16-06). The manufacturer has issued Technical Note (TN) No. 201-26, 301-33, 401-20, and 501-4, dated March 15, 1987, which specified inspection and replacement of those cables with a different cable and sleeve installation and also calls for continuation of German AD71-10. The Luftahrt-Bundesamt (LBA), who has responsibility to maintain the continuing airworthiness of these gliders in the Federal Republic of Germany, has issued an AD requiring compliance with the provisions of Hansjorg Streifeneder TN No. 201-26, 301-33, 401-20, and 501-4, on gliders operated under the Federal Republic of Germany registration. The FAA relies upon the certification of the LBA, combined with FAA review of pertinent documentation, in finding compliance of the design of these gliders with the applicable United States airworthiness requirements, and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Hansjorg Streifender TN No. 201-26, 301-33, 401-20, and 501-4, and the issuance of LBA AD No. 87-83 Glasflugel on Glaflugel Models H301 Libelle, H301B Libelle, Standard Libelle (Standard Libelle 201), Standard Libelle

201B, Standard Libelle 203, Kestrel, 604, and BS–1 model gliders. Based on the foregoing, the FAA has determined that the condition addressed by Hansjorg Streifeneder TN No. 201–26, 301–33, 401–20, and 501–4, is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States. Therefore, an AD is being issued to require initial and repetitive inspections and replacement of hemp core rudder cables with a different cable and sleeve installation on Glasflugel Models H301 Libelle, H301B Libelle, Standard Libelle (Standard Libelle 201), Standard Libelle 201B, Standard Libelle 203, Kestrel, 604, and BS–1 model gliders. The compliance requirements of existing AD, 71–16–06, remain in effect for those cables not addressed by the compliance requirements of this AD.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical, and good cause exists for making this amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by Reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Regulations (FAR) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Glasflugel: Applies to Models H301 Libelle, H301B Libelle, Standard Libelle (Standard Libelle 201), Standard Libelle 201B, Standard Libelle 203, Kestrel, 604, and BS–1 model gliders certificated in any category equipped with DIN specification 655, 6×7 rudder cables with a diameter of 2.5 mm (0.098 in.) having a hemp core.

Compliance is required as indicated, unless already accomplished.

To prevent failures in the rudder control system, accomplish the following:

(a) Within the next 25 hours' time in service after the effective date of this AD, unless accomplished within the previous 75 hours' time in service, and thereafter at intervals not to exceed 100 hours' time in service after the last inspection; visually inspect the rudder cables for wear, fraying, corrosion, twisting or other damage.

(b) If damaged cables are found during the inspection required by Paragraph (a) of this AD, before further flight, replace the damaged cables with the cables specified in paragraph (c).

(c) Prior to April 8, 1988, replace any rudder cable not replaced in accordance with paragraph (b) of this AD with a 7×7, 3/32 inch cable, manufactured in accordance with MIL–W–83420D or MIL–W–1511A. Thereafter, cables are to be replaced each 500 hours time service. Use only Nicopress sleeves, No. 28–2–G, for cable connections in accordance with Actions 2 of Hansjorg Streifeneder Technical Note No. 201–26, 301–33, 401–20, and 501–4, dated March 15, 1987.

Note: With Nicopress sleeves, No. 28–2–G, use tool No. 51–C–887 (one compression required) or tool No. 64–CGMP (G-groove to be used, one compression required) or tool No. 32VC: VG ("VG"—groove to be used, two overlapping compressions required).

(d) Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 15 Rue de la Loi B–1040 Brussels, Belgium; or the Manager, New York Aircraft Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

(e) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Brussels Aircraft Certification Office, or the Manager, New York Aircraft Certification Office, may adjust the compliance time specified in this AD.

Hansjorg Streifeneder Technical Note No. 201–26, 301–33, 401–20, and 501–4, dated March 15, 1987, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Hansjorg Streifeneder Glasfaser-Flugzeug-Service GmbH, Hofener Weg, D–7431 Grabenstetten, Federal Republic of Germany.

These documents also may be examined at the Rules Docket, Office of the Regional Counsel, Room 311, Federal Aviation Administration, Attn: Rules Docket No. 88–ANE–01, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

This amendment becomes effective March 23, 1988.

Issued in Burlington, Massachusetts, on February 23, 1988.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 88–6252 Filed 3–22–88; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Parts 193 and 561

[OPP–300179A; FRL 3353–9]

Revocation of Food Additive Regulations for Certain Pesticide Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule revokes human food additive regulations in 21 CFR Part 193 and animal feed additive regulations in 21 CFR Part 561 related to certain pesticide chemicals. EPA is taking this action to remove obsolete and expired residue limitations resulting from use of the specific pesticide under the authorization of an experimental use permit.

EFFECTIVE DATE: Effective on March 23, 1988.

ADDRESS: Written objections, identified by the document control number, [OPP–300179A], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Patricia Critchlow, Registration Division (TS–767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703)–557–1806.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 17, 1988 (53 FR 4643), which proposed the revocation of certain food additive regulations, established by EPA in 21 CFR Parts 193 and 561 for pesticide residues in processed food commodities, resulting from use of the pesticides under experimental use permits (EUP's). Because the food additive regulations and their related EUP's expired before 1986, the food additive regulations should be deleted from 21 CFR Parts 193 and 561.

No public comments were received in response to this notice of proposed rulemaking.

Therefore, based on the information considered by the Agency and discussed in the February 17, 1988 proposal, EPA is hereby amending the regulations discussed in this rule by revoking the section in its entirety or removing the applicable paragraph containing the expired tolerances, as follows:

In Part 193

§ 193.70 (2-Chloroethyl)trimethylammonium chloride
§ 193.85 Chlorpyrifos
§ 193.100 2,4-D
§ 193.145 3,5-Dimethyl-4-(methylthio) phenyl methylcarbamate
§ 193.215 Fenthion
§ 193.219 Fluridone
§ 193.235 Glyphosate
§ 193.284 Methanearsonic acid
§ 193.301 2-1(1-Methylethoxy)phenol methylcarbamate
§ 193.400 Simazine
§ 193.415 Tebuthiuron

In Part 561

§ 561.20 Acephate
§ 561.55 Butachlor
§ 561.90 (2-Chloroethyl)trimethylammonium chloride
§ 561.98 Chlorpyrfios
§ 561.175 3,5-Dimethyl-4-(methylthio) phenyl methylcarbamate
§ 561.195 Amitraz
§ 561.231 *O*-Ethyl *S,S*-diphenyl phosphorodithioate
§ 561.237 Fenthion
§ 561.253 Glyphosate
§ 561.265 Linuron
§ 561.280 Methanearsonic acid
§ 561.281 2-(1-Methylethoxy)phenol methylcarbamate
§ 561.320 Procyazine
§ 561.330 Propargite
§ 561.371 Tebuthiuron
§ 561.380 Thiabendazole
§ 561.395 Tricyclazole.

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

Since this regulatory action is intended only to remove obsolete and unnecessary information from the Code of Federal Regulations, it has been determined that this rule is not subject to a review under Executive Order 12291. Likewise, this rule does not require an impact analysis under the Regulatory Flexibility Act.

List of Subjects in 21 CFR Parts 193 and 561

Food additives, Animal feeds, Pesticides and pests, Recordkeeping and reporting requirements.

Dated: March 21, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 21 CFR Parts 193 and 561 are amended as follows:

PART 193—[AMENDED]

1. In Part 193:

a. The authority citation for Part 193 continues to read as follows:

Authority: 21 U.S.C. 348.

§§ 193.70, 193.145, 193.215, 193.219, 193.284, 193.301, 193.415 [Removed]

b. By removing §§ 193.70, 193.145, 193.215, 193.219, 193.284, 193.301, and 193.415

§ 193.235 [Amended]

c. By removing and reserving paragraph (b) in § 193.235.

§ 193.85 [Amended]

d. By removing paragraph (c) in § 193.85.

e. By revising § 193.100 to read as follows:

§ 193.100 2,4-D.

(a) Tolerances are established for residues of the herbicide 2,4-D (2,4-dichlorophenoxyacetic acid) as follows:

(1) 5 ppm in sugarcane molasses, resulting from application of the herbicide to sugarcane fields.

(2) 2 ppm in the milled fractions (except flour) derived from barley, oats, rye, and wheat to be ingested as food or to be converted to food. Such residues may be present therein only as a result of application to the growing crop of the herbicides identified in 40 CFR 180.142.

(3) 0.1 ppm (negligible residue) in potable water. Such residues may be present therein only:

(i) As a result of the application of the dimethylamine salt of 2,4-D to irrigation ditch banks in the Western United States in programs of the Bureau of Reclamation; cooperating water user organizations; the Bureau of Sport Fisheries, U.S. Department of the Interior; Agricultural Research Service, U.S. Department of Agriculture; and the Corps of Engineers, U.S. Department of Defense.

(ii) As a result of the application of the dimethylamine salt of 2,4-D for water hyacinth control in ponds, lakes, reservoirs, marshes, bayous, drainage ditches, canals, rivers, and streams that are quiescent or slow moving, in programs of the Corps of Engineers or other Federal, State, or local public agencies.

(iii) As a result of application of its dimethylamine salt or its butoxyethanol ester for Eurasian watermilfoil control in programs conducted by the Tennessee Valley Authority in dams and reservoirs of the TVA system.

(b) [Reserved]

f. By revising § 193.400 to read as follows:

§ 193.400 Simazine.

(a) Tolerances are established for residues of the herbicide simazine (2-chloro-4,6-bis(ethylamino)-*s*-triazine) or simazine and its metabolities 2-amino-4-chloro-6-ethylamino-*s*-triazine and 2,4-diamino-6-chloro-*s*-triazine as follows:

(1) 1 ppm for residues of simazine in sugarcane byproducts (molasses and sirup), resulting from application of the herbicide to the growing crop sugarcane.

(2) 0.01 ppm for combined residues of simazine and its metabolities (2-amino-4-chloro-6-ethylamino-*s*-triazine and 2,4-diamino-6-chloro-*s*-triazine) in potable

water when present therein as a result of application of the herbicide to growing aquatic weeds.

(b) [Reserved]

PART 561—[AMENDED]

1. In Part 561:

a. The authority citation for Part 561 continues to read as follows:

Authority: 21 U.S.C. 348

§§ 561.55, 561.90, 561.175, 561.195, 561.231, 561.237, 561.265, 561.281, 561.320, 561.371, and 561.395 [Removed]

b. By removing §§ 561.55, 561.90, 561.175, 561.195, 561.231, 561.237, 561.265, 561.281, 561.320, 561.371, and 561.395

§§ 561.253 and 561.380 [Amended]

c. By removing and reserving paragraph (b) in §§ 561.253 and 561.380.

§§ 561.20, 561.98, and 561.280 [Amended]

d. By removing paragraphs (b), (c), and (d) and reserving paragraph (b) in §§ 561.20, 561.98, and 561.280.

e. By revising § 561.330 to read as follows:

§ 561.330 Propargite.

(a) Tolerances are established for residues of the insecticide propargite (2-(*p-tert*-butylphenoxy)cyclohexyl 2-propynyl sulfite) in the following processed feeds, when present therein as a result of the application of propargite to growing crops:

Feeds	Parts per million
Apple pomace, dried	80
Citrus pulp, dried	40
Grape pomace, dried	40

(b) [Reserved]

[FR Doc. 88-6381 Filed 3-22-88; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1260-88]

Designation of Federalism Official

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Final rule.

SUMMARY: This order amends the regulations of the Department of Justice to designate the Assistant Attorney General of the Office of Legal Counsel as the official responsible for ensuring implementation of Executive Order 12612, entitled "Federalism". The change is being added to the Code of Federal Regulations in order to reflect accurately the agency's internal management structure.

EFFECTIVE DATE: March 14, 1988.

FOR FURTHER INFORMATION CONTACT: Paul Colborn, Senior Counsel, Office of Legal Counsel (202-633-2048).

SUPPLEMENTARY INFORMATION: This order is being issued in order to comply with Executive Order No. 12612 and is a matter of internal Department management. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not a major rule within the meaning of Executive Order 12291.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies).

By virtue of the authority vested in me by 28 U.S.C. 509, 510, 533 and 5 U.S.C. 301, Part 0 of Title 28 of the Code of Federal Regulations is amended as follows.

PART 0—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 2303; 8 U.S.C. 1103, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 881(d), 904; 22 U.S.C. 263a, 1621-1645o, 1622 note; 28 U.S.C. 509, 510, 515, 524, 542, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. App. 2001-2017p; Pub. L. 91-513, sec. 501; EO 11919; EO 11267; EO 11300.

2. Section 0.25 is amended by redesignating paragraph (j) as (k) and adding a new paragraph (j) to read as follows:

§ 0.25 [Amended]

* * * * *

(j) Taking actions to ensure implementation of Executive Order 12612 (entitled "Federalism"), including determining which Department policies have sufficient federalism implications to warrant preparation of a Federalism Assessment, reviewing Assessments for adequacy, and executing certifications for the Assessments.

* * * * *

Date: March 14, 1988.

Edwin Meese III,

Attorney General.

[FR Doc. 88-6248 Filed 3-22-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 291

[DNA Instruction 5400.7B]

Defense Nuclear Agency (DNA) Freedom of Information Act Program

AGENCY: Defense Nuclear Agency.

ACTION: Final rule.

SUMMARY: DNA operates its Freedom of Information Act Program in accordance with DoD Directive 5400.7 and DoD 5400.7-R which provide the policies and procedures for the Department of Defense and the DoD Components. This rule implements the internal procedures for obtaining information from DNA under the provisions of the Freedom of Information Act. It also revises 32 CFR Part 291.

EFFECTIVE DATE: This rule is effective April 22, 1988.

FOR FURTHER INFORMATION CONTACT: Nell M.S. Hayes, Public Affairs Office, Defense Nuclear Agency, Washington, DC 20301-1000, telephone (703) 325-7095.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 291

Freedom of information.

Accordingly, 32 CFR Part 291 is revised as follows:

PART 291—DEFENSE NUCLEAR AGENCY (DNA) FREEDOM OF INFORMATION ACT PROGRAM

Sec.

Authority: 5 U.S.C. 552.

§ 291.1 Purpose.

To establish policies and procedures for the DNA Freedom of Information Act (FOIA) program. This part implements the provisions of DoD 5400.7-R[1],

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

Freedom of Information Act Program, dated June 1987.

§ 291.2 Applicability.

This part applies to Headquarters, Defense Nuclear Agency (HQ, DNA), Field Command, Defense Nuclear Agency (FCDNA), and the Armed Forces Radiobiology Research Institute (AFRRI).

§ 291.3 Definitions.

FOIA Request. A written request for DNA records made by a member of the public who invokes the FOIA (5 U.S.C. 552) in accordance with DoD Directive 5400.7.[2]

Record. (a) The products of data compilation, regardless of physical form or characteristics, made or received by DNA in connection with the transaction of public business and preserved by DNA components primarily as evidence of the organization, policies, functions, decisions, or procedures of the DoD component.

(b) The following are not included within the definition of the word "record":

(1) Library and museum material made, acquired and preserved solely for reference or exhibition.

(2) Objects or articles, such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles and equipment, whatever their historical value, or value as evidence.

(3) Commercially exploitable resources, including but not limited to:

(i) Maps, charts, map compilation manuscripts, map research materials and data if not created or used as primary sources of information about organizations, policies, functions, decisions, or procedures of DNA.

(ii) Computer software and related software documentation if not created or used as primary sources of information about organizations, policies, functions, decisions, or procedures of DNA. (This does not include the underlying data which is processed and produced by such software and which may in some instances be stored with the software.)

(4) Unaltered publications and processed documents, such as regulations or instructions, manuals, maps, charts, and related geophysical materials, that are available to the public through an established distribution system with or without charges.

(5) Anything that is not a tangible or documentary record, such as an individual's memory or oral communication.

(6) Personal records of an individual not subject to agency creation or retention requirements, created and maintained primarily for the convenience of an agency employee, and not distributed to other agency employees for their official use.

(7) Information stored within a computer for which there is no existing computer program or printout.

(c) A record must exist and be in the possession of and controlled by DNA at the time of the request to be considered subject to this part. There is no obligation to create or compile a record to satisfy a FOIA request. DNA personnel, however, may compile a new record when doing so would result in a more useful response to the requester, or be less burdensome to the agency than providing existing records as long as the requester does not object.

(1) *Initial Denial Authority (IDA).* The Deputy Director (DDIR), DNA, has the authority to withhold records requested under the FOIA for one or more of the nine categories (set forth in § 291.8) of records exempt from mandatory disclosure.

(2) *Appellate Authority.* The Director, DNA.

§ 291.4 Policy.

(a) It is DNA policy to fully and completely respond to public requests for information concerning its operations and activities, consistent with national security objectives.

(b) A request for a record under the FOIA may be denied only upon determining that:

(1) The record is subject to one or more of the nine exemptions set forth in § 291.8 and a significant and legitimate government purpose is served by withholding.

(2) The record cannot be located because it was not sufficiently described to enable DNA personnel to locate the record with a reasonable amount of effort.

(3) The requester has failed to comply with the procedural requirements imposed by the FOIA.

§ 291.5 Responsibilities.

(a) The Director, DNA, as appellate authority, is responsible for reviewing and making the final decision on FOIA appeals.

(b) The DDIR, as IDA, is responsible for reviewing all initial denials to FOIA requests and has sole responsibility for withholding that information.

(c) The DNA FOIA Officer, who is also the Public Affairs Officer, manages and implements the DNA FOIA program. In this regard, the Public Affairs Officer, serves as the FOIA point-of-contact and liaison between DNA and the Office of the Assistant Secretary of Defense (Public Affairs) (OASD(PA)), Directorate for Freedom of Information and Security Review (DFOI/SR). The Public Affairs Officer is responsible for:

(1) Advising OASD(PA), DFOI/SR, of any DNA denial of a request for records or appeals that may affect another DoD component.

(2) Ensuring publication of this part in the **Federal Register.**

(3) Ensuring that the Command Services Directorate publishes in the **Federal Register** a notice of where, how and by what authority DNA performs its functions.

(4) Ensuring that the publications officer, Assistant Director for Logistics and Engineering (CSLE), publishes an index of DNA instructions in the **Federal Register.**

(5) Coordinating all FOIA actions, except routine, interim replies indicating initial receipt of a FOIA request through the appropriate DNA offices and the DNA General Counsel (GC).

(6) Forwarding all fees collected under the FOIA to the HQ, DNA Comptroller for further processing.

(7) Coordinating action on FOIA requests that involve other government organizations (e.g., when DNA is not the original classifier for a classified document) with those organizations.

(8) Ensuring FOIA briefings are presented annually for DNA personnel.

(9) Submitting an annual report to OASD(PA), DFOI/SR, in accordance with the requirements of DoD Directive 5400.11 [3].

(d) The Commander, FCDNA, is responsible for determining, based on current directives and instructions, what information in FCDNA custody may be released to FOIA requesters. (This responsibility may be delegated.) The Director, AFRRI, will forward/refer requests for information to the PAO.

(1) The Commander, FCDNA, is responsible for designating a representative to process FOIA requests. The Commander has the authority to release documents in response to the FOIA. When FCDNA releases information under the FOIA, it will forward a copy of the request, the response and the DD 2086 to HQ, DNA, ATTN: PAO (FOIA). FCDNA will not deny requests for information under the FOIA; instead, it will forward to PAO a recommendation and justification for denying the FOIA request.

[2] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1052, Philadelphia, PA 19120.

[3] See footnote 2 to § 291.3.

(2) The Director, AFRRI, is responsible for designating a representative to process FOIA requests and to forward them to HQ, DNA, for final response.

(e) The DNA GC shall coordinate on all DNA FOIA responses except routine interim letters which acknowledge receipt of the FOIA request. That office shall also ensure uniformity in the legal position and interpretation by DNA of the FOIA, and coordinate with the DoD GC as necessary.

(f) The HQ, DNA, Comptroller will ensure that fees collected under the FOIA are forwarded to the Treasury of the United States.

(g) HQ, DNA, Assistant Director for Intelligence and Security, Classification Management Division (ISCM) will conduct security reviews of classified documents requested under the FOIA. ISCM will determine whether the document—

(1) Contains information that meets requirements for withholding under Exemption 1 (Executive Order 12356),

(2) Has information that meets requirements for withholding under Exemption 3, to include Restricted Data and Formerly Restricted Data, 42 U.S.C. 2162 or

(3) Has information that may be declassified or sanitized.

ISCM is also responsible for sanitizing DNA classified information from documents requested under the FOIA (see § 291.6(b)(4)). In addition, ISCM is responsible for advising the Assistant Director for Technical Information (CSTI) to notify the appropriate authorities when information has been reclassified as a result of a DNA FOIA review.

(h) HQ, DNA CSLE will, upon request, ensure that photocopies are made of 50-page or larger documents being processed under the FOIA. (Copies are required only when documents are not available from other sources.)

(i) CSTI, Technical Library Division (TITL) will, upon notification from PAO that a document has been cleared for public release under the FOIA, retain the marked up document in its files, annotate the FOIA case number in the computerized data base and ensure that the document is made available to the public through the National Technical Information Service (NTIS).

(j) Commander, FCDNA; Director, AFRRI; and HQ, DNA, directors and chiefs of staff elements will ensure that personnel are familiar with the procedures and contents of this part prior to acting on FOIA requests. They will also make sure that FOIA actions forwarded to their offices for processing are closely monitored to ensure accountability and that their input to PAO is provided in a timely manner and in accordance with this part (see § 291.7(b)(2)). If the office(s) cannot meet the FOIA suspense, they must request an extension. In addition, they will ensure that, upon request by PAO, appropriate technical personnel sanitize information such as unclassified technical data that is determined to be exempt from disclosure under the FOIA. (See § 291.7(b)(5)).

§291.6 Procedures.

(a) If HQ, DNA personnel receive a FOIA request that has not been logged and processed through PAO, they will immediately *handcarry* the request to PAO. TDNM and AFRRI personnel will forward all FOIA requests to HQ, DNA, ATTN: PAO. FCDNA will adhere to paragraph 6d and FCDNA Supplement to DNA Instruction 5400.7A.[4]

(b) When a FOIA request is received by PAO, HQ, DNA, the following procedures apply:

(1) The request will be date stamped, reviewed to determine if it meets the requirements of 5 U.S.C. 552, logged in, assigned an action number, suspensed, and attached to a FOIA cover sheet (Appendix A) with instructions for forwarding to the appropriate personnel. A copy of DD Form 2086 (Appendix B) will also be attached to the FOIA request.

(2) A copy of the request will be *handcarried* by PAO to the designated HQ, DNA, action office(s) or forwarded to AFRRI or FCDNA as appropriate. The office or component providing input for the FOIA request must keep track of the request and meet the PAO suspense. The HQ DNA input, or negative response if there are no records available, will be *handcarried* to PAO. AFRRI will send the recommended response in daily distribution. FCDNA will telefax the proposed response in addition to mailing the original. All FOIA actions must include a completed DD Form 2086 (Appendix B). Each office acting on FOIA requests will indicate on the form the search, review/excise and coordination time spent processing the FOIA action, and provide the number of pages copied.

(3) The DNA PAO will prepare the response to the requester and coordinate it with the offices that provided input, the GC, and if appropriate, ISCM, the IDA, and the Director, DNA. The PAO will maintain files of all FOIA actions per DNA Instruction 5015.4B.[5]

(4) *FOIAs involving classified information:* When ISCM receives a classified document from PAO for processing under the FOIA, it will conduct a FOIA, it will conduct a security review to determine if the document may be sanitized or declassified. Most DNA documents requested under the FOIA are queued on a first-come, first-served basis and shall be reviewed in that order. When ISCM determines that part or all of the information in a classified document may be sanitized or declassified, ISCM will ensure that the appropriate copies are ordered from the Defense Technical Information Center (DTIC). The DTIC copy will be marked up during review. Cases not placed in queue will be suspensed by PAO. They may include documents with less than 10 pages or documents under suspense from other organizations which require a DNA review. All DNA documents reviewed by ISCM will be marked with a special pen that does not permit photocopying of the classified portions.

(i) When Field Command Security Division (FCSS) receives a classified document for processing under the FOIA, it will conduct a security review to determine if the document may be sanitized or declassified. When FCSS determines that part or all of the information in a classified document may be sanitized or declassified, FCSS will make a copy which will be marked up during review. Upon completion of its review, FCSS will provide the marked up document and a sanitized version of the document to PAO.

(ii) When ISCM/FCSS completes its review, ISOM/FCSS will forward the master copy to the appropriate technical office(s) for review. That office will determine whether the information is releasable and provide its response to ISCM/FCSS. If the office recommends that part or all of the information be withheld, then it must forward a detailed response providing the appropriate exemption(s) and justification for withholding. ISCM will forward the results of both reviews to PAO for further processing prior to sanitization of any unclassified information.

(iii) If either ISCM/FCSS or the DNA office reviewing the action recommends additional review by another agency, they will provide the full name and address of that agency with a technical point-of-contact, if known. PAO will forward the action to that organization for further review. When PAO receives that organization's review determination, it will forward the results to ISCM. After all reviews are

[4] See §2916 for information on how to obtain copies.

[5] See footnote 4 to §291.6(a).

completed, ISCM/FCSS will sanitize the document and handcarry (FCSS will forward) the sanitized as well as the marked up copy to PAO for final processing.

(iv) Upon PAO request, the technical office(s) will sanitize the unclassified information that is being withheld. Sanitization will be done on a photocopy of the document or on a document that has been obtained from DTIC.

(5) *FOIAs involving unclassified information:* The appropriate technical office(s) will review unclassified documents for release under the FOIA. If the office(s) determines that part or all of the document should be withheld, it must provide PAO a written recommendation with the appropriate exemption(s) and detailed reasons for withholding the information.

§291.7 Administrative instruction.

(a) FOIA requesters shall clearly mark their requests as such, both on the envelope and in the body of the letter. Identification of the record desired is the responsibility of the FOIA requester. The requester must provide a description of the desired record that enables DNA to locate it with a reasonable amount of effort. The Act does not authorize "fishing expeditions". FOIA requests should be sent to the following address: Defense Nuclear Agency, Attention: PAO (FOIA), Washington, DC 20305–1000. Requester failure to comply with this section shall not be sole grounds for denial of requested information.

(b) FOIA appeals must be clearly marked as such, both on the envelope and in the body of the letter. Persons appealing DNA denial letters should include a copy of the denial letter, the case number, a statement of the relief sought and the grounds upon which it is brought. Appeals should be sent to the following address: Director, Defense Nuclear Agency, Washington, DC 20305–1000.

(c) The time limitations for responding to legitimate FOIA requests are:

(1) Determinations to release, deny or transfer a record shall be made and the decision reported to the requester within 10 working days after the request is received in PAO.

(2) If additional time is needed to respond to a request, the requester will be notified within the 10-day period. In the event of a backlog of FOIA requests, or unusual circumstances, an interim letter will indicate that requests will be answered in turn.

(3) If a request for a record is denied and the requester appeals the decision of the IDA, the requester must file the appeal so that it reaches DNA no later than 45 calendar days after the date of the initial denial letter. A final determination on the appeal normally shall be made within 20 working days after receipt. If additional time is needed due to unusual circumstances, the final decision may be delayed for the number of working days (not to exceed 10), that were not utilized as additional time for responding to the initial request. If an appeal is denied, the Director, DNA, will notify the requester of the right to Judicial review of the decision.

(d) If DNA denies the requested document in whole or in part, the response must include detailed rationale for withholding information and the specific exemption that applies so the requester can make a decision concerning appeal. When the initial denial is based in whole or in part on a security classification, the explanation should include a summary of the applicable criteria for classification, as well as an explanation, to the extent reasonably feasible, of how those criteria apply to the particular record in question. Denial letters must also include the name and title of the IDA, and cite the name and address of the Director, DNA, as the appellate authority.

(e) All final responses will address the status of fees collectable under the FOIA. Fees less than $15 will be waived.

(f) A formal reading room for the public, as defined in DoD 5400.7–R, does not exist at DNA (HQ, FCDNA or AFRRI) because of security requirements for the building. However, the PAO will arrange for a suitable location and escort, if required, for members of the public to review DNA documents released under the FOIA. In addition, documents released under the FOIA are sent to the NTIS.

§ 291.8 Exemptions.

(a) *General.* (1) Records that meet the exemption criteria listed in paragraph (b) of this section may be withheld from public disclosure and need not be published in the Federal Register, made available in a library reading room, or provided in response to a FOIA request.

(2) An exempted record, other than those being withheld pursuant to Exemptions 1, 3 or 6, shall be made available upon the request of any individual when, in the judgment of DNA or higher authority, no jeopardy to the government would be served by release. If DNA determines that a record requested under the FOIA meets the Exemption 4 withholding criteria set forth in the following, DNA shall not ordinarily exercise its discretionary power to release, absent circumstances in which a compelling public interest will be served by release of that record.

(b) *Exemptions.* The following types of records may be withheld in whole or in part from public disclosure unless otherwise prescribed by law:

(1) *Number 1.* Those properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under the criteria established by executive order and implemented by issuances, such as DoD 5200.1–R [6] and DNA Instruction 5200.1C [7]. Although material is not classified at the time of the FOIA request, a classification review may be undertaken to determine whether the information should be classified.

(2) *Number 2.* Those containing or constituting rules, regulations, orders, manuals, directives, and instructions relating to the internal personnel rules or practices of DNA if their release to the public would substantially hinder the effective performance of a significant function of DNA and they do not impose requirements directly on the general public. Examples include:

(i) Those operating rules, guidelines and manuals for DNA investigators, inspectors, auditors, or examiners that must remain privileged in order for DNA to fulfill a legal requirement.

(ii) Personnel and other administration matters, such as examination questions and answers used in training courses or in the determination of the qualifications of candidates for employment, entrance on duty, advancement, or promotion.

(iii) Lists of DNA personnel names and duty addresses (civilian and military) created primarily for internal, trivial, housekeeping purposes for which there is no legitimate public interest or benefit. This exemption is appropriate when it would impose an administrative burden to process the request, and the requester is not seeking the information for the benefit of the general public.

(3) *Number 3.* Those containing matters that a statute specifically exempts from disclosure by terms that permit no discretion on the issue, or in accordance with criteria established by that statute for withholding or referring to particular types of matters to be withheld. Examples of statutes are:

(i) National Security Agency Information Exemption, Pub. L. 86–36, section 6.

(ii) Patent Secrecy, 35 U.S.C. 181–188. Any records containing information relating to inventions that are the

[6] See footnote 1 to § 291.1.

[7] See footnote 4 to § 291.6(a).

subject of patent applications on which Patent Secrecy Orders have been issued.

(iii) Restricted Data and Formerly Restricted Data, 42 U.S.C. 2162.

(iv) Communication Intelligence, 18 U.S.C. 798.

(v) Authority to Withhold from Public Disclosure Certain Technical Data, 10 U.S.C. 140c.

(vi) Confidentiality of Medical Quality Records: Qualified Immunity Participants, 10 U.S.C. 1102.

(4) *Number 4.* Those containing trade secrets or commercial or financial information that DNA receives from a person or organization outside the government with the understanding that the information or record will be retained on a privileged or confidential basis in accordance with the customary handling of such records. Records within the exemption must contain trade secrets, or commercial or financial records, the disclosure of which is likely to cause substantial harm to the competitive position of the source providing the information; impair the government's ability to obtain necessary information in the future; or impair some other legitimate government interest. Examples include records that contain:

(i) Commercial or financial information received in confidence in connection with loans, bids, contracts, or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions, discoveries, or other proprietary data.

(ii) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, if offered and received in confidence from a contractor or potential contractor.

(iii) Personal statements given in the course of inspections, investigations, or audits, when such statements are received in confidence.

(iv) Financial data provided if confidence by private employers in connection with locality were surveys that are used in fix and adjust pay schedules applicable to the prevailing wage rate of employees within DNA.

(v) Scientific and manufacturing processes or developments concerning technical or scientific data or other information submitted with an application for a research grant, or with a report while research is in progress.

(vi) Technical or scientific data developed by a contractor or subcontractor exclusively at private expense, and technical or scientific data developed in part with federal funds and in part at private expense, wherein the contractor or subcontractor has retained legitimate proprietary interests in such data in accordance with Title 10, U.S.C. 2320–2321. Technical data developed exclusively with federal funds may be withheld under Exemption 3 if it meets the criteria of Title 10, U.S.C. 140c.

(5) *Number 5.* Except as provided in paragraphs (b)(5) (ii) through (v) of this section, internal advice, recommendations, and subjective evaluations, as contrasted with factual matters that are reflected in records pertaining to the decision making process of any agency, whether within or among agencies (as defined in 5 U.S.C. 552 or within or among DoD components).

(i) Examples include:

(A) The nonfactual portions of staff papers, to include after-action reports and situation reports containing staff evaluations, advice opinions or suggestions.

(B) Advice, suggestions, or evaluations prepared on behalf of the DNA by individual consultants or by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed for the purpose of obtaining advice and recommendations.

(C) Those nonfactual portions of evaluations by DNA component personnel of contractors and their products.

(D) Information of a speculative, tentative, or evaluative nature or such matters as proposed plans to procure, lease or otherwise acquire and dispose of materials, real estate, facilities or functions, when such information would provide undue or unfair competitive advantage to private personal interests or would impede legitimate government functions.

(E) Trade secret or other confidential research development, or commercial information owned by the government, where premature release is likely to affect the government's negotiating position or other commercial interests.

(F) Records that are exchanged among DNA personnel as part of the preparation for anticipated administrative proceedings by DNA, or litigation before any federal, state, or military court, as well as records that qualify for the attorney-client privilege.

(G) Those portions of official reports of inspection, reports of the Inspector General, audits, investigations, or surveys pertaining to safety, security, or the internal management, administration, or operation of DNA when these records have traditionally been treated by the courts as privileged against disclosure in litigation.

(ii) If any such intra or interagency record or reasonably segregable portion of such record hypothetically would be made available routinely through the "discovery process" in the course of litigation with the agency, i.e., the process by which litigants obtain information from each other that is relevant to the issues in trial or hearing, then it should not be withheld from the general public even though discovery has not been sought in actual litigation. If, however, the information hypothetically would only be made available through the discovery process by special order of the court based on the particular needs of a litigant, balanced against the interests of the agency in maintaining its confidentiality, then the record or document need not be made available under this part.

(iii) Intra or interagency memoranda or letters that are factual, or those reasonably segregable portions that are factual, are routinely made available through "discovery," and shall be made available to a requester, unless the factual material is otherwise exempt from release, inextricably intertwined with the exempt information, so fragmented as to be uninformative, or so redundant of information already available to the requester as to provide no new substantive information.

(iv) A direction or order from a superior to a subordinate, though contained in an internal communication, generally cannot be withheld from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters or a request for information or advice that would compromise the decision-making process.

(v) An internal communication concerning a decision that subsequently has been made a matter of public record must be made available to a requester when the rationale for the decision is expressly adopted or incorporated by reference in the record containing the decision.

(6) *Number 6.* Information in personnel and medical files, as well as similar personal information in other files, that, if disclosed to the requester would result in a clearly unwarranted invasion of personal privacy.

(i) Examples of other files containing personal information similar to that contained in personnel and medical files include:

(A) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment or membership in the Armed Forces, and the eligibility of individuals (civilian, military, or contractor employees) for security clearances, or for access to particularly sensitive classified information.

(B) Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

(ii) In determining whether the release of information would result in a "clearly unwarranted invasion of personal privacy," consideration shall be given to the stated or ascertained purpose of the request. When determining whether a release is "clearly unwarranted," the public interest in satisfying this purpose must be balanced against the sensitivity of the privacy interest being threatened. (See § 291.8[b][2]). This exemption shall not be exercised in an attempt to protect the privacy of a deceased person, but it may be used to protect the privacy of the deceased person's family.

(iii) Individuals' personnel, medical, or similar file may be withheld from them or their designated legal representative only to the extent consistent with DoD Directive 5400.11.

(iv) A clearly unwarranted invasion of the privacy of the persons identified in a personnel, medical or similar record may constitute a basis for deleting those reasonably segregable portions of that record, even when providing it to the subject of the record.

(7) *Number 7.* Records or information compiled for law enforcement purposes; i.e., civil, criminal, or military law, including the implementation of executive orders or regulations issued pursuant to law.

(i) This exemption applies, however, only to the extent that production of such law enforcement records or information could result in the following:

(A) Could reasonably be expected to interfere with enforcement proceedings.

(B) Would deprive a person of the right to a fair trial or to an impartial adjudication.

(C) Could reasonably be expected to constitute an unwarranted invasion of personal privacy of a living person, including surviving family members of an individual identified in such a record.

(D) Could reasonably be expected to disclose the identity of a confidential source including a source within DNA, a state, local or foreign agency or authority, or any private institution which furnishes the information on a confidential basis.

(E) Could disclose confidential information furnished from a confidential source and obtained by a criminal agency conducting a lawful national security intelligence investigation.

(F) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

(G) Could reasonably be expected to endanger the life, or the physical safety of any individual.

(ii) Examples include:

(A) Statements of witnesses and other material developed during the course of the investigation and all materials prepared in connection with related government litigation or adjudicative proceedings.

(B) The identity of firms or individuals being investigated for alleged irregularities involving contracting with DNA when no indictment has been obtained nor any civil action filed against them by the United States.

(C) Information obtained in confidence, expressed or implied, in the course of a criminal investigation by a criminal law enforcement agency or office within DNA, or a lawful national security intelligence investigation conducted by an authorized agency or office within DNA. National security intelligence investigations include background security investigations and those investigations conducted for the purpose of obtaining affirmative or counterintelligence information.

(iii) The right of individual litigants to investigate records currently available by law (such as the Jencks Act, 18 U.S.C. 3500) is not diminished.

(iv) When the subject of an investigative record is the requestor of the record, it may be withheld only as authorized by DoD Directive 5400.11.

(8) *Number 8.* Those contained in or related to examination, operation or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(9) *Number 9.* Those containing geological and geophysical information and data (including maps) concerning wells.

BILLING CODE 5810-01-M

Appendix A—Freedom of Information Action (DNA Form 524)

CONTROL NO. _____
(Refer to this number in all correspondence.)

TO: _____
Directorate/Branch/Staff Section

INFORMATION REQUIRED IN PAO NLT _____

DNA SUSPENSE DATE _____ IN ACCORDANCE WITH FREEDOM OF INFORMATION ACT (5 USC 552).

CALL PAO, 57095/57306, IF YOU HAVE ANY QUESTIONS.

SPECIAL
INSTRUCTIONS: _____

_____

_____

_____

_____

_____

_____

RECORD TIME SPENT ON REQUEST ON ENCLOSED DD FORM 2086.

DO NOT PLACE IN DISTRIBUTION. CALL 57095/57306 FOR PICKUP, OR HANDCARRY TO PAO, ROOM 111.

DNA FORM 524 (5 JUN 86)
(PREVIOUS EDITION MAY BE USED UNTIL SUPPLY IS EXHAUSTED)

BILLING CODE 5810-01-C

Appendix B—Record of Freedom of Information (FOI) Processing Cost (DD Form 2086)

See Appendix E of § 286.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

March 17, 1988.

[FR Doc. 88-6277 Filed 3-22-88; 8:45 am]

BILLING CODE 5810-01-M

VETERANS ADMINISTRATION

38 CFR Part 1

Freedom of Information Act; Exemptions From Public Access to Agency Records

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration (VA) is updating its regulations so that they conform to the statutory language changes made by the Freedom of Information Reform Act of 1986 (Pub. L. 99-570), and incorporate the statutory language of 5 U.S.C. 552 (c)(1) and (c)(2) which were added by that Act. The effect of this regulation is simply to make 38 CFR 1.554 consistent with the statutory language.

EFFECTIVE DATE: October 27, 1986.

FOR FURTHER INFORMATION CONTACT: Steven McPherson, Paperwork Management and Regulations Service (733), Office of Information Management and Statistics, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3648.

SUPPLEMENTARY INFORMATION: On November 13, 1987, the VA published on pages 43625-43626 of the **Federal Register** a notice of proposed rulemaking. Interested people were given 30 days to offer comments, recommendations or suggestions. No comments were received. Therefore, the proposed regulations are adopted as final.

The Freedom of Information Act (FOIA) permits records to be withheld under any of nine exemptions. One of these exemptions allows withholding of records compiled for law enforcement purposes. 38 CFR 1.554(a)(7) implements the law enforcement exemption within the VA. The Freedom of Information Reform Act of 1986 revised the language of the law enforcement exemption. For example, exemption (b)(7) of the FOIA statute originally read "investigatory records compiled for law enforcement purposes." The revised statutory wording deletes the qualifying word "investigatory" and adds "or information." Since VA's regulation uses the same wording as the statute, it is necessary to amend the regulation to conform to the revised wording of the statute.

In addition, a new paragraph is added to 38 CFR 1.554 to also incorporate verbatim the statutory language of 5 U.S.C. 552 (c)(1) and (c)(2). This new statutory language authorizes agencies to treat certain law enforcement records and information as not subject to the Freedom of Information Act in certain limited circumstances.

The Administrator hereby certifies that this final regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Therefore, pursuant to 5 U.S.C. 605(b), this final regulation is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is that this final regulation simply repeats, and makes VA regulations consistent with, the language of Pub. L. 99-570; it imposes no new administrative or paperwork burdens. It will have no significant direct impact on small entities (i.e., small businesses, small private and non-profit organizations, and small governmental jurisdictions).

The VA has determined that this final regulation is non-major in accordance with Executive Order 12291, entitled Federal Regulation. This final regulation will not have a $100 million annual impact on the economy; nor will it have 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.

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Claims, Employment, Government employees, Freedom of Information Act, Privacy, Government property.

Approved: March 1, 1988.

Thomas K. Turnage,

Administrator.

PART 1—[AMENDED]

In 38 CFR Part 1, *General*, § 1.554 is amended by revising paragraph (a)(7), adding paragraph (c), and adding citations at the end of paragraphs (a)(7) and (c) to read as follows:

§ 1.554 Exemptions from public access to agency records.

(a) * * *

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(Authority: 5 U.S.C. 552(b)(7))

* * * * *

(c)(1) Whenever a request is made which involves access to records described in paragraph (a)(7)(i) of this section and

(i) The investigation or proceeding involves a possible violation of criminal law, and

(ii) There is reason to believe that

(A) The subject of the investigation or proceeding is not aware of its pendency, and

(B) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the Agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of this section.

(2) Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the Agency may treat the records as not subject to the requirements of this section unless the

informant's status as an informant has been officially confirmed.

(Authority: 5 U.S.C. 552(c)(1) and (c)(2))

[FR Doc. 88-6278 Filed 3-22-88; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 33

[OSWER-FRL-3353-4]

Small Purchase Procurement Procedures; Deviation

AGENCY: Environmental Protection Agency.

ACTION: Deviation to rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a class deviation from the provisions of 40 CFR 33.305, 33.310, and 33.250(a) of its Procurement Under Assistance Agreements regulation (40 CFR Part 33). This deviation applies to recipients of financial assistance under EPA's Technical Assistance Grant (TAG) program (Catalog of Federal Domestic Assistance Number 66.807). This deviation allows these recipients to use small purchase procurement procedures if the aggregate amount of any one procurement transaction does not exceed $25,000. Without the deviation, small purchases are limited to those costing $10,000 or less.

EFFECTIVE DATE: March 8, 1988.

FOR FURTHER INFORMATION CONTACT: Richard A. Johnson, Grants Administration Division, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20560, (202) 382-5296.

Date: March 2, 1988.

Charles L. Grizzle,

Assistant Administrator for Administration and Resources Management.

Date: February 25, 1988.

Thaddeus L. Juszczak, Jr.,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 88-6290 Filed 3-22-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 9E2249/R941; FRL-3353-1]

Pesticide Tolerance for Pentachloronitrobenzene

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the fungicide pentachloronitrobenzene and its metabolites in or on the raw agricultural commodities collards, kale, and mustard greens. The Interregional Research Project No. 4 IR-4) petitioned for this tolerance.

EFFECTIVE DATE: March 23, 1988.

ADDRESS: Written objections, identified by the document control number, [PP 9E2249/R941], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Room 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: Room 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 January 20, 1988 (53 FR 1495), 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 pesticide petition 9E2249 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Station of Georgia.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the fungicide pentachloronitrobenzene (PCNB) and its metabolites pentachloroaniline (PCA) and methylpentachlorophenyl sulfide (MPCPS) in or on the raw agricultural commodities collards, kale, and mustard greens at 0.1 part per million (ppm). The petition was later amended to propose residues of the fungicide at 0.2 ppm. The petitioner proposed that this use of PCNB and its metabolites on collards, kale, and mustard greens be limited to Georgia based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

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: March 11, 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 180.291 is amended by designating the existing text as paragraph (a) and adding new paragraph (b), to read as follows:

§ 180.291 Pentachloronitrobenzene; tolerances for residues.

* * * * *

(b) Tolerances with regional registration (refer to §180.1 (n)) are established for the combined residues of

the fungicides pentachloronitrobenzene (PCNB) and its metabolites pentachloroaniline (PCA) and methyl pentachlorophenyl sulfide (MPCPS) in or on the following raw agricultural commodities:

Commodities	Parts per million
Collards	0.2
Kale	0.2
Mustard greens	0.2

[FR Doc. 88-6291 Filed 3-22-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3352-5]

40 CFR Part 228

Ocean Dumping; Proposed Site Designation for San Juan, PR

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates a dredged material disposal site located offshore of San Juan Harbor, Puerto Rico for the disposal of dredged material removed from San Juan Harbor and vicinity. This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of this material. This site designation is for an indefinite period of time, but the site is subject to continuing monitoring to insure that unacceptable adverse environmental impacts do not occur.

EFFECTIVE DATE: This designation shall become effective on April 22, 1988.

ADDRESSES: Mario Del Vicario, Chief, Marine and Wetlands Protection Branch, EPA Region II, 26 Federal Plaza, New York, NY 10278.

The file supporting this designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU) Room 2904 (rear) 401 M Street Southwest, Washington, DC 20460;
EPA Region II Library, Room 402, 26 Federal Plaza, New York, NY 10278;
EPA Region II, Caribbean Field Office, Office 2A, Podiatry Center Building, 1413 Fernandez Juncos Avenue, Santurce, Puerto Rico 00907.

FOR FURTHER INFORMATION CONTACT: Mario Del Vicario, 212-264-5170.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 *et seq.* ("the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On October 1, 1986, the Administrator delegated the authority to designate ocean dumping sites to the Regional Administrator of the Region in which the site is located. This site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by promulgation in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2461 *et seq.*) and was extended on August 19, 1985 (50 FR 33338). That list established the San Juan site as an interim site and extended its period of use until July 31, 1988, or until final rulemaking is completed, whichever is sooner. This site designation is being published as final rulemaking in accordance with § 228.4(e) of the Ocean Dumping Regulations, which permits the designation of ocean disposal sites for dredged material.

B. EIS Development

Section 102(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* ("NEPA") requires that Federal agencies prepare an environmental impact statement (EIS) on proposals for major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the Agency decision-making process careful consideration of all environmental aspects of proposed actions. While NEPA does not apply to EPA activities of this type, EPA has voluntarily committed to prepare EISs in connection with ocean dumping site designations such as this (39 FR 16186, May 7, 1974).

The EPA prepared a final EIS entitled "Environmental Impact Statement for the San Juan Harbor, Puerto Rico Dredged Material Site Designation." On August 13, 1982, a notice of availability of the drafts EIS for public review and comment was published in the **Federal Register** (47 FR 35335). The public comment period on this draft EIS closed September 27, 1982. On February 4, 1983, a notice of availabilty of the final EIS for public review and comment was published in the **Federal Register** (48 FR 5308). The public record on the final EIS closed March 7, 1983. Anyone desiring a copy of the EIS may obtain one from the address given above.

The final EIS includes the Agency's assessment of the comments received during the comment period on the draft EIS. Comments correcting facts were incorporated into the text and the changes were noted in the final EIS. Specific comments which could not be appropriately treated as text modifications were addressed point by point. Both comments and responses are found in Appendix D of the final EIS.

Primary commenters on the draft EIS were the U.S. Army Corps of Engineers and the Commonwealth of Puerto Rico's Environmental Quality Board and Department of Natural Resources. The Corps of Engineers noted that the draft referred only to maintenance dredging from existing projects. EPA corrected this oversight in the final EIS. The proposed rule would allow disposal of dredged material from new projects as well as existing ones. Comments received from the Environmental Quality Board and the Department of Natural Resources noted that the endangered West Indian manatee has been sighted off the northeastern coast of Puerto Rico. This observation was included in the final EIS. However, no manatees have recently been seen at the site and their passage through the site, if this were to occur, would be short and infrequent. The Department of Natural Resources expressed concern that dumping at the site would introduce toxic wastes into a commercial fishery area inshore of the dump site. Previous monitoring surveys, together with current data, indicate that as a result of the prevailing coastal current system, migrating pollutants are distributed in an east-west and offshore direction away from inshore fishery areas. In addition, elutriate studies using harbor sediments indicate that trace metal contaminant concentrations, after initial dilution, do not exceed EPA chronic marine Water Quality Criteria (WQC). Therefore, it is unlikely that the dredged material disposal activities in conjunction with the coastal patterns would adversely impact inshore commercial fishing areas.

One comment was received on the final EIS. The Corps of Engineers recommended that the interim site be designated for continuing use. This rule reflects acceptance of this comment.

Dredged material from new projects may be dumped at this site upon completion of an appropriate case-by-case evaluation of the impact of such material on the site. This analysis must demonstrate that the impact would not be unacceptable. EPA plans to monitor ambient water quality trends at the site and in adjacent areas to ensure that unacceptable levels of toxic constituents are not transported outside of the site. Additional monitoring of impacts would be required if dredging volumes or

characteristics of the dredged materials change significantly to assure that adverse effects on the ecosystem do not develop. Should monitoring surveys indicate that transport outside of the site is occurring, appropriate measures to modify or withdraw site designation are available to the Agency.

Based upon the information reported in the EIS, EPA today designates the existing San Juan Harbor site for continuing use for the ocean disposal of dredged material where applicants have demonstrated compliance with EPA's ocean dumping criteria.

The National Marine Fisheries Service and the U.S. Fish and Wildlife Service have concurred with EPA's conclusion that the designation of this dredged material disposal site will not affect the endangered species under their jurisdiction.

The action discussed in the EIS is the designation for continuing use of an ocean disposal site for dredged material located in the Atlantic Ocean in the vicinity of San Juan Harbor. The EIS discusses the need for the action and examines ocean disposal site alternatives to the proposed action. The purpose of the designation is to provide an environmentally acceptable location for the ocean disposal of materials dredged from the Port of San Juan and nearby coastal areas. The appropriateness of ocean disposal is determined on a case-by-case basis as part of the process of issuing permits for ocean disposal.

The EIS presents the information needed to evaluate the suitability of ocean disposal areas for final designation and is based on one of a series of disposal site environmental studies. The environmental studies and final designation process are being conducted in accordance with the requirements of the Act, the Ocean Dumping Regulations, and other applicable Federal environmental legislation.

C. Site Designation.

The site is a rectangle located approximately 2.2 nautical miles north-northwest of the entrance to San Juan Harbor, with the following coordinates:

18d 30' 10"N, 66d 09' 31"W;
18d 30' 10"N, 66d 08' 29"W;
18d 31' 10"N, 66d 08' 29"W;
18d 31' 10"N, 66d 09' 31"W.

The site occupies an area of approximately one square nautical mile, and water depths within this area range from 200 to 400 meters. Disposal operations at the site began in 1974.

All of the dredged material disposed at the designated site will be from dredging operations in the Port of San Juan, Puerto Rico and coastal areas within 20 miles of the Port entrance. The total amount of dredged material dumped at the site since 1974 has been approximately 4.3 million cubic yards. Maximum quantities of dredged material to be disposed at this site are to be determined by both EPA and the Corps of Engineers. If at any time disposal operations at the site cause unacceptable adverse impacts, further use of the site will be restricted or terminated.

D. Regulatory Requirements

General criteria are used in the selection and approval of ocean disposal sites for continuing use. Sites are selected so as to minimize interference with other marine activities, to keep any temporary perturbations from the dumping from causing impacts outside the disposal site, and to permit effective monitoring to detect any adverse impacts at an early stage. Where feasible, locations off the Continental Shelf are chosen. If at any time disposal operations at an interim site cause unacceptable adverse impacts, further use of the site will be terminated as soon as suitable alternative disposal sites can be designated. These general criteria are given in § 228.5 of the EPA Ocean Dumping Regulations, and § 228.6 lists 11 specific factors used in evaluating a proposed disposal site to assure that the general criteria are met.

The disposal site's location has been chosen to minimize the interference of disposal activities with other activities in the marine environment. The site is not located in major shipping lanes. While there is potential for oil and gas exploration in the area, no serious conflict with such activities is expected. Coordination with future leasing activities should effectively avoid potential conflicts [§ 228.5(a)]. Temporary perturbations in water quality from dredged material disposal can be expected to return to ambient levels before reaching any beach, shoreline or known geographical limited fishery or shellfishery [§ 228.5(b)]. Based upon disposal site evaluation studies presented in the EIS, the designated site satisfies the criteria for site selection set forth in §§ 228.5–228.6 [§ 228.5(c)]. The disposal site has been limited in size in order to localize, identify and control any immediate adverse impacts and to facilitate the implementation of an effective monitoring and surveillance program to prevent adverse long range impacts [§ 228.5(d)]. The location of the site satisfies the statutory preference for sites located off the Continental Shelf, where feasible [§ 228.5(e)]. EPA established the 11 specific factors [§ 228.6] to constitute an environmental assessment of the impact of disposal at the site. The criteria are used to make comparisons between the alternative sites and are the basis for final site selection. The characteristics of the existing site are are viewed below in terms of these 11 factors.

1. Geographical Position, Depth of Water, Bottom Topography and Distance From Coast [40 CFR 228.6(a)(1).]

The rectangular site is approximately one square nautical mile in size. Its corner coordinates are given above. Water depth ranges from 200 to 400 meters with an average of 292 meters. The center of the site is 2.2 nautical miles from the Isle de Cabras. The bottom drops off steeply to the north. The Insular Slope in this area to the north is characterized by numerous submarine ridges and swales. The bottom sediments within the area of the site average 48 percent silt and 45 percent clay with the balance being sand and gravel.

2. Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases [40 CFR 228.6(a)(2).]

The site does not encompass any known unique breeding, spawning, nursery or passage areas of nekton, marine mammals or birds. The open water of the site may be feeding grounds for some wide ranging pelagic fish such as tuna, jacks, and mackerel. Deep waters at the site are feeding grounds for various snappers (blackfin, silk, and vermillion), but the site is not unique in this regard.

3. Location in Relation to Beaches and Other Amenity Areas [40 CFR 228.6(a)(3).]

The site is centered approximately 2.2 nautical miles due north of San Juan. Palo Seco and Punta Salinas, on the coast immediately west of San Juan, are both approximately 2.5 nautical miles from the center of the site. Both are developed beaches which serve metropolitan San Juan.

El Morro, one of the two fortifications in the San Juan National Historical Site, attracts thousands of visitors every year. It is located on a prominence on the western tip of Isle San Juan overlooking the Atlantic Ocean. Disposal activities at the site are 2.5 nautical miles to the north in the Atlantic Ocean and can be seen from the fortification.

4. Types and Quantities of Waste Proposed to be Disposed of, and Proposed Methods of Release, Including Methods of Packing the Waste, if any [40 CFR 228.6(a)(4).]

Only dredged material consisting of sands, silts, and clays will be disposed of at the site. All dredged material must satisfy EPA criteria before any permits for ocean dumping are issued. None of the material will be packaged in any way.

The Corps of Engineers will continue to perform dredging using Corps-owned hopper dredges. Additional dredging will also be performed by private contractors using hopper, dragline, clamshell, and dipper dredges.

The total amount of dredged material dumped at the site since 1974 has been 4.3 million cubic yards. Maintenance dredging encompassed 1.5 million cubic yards, and dredged material from harbor improvements encompassed 2.8 million cubic yards. Dumping occurs several times a year.

A deepening project of San Juan Harbor has been proposed by the Corps of Engineers. The proposal under consideration consists of a plan for deepening, widening, and possibly realigning and extending the channels, deepening the turning basins, and easing the channel connecting angles within the authorized existing project. If the deepening project is implemented, the volume of dredged material is estimated to be 12,795,000 cubic yards of soft material and rock. Maintenance dredging would be scheduled every two years, and would involve an increase of approximately 185,000 cubic yards per year.

5. Feasibility of Surveillance and Monitoring [40 CFR 228.6(a)(5).]

Surveillance of disposal operations at the proposed site could be achieved by helicopter or shiprider.

Periodic monitoring by EPA, the Corps of Engineers, and permittees will continue for as long as the site is used. Additional monitoring will be required if dredging volumes and/or characteristics of the dredged material change significantly to assure that adverse impacts do not develop. Periodic reports of the monitoring operations will be made available to interested persons upon request. If evidence of significant adverse environmental effects is found, EPA will take appropriate steps to limit or terminate dumping at the site.

6. Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if any [40 CFR 228.6(a)(6).]

Dredged material characteristically exhibit dispersion of fine material and subsequent elevated levels of suspended sediment and turbidity when they are disposed. The material dredged from San Juan Harbor is primarily silty clay which would increase turbidity during all phases of disposal.

The current regime off the north coast of Puerto Rico is composed of tidal and non-tidal components. Semidiurnal tidal currents rotate in a clockwise direction, whereas wind-driven non-tidal currents are predominantly along shore in a westerly direction. The resulting net surface currents at the site indicate a general westward drift with frequent reversals and a mean speed of 0.6 km/hr. Generally, subsurface currents off the north coast are along shore but weaker than surface currents.

There is no known upwelling of subsurface water at the site. A well-mixed layer of surface water extends to approximately 20 meters in May and to 75–100 meters in January. Below 100 meters, a permanent thermocline exists and inhibits the mixing of surface and bottom waters.

The frequent reversal of currents at the site indicates that elevated levels of suspended sediments associated with dumping would be dispersed parallel to the coast, but not in a specific direction. Surface turbidity would be dispersed rapidly in the mixed layer. Elevated levels of suspended sediments in mid and bottom waters will remain below the thermocline and will also be dispersed in a westerly direction parallel to the coast until the particles settle to the bottom.

At depths averaging 292 meters, the strength of bottom currents is unknown, but sediment information indicates that the area is a depositional environment since the sea floor is relatively undisturbed. Therefore, horizontal movement of dredged material on the sea floor caused by either surface wave action or bottom current is not expected.

7. Existence and Effects of Current and Previous Discharges and Dumping in the Area Including Cumulative Effects) [40 CFR 228.6(a)(7).]

Chemical and biological data suggest that previous dumping has created only minor modifications at the site. Oil and grease levels are higher in site sediments; however, levels of other trace contaminants show no consistent trends. Benthic infaunal communities at the interim site show low abundances and diversities similar to the surrounding area. The benthic community is typical of that found in muddy bottom sediments throughout the area (i.e. dominated by small-bodied invertebrate deposit feeders).

8. Interference with Shipping, Fishing, Recreation, Mineral Extraction, Desalinization, Fish and Shellfish Culture, Areas Scientific Importance and Other Legitimate Uses of the Ocean. [40 CFR 228.7(a)(8).]

Heavy shipping and cruise ship traffic passes through or in the vicinity of the site. However, past disposal activities have not interfered with the ship traffic.

A modest commercial fishery operates out of San Juan, but most fishing activity is concentrated in the shallow waters, inshore of the site. However, commercial fishing in this area is hampered by rough seas and strong winds throughout most of the year.

The Bureau of Land Management does not plan to lease any part of the north coast for oil or gas extraction. No other mineral extraction occurs at or near the site.

Disposal at the site would not interfere with the other activities listed above.

9. The Existing Water Quality and Ecology of the Site as Determined by Available Data, Trend Assessment, or Baseline Surveys. [40 CFR 228.6(a)(9).]

Environmental surveys of the site were conducted in 1980 by an EPA contractor and in 1984 by EPA. Both of these studies revealed water quality and thermohaline structure to other areas of the tropical Atlantic.

Benthic infaunal populations at the site and surrounding regions of similar depth are extremely low in density and dominated by polychaete and sipunculid worms.

Fish fauna at the site are expected to be sparse and composed of wide-ranging pelagic fish, such as tuna, jacks, and mackerel. Deep waters at the site may be inhabited by various species having wide depth ranges (spiny dogish, snappers, conger eels, and batfishes) and species representative of the abyssal slope such as grenadiers.

10. Potential for the Development or Recruitment of Nuisance Species in the Disposal Site [40 CFR 228.6(a)(10).]

Survey work at the site has not indicated the development or recruitment of any nuisance species.

There are no components in the dredged material which would attact or recruit nuisance species to the site.

11. Existence at or in Close Proximity to the Site of any significant Natural or Cultural Feature of Historical Importance. [40 CFR 228.6(a)(11).]

El Morro, one of two fortifications within the San Juan National Historic Site, is located on a prominence on the western tip of Isle San Juan and overlooks the Atlantic Ocean. Disposal activities at the site are 2.5 nautical miles north in the Atlantic Ocean and can be seen from the fortification.

E. Response to Comments

On September 24, 1987 EPA proposed designation of this site in the **Federal Register** [52 FR 185]. The proposed rulemaking contained information regarding the site and the circumstances surrounding the request to dispose of dredged material. The Comment period on this proposed rulemaking closed on November 9, 1987. EPA received no responses to this request for comments.

F. Action

The EIS concludes that the site may appropriately be designated for continuing use. The site is compatible with the general criteria and specific factors used for site evaluation.

The designation of the San Juan Dredged Material Disposal Site as an EPA approved Ocean Dumping Site is being published as final rulemaking. Management of this site will be delegated to the Regional Administrator of EPA Region II.

It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of material at the site. Before ocean dumping of dredged material at the site may commence, the Corps of Engineers must evaluate permit applications according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must also evaluate the proposed dumping in accordance with those criteria. In either case, EPA has the authority to review the applications and to disapprove of the dumping, if it determines that environmental concerns under the Act have not been satisfied.

G. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities since the designation will only have the effect of providing a disposal option for dredged material. Consequently, this rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this rule does not necessitate preparation of a Regulatory Impact Analysis.

This final rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water Pollution Control.

Dated: March 14, 1988.

Christopher J. Daggett,

Regional Administrator for Region II.

In consideration of the foregoing, Subchapter H of Chapter 1 of Title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. Secs. 1412 and 1418.

2. Section 228.12 is amended by removing and reserving paragraph (a)(1)(ii)(B), and by adding paragraph (b)(54) to read as follows:

§ 228.12 Delegation of Management Authority for Interim Ocean Dumping Sites.

* * * * *

(b) * * *

(54) San Juan Harbor, PR Dredged Material Site—Region II

Location: 18d 30'10" N°, 66d 09'31" W°; 18d 30'10" N°, 66d 08'29" W°; 18d 31'10" N°, 66d 08'29" W°; 18d 31'10" N°, 66d 09'31" W°.

Size: 0.98 square nautical miles.

Depth: Ranges from 200–400 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to dredge material from the Port of San Juan, Puerto Rico, and coastal areas within 20 miles of said port entrance.

[FR Doc. 88–6292 Filed 3–22–88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 87–1, FCC No. 88–86]

Private Land Mobile Radio Services, Assignment of Frequencies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a *Report and Order* that modifies the co-channel assignments standards for 800 MHz trunked Specialized Mobile Radio (SMR) systems located in the Seattle, Washington area. This action will increase the minimum co-channel separation requirement from 70 to 105 miles for these systems that are located on certain, specified mountaintops around Seattle. The new requirements will provide increased interference protection in the Seattle area for co-channel 800 MHz SMRs.

EFFECTIVE DATE: May 2, 1988.

FOR FURTHER INFORMATION CONTACT: Michael Lewis, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, PR Docket 87–1, adopted February 29, 1988, and released March 18, 1988.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. This proceeding was initiated to address an interference situation first brought to our attention by a group known as the Western Washington Cooperative Interference Committee (WWCIC). This group reported that the 70 mile co-channel separation requirement for 800 MHz trunked SMR systems was insufficient to prevent interference in Seattle because the terrain of this area does not conform with the model used to develop the 70 mile standard. After this report was confirmed by the Commission's Field Operations Bureau, we proposed to increase the minimum separation requirement to 105 miles.

2. In response to the *Notice*, commenters urged the Commission to find a solution which balances the needs of providing increased interference protection without severely limiting frequency reuse in the area. The commenters noted that the problem is largely caused by transmitters located at high elevations and urged that we focus our attention on this aspect of the problem. The Commission agreed with the commenters on this point and, therefore, chose to apply the increased separations only to certain, specified mountains instead of applying an across-the-board increase.

3. The Commission declined, however, to adopt the commenters' proposal that the new requirements should also be applied to non-SMR trunked systems and conventional systems that have exclusive use of a frequency. The Commission stated that there are regulatory and operational differences between trunked SMRs and these other systems, particularly the presence of frequency coordinators, that warrants different assignment standards. Finally, the Commission grandfathered any existing systems except those with authorizations that were conditioned on the outcome of this proceeding and stated that the new requirements will apply to future 900 MHz systems in the Canadian border area when an agreement is reached with the Canadian government on the use of this spectrum in the Seattle area.

Regulatory Flexibility Act Final Analysis

4. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a final regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

5. The Secretary shall cause a copy of this *Report and order*, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*), (1981).

Paperwork Reduction Act Statement

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

Ordering Clauses

7. Accordingly, it is ordered that, pursuant to authority contained under section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), Part 90 of the Commission's Rules is amended effective May 2, 1988.

It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 90

Radio, Private land mobile radio services.

Amendatory Text

47 CFR Part 90 is amended as follows:

PART 90—[AMENDED]

8. The authority citation for Part 90 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303 unless otherwise noted.

9. 47 CFR 90.362 is amended by adding new paragraph (c)(3) to read as follows:

§ 90.362 Selection and assignment of frequencies.

* * * * *

(c) * * *

(3) Trunked systems located in the State of Washington at the following locations shall be separated from co-channel systems by a minimum of 168 km (105 miles). Locations within one mile of the geographical coordinates listed in the table will be considered to be at that site.

Site name	North latitude	West longitude
Mont Constitution	48-40-48	122-50-24
Lyman Mountain	48-35-42	122-09-35
Cultus Mountain	48-25-31	122-08-54
Gunsite Ridge	48-03-23	121-51-37
Gold Mountain	47-32-52	122-46-52
Buck Mountain	47-47-06	122-59-30
Cougar Mountain	47-32-40	122-06-30
Squak Mountain	47-30-15	122-03-30
Tiger Mountain	47-30-14	121-58-28
Devils Mountain	48-21-53	122-16-02
McDonald Mountain	47-20-12	122-51-26
Maynard Hill	48-00-59	122-55-31
North Mountain	47-19-08	123-20-44
Green Mountain	47-33-41	122-48-27
Capitol Peak	46-58-22	123-08-17
Rattlesnake Mountain	47-28-10	121-49-13
Three Sisters Mountain	47-07-20	121-53-30
Grass Mountain	47-12-15	121-47-38
Spar Pole Hill	47-02-52	122-08-35

10. 47 CFR 90.615 is revised to read as follows:

§ 90.615 Frequencies available for conventional systems in the 806-809.750/851-854.750 MHz bands.

Channels 1-150 are available to eligible applicants in all services only for conventional system use. The frequencies are available in areas farther than 110 km. (68.4 miles) from the U.S./Mexico border, and farther than 140 km. (87.0 miles) from the U.S.-Canadian border.

11. 47 CFR 90.621 is amended by adding new paragraph (b)(3), and by revising paragraph (c) to read as follows:

§ 90.621 Selection and assignment of frequencies.

* * * * *

(b) * * *

(3) SMR trunked systems located in the State of Washington at the following locations shall be separated from co-channel systems by a minimum of 168 km (105 miles). Locations within one mile of the geographical coordinates listed in the table will be considered to be at that site.

Site name	North latitude	West longitude
Mount Constitution	48-40-48	122-50-24
Lyman Mountain	48-35-42	122-09-35
Cultus Mountain	48-25-31	122-08-54
Gunsite Ridge	48-03-23	121-51-37
Gold Mountain	47-32-52	122-46-52
Buck Mountain	47-47-06	122-59-30
Cougar Mountain	47-32-40	122-06-30
Squak Mountain	47-30-15	122-03-30
Tiger Mountain	47-30-14	121-58-28
Devils Mountain	48-21-53	122-16-02
McDonald Mountain	47-20-12	122-51-26
Maynard Hill	48-00-59	122-55-31
North Mountain	47-19-08	123-20-44
Green Mountain	47-33-41	122-48-27
Capitol Peak	46-58-22	123-08-17
Rattlesnake Mountain	47-28-10	121-49-13
Three Sisters Mountain	47-07-20	121-53-30
Grass Mountain	47-12-15	121-47-38
Spar Pole Hill	47-02-52	122-08-35

(c) Trunked systems authorized on frequencies in the Public Safety, Industrial/Land Transportation, and Business categories will be protected solely on the basis of predicted contours. Coordinators will attempt to provide a 40 dBu contour and to limit co-channel interference levels to 30 dBu over an applicant's requested service area. This would result in a mileage separation of 70 miles for typical system parameters. Applicants should be aware that in some areas, *e.g.*, Seattle, Los Angeles, and northern California, separations greater than 70 miles may be appropriate. Separations will be less than 70 miles where the requested service areas, terrain, or other factors warrant reduction. In the event that the separation is less than 70 miles, the coordinator must indicate that the protection criteria have been preserved or that the affected licensees have agreed in writing to the proposed

system. Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account.

* * * * * *

Federal Communications Commisson.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-6314 Filed 3-22-88; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 53, No. 56
Wednesday, March 23, 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

Agricultural Marketing Service

7 CFR Parts 925 and 944

Grapes Grown in a Designated Area of Southeastern California and Table Grapes Imported Into the United States; Proposed Change in Minimum Size Requirements for Perlette Grapes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the minimum berry size for California Perlette grapes and imported Perlette grapes from 9/16 to 10/16 of an inch starting with the 1988 crop season. This action is intended to provide fresh markets with Perlette grapes of desirable size and promote consumer acceptance of these grapes.

DATE: Comments must be received by April 22, 1988.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments should be sent to the 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: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone: (202) 447–5331.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Order No. 925 (7 CFR Part 925), regulating the handling of grapes grown in a designated area of southeastern 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 20 handlers of California desert grapes subject to regulation under this marketing order, and approximately 85 desert grape producers. Also, there are approximately 50 grape importers subject to the requirements of the table grape import regulation. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross 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. The majority of handlers and producers of California desert grapes and importers of table grapes may be classified as small entities.

The California Desert Grape Administrative Committee's 1987 Annual Report indicated that table grape shipments for 22 pound boxes had totals in the past three seasons of 7,364,853 in 1987, 8,189,994 in 1986, and 7,441,364 in 1985. The decrease in last year's production was due to inclement weather conditions. Bearing acreage of 18,815 in 1987 was 722 acres more than the 18,093 acres reported in 1986. Available forecasts indicate that table grape supplies should be comparable to those in recent seasons.

Table grape producers are improving their cultural practices to remain competitive and to meet the expectations of the consumer. Table grapes compete with over 250 other items in supermarket produce sections. Since table grapes are usually an impulse item, purchases are based on eye appeal.

Total shipments in 1987 of 22 pound boxes of Perlette grapes were 2,693,356 or approximately 36 percent of the total shipments for all varieties.

Based on prices provided by the Federal-State Market News Service and the committee's handling cost figures, it is estimated that the on-vine value of California Perlette grapes approximated $23.1 million in 1987. This represents about 45.4 percent of the total value of all varieties of grapes grown in the production area.

Perlette grapes were the dominant variety shipped out of the production area during the last crop year. The "production area" is Imperial County, California, and part of Riverside County and San Diego County, California.

The proposed rule would change the handling regulation specified at 7 CFR in § 925.304 (50 FR 18851, May 3, 1985; 50 FR 32161, August 9, 1985; 51 FR 12501, April 11, 1986; 51 FR 13209, April 18, 1986; 51 FR 16285, May 2, 1986; 52 FR 8865, March 20, 1987; 52 FR 20382, June 1, 1987; 52 FR 24443, July 1, 1987) to increase the minimum berry size for California Perlette grapes regulated under the marketing order from 9/16 to 10/16 of an inch in diameter.

Changes would be made in §§ 925.304(a) and 944.503(a)(1) to increase the size of California desert grape shipments and table grape imports by increasing the minimum berry size for the Perlette grape variety. This proposal is being issued pursuant to § 925.52 of the order.

Members of the committee believe that increasing the minimum berry size for Perlettes would better meet the demands of the consumer. The larger berries of this variety would tend to produce a more attractive and uniform pack. Requiring handlers to ship only larger size grapes, which are more desirable in the marketplace, would be expected to foster increased consumption and have a positive impact on the industry. Furthermore, the committee believes the proposed increase in the minimum berry size requirement would help consumers identify and distinguish the green-

colored, round Perlette grape from other grape varities of similar color.

Quality assurance is very important to the California desert grape industry. Providing the public with acceptable quality fruit which is appealing to the consumer on a consistent basis is necessary to maintain buyer confidence in the marketplace. To the extent that this action increases the quality of Perlette grapes in the marketplace, it would also be of benefit to both California desert grape producers and handlers. This action would not adversely affect marketable supplies of grapes.

This action, if approved, would not become effective until the 1989 crop season. This would afford producers the time necessary to change their cultural practices in order to meet the increased minimum berry size requirement.

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.

Section 8e of the Act (7 U.S.C. 608e–1) provides that whenever specified commodities, including table grapes, are regulated under a Federal marketing order, imports of that commodity are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Because this proposal would increase the minimum berry size for California Perlette grapes under M.O. 925, this change would be applicable to imported Perlette grapes during the period (April 20 to August 15 each year) that the domestic handling requirements are in effect.

Chile and Mexico are the two main sources of Perlette grape imports to the United States. Imports of Perlette grapes from Chile would be unaffected by this rule because harvesting and shipping of this variety are completed in January, and the domestic handling regulations do not become effective until April 20.

However, the Mexican grape shipping season runs concurrently with that for California desert grapes which are regulated under Marketing Order 925.

During 1987, U.S. imports of Mexican grapes totaled 2,597,926 lugs. Of this total, 28 percent represented grapes of the Perlette variety.

While this proposal would increase the minimum berry size for domestic and imported Perlette grapes for the 1989 crop year, exemptions from requirements under the domestic handling regulation would remain unchanged for shipments of the Emperor, Almeria, Calmeria, and Ribier grape varieties. These varieties are exempt from handling requirements because they are not grown in the production area. Imports of these varieties also are exempt from import regulation requirements (§ 944.503, Table Grape Import Regulation 4; 51 FR 12501, April 11, 1986; 51 FR 13209, April 18, 1986; 52 FR 8865, March 20, 1987).

Organically grown grapes are exempt from the berry size requirements, and the handling of grapes for processing (raisins, crushing, and other by-products) is exempt from size, quality, and container requirements. These exemptions are specified in § 925.304(c) and (d).

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

List of Subjects

7 CFR Part 925

Marketing agreements and orders, Grapes, California.

7 CFR Part 944

Fruits, Import regulations, Grapes.

For the reasons set forth in the preamble, it is proposed that 7 CFR Parts 925 and 944 be amended as follows:

1. The authority citation for 7 CFR Parts 925 and 944 continues to read as follows:

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

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

2. Section 925.304 is amended by revising paragraph (a) to read as follows:

§ 925.304 California Desert Grape Regulation 6.

* * * * *

(a) *Grade, size, and maturity.* Such grapes shall meet the minimum grade and size requirements specified in § 51.884 for U.S. No. 1 Table, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type, 7 CFR 51.887 through 51.912), except that (1) grapes of the Perlette variety shall meet the minimum berry size requirement of ten-sixteenths of an inch, and that (2) grapes of the Flame Seedless variety shall meet the minimum berry size requirement of ten-sixteenths of an inch and shall be considered mature if the juice contains not less than 15 percent soluble solids and the soluble solids are equal to or in excess of 20 parts to every part acid contained in the juice in accordance with applicable sampling and testing procedures specified in sections 1436.3, 1436.5, 1436.6, 1436.7, 1436.12, and 1436.17 of Article 25 of the California Administrative Code (Title 3).

* * * * *

PART 944—FRUITS, IMPORT REGULATIONS

3. Section 944.503 is amended by revising paragraph (a)(1) to read as follows:

§ 944.503 Table Grape Import Regulation 4.

(a)(1) Pursuant to section 8e of the Act and Part 944—Fruits, Import Regulations, the importation into the United States of any variety of vinifera species table grapes, except Emperor, Calmeria, Almeria, and Ribier varieties, is prohibited unless such grapes meet the minimum grade and size requirements specified in § 51.884 for U.S. No. 1 Table grade, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type, 7 CFR 51.880 through 51.912), except that (1) grapes of the Perlette variety shall meet the minimum berry size requirement of ten-sixteenths of an inch, and that (2) grapes of the Flame Seedless variety shall meet the minimum berry size requirement of ten-sixteenths of an inch and shall be considered mature if the juice contains not less than 15 percent soluble solids and the soluble solids are equal to or in excess of 20 parts to every part acid contained in the juice in accordance with applicable sampling and testing procedures specified in sections 1436.3, 1436.5, 1436.6, 1436.7, 1436.12, and 1436.17 of Article 25 of the California Administrative Code (Title 3).

* * * * *

Dated: March 18, 1988.

William J. Doyle,

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

[FR Doc. 88–6348 Filed 3–22–88; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 16

[Order No. 1261-88]

Revision of Department of Justice Business Information; FOIA Regulation Implementing Executive Order 12600

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: This notice sets forth a proposed revision of a procedural regulation of the Department of Justice, 28 CFR 16.7, setting forth the procedures to be followed in notifying submitters of business information that such information has been requested under the Freedom of Information Act (FOIA), 5 U.S.C. 552. It is proposed that this provision be amended to bring it into conformity with the provisions of Executive Order 12600, 52 FR 23781 (1987). Additionally, this proposed revision modifies the language of the provision for purposes of clarity.

DATE: Comments must be received on or before April 22, 1988.

ADDRESS: Comments should be directed to: Richard L. Huff or Daniel J. Metcalfe, Co-Directors, Office of Information and Privacy, United States Department of Justice, Room 7238, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Richard L. Huff or Daniel J. Metcalfe, Co-Directors, Office of Information and Privacy, United States Department of Justice, Room 7238, Washington, DC 20530; ((202) 633-3642).

SUPPLEMENTARY INFORMATION: The major substantive change made in this proposed revision is the elimination of one of the exceptions to the provision's notice requirement. Currently, under § 16.7(g), notice need not be given if "[t]he component is a criminal law enforcement agency that acquired the information in the course of a lawful investigation of a possible violation of criminal law." The elimination of this exception is necessary to bring the provision into conformity with Executive Order 12600. Additionally, the notice provision of § 16.7(c) is proposed to be simplified, in redesignated paragraph (d), in a manner consistent with both Executive Order 12600 and the existing ten-year designation-effectiveness provision carried over into new paragraph (e). Finally, the clarifying language modifications that are proposed, which are entirely procedural in nature and conform to the provisions of Executive Order 12600, include a specific definition subsection and a separate subsection on submitter designation of information.

This proposed rule does not constitute a "major rule" within the meaning of Executive Order No. 12291 (Improving Government Regulations). The requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b), do not apply.

List of Subjects in 28 CFR Part 16

Freedom of information.

Accordingly, under the authority vested in me by 28 U.S.C. 509 and 510, and 5 U.S.C. 301 and 552, Part 16 of Chapter I of Title 28 of the Code of Federal Regulations is proposed to be amended as follows:

PART 16—[AMENDED]

1. The authority citation for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 9701.

2. Section 16.7 is revised to read as follows:

§ 16.7 Business information.

(a) *In general.* Business information provided to the Department of Justice by a submitter shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section.

(b) *Definitions.* The following definitions are to be used in reference to this section:

"Business information" means commercial or financial information provided to the Department by a submitter that arguably is protected from disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4).

"Submitter" means any person or entity who provides business information, directly or indirectly, to the Department. The term includes, but is not limited to, corporations, state governments and foreign governments.

(c) *Notice to submitters.* A component shall provide a submitter with prompt written notice of a Freedom of Information Act request or administrative appeal encompassing its business information wherever required under paragraph (d) of this section, except as is provided for in paragraph (i) of this section, in order to afford the submitter an opportunity to object to disclosure pursuant to paragraph (f) of this section. Such written notice shall either describe the exact nature of the business information requested or provide copies of the records or portions thereof containing the business information. The requester also shall be notified that notice and an opportunity to object are being provided to a submitter.

(d) *When notice is required.* Notice shall be given to a submitter whenever:

(1) The information has been designated in good faith by the submitter as information deemed protected from disclosure under Exemption 4, or

(2) The component has reason to believe that the information may be protected from disclosure under Exemption 4.

(e) *Designation of business information.* Submitters of business information shall use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, those portions of their submissions which they deem to be protected from disclosure under Exemption 4. Such designations shall be deemed to have expired ten years after the date of the submission unless the submitter requests, and provides reasonable justification for, a designation period of greater duration.

(f) *Opportunity to object to disclosure.* Through the notice described in paragraph (c) of this section, a component shall afford a submitter a reasonable period of time within which to provide the component with a detailed written statement of any objection to disclosure. Such statement shall specify all grounds for withholding any of the information under any exemption of the Freedom of Information Act and, in the case of Exemption 4, shall demonstrate why the information is contended to be a trade secret or commercial or financial information that is privileged or confidential. Whenever possible, the submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the submitter. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* A component shall consider carefully a submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose business information. Whenever a component decides to disclose business information over the objection of a submitter, the component shall forward to the submitter a written notice which shall include:

(1) A statement of the reasons for which the submitter's disclosure objections were not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date.

Such notice of intent to disclose shall be forwarded to the submitter a reasonable number of days prior to the specified disclosure date and the requester shall be notified likewise.

(h) *Notice of FOIA Lawsuit.* Whenever a requester brings suit seeking to compel disclosure of business information, the component shall promptly notify the submitter.

(i) *Exceptions to notice requirements.* The notice requirements of paragraph (c) of this section shall not apply if:

(1) The component determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The designation made by the submitter in accordance with paragraph (e) of this section appears obviously frivolous; except that, in such case, the component shall provide the submitter with written notice of any final administrative decision to disclose business information within a reasonable number of days prior to a specified disclosure date.

Dated: March 14, 1988.

Edwin Meese III,

Attorney General.

[FR Doc. 88-6249 Filed 3-22-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 785 and 823

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Prime Farmland

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

ACTION: Notice of reopening of public comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the United States Department of the Interior (DOI), in cooperation with the USDA, Soil Conservation Service (SCS), previously has published a proposed rule which would amend certain portions of its rules applicable to prime farmland. Among other actions, the proposed rules would have amended the existing water body exemption in consideration of the U.S. District Court's decision in *In Re: Permanent Surface Mining Regulation Litigation II*, No. 79-1144 (D.D.C., October 1, 1984) Mem. Op. at 14-24.

OSMRE is now reopening the comment period on the issue of allowing the creation of a water body within a permit area containing prime farmland.

DATES: The comment period on the water body issue of the proposed rule is reopened until April 22, 1988.

ADDRESSES: Written comments may be mailed to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131-L, 1951 Constitution Avenue, NW., Washington, DC 20240; or hand-delivered to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dermot M. Winters, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202-343-1928 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background

The Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, contains special permitting and performance standards governing mining on prime farmland as defined in section 701(20) of the Act. Permit application information and approval requirements are contained in sections 507(b)(16), 508(a)(2)(C), 508(a)(5) and 510(d) of the Act.

Section 507(b)(16) of the Act requires that permit applications include a soil survey for those lands in the application which a reconnaissance inspection suggests may be prime farmland. Section 508(a)(2)(C) of the Act requires that permit applications contain a statement of the productivity of the land prior to mining including the appropriate classification as prime farmland, as well as the average yield of food, fiber, forage or wood products from such lands obtained under high levels of management. Section 508(a)(5) of the Act requires a plan for soil reconstruction, replacement, and stablization pursuant to the prime farmland performance standards of section 515(b)(7) of the Act. Moreover, section 510(d)(1) of the Act provides that the regulatory authority shall grant a permit to mine on prime farmland only after consultation with the Secretary of Agriculture, and if the regulatory authority finds in writing that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in section 515(b)(7).

Statutory performance standards for prime farmland are found in sections 515(b)(7) and (b)(20) of the Act. Section 515(b)(7) sets forth minimum requirements for soil removal, storage, replacement, and reconstruction. Section 515(b)(20) establishes when the period of responsibility for successful revegetation begins and provides an exception to vegetative cover requirements when the regulatory authority makes a written finding approving a long-term, intensive, agricultural postmining land use. In addition, section 519(c)(2) states that performance bonds shall not be released until soil productivity for prime farmland has returned to equivalent levels of yield as unmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey. Rules implementing prime farmland permitting, bonding and performance provisions are found at 30 CFR 785.17, 800.40 and 823.

On March 25, 1987 (52 FR 9644), OSMRE issued a proposed rulemaking which included an exemption for water bodies created on permit areas containing prime farmland. In that notice, OSMRE solicited public comments and made provisions to hold public hearings upon request. During the 70-day comment period, comments were received from industry, government agencies, and citizen/environmental groups. No public meetings or hearings were requested, and non were held.

II. Discussion of Water Body Issue

OSMRE stated in 1979 that "last cut" lakes were acceptable as an alternative post-mining land use on prime farmland (44 FR 15087). However, a specific exemption from the Part 823 performance standards for prime farmland was first added to the rules in 1983 (48 FR 21446). In *In re: Permanent II*, the National Wildlife Federation challenged the 1983 exemption at § 823.11(b), which set forth an exclusion from the prime farmland performance standards for water bodies that had been approved by the regulatory authority as an alternative postmining land use. The district court struck down the exemption and held that it provided a broad and impermissible variance from the postmining use of prime

farmland. *In re: Permanent II*, No. 79–1144, pp. 19–21.

On January 29, 1988 the U.S. Court of Appeals, D.C. Circuit, upheld that decision by the U.S. District Court for the District of Columbia on the issue of the construction of water impoundments on Prime Farmland. The Appeals Court's decision comes at a time when the Office of Surface Mining Reclamation and Enforcement (OSMRE) is in the process of preparing a final rule. To ensure that the final rule will be responsive both to the Court decisions and to comments received on the proposed rule, OSMRE is making a careful examination of certain issues involving the restoration of prime farmland and related to the creation of water bodies on permit areas containing prime farmland.

Section 785.17(e)(1), as proposed on March 25, 1987 (52 FR 9644) provided an exemption from the prime farmland standards for water bodies where the total acreage of prime farmland is not decreased in the permit area. Under that proposed rule and subject to the approval of the regulatory authority, an operator would be able to install a water body on an area that prior to mining contained prime farmland soil as long as the prime farmland soils obtained from the excavation of the water body were handled in a manner consistent with Part 823 and the same prime farmland soils were utilized to reconstruct an equal amount of prime farmland on areas which were not prime farmland areas prior to mining. under that proposal §§ 785.17(e)(1) and 823.11(b) would work in tandem to authorize such relocation of prime farmland. OSMRE viewed proposed § 785.17(e)(1) as consistent with the prime farmland provisions of the Act which are meant to maintain the number of prime farmland acres at premining levels as well as maintain the soil productive capacity of those lands.

The district court's decision overturning the exemption for last-cut impoundments on prime farmland was affirmed by the D.C. Court of Appeals, which noted that § 823.11(b) "condones reclaiming land that had been prime farmland prior to mining by constructing a permanent water impoundment * * *." The court then states, "Beyond question, Congress did not intend to allow any mined prime farmland to be left altogether unreclaimed," and SMCRA section 515(b)(7) requires "that *all* prime farmland reclamation *shall* 'as a minimum,' be conducted pursuant to the statutorily enumerated requirements" for reclamation. The court then noted that section 515(b)(7) "plainly supports the district court's conclusion that a general exception for water impoundments authorizes impermissible post-mining uses of prime farmland." Lastly, the appeals court noted that "[t]he district court * * * most plausibly comprehended Congress to have ordered that permanent water impoundments unconnected to prime farmland use not be constructed on prime farmland." *NWF* v. *Hodel*, No. 84–5743 at 46–51. (D.C. Cir., January 29, 1988)

OSMRE no longer believes that an exemption to the prime farmland rules is necessary to allow operators to create water bodies within permit areas containing prime farmland so long as the aggregate premining prime farmland acreage within the permit area is retained. Upon further examination OSMRE believes that with normal permitted relocation of reclaimed soils on sites which are not 100 percent prime farmland, a site on which non-prime farmland soil would otherwise be relocated may be used to create a water body under existing requirements and practices. The shifting of prime farmland soils from a pre-mining location to a post-reclamation location is currently authorized and can properly be considered part of normal practice in restoring prime farmland pursuant to Part 823. This position is not new. Since 1979, OSMRE has authorized the relocation of prime farmland soils within the permit area. OSMRE stated in a brief filed with the Federal District Court that "The Secretary's regulations provide that small or odd-shaped plots (of prime farmland) can be consolidated and relocated in meeting the reclamation standards of the Act. The only limitations on soil placement pertain to restoration of the soil to insure its productive capacity. There is no requirement, however, that the reconstructed prime farmland soil be placed in the same location as before mining. Therefore, so long as the aggregate amount of prime farmland that is restored equals the amount that existed before mining, the Secretary's reconstruction requirements will be satisfied." *In Re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. 1979), Memorandum in support of cross-motion for summary judgment filed December 21, 1979, at pp. 100–101. As a specific example, with the encouragement of OSMRE and the SCS, small odd-shaped parcels of prime farmland have been consolidated and relocated in the State of North Dakota, to the benefit of both the mine operator and the landowner/farmer. Documentation of this practice has been placed in the administrative record.

Furthermore, the normal process of mining and reclamation for a typical surface mine in the midwest will relocate prime farmland soils three to four spoil ridges from the original location in situations not requiring soil storage. The mine operator ordinarily will replace the prime farmland soils as close to the original prime farmland location as practicable, to avoid unnecessary costs for transporting soils. When shifting of prime farmland soil location is part of a complete mining and reclamation plan, relocation of prime farmland soil will be kept to a minimum, will be reviewed and concurred in by the USDA, Soil Conservation Services (SCS), and must still meet the prime farmland soil reconstruction and bond release standards.

Viewed in the context of typical soil reclamation practices and applicable restrictions on locations, acreage, and productivity, the placement of prime farmland soils to accommodate the creation of water bodies can be properly considered as being no different than any other normal and routine relocation of prime farmland soils within a permit area during the reclamation and restoration process. Consequently, no exemption need be created to allow this practice so long as the pre-mining prime farmland acreage in the permit area is not decreased, any water body created is located on the post-reclamation non-prime farmland portion of the permit area, and all resulting prime farmland meets the soil reconstruction and productivity standards of Part 823. The ultimate effect of such relocation is that certain non-prime farmland soils will be replaced by the impoundment, and the post-mining prime farmland acreage is maintained and relocated within the permit area in a manner and to a degree which has been approved by regulatory authorities in the past.

Because OSMRE referred in the March 25, 1987 proposed rule to such a change in land use as a proposed "exemption" where the total acreage of prime farmland is not decreased in the permit area, OSMRE now wishes to make clear that no exemption from the prime farmland criteria will be provided in these rules. As stated above, existing rules already allow relocation of prime farmland soils within the permit area. Where non-prime farmland areas are found on permit areas, these areas may be subjected to land use changes, including the creation of water bodies, provided the requirements of 30 CFR 779.22, 780.23, 783.22, 784.15, 816.133, and

817.133 are met. Thus, no prime farmland would be left unreclaimed and no prime farmland would be converted to impoundments. OSMRE believes that this approach fully addresses the concerns expressed by the district court and appeals court in *In re: Permanent II* and *NWF* v. *Hodel* (1988).

Therefore, the rules proposed would no longer treat the creation of water bodies as an "exemption" to the Part 823 rules, but would clarify existing practices. Instead of revising section 785(e)(1), as proposed on March 25, 1987, a new § 785.17(e)(5) would be added to read as follows:

"Where the permit area contains less than 100 percent prime farmland acreage, the aggregate total prime farmland acreage before and after mining shall not be decreased."

In addition, paragraph (b) of § 823.11 had been proposed to read as follows:

(b) The requirements of §§ 823.14 and 823.15 shall not apply to impoundments authorized under § 785.17(e)(1) of this chapter.

Because the construction of water bodies in permit areas containing less than 100 percent prime farmland would no longer be viewed as an exemption from the Part 823 requirements, proposed paragraph (b) is unnecessary and, therefore, is eliminated from the changes proposed for § 823.11.

Although the proposed rule language has been revised to reflect OSMRE's altered rationale for allowing the creation of water bodies within permit areas containing less than 100 percent prime farmland, the end result in terms of on the ground effect has not changed from the March 25, 1987 proposal. This proposal continues to require prime farmland soils removed for water bodies to be separately removed, segregated and stockpiled, but not replaced within the impoundment. These prime farmland soils are to be reconstructed in the same way other prime farmlands are reconstructed within the permit area and with the review and concurrence of the USDA, Soil Conservation Service. OSMRE does not intend to allow the disturbance of prime farmland areas which would not otherwise be disturbed by mining operations in order to create prime farmland.

III. Specific Comments Requested

OSMRE is interested in the views of regulatory authorities, SCS State Conservationists, surface mine operators, and any other interested persons on the circumstances under which impoundments may be created within permit areas containing prime farmland. Of special interest to OSMRE are the experiences of the regulatory authorities, SCS State Conservationists, and surface coal mine operators in relocating prime farmland soils within permit areas.

OSMRE is interested in determining with greater specificity (1) how SCS-approved restoration has proceeded in those situations where permit areas contained less than 100 percent prime farmland prior to mining, (2) the extent to which prime farmland soils have been shifted within the permit area from pre-mining to different post-reclamation locations during the typical process of prime farmland restoration, and (3) the extent to which the creation of water bodies has been allowed by regulatory authorities on post-reclamation non-prime farmland portions of permit areas which contained prime farmland soils prior to mining. OSMRE also solicits comments on other reasons for relocating prime farmland soils.

All comment responses should be sent to the OSMRE Administrative Record at the location specified above under **"ADDRESSES."**

Date: March 18, 1988.

Jed D. Christensen,

Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 88-6311 Filed 3-22-88; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 838

Air Force Systems Command Contractor Performance Assessment

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule.

SUMMARY: This proposed part sets policy, assigns responsibilities, and provides implementing procedures for systematically assessing contractor performance on current contracts. The Contractor Performance Assessment Reporting System (CPARS) will assess contractor performance on current AFSC contracts for use in future contract award decisions. These assessments will be prepared by AFSC program directors and forwarded to the contractor for review and comment. This part is limited in scope to predominantly advance development, full-scale development, or production efforts. Research, exploratory development, service, and operations and maintenance efforts are not included.

DATE: Comments must be submitted on or before April 22, 1988.

ADDRESS: HQ AFSC/PKCP, ANDREWS AFB, DC 20334-5000.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Wright, telephone (301) 981-4022.

SUPPLEMENTARY INFORMATION: The Department of the Air Force has determined that this regulation is not a major rule as defined by Executive Order 12291, is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

A list of contractors in CPAR data base and a copy of AFSC Form 125 can be obtained from Ms. Susan Wright at the address shown above.

List of subjects in 32 CFR Part 838

Government contracts.

Therefore, it is proposed to amend 32 CFR, Chapter C, by adding Part 838 to read as follows:

PART 838—AIR FORCE SYSTEMS COMMAND CONTRACTOR PERFORMANCE ASSESSMENT

Subpart A—Air Force Systems Command Policies

Sec.

Subpart B—Responsibilities Assigned

Subpart C—CPAR Procedures

Authority: 10 U.S.C. 2305(a)(3).

Note: Part 807 of this chapter states Air Force procedures for issuing publications and forms to private citizens, organizations and commercial activities.

Subpart A—Air Force Systems Command Policies

§ 838.1 Purpose of Contractor Performance Assessment Reporting System (CPARS).

(a) This part establishes policies and procedures for implementing the CPARS. The sole purpose of CPARS is to provide programmatic input into a command-wide performance data base

for use in AFSC source selections (reference AFR 70–15, AFSC Supplement 1). Performance assessments will be used to aid in awarding contracts to contractors that consistently produce quality products conforming to our specifications within the established contract schedule and cost. AFSC Form 125, Contractor Performance Assessment Report (CPAR) can effectively be used as a means to communicate contractor strengths and weaknesses to source selection officials. CPARs will not be used for any other purpose than outlined in this paragraph. Specific guidance concerning the protection of CPAR data is provided in § 838.9.

(b) CPARs assess a contractor's positive and negative performance on a given contract during a specified period of time. Each assessment must be based on objective facts and be supportable by program and contract management data, such as cost performance reports, technical interchange meetings, financial solvency assessments, production management reviews, contractor operations reviews, functional performance evaluations and earned contract incentives. Subjective visibility into the causes or ramifications of the assessed performance should be provided; however, speculation, assertion, or conjecture should not be included.

§ 838.2 Applicability and scope.

(a) This part applies to Air Force Systems Command (AFSC) Armament Division, Aeronautical Systems Division, Air Force Contract Management Division, Ballistic Missile Office, Electronic Systems Division, and Space Division. CPARs are limited to predominantly advance development, full-scale development (FSD), or production efforts. Research, exploratory development, service, and operations and maintenance efforts are not included. CPARs must be completed on all contracts over $5 million (face value, excluding unexercised options) with any division or subsidiary of the contractor. When a single contract instrument requires segregation of costs for combining FSD and production efforts or containing multiple productions lots, individual CPARs may be completed for each segment of work.

(b) AFSC field activities may establish local procedures supplementing this part to broaden the application of CPARs to additional contract efforts and contractors for their own use. Submit such procedures to AFSC Vice Commander (AFSC/CV) for approval prior to implementation.

Subpart B—Responsibilities Assigned

§ 838.3 HQ AFSC responsibilities.

(a) HQ AFSC/SD is responsible for ensuring that the overall management and control of the Contractor Performance Assessment System is consistent with this part. Formulating and updating this part is a joint responsibility between HQ AFSC/SD and HQ AFSC/PK.

(b) HQ AFSC/PK is responsible for updating the list of contractors.

§ 838.4 Field activity responsibilities.

The commander or vice commander of each of the applicable field activities:

(a) Establishes procedures to implement this part locally. (Submit one copy of local supplements to HQ AFSC/PK).

(b) Establishes a focal point for the CPAR reports. This focal point is responsible for the collection, control, storage, and distribution of CPARs prepared at the field activity.

(c) Ensures timely completion of CPARs by program managers or directors.

(d) Ensures timely review of CPARs by local reviewing officials.

(e) Ensures submission of AFSC Source Selection Offerors Report (§ 838.8).

Subpart C—CPAR Procedures

§ 838.5 Frequency of performance assessment reporting.

(a) For new contracts, an initial CPAR will be completed between 180 days and 365 days after contract award. For contracts in existence when this system is initiated, the CPAR will be completed no later than 90 days after the effective date of this part (Note: allow 180 days to transpire for new contracts). The initial CPAR will assess current performance; however, prior significant events may be highlighted.

(b) As a minimum, intermediate CPARs will be completed annually. More frequent reporting is required when the program director is aware of a change in performance that would significantly alter the current assessment of the contractor or just prior to a change in program director(s). Generally, no more than two reports a year should be prepared. To improve the efficiency in preparing the CPARs, it is recommended to complete them in parallel with other reviews (for example, Program Assessment Reviews, Command Assessment Reviews, award fee determinations, major program events, or program milestones).

(c) Final CPARs will be completed upon contract termination or within six months following the delivery of the final major end item on contract.

§ 838.6 CPAR processing.

Each AFSC Form 125, Contractor Performance Assessment Report (CPAR) is completed, reviewed, coordinated, and approved within the government. Contractor organizations will be given an opportunity to review and comment upon the program director assessment. Instructions for completing AFSC Form 125 are in § 838.10. The CPAR review and approval process is outlined below:

(a) The project manager or engineer responsible for the contract being reviewed prepares the initial documentation and assessment in coordination with the project team. This assessment should be based on multifunctional input. Support contractors, such as System Engineering and Technical Assistance (SE/TA) or Federal Contract Research Center (FCRC) contractors, may provide input as a project team member but are not allowed access to completed forms unless specifically authorized in support of a source selection. The project manager or engineer must ensure that all documentation so prepared is marked "For Official Use Only/Source Selection Sensitive."

(b) The program director responsible for the overall program reviews and signs the CPAR at item 14. Program director narrative remarks are limited to the space in item 13 on the CPAR plus one additional single-spaced typewritten page.

(c) The program director will retain a copy of the initial CPAR assessments and transmit the original to his or her counterpart within the contractor's organization. Face-to-face meetings with contractor management to discuss initial CPAR ratings are encouraged. The transmittal letter must provide the following guidance to the contractor.

(1) Protect the draft CPAR as a source selection sensitive document.

(2) Strictly control access to the draft CPAR within the contractor organization.

(3) Do not release the draft CPAR to persons or entities outside contractor control or use the draft CPAR data for input to advertising, preaward surveys, production readiness reviews, or other reviews.

(4) Responses are optional, but if provided, they are due within 30 days of receipt and are limited to the space provided on the CPAR plus one additional single-spaced typewritten page. Contractor comments received after the 30 day response period will be

returned to the contractor without action.

(5) Focus comments on the objective portion of the program director's narrative and provide views on causes and ramifications of the assessed performance.

(d) After receipt of contractor comments, the program director may revise his or her initial assessment based on data provided by the contractor. Revised assessments must be captured on a new CPAR form marked in item 3 "Revision to CPAR for period (insert period covered by report)" to be attached to the original. Complete items 1 through 4 and indicate revised ratings in items 11 or 12. Explain the reasons for the changes made in the space provided in item 13.

(e) After receipt of contractor comments or 30 days, whichever occurs first, the program director will obtain the review and signature of a product division reviewing official in accordance with local procedures.

(f) After completion of the CPAR, it will be submitted by the program director to the CPAR focal point for input into the Command-wide data base. No copies of the final CPAR will remain on file at the program office. Working papers associated with CPAR evaluations must be protected as "For Official Use Only/Source Selection Sensitive."

§ 838.7 CPAR focal point.

Each local activity CPAR focal point will keep the original CPAR forms and all attachments in separate files for each corporation. Each corporate file will contain separate files for divisions and subsidiaries, as appropriate. Each CPAR will be retained for 5 years, unless the program manager or director requests a longer retention period. For example, a long development program may necessitate longer retention to reflect contractor performance on the entire program. Distribution of CPARs throughout the command in support of an AFSC source selection will be made from one field activity CPAR focal point to another. Source selection team members must contact their local CPAR focal point for CPARs.

§ 838.8 AFSC Source Selection Offerors Report.

In order to keep the CPAR data base current and reflecting the contractors that AFSC evaluates during source selection, an annual listing of offerors is required. The listing must:

(a) Reflect offerors on predominately advance development, full-scale development, production source selections over $5 million (face value, excluding options) that were completed during the previous fiscal year.

(b) State the contractor's name (including division) and address. State parent corporation, if applicable. State number of times contractor submitted proposals.

(c) Separately identify additional contractors recommended for inclusion to the Command CPAR data base along with a brief justification.

(d) Be submitted to HQ AFSC/PKC annually by October 31.

§ 838.9 CPAR markings and protection.

All CPAR forms and attachments will be marked "For official Use Only/ Source Selection Sensitive." CPARs have the unique characteristic of always being pre-decisional in nature. They will always be source selection sensitive because they will constantly be used to support ongoing source selection. This pre-decisional nature of the CPAR is a basis for requiring that the CPAR data base be protected from unauthorized disclosure to personnel or entities outside the source selection process. It must be noted, however, that CPARs may also contain information which is proprietary to the contractor which is the subject of the report. Information contained on the CPAR such as trade secrets and confidential commercial or financial data, obtained from the contractor in confidence, must be protected from unauthorized disclosure. Additionally, CPARs may contain valuable government generated commercial information which will be used in the award of valuable government contracts. Such commercially valuable, government generated information must be protected from unauthorized disclosure. Based on the confidential nature of the CPARs, the following guidance applies to protection both internal and external to the government.

(a) *Internal government protection.* The CPARs must be treated as source selection sensitive at all times. The flow of CPARs throughout AFSC in support of source selections will be controlled by the CPAR focal points and transmitted from one CPAR focal point to another (reference AFR 70–15, AFSC Supplement 1). Outside of use in an instant source selection, information contained on the CPARs must be protected in the same manner as information contained in completed source selection files (see AFR 70–15 paragraph 4–3f). Information contained on the CPAR may not be used to support preaward surveys, debarment proceedings or any other internal government reviews.

(b) *External government protection.* Disclosure of CPAR data to contractors or others outside the government is not authorized. An exception to this rule is for the contractor who is the subject of the CPAR. In this situation, access to review the completed form will be granted by the CPAR focal point if the contractor personnel requesting access has a letter signed by their corporate chief executive officer (CEO) authorizing disclosure to that individual. This individual is not authorized to make or retain copies of the final form. Such limited and controlled access by the contractor's representative will not inhibit candid agency decision making. This access is needed to ensure the accuracy of changes made to the CPAR after the contractor's initial review. (Note: During the source selection discussion process, the contractor will be notified of relevant past performance data, derived from a CPAR or other sources, that requires clarification or could lead to a negative rating. See AFR 70–15, AFSC Supplement 1.) Freedom of Information Act requests for a CPAR must be processed in accordance with Part 806.

§ 838.10 Instructions for completing AFSC Form 125, Contractor Performance Assessment Report (CPAR).

(a) *Item 1:* State the name and address of the division or subsidiary of the contractor performing the contract. Identify the parent corporation (no address required).

(b) *Items 2–4:* Initial, intermediate or final report. Period covered by report. Contract Number.

(c) *Item 5:* State current contract period of performance including any authorized extensions, such as options that have been exercised.

(d) *Item 6:* Location of contract performance.

(e) *Item 7:* Current face value of contract. For incentive contracts, state target value.

(f) *Item 8:* Identify the basis of award: Competitive, Follow-on to Competition, or Noncompetitive.

(g) *Item 9:* For mixed contract types, check the predominate contract type and identify the other contract type in the "Mixed" category.

(h) *Item 10:* State the program title and provide a short description of contract requirement and phase of acquisition. The description must identify key technologies, components, and subsystems in sufficient detail in order to assist the source selection team members who will screen the CPARs to determine efforts that are relevant to their source selection.

(i) *Item 11:* Evaluation Areas.

(1) *Introduction.* In preparing the CPAR, the program director should strive for consistency between the ratings used for the areas of evaluation on this form and the similar areas used for the Program Assessment Review (PAR) and Command Assessment Review (CAR) system. The major difference is the CPAR assesses a contractor's performance on an individual contract while the PAR and CAR system assesses the overall program. Each area assessment should be based on objective data that will be provided in the narrative section of the form (item 13). Subjective visibility into the causes, severity, or ramifications of the assessed performance should be provided. Facts to support specific areas of evaluation should be obtained from government specialists familiar with the contractor's performance on the contract under review. (For example, from engineering, contracting, contract administration, manufacturing, quality, and logistics). The amount of risk inherent in the effort should be recognized as a significant factor and taken into account when assessing the contractor's performance. For example, if a contractor met an extremely tight schedule, a blue (exceptional) assessment may be given in recognition of the inherent schedule risk. The CPAR is designed to assess prime contractor performance. However, in those evaluation areas where subcontractor actions have significantly influenced the prime contractor's performance in a negative or positive way, highlight the subcontractor actions in the narrative section of the form (item 13).

(2) *Evaluation colors*—(i) *Blue—Exceptional.* Indicates the contractor's performance within the area of evaluation clearly exceeds contractual requirements. The area of evaluation contains few minor problems for which corrective actions appear highly effective. In the cost performance area, blue indicates a positive cost variance. (Note: This rating is not found in PAR/CAR assessments and has been added since recognition of exceptional ability is important in the source selection process.

(ii) *Green—Satisfactory.* Indicates the contractor's performance within the area of evaluation meets contractual requirements. The area of evaluation contains some minor problems for which the corrective actions appear satisfactory. In the cost performance area, green indicates a negative cost variance greater than zero but less than or equal to 5 percent.

(iii) *Yellow—Marginal.* Indicates the contractor's performance within the area of evaluation meets contractual requirements. The area of evaluation contains a serious problem for which corrective actions have not yet been identified, appear marginally effective, or have not been fully implemented. In the cost performance area, yellow indicates a negative cost variance greater than 5 percent but less than or equal to 15 percent.

(iv) *Red—Unsatisfactory.* Indicates the contractor is in danger of not being able to satisfy contractual requirements and recovery is not likely in a timely manner. The area of evaluation contains serious problems for which the corrective actions appear ineffective. In the cost performance area, red indicates a negative variance greater than 15 percent.

(v) *Arrows.* Upward or downward arrows may be used to indicate an improvement or worsening trend insufficient to change the assessment status.

(vi) *NA.* Areas not applicable to a particular contract.

(3) *Evaluation areas*—(i) *Item 11A: Product/System Performance.* (This item must be separately scored). Evaluate the extent to which the contractor is meeting overall product or system performance as measured against the contract requirements, including but not limited to the statement of work, specifications, CDRLs, and significant special contract clauses.

(A) *Item 11A–1: Engineering Design/Support.* Evaluate the contractor's engineering design capability and engineering resource support. Consider the amount and quality of engineering resources devoted to supporting the contract effort.

(B) *Item 11A–2: Software Development.* Evaluate the extent to which the contractor is meeting the software development, modification, or maintenance contract requirements or a government approved Software Development Plan. Consider the amount and quality of software development resources devoted to support the contract effort.

(C) *Item 11A–3: Subcontract Management.* Evaluate the contractor's effort devoted to managing subcontracts.

(ii) *Item 11B: Schedule*—(A) Evaluate contractor adherence to the contract schedule. For other than a satisfactory assessment, specifically identify in item 13 the major milestones, deliverable items, or significant data items which contribute to the schedule evaluation. The short narrative explanation in item 13 should address significance of item(s), discuss causes, and evaluate effectiveness of contractor corrective actions.

(B) When Cost Performance Reports (CPR) or Cost/ Schedule Status Reports (C/SSR) data is available and the schedule variance exceeds 15 percent (positive or negative), briefly discuss the significance of this condition to the contract effort in item 13. Calculations: Cumulative schedule variance in dollars is defined as budgeted cost of work performed (BCWP) minus budgeted cost of work scheduled (BCWS). Percent schedule variance is defined as ((BCWP—BCWS)/BCWS) x 100.

(iii) *Item 11C: Product Assurance.* Product Assurance is the collection of disciplines needed to design, test, and manufacture systems or equipment meeting specified requirements and suitable for intended use. The product assurance assessment evaluates adequacy of contractor organization, resources planning and design, manufacturing and test actions to meet system or equipment reliability, maintainability cost, and quality requirements with minimum risk.

(iv) *Item 11D: Test and Evaluation.* Evaluate the adequacy of the contractor's performance in planning, supporting, conducting, and assessing both the inhouse and independent test and evaluation programs.

(v) *Item 11E: Contract Performance.* (Only score the subitems below).

(A) *Item 11E–1: Cost Performance*—(*1*) When CPR or C/SSR data is available, evaluate current cost variance if the contract is greater than 10 percent complete. When the evaluation is not green, put the current percent variance and government estimate at completion in item 12 and give a short, factual narrative explanation of causes and contractor proposed solutions in item 13. Calculations: Percent complete is obtained by dividing cumulative BCWP by contract budget base (CBB) (less management reserve) and multiplying by 100. CBB is the sum of negotiated cost plus estimated cost of authorized undefinitized work. Compute current cost variance percentage by dividing cumulative cost variance to date (column 11 of the CPR, Column 6 of the C/SSR) by cumulative BCWP and multiplying by 100. Compute completion cost variance percentage by dividing government's estimate at completion by CBB and multiplying by 100. The CBB should be the current budget base against which the contractor is performing (including formally established overtarget baselines (OTB)).

(*2*) Overtarget Baselines. If an OTB has been established since the last

CPAR, a brief description of the nature and magnitude of the baseline adjustment should be made in item 13. Subsequent CPARs should evaluate cost performance in terms of the revised baseline and reference the CPAR which described the baseline adjustment. For example, "The contract baseline was formally adjusted on (insert date). See CPAR for the period (insert period covered by CPAR) for an explanation."

(3) When CPR data or C/SSR data is not available, evaluate contractor cost management. Is the contractor experiencing cost growth? Underrun? For other than a satisfactory assessment, give a short, factual narrative explanation of causes and the contractor's proposed solutions in item 13.

(B) *Item 11E–2. Management Responsiveness.* Evaluate the adequacy of the contractor's responsiveness, including the timeliness and quality of cost and technical proposals and willingness to negotiate fair and reasonable prices, and terms and conditions.

(vi) *Item 11F: ILS Program.* Evaluate the adequacy of the contractor's performance in accomplishing Integrated Logistics Support (ILS) program tasks and in performing Logistics Support Analysis (LSA) activities. The ten ILS element groupings are: Maintenance planning; manpower requirements and personnel; supply support; support equipment; technical data; training equipment and support; computer resources support; facilities, packaging, handling, and transportation; and design interface.

(vii) *Item 11G: Other.* Specify any additional evaluation areas that are unique to the subject contract. If the contract contains an award fee, mark this evaluation area "Award Fee" and list all the award fee percentages earned during the evaluation period in the "N/A" block.

(j) *Item 12: Variances.*

(1) *Cost Variance.* Identify the cumulative cost variance to date (percent) and the government's estimate at completion (percent). See item 11E–1 for further instructions on calculation of cost variance.

(2) *Schedule Variance.* Identify the cumulative schedule variance (percent). See item 11B for further instructions on calculation of schedule variance.

(k) *Item 13: Program Director's Narrative.* A short, factual narrative statement is required to support assessments of blue, green with arrows, yellow, and red. Cross-reference the comments in item 13 to rated evaluation areas in item 11. Each narrative statement in support of the area assessment should contain objective data. For example, an exceptional contracts assessment could cite the current underrun dollar value and estimate at completion. In the case of incentive contracts, the government and contractor savings based on the share ratio could be cited. A marginal engineering design/support assessment could, for example, be supported by information concerning personnel changes. Key engineers familiar with the effort may have been replaced by less experienced engineers. Sources of data include AFOTEC operational, test and evaluation results; technical interchange meetings; production readiness reviews; earned contract incentives; or award fee evaluations.

(l) *Item 14: Program Director Signature block.*

(m) *Item 15: Contractor Comments (Contractor's option).* Reference paragraph § 838.6(c) for guidance on transmitting the CPAR to the contractor for review and comment.

(n) *Item 16: Contractor Representative signature block.*

(o) *Item 17: Review by Product Division Reviewing Official.* Reviewing official(s), at an appropriate management level, will be designated by local procedures. Reviewing official comments are optional.

(p) *Item 18:* Product Division Reviewing Official signature block.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88–6255 Filed 3–22–88; 8:45 am]

BILLING CODE 3910–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket 86–10]

Common Carrier Services; WATS-Related and Other Amendments of the Access Charge Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; correction.

SUMMARY: On March 7, 1988 the Commission published a Supplemental Notice of Proposed Rule Making (53 FR 7214 (1988)) in this proceeding concerning the Provision of Access for 800 Service. Inadvertently, the dates by which to file comments and reply comments were missing.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC. 20554.

FOR FURTHER INFORMATION CONTACT: Gary Phillips, Policy and Program Planning Division, Common Carrier Bureau (202) 632–4047.

In FR Doc. 88–4819 published in the **Federal Register** of March 7, 1988, a **"DATES"** caption is added to the preamble on page 7214, second column, between the captions **"SUMMARY"** and **"ADDRESSES"** to read as follows:

DATES: The correct date for filing comments is April 4, 1988 and reply comments may be filed not later than May 3, 1988.

Federal Communications Commission.

H. Walker Feaster, III,

Acting Secretary.

[FR Doc. 88–6315 Filed 3–22–88; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–74, RM–6063]

Radio Broadcasting Services; Sheridan, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Ainsley Communications Corp., requesting the substitution of Channel 275C2 for Channel 272A at Sheridan, Arkansas, and modification of its license for Station KQLV(FM), accordingly, to provide that community with its first wide coverage area FM service.

DATES: Comments must be filed on or before April 25, 1988, and reply comments on or before May 10, 1988.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: James R. Bayes, Merilyn M. Strailman and Edward A. Yorkgitis, Jr., Esqs., Wiley, Rein & Fielding, 1776 K Street NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88–74, adopted February 5, 1988, and released March 3, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's

copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–6316 Filed 3–22–88; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1056

[Ex Parte No. MC–61]

Released Rates of Motor Common Carriers of Household Goods

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time of file comments.

SUMMARY: Notice of the filing of the petition to reopen this proceeding was published in the *ICC Register* and **Federal Register** on February 18, 1988. The due date for comments was set as March 21, 1988. Petitioner, the Movers' and Warehousemen's Association of America, Inc., has requested that the time for filing comments be extended. The Commission has granted a 30-day extension until April 20, 1988.

DATE: Comments may be filed on or before April 20, 1988.

ADDRESSES: Send an original and 10 copies of comments, referring to Ex Parte No. MC–61, to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

Send one additional copy of comments to petitioner's representative: Marshall Kragen, 1919 Pennsylvania Avenue NW., Suite 300, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT:

James L. Brown, (202) 275–7898

or

Suzanne O'Malley, (202) 275–7292

[TDD for hearing impaired: (202) 275–1721.]

Decided: March 17, 1988.

By the Commission, Heather J. Gradison, Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 88–6360 Filed 3–22–88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Finding on Petition and Initiation of Status Review

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and status review.

SUMMARY: The Service announces a 90-day finding on a petition to reclassify the chimpanzee from threatened to endangered. Status reviews are initiated both for the chimpanzee and the pygmy chimpanzee.

DATES: The finding announced herein was made on February 4, 1988. Comments and information may be submitted until July 21, 1988.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority, Mail Stop: 527, Matomic Building, U.S. Fish and Wildlife Service, Washington, DC 20240. The petition, finding, supporting data, and comments will be available for public inspection, by appointment, from 8:00 a.m. to 4:00 p.m., Monday through Friday, in Room 537, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane at the above address (202–653–5948 or FTS 653–5948).

SUPPLEMENTARY INFORMATION: Section 4(b)(3) of the Endangered Species Act, as amended in 1982, requires that within 90 days of a petition to list, delist, or reclassify a species, or to revise a critical habitat designation, a finding be made on whether the petition presents substantial information indicating that the action may be warranted, and that such a finding be promptly published in the **Federal Register**. If the finding is positive, section 4(b)(3) also requires prompt commencement of a review of the status of the involved species. The Service now announces a 90-day finding on a recently received petition.

The petition was submitted jointly by the Humane Society of the United States, the World Wildlife Fund, and the Jane Goodall Institute. It is dated November 4, 1987, and was received by the Service on that same date. It requests that the classification of the chimpanzee (*Pan troglodytes*) on the List of Endangered and Threatened Wildlife be changed from threatened to endangered. The petition indicates that the status of the chimpanzee has deteriorated substantially since the species was originally classified as threatened in 1976. Problems are said to include massive habitat destruction, fragmentation of populations and associated vulnerability to disease, excessive hunting and capture by people, and lack of effective national and international controls. International trade in chimpanzee infants for the biomedical market is also considered to have a significant impact on the species in the wild.

The Service has examined the petition and has found it to present substantial information indicating that the requested action may be warranted. Therefore, a review of the status of the chimpanzee is initiated herewith. The Service also initiates a status review of the pygmy chimpanzee (*Pan paniscus*). The latter species is a close relative of the chimpanzee, also occurs in the tropical forests of Africa, and may be subject to the same kinds of problems. Although both species were covered by a 5-year notice of review issued in the **Federal Register** of July 7, 1987 (52 FR 25522–25528), the comment period for that review has expired. New comments and information from all interested parties are now invited and should be submitted to the address given above.

A decision to reclassify the chimpanzee and/or the pygmy chimpanzee as endangered would remove the applicability of the special rule for primates (50 CFR 17.40(c)) to these chimpanzee species. Therefore, the Service would be interested in comments as to what, if any, effect the removal of present trade exemptions might indirectly have on the wild populations of these chimpanzees. If the reclassification were warranted but removal of special rule might inpact the wild population, the Service would consider alternative procedures to alleviate restrictions adversely affecting the wild populations.

The Service will consider the comments received, along with all other

available data, in making a finding, required by section 4(b)(3) within 12 months after receipt of a petition presenting substantial information, as to whether the requested action is warranted, not warranted, or warranted but precluded by other listing activity.

Author: Ron Nowak, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC 20240 (202–653–5948 or FTS 653–5948).

Authority: 16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture), Imports, Exports.

Dated: March 17, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–6368 Filed 3–22–88; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 53, No. 56
Wednesday, March 23, 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

March 18, 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

Designated Handler's Report and Application for Refund of Assessment (Potato Research and Promotion Act)
Recordkeeping; Occasion; Monthly
Farms; Businesses or other for-profit; 11,048 responses; 10,450 hours; not applicable under 3504(h)
Richard H. Mathews, (202) 475–3916

Revision

- Farmers Home Administration

7 CFR 2054–W, Employment, Pay and Functions of County and/or Area Committee
FmHA 2054–5
On occasion
Individuals or households; Farms; 6,000 responses; 2,250 hours; not applicable under 3504(h)
Jack Holston, (202) 382–9736

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 88–6347 Filed 3–22–88; 8:45 am]

BILLING CODE 3410–01–M

Soil Conservation Service

Garrison Creek Watershed, Oklahoma; Deauthorization of Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to deauthorize Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Garrison Creek Watershed project, Sequoyah County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: C. Budd Fountain, State Conservationist, Soil Conservation Service, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone (405) 624–4360.

SUPPLEMENTARY INFORMATION: A determination has been made by C. Budd Fountain that the proposed works of improvement for the Garrison Creek project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from C. Budd Fountain, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

C. Budd Fountain,

State Conservationist.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

[FR Doc. 88–6272 Filed 3–22–88; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Arizona Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Arizona Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:30 p.m. on April 6, 1988, at the Woolley's Petite Suites, 3211 East Pinchot Street, Phoenix, Arizona 85018. The purpose of the meeting is to plan activities and programming for the coming year.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, John White or Philip Montez, Director of the Western Regional Division (213) 894–3437, (TDD 213/894–0508). Hearing impaired persons who attend the meeting and require the services of a sign language interpreter, should contact the Western Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 15, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88–6262 Filed 3–22–88; 8:45 am]

BILLING CODE 6335–01–M

California Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the California Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 2:00 p.m. on April 15, 1988, at the Sheraton Town House, 2961 Wilshire Boulevard, Los Angeles, California 90010. The purpose of the meeting is to plan future projects of the California State Advisory Committee.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Deborah Hesse or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Western Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 15, 1988.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 88-6263 Filed 3-22-88; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee (CAC) of the American Economic Association (AEA), the CAC of the American Marketing Association (AMA), the CAC of the American Statistical Association (ASA), and the CAC on Population Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463 as amended by Pub. L. 94-409), we are giving notice of a joint meeting followed by separate and jointly held (described below) meetings of the CAC of the AEA, CAC of the AMA, CAC of the ASA, and CAC on Population Statistics. The joint meeting will convene on April 14, 1988 at the Ramada Hotel, 6400 Oxon Hill Road, Oxon Hill, Maryland 20745.

The CAC of the AEA is composed of nine members appointed by the President of the AEA. It advises the Director, Bureau of the Census, on technical matters, accuracy levels, and conceptual problems concerning economic surveys and censuses; reviews major aspects of the Census Bureau's programs; and advises on the role of analysis within the Census Bureau.

The CAC of the AMA is composed of nine members appointed by the President of the AMA. It advises the Director, Bureau of the Census, regarding the statistics that will help in marketing the Nation's products and services and on ways to make the statistics the most useful to users.

The CAC of the ASA is composed of 12 members appointed by the President of the ASA. It advises the Director, Bureau of the Census, on the Census Bureau's programs as a whole and on their various parts, considers priority issues in the planning of censuses and surveys, examines guiding principles, advises on questions of policy and procedures, and responds to Census Bureau requests for opinions concerning its operations.

The CAC on Population Statistics is composed of four members appointed by the Secretary of Commerce and five members appointed by the President of the Population Association of America from the membership of that Association. The CAC on Population Statistics advises the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The agenda for the April 14 combined meeting that will begin at 1:15 p.m. and end at 2:30 p.m. is: (1) Introductory remarks by the Director, Bureau of the Census; (2) 1990 decennial update; (3) 1987 Economic and Agricultural Censuses update; and (4) twenty-first century census planning.

The agendas for the four committees in their separate and jointly held meetings that will begin at 2:30 p.m. and adjourn at 5:30 p.m. on April 14 are as follows:

The CAC of the AEA: (1) Survey of Income and Program Participation (joint with CAC of the AMA), (2) Characteristics of Business Owners Survey (joint with CAC of the AMA), and (3) Census Bureau response to recommendations and activities of special interest to the CAC of the AEA.

The CAC of the AMA: (1) Survey of Income and Program Participation (joint with CAC of the AEA), (2) Characteristics of Business Owners Survey (joint with CAC of the AEA), (3) Census Bureau response to recommendations and activities of special interest to the CAC of the AMA, and (4) 1990 census promotion.

The CAC of the ASA: (1) 1990 sampling issues (joint with CAC on Population Statistics), (2) disclosure avoidance procedures (joint with CAC on Population Statistics), and (3) Census Bureau response to recommendations and activities of special interest to the CAC of the ASA.

The CAC on Populaiton Statistics: (1) 1990 sampling issues (joint with CAC of the ASA), (2) disclosure avoidance procedures (joint with CAC of the ASA), and (3) Census Bureau response to recommendations and activities of special interest to the CAC on Population Statistics.

The agendas for the April 15 meetings that will begin at 8:45 a.m. and adjourn at 1 p.m. are:

The CAC of the AEA: (1) Investment surveys at Census: future directions, (2) international price indexes (BLS), (3) development and discussion of recommendations, and (4) closing session including (a) continued committee and staff discussions, (b) plans and suggested agenda for the next meeting, and (c) comments by outside observers.

The CAC of the AMA: (1) Data dissemination in machine-readable form, (2) promotional aspects of TIGER, (3) development and discussion of recommendations, and (4) closing session including (a) continued committee and staff discussions, (b) plans and suggested agenda for the next meeting, and (c) comments by outside observers.

The CAC of the ASA: (1) 1990 Research, Evaluation, Experimental Program and projects (joint with CAC on Population Statistics), (2) development and discussion of recommendations, and (3) closing session including (a) continued committee and staff discussions, (b) plans and suggested agenda for the next meeting, and (c) comments by outside observers.

The CAC on Population Statistics: (1) 1990 Research, Evaluation, and Experimental Program and projects (joint with CAC of the ASA), (2) development and discussion of recommendations, and (3) closing session including (a) continued committee and staff discussions, (b) plans and suggested agenda for the next meeting, and (c) comments by outside observers.

All meetings are open to the public, and a brief period is set aside on April 15 for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer at least 3 days before the meeting.

Persons wishing additional information concerning these meetings or who wish to submit written statements may contact the Committee Liaison Officer, Mrs. Phyllis Van Tassel,

Room 2428, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, DC 20233). Telephone: (301) 763–5410.

Date: March 17, 1988.

C.L. Kincannon,

Deputy Director, Bureau of Census.

[FR Doc. 88–6327 Filed 3–22–88; 8:45 am]

BILLING CODE 3510–07–M

Foreign-Trade Zones Board

[Docket No. 6–88]

Foreign-Trade Zone 86, Tacoma, WA; Application for Expansion and Request for Manufacturing of Oil Country Tubular Goods; Extension of Comment Period

The period for comments on the above case, involving the expansion of Foreign-Trade Zone 86 and a request for manufacturing of oil country tubular goods (53 FR 3907, February 10, 1988), is extended to April 23, 1988, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should be mailed to the address below and include 5 copies: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: March 18, 1988.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88–6345 Filed 3–22–88; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A–588–802]

Initiation of Antidumping Duty Investigation; 3.5″ Microdisks and Coated Media Thereof From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of 3.5″ microdisks and coated media thereof from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 11, 1988. If that determination is affirmative, we will make a preliminary determination on or before August 4, 1988.

EFFECTIVE DATE: March 23, 1988.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–3965.

SUPPLEMENTARY INFORMATION:

The Petition

On February 26, 1988, we received a petition in proper form filed by Verbatim Corporation on behalf of the domestic 3.5″ microdisk industry. In compliance with the filing requirements of 19 CFR 353.36, petitioner alleges that imports of 3.5″ microdisks and coated media thereof from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

United States Price and Foreign Market Value

United States price was based on published prices for sales to independent distributors in the United States. Petitioner deducted, where appropriate, discounts, free goods, other price-reducing benefits received by each distributor, U.S. inland freight, U.S. Customs brokerage, U.S. tariff, and ocean freight and insurance. Since ESP sales are involved, petitioner also made adjustments for sales commissions and indirect selling expenses.

Petitioner based foreign market value on the prices paid by the first arm's-length purchasers of 3.5″ microdisks in the Japanese domestic market adjusted for home market indirect selling expenses, Japanese inland freight and warehousing, packing, and differences in circumstances of sale.

Based upon a comparison of United States price and foreign market value, petitioner alleges dumping margins of between 36.5 percent and 68.1 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on 3.5″ microdisks and coated media thereof from Japan and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of 3.5″ microdisks and coated media thereof from Japan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by August 4, 1988.

Scope of Investigation

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 this Harmonized System (HS). In view of this, we will be 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 officers have reference copies and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

The products covered by this investigation are 3.5″ microdisks and coated media thereof from Japan currently provided for under TSUSA item number 724.4570 and currently classifiable under HS item number 8523.20.0000.

A 3.5″ microdisk is a tested or untested magnetically coated polyester disk with a steel hub encased in a hard plastic jacket. 3.5″ microdisks are used to record and store encoded digital computer information for access by a 3.5″ floppy disk drive. They include single-sided, double-sided or high density formats.

Coated media is the flexible recording material used in the finished microdisk.

Media consists of a polyester base film to which a coating of magnetically charged particles is bonded. It is intended for use specifically in a 3.5" floppy disk drive.

Coated media produced in Japan and finished into 3.5" microdisks in another country prior to importation into the United States from the other country is tentatively included in the scope of the investigation. In the course of this proceeding we will determine whether to continue to include these indirect imports in the scope of this investigation.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under administrative protective order without written consent of the Acting Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by April 11, 1988 whether there is a reasonable indication that imports of 3.5" microdisks and coated media thereof from Japan materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

March 17, 1988.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88-6343 Filed 3-22-88; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-037]

Certain Cotton Yarn Products From Brazil; Preliminary Results of Countervailing Duty Administrative 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 certain cotton yarn products from Brazil for the period May 18, 1984 through December 31, 1985. The Department has preliminary determined the net subsidy to be zero or *de minimis* for five firms and 2.56 percent *ad valorem* for all other firms in 1984. For 1985, the Department has preliminarily determined the net subsidy to be 14.53 percent *ad valorem* for all firms. We invite interested parties to comment on these preliminary result.

EFFECTIVE DATE: March 23, 1988.

FOR FURTHER INFORMATION CONTACT: Philip Pia 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 April 18, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 15250) the final results of its last administrative review of the countervailing duty order on certain cotton yarn products from Brazil (42 FR 14089; March 15, 1977). On March 28, 1986, the petitioner, the American Yarn Spinners Association, requested in accordance with 19 CFR 355.10 that we conduct an administrative review of the order. We published the initiation on April 18, 1986 (51 FR 13273). The Department has now conducted that administrative review in accordance with section 751 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 this Harmonized System ("HS"). In view of this, we will be providing both 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) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System 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 of Brazilian yarn, carded but not combed, wholly of cotton. Such merchandise is currently classifiable under items 301.01 through 301.98, inclusive, and it item 302.—with statistical suffixes 20, 22, and 24 of the Tariff Schedules of the United States. These products are currently classified under HS item numbers 5205.11.10, 5205.11.20, 5205.12.10, 5205.12.20, 5205.13.10, 5205.13.20, 5205.14.10, 5205.14.20, 5205.15.10, 5205.15.20, 5205.31.00, 5205.32.00, 5205.33.00, 5205.34.00, 5205.35.00. We invite comments from all interested parties on these HS classifications.

The review covers the period May 18, 1984 through December 31, 1985 and 20 programs.

Analysis of Programs

(1) CACEX Export Financing

Under this program, the Department of Foreign Commerce ("CACEX") of the Banco do Brasil provides short-term working capital financing to exporters at preferential rates. The loans have a duration of up to one year. During the period of review, producers of certain cotton yarn products could obtain CACEX financing based on the value of their previous year's exports. The maximum amount of CACEX financing that could be obtained in Brazil was 20 percent of the value of the previous year's exports.

Resolution 674, which became effective on January 22, 1981, set a maximum interest rate of 40 percent and required two interest payments, one 180 days after the loan was granted and the other at muturity. On June 11, 1983, the maximum interest rate for Resolution 674 loans was changed to 60 percent. Resolution 882, which became effective on January 2, 1984, required the full interest payment at maturity. It also set the maximum interest rate at monetary correction (calculated by the change in the value of readjustable treasury bonds ("ORTN")) plus 3 percentage points.

On August 21, 1984, Resolution 950 superseded Resolution 882 and changed the short-term export financing program substantially. Resolution 950, which was made effective retroactively to January 2, 1984 (the effective date of Resolution 882), made working capital financing available through commercial banks at prevailing market rates, with interest

due at maturity. It authorized the Banco do Brasil to pay the lending institution an "equalization fee," or rebate, of up to 10 percentage points over the commercial interest rate, which the lending institution could pass on to the borrowers. On May 2, 1985, Resolution 1009 increased the equalization fee to 15 percentage points.

To find the interest differential for Resolution 882 loans, we compared two effective interest rates. The nominal interest rates on Resolution 882, 950, and 1009 loans are the same as the effective rates because there are no other charges, and the full amount of interest is paid at maturity. For our benchmark, we took the national average rate for thirty-day discounts of accounts receivable, as reported in *Analise/ Business Trends*. This rate includes the 1.5 percent tax on financial transactions ("IOF"), from which preferential loans are exempt. We then compounded this rate to find the effective annual commercial benchmark.

Since the interest charged on CACEX export financing under Resolutions 950 and 1009 is now at prevailing market rates, this program would not be countervailable absent the equalization fee and the exemption from the IOF. Therefore, the interest differential for those loans is equal to the equalization fee plus the 1.5 percent IOF.

We consider the benefit from loans to occur when the borrower makes the interest payments. For Resolution 674, 882, 950, and 1009 loans on which interest was paid during the period of review, we multiplied the interest differential by the loan principal. We allocated the result over each firm's total exports and then weight-averaged each company's benefit by its share of total exports of this merchandise to the United States (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefit from this program to be 1.30 percent *ad valorem* in 1984 and 3.36 percent *ad valorem* in 1985.

(2) Income Tax Exemption for Export Earnings

Under this program, exporters of certain cotton yarn products are eligible for an exemption from income tax on the portion of their profits attributable to exports. The Brazilian government calculates the tax-exempt fraction of profit as the ratio of export revenue to total revenue. Six firms used this program in 1984, and seven firms used it in 1985.

The nominal corporate tax rate in Brazil is 35 percent. However, Brazilian tax law permits companies to reduce their income taxes by investing up to 26 percent of their tax liability in specified companies and funds. This tax credit effectively reduces the nominal 35 percent corporate tax rate. The firms under review invested in the specified companies and funds.

We calculated the effective tax rates by dividing each company's net tax liability by its taxable profit. We calculated the benefit by multiplying the amount of tax-exempt profit by the company's effective corporate tax rate and allocating the result over its total exports. We then weight-averaged each company's benefit by its share of total exports of the merchandise to the United States (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefit from this program to be 1.17 percent *ad valorem* in 1984 and 1.48 percent *ad valorem* in 1985.

(3) The IPI Export Credit Premium

Exporters of certain cotton yarn products are eligible for the maximum IPI export credit premium. Under this program, the Brazilian government pays exporters in cash a percentage of the f.o.b. price of the exported merchandise. The payment is made through the bank involved in the export transaction.

Effective June 26, 1981, the Brazilian government imposed an export tax to offset the benefit of the IPI premium on exports to the United States. In the final results of our last administrative review (49 FR 15250), we determined that the Brazilian government did not collect the export tax in a timely manner, and we considered this lag in collection to confer a benefit. However, for this review, we have found that the Brazilian government collected the export tax on time. Further, on May 1, 1985, the Brazilian government eliminated the IPI export credit premium for exporters of certain cotton yarn products. For these reasons, we preliminarily determine that exporters of this merchandise received no benefits from this program during the period of review.

Although we preliminary determine that the export tax completely offsets the IPI rebate in this case, we are reconsidering whether these export taxes meet the criteria set forth in section 771(6)(C) of the Tariff Act. We are concerned that these export taxes do not serve the larger purpose of the countervailing duty law, which is to encourage governments to cease subsidizing. Furthermore, such export taxes might not completely offset the subsidy, especially if the money collected from the tax could be refunneled into the same industries in different forms. We may seek further clarification of this program.

(4) CIC–CREGE 14–11 Financing

Under its CIC–CREGE 14–11 circular, the Banco do Brasil provides preferential financing to exporters on the condition that they maintain on deposit a minimum level of foreign exchange. Exporters of certain cotton yarn products participated in this program during the period of review.

There is no maximum interest rate for this program. Interest payments are normally made quarterly or semiannually, with the full principal to be repaid at maturity. We calculated the benefit based on the interest payment date in a manner similar to that used for CACEX export financing, using the same benchmark rate. We allocated the result over each firm's total exports and then weight-averaged each company's benefit by its share of total exports of the merchandise to the United States (excluding exports from firms with zero or *de minimis* aggregate benefits). We preliminarily determine the benefit from this program to be 0.01 percent *ad valorem* in 1984 and 0.03 percent *ad valorem* in 1985.

(5) BEFIEX

The Commission for the Granting of Fiscal Benefits to Special Export Program ("BEFIEX") allows Brazilian exporters, in exchange for export commitments, to take advantage of several types of benefits, such as import duty reductions, an increased IPI export credit premium, and tax exemptions or tax credits. We verified that one firm received import duty reductions during the review period.

To calculate the benefit, we divided the amount of import duty reductions received in each year of the review period by that firm's total sales in the corresponding year of the review period. We then weight-averaged the company's benefit by its share of total exports of the merchandise to the United States (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefit to be 0.05 percent *ad valorem* in 1984 and 0.12 percent *ad valorem* in 1985.

(6) Price Equalization Program

Under the Price Equalization Program ("the PEP"), which was operated from April 1985 to February 1986, the Companhia de Financiamento da Producao ("CFP"), a government agency, provided a specific quantity of raw cotton to textile exporters at a price that was significantly lower than both the internal market price and the world market price. The Government of Brazil claims that the purpose of this program

was to eliminate, in the aggregate, the difference between the world market price and the higher internal market price of raw cotton for textile exporters. The Government of Brazil devised a formula to determine the quantity of raw cotton the exporter was able to purchase at this low price. It claims that the amount paid for this quantity, when combined with the amount paid for cotton purchased at the internal market price, equaled approximately what the exporter would have paid if all of his raw cotton (used for export) were purchased at the world market price.

We preliminarily determine this program to be countervailable because the CFP provided the cotton yarn exporters with a specific quantity of raw cotton on terms more favorable than those commercially available to the exporters. Under item (d) of the Illustrative List of Export Subsidies annexed to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code"), the delivery of goods by governments or their agencies for use in the production of exported goods constitutes an export subsidy when provided on terms more favorable than those commercially available on world markets to their exporters.

If Brazilian exporters of cotton yarn had actually imported raw cotton in commercial quantities during the review period, we could have considered such imports as the commercially available alternative to domestic raw cotton (in which case the PEP might have been consistent with item (d)). However, because of import restrictions imposed by the Government of Brazil, cotton yarn exporters did not import raw cotton during the period of review.

Therefore, although the net effect of the PEP may have been to provide raw cotton used in export production at world market prices, we do not consider the PEP to be consistent with item (d) because purchasing raw cotton at world market prices was not a "commercially available" alternative to Brazilian cotton yarn exporters. Without access to, and actual use of, imported raw cotton, the commercially available alternative to purchasing raw cotton under the PEP was purchasing raw cotton on the internal market. Cotton yarn exporters purchased most of their raw cotton on the internal market, and we have used the internal market price as the benchmark for measuring the benefit from cotton yarn purchased under the PEP.

To calculate the benefit, we multiplied the amount of cotton purchased by each firm at the PEP price by the average internal market price between April and December 1985. The benefit is the difference between this amount and the amount paid for raw cotton under the PEP. We allocated the benefit over each firm's total exports for 1985 and then weight-averaged each company's benefit by its share of total exports of the merchandise to the United States. On this basis, we preliminarily determine the benefit from this program to be 9.53 percent *ad valorem* in 1985.

Since the PEP was eliminated in February 1986, we preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that there is no current benefit from this program.

(7) FST Financing

During the period of review, three producers of cotton yarn made interest payments on loans obtained under a program called FST financing. The term of the loans was less than one year, and the interest rates were below our commercial benchmark rates. The Government of Brazil claims that these loans are commercial working capital loans and that they are available to all industrial enterprises. However, the Government of Brazil did not produce any documentation showing that these loans are provided to more than the cotton yarn industry. Therefore, based on the best information available, we preliminarily determine that this program is provided to a specific industry. Since the interest rates on the FST loans are below our commercial benchmark rate, we also preliminarily determine that these loans are provided on terms inconsistent with commercial considerations.

We calculated the benefit based on the interest payment date, using the same benchmark rate as we used for CACEX export financing. We allocated the benefit over each firm's total sales and then weight-averaged each company's benefit by its share of total exports of the merchandise to the United States (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefit from this program to be 0.03 percent *ad valorem* in 1984 and 0.01 percent *ad valorem* in 1985.

(8) Other Programs

We examined the following programs and preliminarily find that exporters of cotton yarn did not use them during the review period:

a. Incentives for trading companies ("Resolution 883");

b. Accelerated depreciation for Brazilian-made capital goods;

c. Tax reductions on export production equipment ("CIEX");

d. Export financing under Resolution 68 ("FINEX");

e. Duty-free treatment and tax exemption on equipment used in export production ("CDI");

f. Export financing under the Fundo Nacional de Participadoes ("FUNPAR");

g. Exemption from state-administered value-added taxes ("ICM") on domestic sales;

h. Export promotion financing ("PROEX");

i. Benefits from import substitution ("PROSIM");

j. Financing for the storage of merchandise destined for export ("Resolution 330");

k. Green-Yellow drawback;

l. Cotton auctions; and

m. Federal stock (EGF) loans.

Upstream Subsidy Allegations

In letters of June 11, 1986 and November 26, 1986, the petitioner, the American Yarn Spinners Association ("AYSA"), alleged that the following Brazilian subsidy programs provide upstream benefits to Brazilian cotton yarn exporters:

(1) CACEX export financing;

(2) Income tax exemptions for export earnings;

(3) BEFIEX;

(4) CIC-CREGE 14–11 financing;

(5) Incentives for trading companies (Resolution 883);

(6) FINEX export financing;

(7) PROEX financing;

(8) Financing for merchandise destined for export (Resolution 330);

(9) Tax reductions on equipment used in export production ("CIEX");

(10) Export financing under the Fundo Nacional de Paricipadoes ("FINPAR");

(11) Benefits from import substitution ("PROSIM");

(12) Gold draft of exportation;

(13) Fundo de Democratizacao do Capital das Empresas;

(14) Partially indexed long-term loans;

(15) Exemption of IPI and customs duties on imported equipment ("CDI");

(16) Accelerated depreciation for Brazilian-made capital equipment;

(17) Green-Yellow drawback;

(18) Cotton auctions; and

(19) Price Equalization Program.

Of these, programs (1) through (9) are export subsidy programs, which cannot form the basis of an upstream subsidy (see section 771A(a) of the Tariff Act). For programs (10) through (16), AYSA did not provide any information that gives us reasonable grounds to believe or suspect that an upstream subsidy is being paid or bestowed to the cotton

yarn exporters, as required by section 701(c) of the Tariff Act.

AYSA did provide specific information on the Green-Yellow drawback program and two new programs, cotton auctions and the Price Equalization Program. We sent a supplemental questionnaire to the Brazilian government regarding these programs. At verification we found that the Green-Yellow drawback allows trading companies to qualify for export incentives. It is therefore not a potential domestic subsidy program. Of the two cotton auction programs, we found that one was designed only for raw cotton exporters, and the other for exporters and domestic producers of textile products. Because the first auction program cannot be used by cotton growers who sell their product in the domestic market, it cannot provide an upstream subsidy to cotton yarn exporters. The second auction program is not available to producers of raw cotton, the major input into cotton yarn. Upstream subsidies deal only with *inputs* (such as raw cotton) into the exported product. Any potential benefit from the second auction program would be direct, rather than upstream, and we verified that cotton yarn exporters did not use the second auction program. Finally, the benefit to the cotton yarn producers from the Price Equalization Program is direct, as opposed to upstream. *See* also, section on Price Equalization Program.

For these reasons, we preliminarily determine that none of these 19 programs provided an upstream subsidy to cotton yarn exporters during the period of review.

Companies With Zero Benefits

We preliminarily determine that the following firms received zero or *de minimis* benefits during the review period:

For 1984:

(1) Unitika do Brazil Industria Textil Ltda;

(2) Cia. Industrial e Agricola Boyes;

(3) Lanficio Amparo Ltda;

(4) Fiacao Amparo S.A; and

(5) Brasital S.A. Para a Industria E.O. Comercio.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be zero or *de minimis* for five firms and 2.56 percent *ad valorem* for all other firms in 1984, and 14.53 percent *ad valorem* for all firms in 1985.

The Department intends to instruct the Customs Service not to assess countervailing duties on shipments of Brazilian carded cotton yarn from the five firms with zero or *de minimis* benefits in 1984, and to assess countervailing duties of 2.56 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after May 18, 1984 and exported on or before December 31, 1984. The Department also intends to instruct the Customs Service to assess countervailing duties of 14.53 percent of the f.o.b. invoice price on shipments from all firms exported on or after January 1, 1985 and on or before December 31, 1985.

The elimination of the Price Equalization Program in February 1986 decreases the total estimated duty deposit rate to 5.00 percent *de ad valorem*. Therefore, the Department intends to instruct the Customs Service to collect 5.00 percent of the f.o.b. invoice price on shipments from all firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirements 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 8 days after the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. 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 § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Gilbert B. Kaplan,

Acting Assistant Secretary Import Administration.

Date: March 17, 1987.

[FR Doc. 88-6344 Filed 3-22-88; 8:45 am]

BILLING CODE 3510-DS-N

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Open Meeting

A meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on March 30, 1988 at 9:30 a.m., Herbert C. Hoover Building, Room 1414, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls available to computer peripherals and related test equipment or technology.

Agenda

1. Introduction of Members and Visitors.
2. Introduction of Invited Guests.
3. Presentation of Papers or Comments by the Public.
4. Preparation of a Definition for CAD/CAM Workstations.
5. Development of Unique Parameters for CAD/CAM Workstations.
6. Discussion of Graphic Display Parameters.

This meeting is called on short notice because COCOM has just scheduled a review of the CAD/CAM issue for early April and the Department of Commerce needs input from industry.

The meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting and can be directed to: Ruth D. Fitts, Technical Support Staff, Office of Technology & Policy Analysis, Room 4086, 14th & Constitution Avenue, NW., Washington, DC 20230.

For further information on copies of the minutes call Ruth D. Fitts, 202-377-4959.

Date: March 18, 1988.

Betty A. Ferrell,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 88-6346 Filed 3-22-88; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 712667266]

Trade Opportunities Program; Electronic Dissemination

AGENCY: International Trade Administration, U.S. and Foreign Commercial Service, Export Promotion Services, Commerce.

ACTION: Notice.

SUMMARY: As part of the Department's *Export Now* program, the U.S. and Foreign Commercial Service (US&FCS), U.S. Department of Commerce, is improving the Trade Opportunities Program (TOP) by changing the manner in which TOP leads are distributed to

the U.S. business community. TOP leads identify export and investment opportunities for qualified U.S. suppliers. In general, trade leads include: Location of opportunity; SIC code of product or service; details of the opportunity and brief background data; type of opportunity; contact information; and bid deadline. Trade leads gathered overseas are valuable tools for U.S. exporters if they are received in sufficient time to prepare quality responses. The US&FCS therefore is making TOP leads available electronically to persons, firms, and organizations via the Department's Economic Bulletin Board.

US&FCS will add the full text of daily trade leads to the Economic Bulletin Board each work day at noon eastern time. Fifteen days of historical TOP leads will be available on line at all times. Private sector publishers, trade associations, and other multiplier groups are encouraged to download the complete file, add value, and redistribute the information in printed or electronic form.

Subscriptions to the TOP leads through the Economic Bulletin Board can be made by mail or by calling the National Technical Information Service (NTIS), 5285 Port Royal Rd. Springfield, Virginia 22161, phone: (703) 487–4630. A one-year subscription costs $25 plus connect time. Connect time ranges from $3–$6 per hour depending on the time of call. Users outside the Washington, DC area will incur long-distance telephone charges in addition to the above fees. These will be levied by and paid to the subscriber's long distance telephone company.

The new electronic distribution system compounded by the redistribution efforts of multiplier organizations substantially increases the number of U.S. businesses that will have access to Commerce generated trade leads. The timeliness of the trade leads is also greatly improved, as US&FCS now makes time-sensitive trade leads accessible electronically within one business day after receipt from overseas posts.

Due to declining subscriptions, Commerce-published daily TOP Notice and weekly TOP Bulletin hard copy subscription services have been discontinued. In their place, US&FCS has increased the public's access to TOP leads through a variety of public and private venues. Organizations and individuals without communication capabilities have access to TOP information within 2–3 days through commercial and public newspapers and newsletters. Organizations and individuals with communications capabilities have almost immediate access to TOP leads through a variety of commercial and public databases.

Private sector distribution of TOP leads in both printed and electronic form will serve former subscribers to these publications better by providing daily leads at a comparable or lower cost.

DATE: March 23, 1988.

ADDRESS: Questions may be addressed to Office of Commercial Information Management, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mary C. King at the address given above, telephone (202) 377–4203. To subscribe to TOP leads, call NTIS at (703) 487–4630.

SUPPLEMENTARY INFORMATION:

The dissemination of trade leads to the public is necessary for ITA to properly perform its trade promotion functions. ITA has the authority to disseminate trade information pursuant to 15 U.S.C. 175. Electronic dissemination via the existing Economic Bulletin Board is the quickest and most cost effective means to get this information to the public.

ITA has determined that this action is not a major rule within the meaning of section 1(b) of Executive Order 12291. Therefore a Regulatory Impact Analysis has not nor will be prepared. Because a notice of proposed rulemaking and an opportunity for public comment is not required for this agency action relating to practice and procedure under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, no initial or final Regulatory Flexibility Analysis has to be or will be prepared. This notice does not contain a collection of information for purposes of the Paperwork Reduction Act (44 U.S.C. 3501).

Alexander H. Good,

Director General, U.S. and Foreign Commercial Service.

[FR Doc. 88–6306 Filed 3–22–88; 8:45 am]

BILLING CODE 3510–FP–M

National Oceanic and Atmospheric Adminisration

Listing of Endangered and Threatened Species and Designating Critical Habitat; Petition for the Designation of Critical Habitat for the Right Whale

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

ACTION: Notice of receipt of a petition.

SUMMARY: NMFS has received a petition from GreenWorld to designate critical habitat for the right whale (*Eubalaena glacialis*) in two areas along the Atlantic coast.

FOR FURTHER INFORMATION: Robert C. Ziobro, Protected Species Management Division, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, (202/673–5348).

SUPPLEMENTARY INFORMATION: On January 4, 1988, NMFS received a petition from GreenWorld requesting that areas along the outer arm of Cape Cod and areas off the southern Georgia/northern Florida coast be designated as critical habitat for the western Atlantic population of the Right whale. The Service is reviewing the petition and will make a determination in accordance with the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the Administrative Procedures Act (5 U.S.C. 553(e)).

Dated: March 18, 1988.

Nancy Foster,

Director, Office of Protected Resources, and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88–6363 Filed 3–22–88; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Application for Permit: Harold M. Brundage, III (P298B)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. *Applicant:* Mr. Harold M. Brundage III, President, Environmental Research and Consulting, Inc., 320 Bancroft Road, Kennett Square, Pennsylvania 19348
2. *Type of permit:* Scientific research
3. *Name and number of marine mammals:* Shortnose sturgeon (*Acipenser brevirostrum*), 500/year
4. *Type of take:* The applicant is requesting authorization to harass while collecting data and attaching a Carlin dangler tag to 500 animals per year. Of the preceding, 50 animals per year will be radio tagged. The applicant will also collect egg and larvae samples.

5. Location of activity: Delaware River to Delaware Bay; and Potomac River to Chesapeake Bay

6. Period of activity: 5 years

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Rm. 805, Washington, DC; and

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930

Date: March 18, 1988

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88-6364 Filed 3-22-88; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit: California Department of Fish and Game (P191D)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant: California Department of Fish and Game, 1416 Ninth Street, Sacramento, California 95814.

2. Type of Permit: Scientific Research

3. Name of Marine Mammals:

California sea lion (*Zalophus californianus*)
Pacific harbor seal (*Phoca vitulina richardii*)
Northern elephant seal (*Mirounga angustirostris*)
Harbor porpoise (*Phocoena phocoena*)
Steller sea lion (*Eumetopias jubatus*)
Gray whale (*Eschrichtius robustus*)
Short-finned pilot whale (*Globicephala macrorhynchus*)
Northern fur seal (*Callorhinus ursinus*)
Killer whale (*Orcinus orca*)
Dall's porpoise (*Phocoenoides dalli*)
Bottlenose dophins (*Tursiops sp.*)
Risso's dophin (*Grampus griseus*)
Minke whale (*Balaenoptera acutorostrata*)
Humpback whale (*Megaptera novaeangliae*)
Common dolphin (*Delphinus delphis*)
Pacific white-sided dolphin (*Lagenorhynchus obliquidens*)

4. Type of take: An unspecified number of ceteceans and pinnipeds may be incidentally harassed during the course of aerial and ground surveys.

5. Location of Activity: California.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily refelct the views of the National Marine Fisheries Service. Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415.

Date: March 18, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88-6365 Filed 3-22-88; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Limits for Certain Wool Textile Products Produced or Manufactured in the Republic of Singapore

March 18, 1988.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on March 24, 1988. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 535-6736. For information on embargoes and quota re-openings, please call (202) 377-3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of wool textile products in Categories 438 and 440 which are in excess of the designated limits.

Background

A directive dated December 24, 1987 (52 FR 49188) established a limit for Group II, including limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1988 and extends through December 31, 1988.

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 31, and June 5, 1986, as amended, between the Governments of the United States and Singapore estabishes designated consultation levels for wool textile products in Categories 438 and 440, produced or manufactured in

Singapore and exported during the twelve-month period which begins on January 1, 1988 and extends through December 31, 1988. In addition, Categories 438 and 440 should be included in the previously established Group II limit for 1988.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see **Federal Register** notice 52 FR 47745, dated December 11, 1987).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

March 18, 1988.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 24, 1987 from the Chairman, Committee for the Implementation of Textile Agreements, which established restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the agreement year which began on January 1, 1988 and extends through December 31, 1988.

Effective on March 24, 1988, the directive of December 24, 1987 is amended to include the following limits for Categories 438 and 440 for the period January 1, 1988 through December 31, 1988:

Category	12-mo limit [1]
438	10,000 dozen
440	6,250 dozen

[1] The limits have not been adjusted to account for any imports exported after December 31, 1987.

Textile products in Categories 438 and 440 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

Charges will be made to the limits established in this directive for Categories 438 and 440 as data become available.

Also effective on March 24, 1988, Categories 438 and 440 shall be included as sublevels of Group II. Group II shall consist of Categories 200–229, 300/301, 313–330, 332, 333/633, 336, 345, 349, 350, 351/651, 352/652, 353/354/653/654, 359–369, 400–434, 436, 438, 440–444, 445/446, 447, 448, 459–469, 600–603, 606, 607, 611–630, 632, 636, 637, 642–644, 649, 650, 659–S [1] 659–V [2], 659–O [3] and 665–670, as a group. The limit established for Group II in the December 24, 1987 directive remains unchanged.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88–6305 Filed 3–22–88; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

March 14, 1988.

The USAF Scientific Advisory Board AD Hoc Committee on Hypersonic Test Facilities will meet on 12–14 April 1988, from 8:00 a.m. to 5:00 p.m., at Wright-Patterson AFB, OH.

The purpose of this meeting is to review the status of technology programs and laboratory research efforts dealing with hypersonic technologies and/or their test requirements. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88–6282 Filed 3–22–88; 8:45 am]

BILLING CODE 3910-01-M

[1] In Category 659–S, only TSUSA numbers 381.2340, 381.3170, 381.9100, 381.9570, 384.1700, 384.2339, 384.8300, 384.8400 and 384.9353.

[2] In Category 659–V, only TSUSA numbers 381.2836, 381.3332, 281.9224, 381.9837, 384.2250, 384.2251, 384.2663, 384.2664, 384.8777, 384.9472 and 384.9473.

[3] In Category 659–O, all TSUSA numbers except 381.2340, 381.3170, 381.9100, 381.9570, 384.1700, 384.2339, 384.8300, 384.8444 and 384.9353 in Category 650–o; 381.2836, 381.3332, 381.9224, 381.9837, 384.2250, 384.2251, 384.2663, 384.2664, 384.8777, 384.9472 and 384.9473 in Category 659–V.

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10a(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (AS).

Dates of Meeting: 13 thru 15 April 1988.

Time: 0900–1700 hours each day.

Place: BDM International, Arlington, VA 22209.

Agenda: The Army Science Board 1988 Summer Study on Technology Insertion in Army Systems will meet for a series of briefings. On 13 April the Process Panel will be briefed by Project Managers of selected Army programs. On 15 April the committee will be breiefed by selected Army agencies. On 14 April the technology panel will be briefed by technical directors of selected AMC MACOMs. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner

Administrative Officer, Army Science Board.

[FR Doc. 88–6336 Filed 3–22–88; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 11–12 April 1988.

Times of Meeting: 0800–1700 hours daily.

Place: ITT Defense Technology Corporation, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup for Tactical Applications of Directed Energy Weapons (DEW) will meet to be briefed by TRADOC and Navy on technological developments and potential applications of directed energy. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5,

U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88–6338 Filed 3–22–88; 8:45 am]

BILLING CODE 3710–08–M–M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Latin America Task Force will meet April 27–28, 1988 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to gain a broad overview and insight of Latin America related to U.S. security and naval interests. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Ann Lynn Cline, Special Assistant to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Date: March 18, 1988.

W.R. Babington, Jr.,

Commander, JAGC, U.S. Navy Federal Register Liaison Officer.

[FR Doc. 88–6309 Filed 3–22–88; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee will meet on April 21–22, 1988. The meeting will be held at the Naval Strike Warfare Center, Fallon, Nevada. The meeting will commence at 7:45 a.m. and terminate at 4:30 p.m. on April 21; and commence at 7:30 a.m. and terminate at 1:30 p.m. on April 22, 1988. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings and tours for the committee members on fleet aviation tactical developments. The agenda will include technical briefings, tours and discussions addressing aviation tactical development in support of fleet battle group operations, advanced flight training, and planning, programming and budgeting requirements and priorities for R&D, procurement and training related to strike warfare. These briefings, tours and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive Order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting contact: Commander L. W. Snyder, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000, Telephone Number: (202) 696–4870.

Date: March 18, 1988.

W. R. Babington, Jr.,

Commander, JACG, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 88–6310 Filed 3–22–88; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.042]

Notice Inviting Applications for New Awards Under the Student Support Services Program for Fiscal Year 1988

Purpose: Awards grants to institutions of higher education for projects that provide support services to low-income, first-generation or physically handicapped college students to enhance their academic skills, increase their retention and graduation rates, and as appropriate, facilitate entrance into four-year colleges or graduate and professional programs.

Deadline for Transmittal of Applications: May 6, 1988.

Applications Available: May 30, 1988.

Available Funds: $5,000,000.

The estimated range, average size, and number of awards stated in this Notice assumes fiscal year 1988 funds availability at about $5,000,000 for new awards.

Estimated Range of Awards: $70,000–$150,000.

Estimated Average Size of Awards: $110,000.

Estimated Number of Awards: 45.

Project Period: 24 months.

Supplementary Information: The Secretary strongly encourages an applicant to include measurable objectives in its plan of operation and evaluation plan. Specifically, an applicant is encouraged to use clear, specific and measurable objectives in its plan of operation, and use methods of evaluation which are objective and produce data that are quantifiable.

Applicable Regulations: (a) The Student Support Services Regulations, 34 CFR Part 646, as modified on July 24, 1987 (52 FR 27905) and (b) the Education Department General Administrative Regulations, 34 CFR Parts 75 and 77.

For Applications or Information Contact: Jowava M. Leggett, Chief, Special Services Branch, Division of Student Services, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3060, Regional Office Building 3, Washington, DC 20202.

Telephone: (202) 732–4804.

Program Authority: 20 U.S.C. 1070d, 1070d–1b.

Dated: March 14, 1988.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 88–6367 Filed 3–22–88; 8:45 am]

BILLING CODE 4000–01–M

Advisory Committee on Student Financial Assistance; Meeting

AGENCY: Education Department.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Committtee 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 their opportunity to attend.

DATES: April 7, 1988 beginning at 9:00 a.m. and ending 5:00 p.m.; and April 8, 1988 beginning at 9:00 a.m. and ending at 5:00 p.m.

ADDRESS: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, Room 4600, ROB3, 400 Maryland Avenue SW., Washington, DC 20202, (202) 732–3955.

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:

Need Analysis Issues
Delivery System Issues
Committee Research Agenda

and

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: March 18, 1988.

Kenneth D. Whitehead,

Assistant Secretary for Postsecondary Education.

[FR Doc. 88–6270 Filed 3–22–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of General Counsel

Inventions Available for License

The Department of Energy hereby announces a number of inventions available for license, in accordance with 35 U.S.C. 207–209, in order to achieve expeditious commercialization of results of federally funded research and development. For further information concerning licensing of the inventions, please contact Robert J. Marchick, Office of the Assistant General Counsel for Patents, Department of Energy, 1000 Independence Avenue SE., Washington, DC 20585.

Copies of specifications of the listed U.S. patent applications may be obtained, for a modest fee, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161.

Issued in Washington, DC, on March 17, 1988.

Eric J. Fygi,

Acting General Counsel.

PATENT APPLICATIONS

Serial No.	Title of invention
634,001	Method and Apparatus for Laser/Plasma Chemical Processing of Substrates.
685,081	Apparatus for Inspecting Fuel Elements.
688,675	Reactor Power Compensating System.
702,766	PLS101 Plasmid Vector.
704,113	System for Exchange of Hydrogen Between Liquid and Solid Phases.
707,359	Protective Interior Wall and Attaching Means for a Fusion Reactor Vacuum Vessel.
707,775	Process for Removing Mercury from Aqueous Solutions.
707,939	Negative Ion Beam Source with Low Temperature Transverse Divergence Optical System.
708,477	Fast Counting Electronics for Neutron, Coincidence Counting.
708,618	Method for the Recovery of Silver from Silver Zeolite.
708,624	Preparation of 1,1'-Dinitro-3,3'-AZO-1,2,4-Triazole.
708,625	Biomedical Silver-109M Isotope Generator.
710,880	Control for Stabilizing the Alignment Position of the Rotor of the Synchronous Motor.
710,881	Process for Preparing Fine Grain Titanium Carbide Power.
712,056	Interlockin Egg-Crate Type Grid Assembly.
713,165	Nucear Fuel Pin Scanner.
713,352	Electron-Beam-Induced Information Storage in Hydrogenated Amorphous Silicon Devices.
718,059	Liquid Cooled Fiber Thermal Radiation Receiver.
718,060	Electrically Conductive Resinous Bond and Method of Manufacture.
718,397	Method for Fabricating Multi-Strand, Superconducting Cable.
719,653	Process for Making Structure for a MCFC.
719,654	Mixture for Producing Fracture-Resistant, Fiber-Reinforced Ceramic Material by Microwave Heating.
720,328	Atmospheric Pressure Helium Afterglow Discharge Detector for Gas Chromatography.
720,448	Opitical Fiber Inspection System.
721,339	Pulsed Helium Ionization Detection System.
721,352	Radiation Detector Spectrum Simulator.
723,674	Transformer Current Sensor for Superconducting Magnetic Coils.
724,431	Low Temperature Aqueous Desulfurization of Coal.
726,562	Fixture for Supporting and Aligning a Sample to be Analyzed in an X-ray Diffraction Apparatus.
726,564	Process for Measuring Degradation of Sulfur Hexafluoride in High Voltage Systems.
726,565	Valve and Dash-Pot Assembly.
728,358	Coal-Water Mixture Fuel Burner.
728,359	Beryllium-7 Labeled Carbon Particles and Method of Making.
728,367	System for Conversion between the Boundary Representation Model and a Constructive Solid Geometry Model of an object.
728,970	Method and Apparatus for Analyzing the Internal Chemistry and Compositional Variations of Materials and Devices.
728,976	Remotely Readable Fiber Optic Compass.
728,977	Process for Producting Chalcogenide Semiconductors.
729,022	Method and Apparatus for Measuring Solar Radiation in a Vegetative Canopy.
730,529	Method for Encryption and Transmission of Digital Keying Data.
735,228	Removal of Arsenic, Vanadium, and/or Nickel Compounds from Petroliferous Liquids.
736,021	Implantable Apparatus for Localized Heating of Tissue.
736,033	Optically Pulsed Electron Accelerator.
736,154	Hydrodesulfurization Catalyst by Chevrel Phase Compounds.

PATENT APPLICATIONS—Continued

Serial No.	Title of invention
736,164	Piezoelectric Shear Wave Resonator and Method of Making Same.
736,168	Serially Connected Solid Oxide Fuel Cells Having Monolithic Cores.
736,575	Steel Refining with an Electrochemical Cell.
736,576	Method of Removing and Detoxifying a Phosphorus-Based Substance.
738,808	Ambient-Pressure Organic Superconductor.
743,544	Natural Chelating Agents for Radionuclide Decorporation.
744,441	Actinide Recovery Process.
746,471	Direct Use of Methane in Coal Liquefaction.
746,476	Positioning and Locking Apparatus.
746,478	Repetitive Resonant Railgun Power Supply.
746,479	Multiple Resonant Railgun Power Supply.
746,496	Ultrafast Neutron Detector.
746,592	Pervaporation Separation of Ethanol-Water Mixtures Using Polyethylenimine Composite Membranes.
746,593	Downhole Steam Quality Measurement.
747,202	Brush Potential Curve Tracer.
747,204	Tube Wall Thickeness Measurement Apparatus.
748,375	Planarization of Metal Films for Multi-level Interconnects.
749,373	Die-Target for Dynamic Powder Consolidation.
750,123	Method for the Simultaneous Preparation of Radom-112, Xenon-125, Xenon-123, Astatine-211, Iodine-125, and Iodine-123.
750,124	Continuous Human Cell Lines and Method of Making Same.
751,405	Refractory Oxide Hosts for a High Power, Broadly Tunable Laser with High Quantum Efficiency and Method of Making Same.
751,412	Apparatus for Measuring the Decontamination Factor of a Multiple Filter Air-Cleaning System.
751,413	Superlattice Photoelectrodes for Photoelectrochemical Cells.
751,420	Method for Monitoring Stack Gases for Uranium Activitiy.
752,688	Soft X-Ray Laser Using Pumping of 3P and 4P Levels of He-like and H-like Ions.
753,496	Electrochemical Devices Utilizing Molten Alkali Metal Electrode-Reactant.
753,515	Thermal Casting Process for the Preparation of Membranes.
756,101	Hydrofluoric Acid-Resistant Composite Window and Method for Its Fabrication.
756,115	Method and Apparatus for Performing In-Situ Vacumm-Assisted Metal to Glass Sealing.
756,126	Plasma Deposition of Amorhous Metal Alloys.
756,127	Gage for Measuring Displacements in Rock Samples.
759,783	140 GHz Pulsed Fourier Transform Microwave Sepctrometer.
760,433	Soluble Silylated Polyacetylene Derivatives, Their Preparation and Their Use as Precursors to Novel Polyacetylene-Type Polymers.
762,366	Flue Gas Desulfurization/Denitrification Using Metal-Chelate Additives.
762,369	Apparatus for Adjusting and Maintaining the Humidity of Gas at a Constant Value Within a Closed System.
762,370	Process and Apparatus for Sensing Defects on a Smooth Cylindrical Surface in Tubing.
762,489	In-Situ Repair of a Failed Compression Fitting.
762,649	Low Voltage Arc Formation in Railguns.
763,585	Process for Producing Ethanol from Plant Biomass Using the Fungus *Paecilomyces sp.*
764,277	Fuel Agglomerates and Method of Agglomeration.
765,780	Pulse Shaping with Transmission Lines.
766,168	Multichannel Optical Sensing Device.
766,169	Method of Synthesizing a Plurality of Reactants and Producing Thin Films of Electro-Optically Active Transition Metal Oxides.
768,080	Readout System for Multi-Crystal Gamma Cameras.
768,590	Planarization of Metal Films for Multilevel Interconnects.
769,210	Method for Forming Glass-to-Metal Seals.
769,519	Osmium-191/Iridium-191m Radionuclide.
770,907	Sewage Slude Dewartering Using Flowing Liquid Metals.
770,908	Radioactive Waste Processing Apparatus.
773,891	Inlet Nozzel Assembly.
775,547	Remote Reset Circuit.
776,731	Energy Conversion System.
781,543	Chemoresistive Gas Sensor.
783,604	Spherical Torus Fusion Reactor.
783,606	Method and Apparatus for the Selective Separation of Gaseous Coal Gasification Products by Pressure Swing Absorption.
783,730	Very High Efficacy Electrodeless High Intensity of Discharge Lamps.
784,149	No-Carrier-Added [^{18} F[-N-Methylspiroperidol.
785,436	Low Density Mocrocellulor Foams.
786,384	Means of Manufacturing Annular Arrays.
786,560	Composition/Bandgap Selective Dry Photochemical Etching of Semiconductor Materials.
786,563	Dopant Type and/or Concentration Selective Dry Photochemical Ethching of Semiconductor Materials.
786,993	CR-39 Tracking Ethching and Blow Up Method.
789,892	Monitoring Transients in Low Inductance Circuits.
790,600	Current-and Lattice-Matched Tandem Solar Cell.
791,235	Nuclear Reactor Fuel Structure Containing Uranium Alloy Wires Embedded in a Metallic Matrix Plate.
791,236	Process for Electrochemically Gasifying Coal.
791,280	Magnetic Refrigeration Apparatus with Heat Pipes.
795,141	Ductile Polyelectrolyte Macromolecule-Complexed Zinc Phosphate Conversion Crystal Pre-Coatings and Topcoatings Embodying a Laminate.
795,291	Method of Removing Oxides of Sulfur and Oxides of Nitrogen from Exhaust Gases.
795,294	Slurry Burner for Mixture of Carbonaceous Material and Water.
795,604	Optical Scanning Apparatus.
795,605	Method for Welding Chromium Molydeum Steels.
796,463	Support Assembly Having Three Dimension Position Adjustment Capabilities.
796,464	Support Mechanism for a Mirrored Surface or Other Arrangement and Method.
796,815	Hydroxypridonate Chelating Agents and Synthesis Thereof.
800,563	Time-Resolved X-Ray Scattering Instrumentation.
800,565	Heat Dissipating Nuclear Reactor with Metal Liner.
800,566	Heat Dissipating Nuclear Reactor.
800,588	Precipitation Process for the Removal of Technetium Values from Nuclear Waste Solutions.

PATENT APPLICATIONS—Continued

Serial No.	Title of invention
800,590	Method for Making Thin Polypropylene Film.
800,630	Wiggler Plane Focusing in a Linear Free Electron Laser.
800,632	A Light Reflecting Apparatus Including a Multi-Aberration Light Reflecting Surface.
801,881	Vacuum Chamber for Containing Particule Beams.
802,874	Method of Beam Welding Metallic Parts Together and Apparatus for Doing Same.
804,413	Liquid-Phase Thermal Diffusion Isotope Separation Apparatus and Method Having Tapered Column.
807,097	Improved High Temperature Refractory.
812,575	Device for Equalizing Molten Electrolyte Content in a Fuel Cell Stack.
812,706	Fiber-Type Dosimeter with Improved Illuminator.
814,935	A Compensated Vibrating Optical Fiber Pressure Measuring Device.
817,934	Laser Sustained Discharge Nozzle Apparatus for the Production of an Intense Beam of High Kinetic Energy Atomic Spcies.
818,308	Analysis with Electron Microscope of Multielement Samples Using Pure Element Standard.
818,946	Method and Apparatus for Preventing Cyclotron Breakdown in Partially Evacuated Waveguide.
823,544	Fuel Processor for Fuel Cell Power System.
823,718	Method of Preparing a Dimensionally Stable Electrode for Use in a Molten Carbonate Fuel Cell.
824,037	Improved Ion Detector.
827,703	A High Average Power Pockels Cell.
827,704	Double Diameter Boring Tool.
830,811	Relief Device for a Vacuum Vessel.
830,812	A Process for the Chemical Preparation of High-Field ZnO Varistors.
832,617	Solar Solids Reactor.
834,675	Anaerobic Michrobial Dissolution of Lead Production of Organic Acids.
836,882	Gradient Index Retroreflector.
836,883	Foil Changing Apparatus.
838,493	Cermet Insert High Voltage Holdoff Improvement for Cermaic/Metal Vacuum Devices.
838,494	Boron Uptake in Tumors, Cerebrum and Blood From [^{10}B] $Na_4B_{24}H_{22}S_2$.
842,573	Mirror Mount.
844,034	Josephson Junction Q-Spoiler.
844,035	Confined Ion Beam Sputtering Device and Method.
844,043	Optical Sensor of Magnetic Fields.
846,530	Ionized Channel Generation of an Intense Relativistic Electron Beam.
846,783	Liquid Detection Circuit.
848,001	Magnetic Refrigeration Apparatus with Belt of Ferro or Paramagnetic Material.
849,625	Method for Producing Refractory Nitrides.
849,626	Preparation of Catalysts Via Ion-Exchangeable Coating on Supports.
849,913	Improved Hydrous Oxide Ion-Exchange Compound Catalysts.
849,914	Mercury Switch with Non-Wettable Electrodes.
850,301	Method for the Desulfurization of Hot Product Gases from a Coal Gasifier.
850,455	Uniform Insulation Applied-B Ion Diode.
853,104	Electrochemical Cellwith High Conductivity Glass Electrolyte.
853,117	Low Temperature Pyrolysis of Coal or Oil Shale in the Presence of Calcium Compounds.
853,118	Process for Fabrication of Large Titanium Diboride Ceramic Bodies.
853,119	[^{11}C]Clorgyline and [^{11}C]-L-Deprenyl and Their Use in Measuring Functional Monoamine Oxidase Activity in the Brain Using Positron Emission Tomography.
854,631	Method and Apparatus for Optical Temperature Measurements.
855,529	E-Beam Ionized Channel Guiding of an Intense Relativistic Electron Beam.
855,548	Cathode for Molten Carbonate Fuel Cell.
855,568	Anomalous-Visconsity Current Drive.
859,164	Explosive-Driven, High Speed, Arcless Switch.
859,166	Sintered Composite Filter.
859,167	Adapter Plate Assembly for Adjustable Mounting of Objects.
859,949	Method and Apparatus for Transferring and Injecting RF Energy from a Generator to a Resonant Load.
861,380	Digital Time Delay.
861,381	High Resolution Time Interval Meter.
861,383	Improved Plug Valve.
863,331	Source Replenishment Device for Vacuum Deposition.
863,492	Cryogenic Support Member.
863,493	High Power Microwave Generator.
863,494	Step-Wise Supercritical Extraction of Carbonaceous Residue.
863,650	Conditioning of Carbonaceous Material Prior to Physical Beneficiaries.
863,697	Process for Producing Peracids from Aliphatic Hydroxy Carboxylic Acids.
866,031	Spherokmak Reactor with Poloidal Flux-Amplifying Transformer.
867,123	Electrolyte Matrix in a Molten Carbonate Fuel Cell Stack.
867,124	Process and Apparatus for Coal Hydrogenation.
867,125	Method for In Situ Heating Hydrocarbonaceous Formations.
867,175	Electrohydrodynamically Driven Large-Area Liquid Ion Sources.
868,375	Lithium Niobate Exploson Monitor.
868,388	Lithium Disulfide Battery.
868,478	Polyphospahzene Semipermeable Membranes.
870,569	Method and Apparatus for Measuring Low Currents in Capacitance Devices.
871,192	Two-Stage Coal Liquefaction Without Gas-Phase Hydrogen.
872,718	Method for Improving Voltage Requlation of Batteries, Particularly li-Fes_2 Thermal Batteries.
872,728	Improved Methods for Achieving the Equilibrium Number of Phases in Mixtures Suitable for Use in Battery Electrodes, E.G., for Lithiating FES_2.
877,959	Apparatus and Method for Void/Particulate Detection.
880,628	Photosensitive Dopants for Liquid Noble Gases.
881,176	Pulsed Hydroject.
881,310	Portable System and Method Combining Chromatography and Array of Electrochemical Sensors.
883,216	Bipolar Battery with Array of Sealed Cells.
883,217	Molten Carbonate Fuel Cell.
884,858	Triggered Plasma Opening Switch.

PATENT APPLICATIONS—Continued

Serial No.	Title of invention
885,977	Large Single Crystal Quaternary Alloys of IB-IIIA-Se_2 and Methods of Synthesizing the Same.
886,491	Fluid Relief and Check Valve.
888,311	Polysilicon Photoconductor for Integrated Circuits.
888,313	Method and Apparatus for Controlling Multiple Motors.
890,256	Electrochemical Cell with High Discharge/Charge Rate Capability.
892,990	Analytical Instrument with Apparatus and Method for Sample Concentrating.
893,056	Stabilized Chronium Oxide Film.
894,145	Process for Obtaining Multiple Sheet Resistances for Thin Film Hybrid Microcircuit Resistors.
894,523	X, Y, Z Positioner.
895,642	Clip-On Extensometer Grip.
898,083	Thermal Protection Apparatus.
898,084	Method for Isotope Enrichment of Mercury-196 by Selective Photoionization.
899,122	Profilometer for Tubes.
900,859	Boron Hydride Polymer Coated Substrates.
900,860	Copper Vapor Laser Acoustic Thermometry System.
901,867	Methods of and Apparatus for Radiation Measurement, and Specifically for *In Vivo* Radiation Measurement.

[FR Doc. 88-6329 Filed 3-22-88; 8:45 am]

BILLING CODE 6450-01-M

Intent To Grant Exclusive Patent License; Summit Technology Inc.

Notice is hereby given of an intent to grant to Summit Technology Inc. of Watertown, Massachusetts, an exclusive license to practice in the United States the invention described in U.S. Patent No. 4,686,979, entitled "Excimer Laser Phototherapy for the Dissolution of Abnormal Growth." The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed exclusive license will be subject to a license and other rights retained by the U.S. Government, and will be subject to a negotiated royalty provision. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, DC 20585, receives in writing any of the following, together with support documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Department will review all written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued in Washington, DC, on March 17, 1988.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 88-6330 Filed 3-22-88; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 87-71-NG]

Pepperell Power Associates; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on December 14, 1987, of an application filed by Pepperell Power Associates (PPA) for authorization to import from TransCanada Pipelines Limited (TransCanada), up to a daily contract quantity of 9,795 Mcf of Canadian natural gas over a 15-year term beginning on or before January 1991. The gas would be imported to fuel a new combined cycle cogeneration facility to be constructed by the applicant in Pepperell, Massachusetts. At the request of the ERA, PPA, on February 9, 1988, filed additional information to support its application for import authority.

The application, as supplemented, is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than April 22, 1988.

FOR FURTHER INFORMATION:

Edward J. Peters, Jr., Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-8162.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., (202) 586-6667.

SUPPLEMENTARY INFORMATION: PPA furnished with its application a copy of a long-term gas sales and purchase precedent agreement dated November 25, 1987, between TransCanada and PPA. Under the terms of the agreement, TransCanada will supply the applicant a total contract quantity of 53,627,625 Mcf of natural gas over a 15-year term beginning on or before January 1991. TransCanada agrees to deliver a maximum annual quantity of 3,575,175 Mcf of natural gas to the border point of delivery.

In its supplemental filing, PPA advised that although its precedent gas purchase agreement states that the imported gas will be delivered by TransCanada to the interconnection of TransCanada's facilities with those of Tennessee Gas Pipeline Company (Tennessee) at the Canadian/United States border near Niagara Falls, Ontario, PPA may elect Champlain Gas Pipeline Company (Champlain) as its domestic transporter. If Champlain becomes the transporter, TransCanada would deliver the gas to its point of interconnection with Champlain at Highgate Springs, Vermont. Champlain would transport

the natural gas to a metering station at the project site owned by Colonial Gas Company (Colonial), the local distribution company.

Construction of the cogeneration facilities is scheduled to be completed in the fourth quarter of 1989 at which time the initial delivery of natural gas for test purposes would take place. It is estimated that the facility would begin taking the daily contract quantity on or before January 1991. The facility will be designed to produce about 38 megawatts of electricity that Commonwealth Electric Company has agreed to buy, and a yearly average steam flow of about 41,000 pph to be sold to the James River Corporation for product processing and heating. The cogeneration facility will be located at the James River Corporation plant site in Pepperell.

The purchase contract establishes a two-part border price for the gas. The demand component will be $26.46 Mcf per month or $.87 per Mcf at 100 percent load factor. The commodity component for each month shall be the greater of $1.20 per MMBtu or an amount determined by the following formula that factors in the cost of No. 6 residual fuel oil: commodity charge ($1.20 × AFC divided by $18.05 + TC—ERCA). AFC is the greater of $18.05 or the average of the highest and lowest prices for No. 6 residual 2.2 percent sulphur fuel oil as reported in the *Journal of Commerce* under the heading, "N.Y. Harbor Cargo Prices—Fuel Oil" for all Wednesdays during the immediately preceding month. TC is a transportation credit equal to half the amount, if any, that PPA's domestic transportation costs per MMBtu at 85 percent load factor is less than $1.00; and ERCA represents an Exchange Rate Commodity Adjustment per MMBtu. That factor converts to Canadian dollars the demand charge rate for total heating value of gas delivered each month which under the contract is expressed in U.S. dollars. The ERCA may be a negative amount.

Under other terms of the purchase agreement PPA assumes a take-or-pay obligation that requires PPA to purchase no less than 50 percent of the annual contract quantity (ACQ) for the contract year. If minimum volumes are not taken in any year, PPA shall purchase from TransCanada in the next year 50 percent of the ACQ plus a quantity of gas equal to the difference between the ACQ and the quantity actually taken in the preceding year. If PPA does take less than 50 percent of the ACQ during the year for any reason other than unscheduled outages at its facility, TransCanada may renegotiate for a reduction in the daily contract quantity of 9,759 Mcf per day.

PPA states its estimated dollar cost of transportation per Mcf of its natural gas under offers it has received from Champlain and Tennessee are as follows:

	Champlain	Tennessee
TransCanada (includes commodity charge)	2.29	2.22
U.S. Transportation	.62	.97
Colonial (local)	.14	.09
Total	$3.05	$3.28

PPA asserts that its gas purchase agreement for an imported supply represents the best overall supply arrangement it could secure to meet its needs on a long-term, firm supply basis. PPA states that after an extensive search for a domestic supply, it could not find a long-term supplier offering an economical price for natural gas that was tied to the price of No. 6 fuel oil which, along with a competitive gas price, PPA considers to be a critical factor in the economic viability of its new cogeneration project sited at a plant now served by a boiler facility capable of burning No. 6 fuel oil. Since the natural gas pricing formula tracks the price of the fuel oil, PPA contends its supply arrangement is and will remain competitive for its needs over the term of the contract.

With respect to the security of its supply source for the term of its contract, PPA points out that its supplier, TransCanada, has approximately 2,700 gas purchase contracts with some 700 producers in the Province of Alberta covering 6,700 gas pools and 18,600 gas wells which provide about 26.4 Tcf of gas reserves to TransCanada over an estimated 24 year reserve life.

PPA asserts that its proposed import will have no adverse environmental impacts. According to the application, no environmental impacts will result from construction of its cogeneration facility at an existing industrial site. However, PPA states that the domestic transportation of its gas whether through the Tennessee system or the Champlain system would require either company to construct additional facilities. On January 15, 1988, Tennessee filed with the Federal Energy Regulatory Commission (FERC) in Docket No. CP88–173 for permission to build the facilities it would need to deliver PPA gas to Colonial's system. Similarly, on the same date, Champlain filed with the FERC in Docket No. CP88–169 for permission to build the added new facilities needed to accommodate the transportation of PPA's natural gas to Colonial. If Tennessee becomes PPA's transporter, Colonial will need to upgrade a portion of its system for which it will be required to seek a project authorization from the Massachusetts Energy Siting Council and possibly from the city of Pepperell. No Colonial system upgrade would be needed if Champlain becomes the transporter.

PPA furnished with its amended application a copy of a letter from the Director, Electric Power Division, Department of Public Utilities, the Commonwealth of Massachusetts addressed to the Commonwealth Electric Company approving its contract with PPA to purchase the electricity generated by its proposed cogenetration facility. PPA also furnished a copy of its certificate from the Secretary of Environmental Affairs of the Commonwealth of Massachusetts stating that the Pepperell Power Corporation cogeneration project does not require the preparation of an Environmental Impact Report under its Environmental Policy Act because of its location and levels of NOX emission as described for the facility.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). To the extent there are any issues that are unique to cogeneration facilities, the ERA may consider these in making a public interest determination.

Parties that may oppose this application should comment in their responses on the issues of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make

the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-9478. They must be filed no later than 4:30 p.m. e.d.t., April 22, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of PPA's application and additional information filed on February 9, 1988, are available for inspection and copying in the Natural Gas Division Docket Room, GA-076 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 16, 1988.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-6331 Filed 3-22-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP77-8-008, et al.]

Columbia Gulf Transmission Company et al.; Natural Gas Certificate Filings

March 17, 1988.

Take notice that the following filings have been made with the Commission:

1. Columbia Gulf Transmission Company

[Docket No. CP77-8-008]

Take notice that on March 1, 1988, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP77-8-008, a petition to amend the order issued May 6, 1977, in Docket No. CP77-8, as amended, pursuant to section 7(c) of the Natural Gas Act so as to authorize a reduction in the contract demand (CD) it presently transports for Northern Natural Gas Company, Division of Enron (Northern), all as more fully set forth in the petition which is on file with the Commission and opened to public inspection.

Columbia Gulf states that pursuant to the order issued in Docket No. CP77-8, on May 6, 1977, as amended, it is authorized, among other things, to transport a CD of 130,000 Mcf of natural gas per day for Northern, including Northern's volumes purchased in West Cameron Blocks 608, 609, 617 and 630, which is made available to Northern from a point in vermilion Block 245, offshore Louisiana, to the terminus of the Blue Water Pipeline System near Egan, Louisiana. Columbia Gulf avers that it performs such transportation service pursuant to the terms of a transportation agreement with Northern dated September 3, 1976, as amended.

Columbia Gulf asserts that in recent years Northern's gas deliverability in the subject blocks has rapidly decreased, and Columbia Gulf is willing to reduce the CD volumes.

Columbia Gulf further states that it requests authorization to reduce the presently authorized CD volumes from 130,000 Mcf of natural gas per day to 35,000 Dt of natural gas per day, pursuant to an amendment to the agreement dated January 12, 1988.

Comment date: April 7, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. South Georgia Natural Gas Company

[Docket No. CP88-282-000]

Take notice that on March 9, 1988, South Georgia Natural Gas Company (South Georgia), P.O. Box 1279, Thomasville, Georgia 31792, filed in Docket No. CP88-282-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing South Georgia to increase the Maximum Daily Quantities (MDQ) to three of its existing customers by a total of 590 Mcf per day (Mcf/d), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

South Georgia states that it is authorized to sell gas for resale to the Americus Utility Commission (Americus), to the City of Thomasville, Georgia (Thomasville) and to the City of Tifton, Georgia (Tifton) pursuant to Service Agreements dated November 1, 1973, October 26, 1964 and September 21, 1984 at an MDQ of 3,535 Mcf/d, 3,535 Mcf/d and 2,626 Mcf/d, respectively. South Georgia states that on February 29, 1988, Southern Natural Gas Company (Southern) received authorization in Docket No. CP70-7-035, to reduce the Contract Demand of one of Southern's customers and to reallocate that reduction among those of its other customers who elected to participate in the reallocation. South Georgia states that it sent letters to its customers asking them to determine if they wanted any of the Contract Demand that South Georgia could obtain from Southern's reallocation. Americus, Thomasville and Tifton stated that they would like to increase their MDQ by 265 Mcf, 300 Mcf and 25 Mcf, respectively. South Georgia states that the February 29th order in Docket No. CP70-7-035 authorized Southern to distribute to South Georgia the additional 590 Mcf/d in its Contract Demand. It is stated that no new facilities are required to effect the increases in MDQ requested herein.

Comment date: April 7, 1988, in accordance with Standard Paragraph F at the end of this notice.

3. Williston Basin Interstate Pipeline Company

[Docket No. CP83-254-287 and Docket No. CP83-335-209]

Take notice that on February 26, 1988, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck,

North Dakota 58501 filed a request for an extension of the certificate authority granted on May 25, 1984, in Montana-Dakota Utilities Co., 27 FERC ¶61,312 (1984), to permit continued natural gas storage and transportation service on behalf of its producer-suppliers, pursuant to its Rate Schedules S–2 and T–3 for a period ending the earlier of May 24, 1989, or the acceptance of "alternative transportation authority," all as more fully set forth in the application, which is on file with the Commission and open for public inspection. Williston Basin states that except for extending the duration of the services under Rate Schedules S–2 and T–3 for those producer suppliers whose four year term is or has expired, all other terms and conditions of the rate schedules and the underlying certificate are to remain in place.

Comment date: April 7, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP88–264–000]

Take notice that on March 1, 1988, Arkla Energy Resources, a Division of Arkla, Inc. (AER), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP88–264–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate three sales taps and related jurisdictional facilities, to establish a new delivery point for an existing customer, and to perform transportation and delivery services associated therewith on behalf of Arkansas Louisiana Gas Company (ALG), Arkla's distribution division, for resale to consumers in Texas, Louisiana, and Kansas, under the certificates issued in Docket Nos. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

It is explained that AER proposes to construct and operate a 2-inch sales tap and related facilities on its Line AM–129 in Bowie County, Texas, to deliver gas to ALG for service to the Texarkana Waste Water Treatment Plant, a commercial customer. It is stated that the plant would use approximately 15,000 Mcf of natural gas per year and 55 Mcf on a peak day.

It is also explained that AER proposes to establish a new town border station (T.B. #3) and related facilities on its Line CM–14 in Bowie County, Texas, to enable ALG to serve present and future consumers in Wake Village, Texas. AER estimate that the consumers served through the Wake Village T.B. #3 would use approximately 41,300 Mcf of natural gas per year and 300 Mcf on a peak day.

In addition, it is explained that AER proposes to construct and operate a 2-inch sales tap and related facilities on its Line FM–8 in Webster Parish, Louisiana, to deliver gas to ALG for service to International Technology Corporation (ITC), an industrial customer. It is estimated that ITC would consume approximately 132,000 Mcf of natural gas per year and 806 Mcf on a peak day.

Finally, AER explains that it proposes to construct and operate a ¾-inch sales tap and related facilities on its Line 6 in Reno County, Kansas, to deliver gas to Mr. Bill Wiese, a commercial customer. It is estimated that Mr. Wiese would use approximately 400 Mcf of natural gas per year and 10 Mcf on a peak day for irrigation purposes during certain periods of the year.

Comment date: May 2, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. Mountain Fuel Resources, Inc.

[Docket No. CP88–284–000]

Take notice that on March 10, 1988, Mountain Fuel Resources, Inc., (MFR) 79 South State Street, Salt Lake City, Utah, 84111, filed in Docket No. CP88–284–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval authorizing the abandonment by MFR of certain mainline compressor facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MFR proposes to abandon (1) two reciprocating compressor units (each rated at 660–horsepower) located on MFR's Main Line No. 68, at its Piceance Creek Compressor Station in Rio Blanco County, Colorado, (Piceance Creek) and (2) one reciprocating compressor (245-horsepower) located on MFR's Main Line No. 68 at its Northwest Exchange Compressor Station in Rio Blanco County, Colorado, (Northwest Exchange). MFR states that since it acquired the Piceance Creek compressors, free-flow pipeline capacity has proven sufficient to handle deliveries from fields upstream of these compressors. Moreover, MFR asserts, the needs to use the Northwest Exchange compressor to compress gas received from Northwest Pipeline Corporation (Northwest) has not persisted since Northwest's line pressure has consistently been higher than the pressure in MFR's Main Line No. 68. MFR explains that, as a consequences, operation of the Piceance Creek and Northwest Exchange compressors is not required, and that there is no prospect for their future use at their current locations. MFR proposes to abandon the compressors in place until such time as MFR chooses to utilize the compressors at another location on its system or perhaps to sell them.

MFR staes that the proposed abandonment would have no impact upon MFR's customers. Further, MFR reiterates that the receipt of gas from Northwest at the Northwest Exchange point would not be affected by the abandonment of the Northwest Exchange compressor.

Comment date: April 7, 1988, in accordance with Standard Paragraph F at the end of this notice.

6. Pacific Gas Transmission Company

[Docket No. CP88–276–000]

Take notice that on March 7, 1988, Pacific Gas Transmission Company (PGT), 160 Spear Street, San Francisco, California 94105–1570, filed in Docket No. CP88–276–000 an application pursuant to Section 7(c) of the Natural gas Act for a certificate of public convenience and necessity authorizing PGT to transport on an interruptible basis up to 31.13 MMcf per day of natural gas for Salmon Resources Ltd. (Salmon) and increase in the capacity of it's Spokane City Tap located near Starr Road, Spokane, Washington, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

PGT asserts that the proposal constitutes a refiling for transportation volumes of gas which were part of an application filed in Docket No. CP87–21–000, but for which authority was not granted based upon omission of material information (see order issued December 15, 1987, at 41 FERC ¶ 61,266). PGT alleges that this proposal is a remedial document to correct deficiencies in the prior application.

It is stated that the proposed transportation would be accomplished by delivery of Canadian gas to PGT at Kingsgate, British Columbia of up to 31.13 MMcf per day for the account of Salmon and the redelivery of such natural gas to Salmon at a point of interconnection between the pipeline systems of PGT and The Washington Water Power Company (WWPC) at Starr Road near Spokane, Washington. It is further stated that the capacity of the existing Spokane City Tap would be increased from 30 MMcf per day to 60

MMcf per day to facilitate the proposed deliveries. It is alleged that the interruptible transportation service would be accomplished through the utilization of existing capacity on PGT's system. The term of the agreement would be for a primary term of ninety days, not to exceed one year.

It is asserted that the proposed delivery of natural gas for Salmon's account to the Starr Road delivery point is meant to satisfy the requirement of several customers who are represented by Development Associates, Inc. (DA). DA, acting as agent on behalf of various end-users and a local distribution company (WWPC), has contracted on their behalf for the purchase of Canadian gas to be transported by PGT. PGT states that it has provided specific information (*i.e.*, identities/volumes to be delivered) with regard to such customers. PGT asserts that it has provided copies of contract and/or letters of intent evidencing the underlying purchase transactions which form the basis for the application.

PGT proposes to provide the interruptible transportation service pursuant to its IT-1 Rate Schedule, which it is stated, accords with the transportation rate conditions imposed by the Commission for similar transportation in Docket No. CP87-21-000 (see 41 FERC ¶ 61,019). The cost of increasing the capacity of the delivery facilities is estimated to be $105,300. PGT state the cost of constructing such facilities would be financed by a capital contribution from DA.

Comment date: April 7, 1988, in accordance with Standard Paragraph F at the end of this notice.

7. Northern Natural Gas Company Division of Enron Corporation

[Docket No. CP88-274-000]

Take notice that on March 4, 1988, Northern Natural Gas Company, Division of Enron Corporation, (Northern), 2223 Dodge Street, Omaha, Nebraska, 68102, filed in Docket No. CP88-274-000 a request pursuant to §§ 157.205 and 284.223 of the Regulations under the Natural Gas Act for authorization to provide a transportation service on behalf of Windward Energy and Marketing Company (Windward Energy), a broker of natural gas, under the certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request with the Commission and open to public inspection.

Northern states that it proposes to transport natural gas for Windward Energy from seven receipt points located in Oklahoma, Texas and Iowa to six points of delivery in Texas, Kansas and Iowa. Northern further states that the maximum daily and annual quantities that it would transport for Windward Energy would be 75 billion Btu equivalent and 27.375 trillion Btu equivalent, respectively. It is stated that construction of facilities would not be required to provide the proposed service.

Comment date: May 2, 1988, in accordance with Standard Paragraph G at the end of this notice.

Transcontinental Gas Pipe Line Corporation

[Docket No. CP88-273-000]

Take notice that on March 3, 1988, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP88-273-000 an application pursuant to section 7 of the Natural Gas Act for permission and approval to abandon a natural gas service rendered under an expired service agreement with CNG Transmission Corporation (CNG), and for a certificate of public convenience and necessity authorizing Transco's performance of a sale and/or transportation service for CNG all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that it presently renders natural gas service to CNG under a service agreement which provides for the sale for resale of 10 million Mcf of natural gas each contract year, and that the service remain in effect until December 31, 1979, and from year to year thereafter unless terminated by either party. Transco further indicates that Transco and CNG have agreed to the termination of this service, that this service has now expired, and that Transco and CNG have agreed to substitute for such service, the service proposed in Transco's application.

Transco states that under the proposed service agreement it will provide firm annual sales and/or transportation service for CNG up to the dekatherm equivalent of 10 million Mcf for an initial term of ten years, commencing April 1, 1988. During the summer period of April 1 through October 31, Transco indicates that it would deliver or tender for delivery a maximum daily quantity up to the dekatherm equivalent of 41,310 Mcf per day, up to a maximum total summer period quantity up to the dekatherm equivalent of 8,840,000 Mcf. During the winter period, November 1 through March 31, Transco proposes to deliver or tender for delivery a maximum daily quantity up to the dekatherm equivalent of 10,000 Mcf, up to a maximum total winter period dekatherm-equivalent quantity of 1,160,000 Mcf. Transco indicates that subject to the requirements of its other firm service obligations, service to CNG would be tendered on a daily basis and any quantity or capacity tendered for delivery would be credited against the maximum quantity for each period and the annual quantity. It is stated that the proposed agreement also provides that by mutual agreement, additional quantities above the maximum daily delivery quantity could be sold and/or transported and that any such deliveries would be credited against the maximum quantity for the period and the annual quantity.

Transco states that under the proposed agreement, on or before March 1 of each year, CNG would nominate the specific levels of transportation and/or sales service, equal in total to the annual quantity, desired for the next contract year; provided, however, CNG would be responsible for any necessary arrangements (including the construction of any facilities) for the transportation quantities to enter Transco's system. Transco advises that CNG's ability to nominate points of receipt for transportation service in Transco's production area upstream of Compressor Station No. 65 would be subject to available capacity and any other applicable procedures and regulations pertaining to changes in points of receipt on Transco's system. Therefore, Transco proposes to transport to Station No. 65 quantities nominated for transportation service which are located at receipt points upstream of Station No. 65 on an interruptible basis consistent with the general terms and provisions affecting the curtailment of service as specified in Transco's tariff and generally applicable operating conditions. Transco indicates that under the instant proposal, no additional facilities would be required to render the proposed service.

Transco indicates that the demand rate for sales service under the proposed agreement would be the applicable Rate Schedule CD D2 demand rate in effect from time to time. It is further stated that the proposed reservation rate for transportation would be determined in the same manner as sales service, excluding production area costs reflected in the Rate Schedule CD D2 demand rate. Transco states that the commodity rate per dekatherm equivalent of sales would be the same as the applicable Rate Schedule CD

commodity rate. It is indicated that the transportation commodity rate per dekatherm equivalent of gas transported downstream of Station No. 65 would be the non-gas cost component of the applicable Rate Schedule CD commodity rate, exclusive of production area costs, the Deferred Adjustment, the DCA Unit Adjustment and, if applicable, the GRI Adjustment. However, Transco states that the ACA charge in effect from time to time would be added to the sales and transportation commodity rates. For the interruptible transportation service upsteam of Station No. 65, Transco proposes to charge initially the currently effective maximum rate applicable to its Part 284 transactions as set forth in Transco's FERC GAS Tariff, Second Revised Volume No. 1.

Comment date: April 7, 1988, in accordance with Standard Paragraph F at the end of this notice.

9. PennEast Gas Services Company, Texas Eastern Transmission Corporation

[Docket No. CP87-4-001]

Take notice that on March 9, 1988, PennEast Gas Service Company (PennEast) and Texas Eastern Transmission Corporation (Texas Eastern), jointly referred to as Applicants, Post Office Box 2521, Houston, Texas 77252, filed in Docket No. CP87-4-001 an amendment to PennEast's application filed on October 2, 1986 in Docket No. CP87-4-000, pursuant to section 7(c) of the Natural Gas Act, to reflect a modification of the ownership structure of certain proposed facilities for which Commission authorization to construct and operate is requested and relocation of the site for the proposed 3,500 horsepower (HP) compressor station, and to include Texas Eastern as a party applicant requesting authorization to render a compression and metering service to PennEast, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicants state that, in the original application, PennEast requested authorization to provide jurisdictional sales and transportation of gas on a firm basis for a primary term of 20 years to five local distribution companies located in New York and New Jersey pursuant to proposed Rate Schedules SS-1 and T-1 in two phases, Phase I commencing November 15, 1987, of up to 100,000 dt equivalent per day and Phase II commencing November 15, 1988 until termination, of up to 245,000 dt equivalent per day. Further, Applicants state that PennEast proposed to construct and operate facilities, including a 3,500 HP compressor station near mile post 36.25 on Texas Eastern's existing Line No. 24, under Phase I and Phase II. It is indicated that PennEast also sought a Blanket Certificate pursuant to § 284.221 of the Commission's Regulations.

Applicants indicated that, on November 2, 1987, PennEast filed a Notice of Partial Withdrawal of Application, withdrawing its request for Phase II facilities. It is submitted that the request for Phase II facilities authorization is now requested in Docket No. CP87-92-002.

Applicants state that, in the original application, PennEast agreed to reimburse certain costs incurred by Texas Eastern for the upgrade compression facilities at Shermans Dale and Bernville Compressor Stations. Applicants further state that PennEast included these costs in its rate base for the purpose of calculating the PennEast rates. Applicants indicate that a review of the Tax Reform Act of 1986 indicates that certain tax penalities would occur as a result of the ownership arrangement proposed in the original docket. Applicants submit that, under the Tax Reform Act, the contribution proposed to be made by PennEast to Texas Eastern would be treated as taxable income to Texas Eastern, and the resulting additional Federal income tax would impose an additional cost burden on the project. Applicants request a restructuring of the ownership arrangement in order to provide for outright ownership interest by PennEast in the following facilities in the respective percentages pursuant to the Gas Compression and Metering Agreement filed in Exhibit M of the amended application herein:

	PennEast (percentage)
20.01 miles of 36-inch pipeline loop, various counties in Pennsylvania	100
Belleville Compressor Station—3,500 HP (Previously located at Centre Hall)	100
Upgrade compression at Texas Eastern's Shermans Dale and Bernville Compressor Stations—8,600 HP each	81.2

It is indicated that, in the original application, PennEast sought authorization to construct and operate a 3,500 HP compressor station (designated Centre Hall) at mile post 36.25 on Texas Eastern's Line No. 24. As a result of delays encountered in securing siting authorization, PennEast proposes and requests authorization to locate the 3,500 HP compressor facility (now designated Belleville Compressor Station) at mile post 18.50 on Texas Eastern's Line No. 24 in Union Township, Mifflin County Pennsylvania. PennEast indicates that the estimated cost as shown in Exhibit K of the original application would remain unchanged.

It is indicated that Texas Eastern would, on behalf of PennEast, operate the above facilities pursuant to the terms of a Gas Compression and Metering Agreement between PennEast and Texas Eastern. It is further indicated that Texas Eastern would charge PennEast for the incremental operation and maintenance expenses incurred by Texas Eastern. Applicants state that the incremental operating and maintenance expense to be charged PennEast by Texas Eastern are attached in Exhibit P, Schedule 8 of the amended application. Applicants submit that the total PennEast cost of service and initial rates remain unchanged from the Exhibit P filed in the supplement dated September 23, 1987. Texas Eastern requests that the charge shown in Exhibit P, Schedule 8, Line 42, be accepted as initial rates for such compression and metering service.

Applicants also submit a revised Exhibit P which reflects modification to PennEast's proposed FERC Gas Tariff. Applicants indicate that these modifications have been made to reflect current Commission policy on open-access tariff provisions and minor modifications in the tariff to resolve issues raised by the Commission Staff in data requests to PennEast.

Comment date: April 7, 1988, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

10. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP88-275-000]

Take notice that on March 4, 1988, Northern Natural Gas Company, Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP88-275-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service on behalf of Enron Gas Marketing, Inc. (Enron), a marketer of natural gas, under its blanket certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the commission and open to public inspection.

Northern states pursuant to a Gas Transportation Agreement dated February 25, 1988, Northern would

transport up to 200,000 MMBtu of gas per day for Enron from 114 points of receipt in states of Oklahoma, Kansas, Texas, New Mexico, Iowa, South Dakota, Minnesota and North Dakota to twelve points of delivery in Texas, Kansas, Wisconsin, Iowa, Illinois and North Dakota. Northern further states that construction of facilities would not be required to provide the proposed service.

Comment date: May 2, 1988, in accordance with Standard Paragraph G at the end of the notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-6324 Filed 3-22-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-185-002, et al.]

Malacha Hydro Limited Partnership, et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

March 17, 1988.

Take notice that the following filings have been made with the Commission.

1. Malacha Hydro Limited Partnership

[Docket No. QF86-185-002]

On March 7, 1988, Malacha Hydro Limited Partnership (Applicant), c/o Constellation Development, Inc., 250 West Pratt Street, Baltimore, Maryland 21201-2423 submitted for filing an application for recertification 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 instant application for recertification of the hydroelectric facility as a qualifying small power production facility requests changes in the facility's ownership and changes in the name and address of the Applicant as identified above. Qualifying status of the facility as a qualifying small power production facility was previously granted to Malacha Power Project, Inc., c/o Mr. John J. Vestal, P.O. Box 250, Fall River Mills, California 96028, on January 8, 1986, and December 22, 1987 (Docket No. QF86-185-000, 34 FERC ¶62,070 (1986), and Docket No. QF86-185-001, 41 FERC ¶61,350 (1987), respectively). The facility also had a hydroelectric license issued on December 2, 1986 (Project No. 8296-001, 37 FERC ¶62,172 (1986)). Ownership of the facility was previously held by the General Electric Credit Corporation and/or by other financial institutions with Malacha Power Project, Inc. being the operator lessee of the facility. The instant application for recertification of the facility requests change in the facility's ownership to a limited partnership, consisting of Malacha Power Project, Inc. and CD Malacha I, Inc., a wholly-owned subsidiary of the Baltimore Gas and Electric Company, an electric utility. Applicant states that CD Malacha I, Inc. will not under the limited partnership agreement be entitled to more than a 50 percent ownership interest in the facility. All other aspects of the facility remain unchanged. The facility is exempt from the requirements of section 8, subsection (j) of the Electric Consumers Protection Act of 1986 (ECPA) since the application for license was accepted for filing prior to the enactment of ECPA.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Rockwell International Corporation—Energy Technology Engineering Center

[Docket No. QF84-194-005]

On March 1, 1988, Rockwell International Corporation (Applicant) of P.O. Box 1449, Canoga Park, California 91304 submitted for filing a new application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The bottoming-cycle cogeneration facility will be located at the U. S. Department of Energy's Energy Technology Engineering Center (ETEC) on Woolsey Canyon Road, in Santa Susana, Ventura County, California. The ETEC is a government-owned, contractor-operated laboratory dedicated to the development of emerging energy technologies. The ETEC is currently operated by the Rockwell International Corporation. The facility will consist of a condensing steam turbine generator. The primary energy source of the facility will be reject heat in the form of steam produced during the testing of steam generators (boilers). The net electric power production

capacity of the facility will be 26.9 megawatts. The facility was previously denied certification as a qualifying bottoming-cycle cogeneration facility on May 25, 1984 (Docket No. QF84-194-000, 27 FERC ¶62,190 (1984)). The facility was certified as a qualifying small power production facility on June 18, 1985 (Docket No. QF84-194-002, 31 FERC ¶62,357 (1985)).

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 385.211 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. 88-6271 Filed 3-22-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI88-305-000]

Cabot Gas Processing Corp.; Application for Amendment of a Certificate and for Blanket Certificate Authority

March 18, 1988.

Take notice that on February 12, 1988, Cabot Gas Processing Corporation (Cabot Processing) of 550 WestLake Park Blvd., Suite 170, Houston, Texas 77079, filed an application for amendment of a certificate of public convenience and necessity and for blanket certificate authority with pregranted abandonment pursuant to section 7 of the Natural Gas Act, 15 U.S.C. 717(f) and Part 157 of the Commission's Regulations, 18 CFR Part 157, to make sales of natural gas in interstate commerce, all as more fully set forth in said application which is on file with the Federal Energy Regulatory Commission and open to public inspection.

Cabot Processing states that it is involved in the ongoing reorganization of Cabot Corporation (Cabot) and that Cabot Processing has been and is to be conveyed certain gas processing contracts by Cabot pertaining to sales made at the Walton Plant, Winkler County, Texas, and the Estes Plant, Ward County, Texas. Cabot Processing seeks authorization to continue certain residue sales made by Cabot to El Paso Natural Gas Company from the Walton Plant under Cabot's certificate in Docket No. CI73-767. Cabot Processing also requests redesignation of Cabot's related Rate Schedule No. 107. By assignment dated and effective February 2, 1988, Cabot assigned its interest in the related gas purchase agreement to Cabot Processing.

Cabot Processing also seeks blanket certificate authority to make sales in interstate commerce of other gas from the aforementioned processing plants. Cabot Processing states prior certificated sales to Transwestern Pipeline Corporation from the Walton and Estes Plants have been duly abandoned (*see Kerr-McGee Corp., et al.*, Docket No. G-12235-003, *et al.*); and, subsequently, the Commission granted blanket certificate authority to Cabot for sales from the Walton Plant of residue gas for which abandonment authorization had been obtained (*see Cities Services Oil and Gas Corporation, et al.*, Docket No. CI87-223-000, *et al.*). Cabot Processing seeks authorization to succeed to this blanket certificate issued to Cabot. Cabot Processing also seeks blanket certificate authority for other gas from the Walton and Estes Plans that have been or may be abandoned. Cabot Processing seeks such blanket authorization for the remaining life of the reserves.

Any person desiring to be heard or to make any protest with reference to said application should, on or before April 4, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-6325 Filed 3-22-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI87-533-000, CI69-491-001 and CI69-491-002]

Mesa Operating Limited Partnership (Successor to Pioneer Production Corporation) and Amoco Production Co.; Applications

March 18, 1988.

Take notice that on February 2, 1988, Amoco Production Company (Amoco) and Mesa Operating Limited Partnership (Mesa) as operator and as working interest owner on behalf of itself and all other working interest owners (except Amoco)[1] (Applicants) filed as part of a Stipulation and Agreement in Settlement of Proceedings in Docket No. CI87-533-000, *et al.*, applications to abandon their sales of gas to United Gas Pipe Line Company (United) from the Jennings Townsite Field, Jefferson Davis Parish, Louisiana. Amoco requests in Docket No. CI69-491 that its FERC Gas Rate Schedule No. 522 be canceled because Amoco assigned certain interests in the Jennings Townsite Field to Riceland Petroleum Company by assignment executed July 19, 1985, and because Amoco states that the balance of the acreage is either nonproductive of gas-well gas or all such gas-well is depleted. Amoco states that such interests are dedicated to an October 7, 1968, contract with United which is on file with the Commission as Amoco's FERC Gas Rate Schedule No. 522. The primary term of this contract expires on May 1, 1988. Mesa states that the wells have stopped producing commercial quantities of gas-well gas and that the primary term of the subject contract with United dated April 28, 1976, expires on May 1, 1988. Mesa states that such contract is on file with the Commission as Mesa Operating Limited Partnership FERC Gas Rate Schedule No. 262 authorized in Docket No. CI76-603 and Terra Resources, Inc. FERC Gas Rate Schedule No. 49 authorized in Docket No. CI76-670. Mesa states that TXO Production Corp. requests abandonment of its sales of gas-well gas which it made to United under the terms of the April 28, 1976, contract after TXO Production Corp. acquired certain interests in the Jennings Townsite Field. Mesa states that Santa Fe Minerals, Inc., successor to C.F. Braun & Co., and FPCO Oil & Gas Co., successor to Petro-Lewis Corporation, request abandonment of their sales of gas to United under the terms of the April 28, 1976, contract.

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[1] Terra Resources, Inc., TXO Production Corp. (as successor to a portion of the sale made by Terra Resources), Santa Fe Minerals, Inc. (formerly C.F. Braun), and FPCO Oil & Gas Co. (formerly Petro-Lewis Corporation).

Commission records show that Petro-Lewis Corporation was issued a small producer certification in Docket No. CS72-204 and that Santa Fe Braun Inc. was issued a small producer certificate in Docket No. CS71-1006.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter that 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said applications should on or before March 25, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceedings herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-6326 Filed 3-22-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180768; FRL-3352-9]

Receipt of Applications for Specific Exemptions To Use Clofentezine; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Ohio and Pennsylvania Departments of Agriculture and the Virginia Department of Agriculture and Consumer Services (hereafter referred to individually by State or collectively as "Applicants") for use of the unregistered active ingredient clofentezine (3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine) to control European red mites on apples. In accordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant these specific exemption requests.

DATE: Comments must be received on or before April 7, 1988.

ADDRESS: Three copies of written comments, bearing the identifying notation "OPP-180768" should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

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

FOR FURTHER INFORMATION CONTACT: By mail:

Libby A. Pemberton, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm. 716A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicants have requested the Administrator to issue specific exemptions to permit the use of the unregistered active ingredient, clofentezine, available as the pesticide product Apollo, manufactured by Nor-Am Chemical Company, to control European red mites on apples.

Information in accordance with 40 CFR Part 166 was submitted as part of these requests.

Pennsylvania and Virginia have requested authorization to make one complete or two "alternate row middle spray" applications with Apollo. A maximum of four ounces of formulated product (0.125 pound active ingredient) is proposed to be applied per acre by ground equipment as a dilute or concentrate spray. The time of treatment extends from "tight cluster" until 45 days before harvest.

Ohio has requested authorization to make one application using up to eight ounces of formulated product (0.25 pound active ingredient) per acre. Ground application is proposed. The times of treatment are from delayed dormant through petal fall as an early season control or before population levels exceed three mites per leaf as a summer mite control. No treatment would be allowed 45 days prior to harvest.

Pennsylvania proposes to treat a maximum of 27,532 acres of apples. A maximum of 860 gallons of product would be needed under the proposed exemption.

Ohio proposes to treat a maximum of 7,500 acres of apples throughout the state. A maximum of 470 gallons of Apollo will be needed.

Virginia proposes to treat a maximum of 18,000 acres of apples in Frederick, Nelson, Clarke, Rockingham, Shenandoah, Albemarle, Rappahannock, Franklin, Smyth, Carroll, Botetourt, Patrick, Bedford, Warren, Madison and Roanoke Counties. A maximum of 562.5 gallons of Apollo will be needed.

Applications would be made through July 1988.

The Applicants claim that European red mites have developed resistance to Plictran (cyhexatin) which historically has been used for control of mites. Similar resistance also exists to the related organo-tin acaricide, Vendex (fenbutatin-oxide). Dicofol has also been used in the past; however, resistance appears to have developed to this pesticide as well. Other acaricides such as formetanate hydrochloride, oxamyl and propargite are not effective, toxic to beneficials or otherwise not appropriate for mite control at various times.

The Applicants state that the result of not having an effective control of the European red mite would be decreased fruit size, loss of fruit set and reduced fruit quality. Virginia estimates that losses of up to $2.7 million in gross revenues for Virginia apple growers will result if Apollo is not available for use in 1988. Pennsylvania apple growers would experience an approximate $3.5 million loss in gross revenue without use of Apollo this year. Ohio estimates that losses of up to $1.9 million in gross revenues if Apollo is not available for use in the 1988 growing season.

This notice does not constitute a decision by EPA on the applications

themselves. The regulations governing section 18 require that the Agency publish notice in the **Federal Register** and solicit public comment on applications involving an unregistered active ingredient. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period.

Dated: March 14, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88-6295 Filed 3-22-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30283A; FRL-3353-2]

Bob McBrayer; Approval of Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Bob McBrayer, to register the pesticide product Nematrol™, containing an active ingredient not included in any previously registered product 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:

Lois Rossi, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 227, TS-767C, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, Va 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 30, 1987 (52 FR 49199), which announced that Bob McBrayer, 4350 E. Acampo St., Acampo, CA 85220, had submitted an application to register the pesticide product Nematrol™ containing the active ingredient ground sesame plant at 100 percent; an ingredient not included in any previously registered product.

The application was approved on February 17, 1988, as Nematrol™ for general use to control soil nematodes on terrestrial food and non-food products. The product was assigned EPA Registration No. 58246-1.

The Agency has considered all required data on the risks associated with the proposed use of ground sesame plant, 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 sesame plant, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the ennvironment.

More detailed information on this registration is contained in a Chemical Fact Sheet on ground sesame plant.

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 (703-557-3262). 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: March 14, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 88-6294 Filed 3-22-88; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180767; FRL-3352-7]

Receipt of Application for an Emergency Exemption From Wisconsin to Use Metolachlor; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Wisconsin Department of Agriculture, Trade and Consumer Protection (hereafter referred to as "Applicant") to use the herbicide metolachlor (CAS 51218 45 2) to treat 1,500 acres of dry bulb onions for pre-emergent control of annual grasses.

EPA, in accordance with 40 CFR 166.24, is required to issue a notice of receipt and solicit public comment before making the decision whether to grant the exemption.

DATE: Comments should be received on or before April 7, 1988.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180767," should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." 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 Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Jim Tompkins, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection

Agency, 401 M Street SW., Washington, DC 20460.
Office location and telephone number: Rm. 716D, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of metolachlor for preemergent control of annual grasses in dry bulb onions.

Information in accordance with 40 CFR Part 166 was submitted as part of this request. According to the Applicant, metolachlor is used for control of annual grasses, yellow nutsedge, and certain broadleaf weeds in corn, peanuts, pod crops, potatoes, safflower, grain or forage sorghum, soybeans, tree nuts, stone fruits, and woody ornamentals.

The Applicant states, that other than early cultivation no alternative exists for preemergent control of annual grasses and certain broadleaf weeds in dry bulb onions grown on muck soil. Cultural practices and growth habitat of onions do not allow for season long mechanical cultivation. The Applicant states that the herbicides that are currently registered on dry bulb onions will not provide satisfactory control for the following reasons: Chlorpropham does not control several of the annual grasses that are a major problem in Wisconsin; dacthal is ineffective on Wisconsin's muck soils; bromoxynil has no activity on grasses; glyphosate is registered prior to crop emergence but does not continue to control weeds during the growing season; oxyflurofen is primarily a broadleaf herbicide and does provide control of grasses; Fluazifop-butyl is registered for post-emergent control on annual and perennial grasses in dry bulb onions.

The economic benefit of allowing this use of metolachlor, according to the Applicant, could most readily be attributed to reduce costs for mechanical cultivation and increased yields attributed to better weed control.

The Applicant proposes to make a single application of the product Dual 8E, EPA Reg. No. 100–597, with ground application equipment at a maximum rate of 4 pounds active ingredient per acre prior to crop emergence.

Specific exemptions were granted for this use of metolachlor on dry bulb onions to the Applicant in 1985, 1986, and 1987. According to the Applicant, a tolerance petition for metolachlor on dry bulb onions is an ongoing IR–4 project but several years of work remain before all data gaps are filled and a third party registration is sought.

This notice does not constitute a decision by EPA on this application. The regulations governing section 18 require publication of a notice in the **Federal Register** of receipt of an application for a specific exemption proposing use of a chemical for which an emergency exemption has been requested or granted for the use in any previous three years, and a complete application for the registration of that use and or a petition for tolerance for residues in or on the commodity has not been submitted to the Agency. The regulations also provide for the opportunity for public comment.

Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address given above.

The Agency will review and consider all comments received during the comment period in determining whether to issue this emergency exemption request.

Dated: March 11, 1988.

Edwin F. Tinsworth,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 88–6296 Filed 3–22–88; 8:45 am]

BILLING CODE 6560–50–M

[OPP–36153; FRL–3351–2]

Standard Evaluation Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the following draft Standard Evaluation Procedures (SEPs) for public comment prior to their publication: Inhalation Toxicity Testing; Metabolism (Qualitative nature of the Residue); Plants; Residues in Meat, Milk, Poultry and Eggs; Dermal Treatments; and Metabolism: Animals. The SEPs are a standard set of guidance documents on how the Hazard Evaluation Division in the Office of Pesticide Programs evaluates studies and scientific data to ensure consistency of scientific reviews of studies submitted by registrants in support of pesticide registrations. This will increase the efficiency of pesticide registration and other regulatory activities.

DATE: Comments, identified by the document control number [OPP–36153] should be received on or before May 23, 1988.

ADDRESS: Submit three copies of written comments, identified with the document control number [OPP–36153,] by mail to:

Information Service Section, Program Management and Support Division (TS–757C),Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW.,Washington, DC 20460.
In person, deliver comments to: Room 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

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

Copies of these draft SEPs are also available at the following address.

FOR FURTHER INFORMATION CONTACT:

By Mail: Orville E. Paynter, Hazard Evaluation Division (TS–769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.
Office location and telephone number: Room #1121, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557–7695.

SUPPLEMENTARY INFORMATION: The SEPs are a standard set of guidance documents on how HED evaluates studies and scientific data to ensure consistency of scientific reviews. Not only will the SEPs serve as valuable internal reference documents and training aids for new staff, these documents will also inform the public and regulated community of important considerations in the evaluation of test data for determining chemical hazards.

The SEPs ensure a comprehensive, consistent treatment of major scientific topics in our science reviews and provide interpretive policy guidance where appropriate, but are not so detailed that they inhibit creativity and independent thought. The SEPs also serve as training aids for new staff, and inform the public of the internal review process. Throughout the remainder of this and next fiscal year, HED will be writing additional SEPs on the scientific

disciplines of toxicology, chemistry, exposure assessment, and ecological effects. Thirty-six SEPs have been published thus far and are available from the National Technical Information Service, which is responsible for distribution of all SEPs after they have been finalized. Prior to publication, each of the SEPs must undergo extensive peer review including Division, Office, Intra-Agency, FIFRA Scientific Advisory Panel, and public comment; this announcement serves to solicit public comment on the draft documents.

Dated: March 11, 1988.

Anne L. Barton,

Acting Director, Hazard Evaluation Division, Office of Pesticide Programs.

[FR Doc. 88-5978 Filed 3-22-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51702A; FRL-3352-8]

Certain Chemical; Premanufacture Notice; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notice (PMN) 88-410, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on June 12, 1988.

FOR FURTHER INFORMATION CONTACT: John Nagle, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460, (202-475-8994).

SUPPLEMENTARY INFORMATION: On December 17, 1987, EPA received PMN 88-a410 for a substance generically identified as a reaction product of an alkanolamine and a dicarboxylic acid. The submitter claimed the submitter identity, specific chemical identity, production volume, use information, process information, and other information to be confidential business information. Publishing of the required Notice of Receipt for the PMN in the **Federal Register** is pending. The original 90-day review period is scheduled to expire on March 15, 1988.

Based on its analysis, EPA finds that there is a possibility that the substance submitted for review in this PMN may be regulated under TSCA. The Agency requires an extension of the review period, as authorized by section 5(c) of TSCA, to investigate further potential risk, to examine its regulatory options, and to prepare the necessary documents, should regulatory action be required. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to June 12, 1988.

The PMN is available for public inspection in Rm. NE-G004, at the EPA headquarters, address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Dated: March 14, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88-6297 Filed 3-22-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

March 14, 1988.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of these submissions may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street NW., Suite 140, Washington, DC 20037, or telephone (202) 857-3815. Persons wishing to comment on an information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395-4814. Copies of these comments should also be sent to the Commission. For further information contact Terry Johnson, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0107.

Title: Application for Renewal of Radio Station License and/or Notification of Change to License Information.

Form No.: FCC 405-A.

Action: Extension.

Respondents: Individuals, State or local governments, Business (including small business), Non-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 10,992 Responses; 1,836 Hours.

Needs and Uses: Used by applicants in the Private Land Mobile, Coast and Ground, and General Mobile Radio Services for renewal of existing authority. The data are used to determine eligibility for renewal issuance, and for enforcement.

OMB No.: 3060-0134.

Title: Application for Renewal of Radio Station License.

Form No.: FCC 574-R.

Action: Extension.

Respondents: Individuals, State or local governments, Business (including small business), Non-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 65,265 Responses; 4,373 Hours.

Needs and Uses: Generated by FCC and mailed to licensees in the Private Land Mobile and General Mobile Radio Services. Used by applicants for renewal of existing authority. The data are used to determine eligibility for renewal issuance, and for enforcement.

Federal Communications Commission.

H. Walker Feaster, III,

Acting Secretary.

[FR Doc. 88-6318 Filed 3-22-88; 8:45 am]

BILLING CODE 6712-01-M

Second Meeting of the Systems Subcommittee of the Advisory Committee on Advanced Television Service

The second meeting of the Systems Subcommittee of the Advisory Committee on Advanced Television Service will be held on April 13, 1988, at the Las Vegas Convention Center, Las Vegas, Nevada. The meeting will start at 9:00 am. All interested parties are invited to attend.

The objective of the Systems Subcommittee is to specify the transmission/reception facilities appropriate for providing advanced television service to the United States. Dr. Irwin Dorros, Bellcore is the Chairman of the Systems Subcommittee. The agenda for the second meeting will consist of:

1. Introductory remarks
2. Review of Systems Subcommittee charter, scope and organization
3. Discussion of operating procedures
4. Working Party 1—Systems Analysis
   - —Charter
   - —Organization
   - —Membership
   - —Work plan/status
   - —Meeting schedule
5. Working Party 2—Systems Evaluation and Testing
   - —Charter
   - —Organization
   - —Membership
   - —Work plan/status
   - —Meeting schedule
6. Working Party 3—Economic Assessment
   - —Charter
   - —Organization

—Membership
—Work plan/status
—Meeting schedule
7. Working Party 4—System Standard
—Charter
—Organization
—Membership
—Work plan/status
—Meeting schedule
8. Subcommittee meeting schedule
9. Open discussion

Any questions regarding this meeting should be directed to Mr. Bruce Franca at (202) 632-7060 or Mr. Dan Collins of Dr. Irwin Dorros Staff at (201) 740-6238.

Federal Communications Commission.

H. Walker Feaster, III,

Acting Secretary.

[FR Doc. 88-6319 Filed 3-22-88; 8:45 am]

BILLING CODE 6712-01-M

[Report No. W-36]

Window Notice for the Filing of FM Broadcast Applications

Release: March 11, 1988.

Notice is hereby given that applications for vacant FM broadcast allotment listed below may be submitted for filing during the period beginning March 11, 1988 and ending April 21, 1988 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process.

CHANNEL-222 A	
Macon	GA
Peoria	IL
Ft. Wayne	IN
Olathe	KS
Louisa	KY
Coushatta	LA
Allegan [1]	MI
Cameron	MO
Killeen	TX
Victoria	TX
Payson	UT
Wautoma	WI
CHANNEL-222 C2	
Jacksonville [2]	NC
CHANNEL-226 A	
Wildwood Crest	NJ
CHANNEL-236 A	
New Hampton	IA
Carterville	IL
Kankakee	IL
Morrison	IL
Electra	TX
Friona	TX
Midland	TX
Bloomer	WI

[1] Applicants must protect the FCC Monitoring Station at Allegan, Michigan in accordance with § 73.1030 of the Rules.

[2] The Commission has a proposal pending to substitute Channel 262 C1 in place of Channel 222 C2, MM Docket 88-40. Comments are due by April 8, 1988. In addition, the availability of Channel 222 C2 is the subject of appeal in the DC Circuit Court. *JAMES REEDON VS FCC & USA* Case Number 86-1045.

Federal Communications Commission.

H. Walker Feaster,

Acting Secretary.

[FR Doc. 88-6320 Filed 3-22-88; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 88-86]

Applications for Consolidated Hearing; Great Lakes Broadcasting, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City and State	File No.	MM Docket No.
A. Great Lakes Broadcasting, Inc., Huron, OH.	BPH-870327KA	88-86
B. Susan B. Klaus, Huron, OH.	BPH-870327MC	
C. Huron Broadcasting Corporation, Huron, OH.	BPH-870327MH	
D. Huron Communications Company, Huron, OH.	BPH-8703310B	
E. Beverly Lynn Eckardt, Beatrice Eckardt-Ball, et al. d/b/a/ Radio Voice of Huron, Huron, OH.	BPH-8703310Y	
F. Thomas W. Roberts, Huron Ohio.	BPH-870331PF	
G. Lakeshore Community Radio, a General Partnership of TwoPegs Radio Partners and PrimeMedia Broadcasting, Inc., Huiron, OH.	BPH-870331PG	
H. NCB Enterprises, Inc. Huron, OH.	BPH-870410KC	
I. Firelands Broadcasting Corp., Huron, OH.	BPH-870415MO	

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 F.R. 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Comparative, A-I
2. Ultimate, A-I

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88-6321 Filed 3-22-88; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 88-85]

Applications for Consolidated Hearing; Holmes Beach Broadcasting Ltd. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Holmes Beach Broadcasting Ltd., Holmes Beach, FL.	BPH-861205MA	88-85
B. Sandpiper Broadcasting, Inc., Holmes Beach, FL.	BPH-861205MB	
C. Holmes Beach Communications, Inc., Holmes Beach, FL.	BPH-861205MC	
D. Arthur Barnett, Holmes Beach, FL.	BPH-861205MK	
E. Greg Perich and Charley White, Holmes Beach, FL.	BPH-861208MA	
F. B.F.J. Timm, Holmes Beach, FL.	BPH-861208MD	
G. Robert V. Barnes, Holmes Beach, FL.	BPH-861208MF	
H. Tampa Bay Broadcasters, Ltd., Holmes Beach, FL.	BPH-861208MG	
I. Ringling Communications Corporation, A Florida Corporation, Holmes Beach, FL.	BPH-861208MH	
J. Intermart Broadcasting of Holmes Beach, Inc., Holmes Beach, FL.	BPH-861208MI	
K. W. Lynne Dayton, Holmes Beach, FL.	BPH-861208MJ	
L. Roberta Roe Johnson, d/b/a Uri Broadcasting Co., Holmes Beach, FL.	BPH-861208MK	
M. Ms. Sylvia A. Fernandez, Holmes Beach, FL.	BPH-861208MO	
N. Patrick D. McConnell, Holmes Beach, FL.	BPH-861208MQ	

Applicant, City, and State	File No.	MM Docket No.
O. Asterisk Broadcasting, Inc., Holmes Beach, FL.	BPH-861208MR	
P. Southmayd Broadcasting Company, Holmes Beach, FL.	BPH-861208MS	
Q. Holmes Beach FM Limited Partnership, Holmes Beach, FL.	BPH-861208MT	
R. Golden Gulf Broadcasters, Holmes Beach, FL.	BPH-861208MV	
S. Cornerstone Communications, Inc., Holmes Beach, FL.	BPH-861208MW	
T. West Coast Broadcasting, Inc., Holmes Beach, FL.	BPH-861208MX	
U. Sara Bay Broadcasting Limited Partnership, Holmes Beach, FL.	BPH-861208MY	

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Air Hazard, A,B,G,I,J,L,M,N,P,Q,R,S,T
2. Comparative, A–U
3. Ultimate, A–U

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–6322 Filed 3–22–88; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 88-88]

Applications for Consolidated Proceeding; Richard L. Plessinger et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Richard L. Plessinger, Berea, KY.	BPH-861121ME	88-88
B. Berea Broadcasting Co., Inc., Berea, KY.	BPH-861125MA	
C. Bradley Scott Park, Berea, KY.	BPH-861125MG	
D. Edgar Wallace d/b/a The Wallace Co., Berea, KY.	BPH-861126MT	
E. Mary R. McGill, Berea, KY.	BPH-861126MU	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), A
2. Comparative, ALL
3. Ultimate, ALL

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–6323 Filed 3–22–88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-703; FHLBB No. 0051]

The Mayflower Savings and Loan Co., Cincinnati, OH; Final Action; Approval of Conversion Application

Date: March 18, 1988.

Notice is hereby given that on March 14, 1988, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of The Mayflower Savings and Loan Company, Cincinnati, Ohio for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552 and at the Office fo the Supervisory Agent at the Federal Home Loan Bank of Cincinnati, 2000 Atrium TWO, 221 E. 4th Street, Cincinnati, Ohio 45202.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 88–6299 Filed 3–22–88; 8:45 am]

BILLING CODE 6720-01-M

Appointment of Receiver; First Federated Savings Bank, West Palm Beach, FL

Notice is hereby given that, pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for First Federated Savings Bank, West Palm Beach, FL, on March 11, 1988.

Dated: March 15, 1988.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc.88–6298 Filed 2–22–88; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street

NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 224–200100

Title: Port of Los Angeles Lease Agreement.

Parties:

City of Los Angeles
Distribution and Auto Service, Inc. (DAS)

Synopsis: The proposed agreement provides DAS the lease and non-exclusive use of certain premises designated as Parcel No. 1 at the Port of Los Angeles.

Agreement No. 224–200022–001

Title: Port of Houston Terminal Agreement.

Parties:

Port of Houston Authority
Lykes Brothers Steamship Company, Inc.

Synopsis: The proposed agreement amendment deletes Transit Shed Number 31 from the terminal facility covered by the basic agreement.

Agreement No. 224–200101

Title: Georgia Ports Authority Terminal Agreement.

Parties:

Georgia Ports Authority (GPA)
Zim-American Israeli Shipping Co., Inc. (Zim)

Synopsis: The proposed agreement provides that GPA will provide terminal services to Zim for a consolidated rate based upon an agreed upon rate per container or per loaded twenty-foot equivalent unit.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: March 18, 1988.

[FR Doc. 88–6275 Filed 3–22–88; 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.: 217–011179

Title: CarAmerica/NYK Space Charter and Cooperative Working Agreement.

Parties:

CarAmerica
Nippon Yusen Kaisha ("NYK")

Synopsis: The proposed agreement would permit CarAmerica to charter space aboard vehicle carrier vessels owned or chartered by NYK in the trade between West Mediterrranean ports in Spain, France, Italy, Tunisia, Algeria, Morocco, and Malta, and Atlantic Coast ports in Spain, Portugal, and Morocco, including points in Europe served via such ports, and ports on the United States' Atlantic, Gulf and Pacific Coasts, including Puerto Rico, and the Great Lakes.

Agreement No.: 212–011180

Title: Neptuno/CSAV Service Agreement.

Parties:

Naviera Neptuno, S.A.
Compania Sud Americana de Vapores

Synopsis: The proposed agreement would permit the parties to establish a pooling arrangement in the trade between ports of the West Coast of South America, Panama, the Gulf of Mexico and the United States Atlantic Coast. The parties would be authorized to operate up to eight vessels of up to 25,000 DWT each in the trade for an initial period of one year. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: March. 18, 1988.

[FR Doc. 88–6276 Filed 3–22–88; 8:45 am]

BILLING CODE 6730–01–M

[c.o. 1, Amdt. No. 12]

Organization and Functions of the Federal Maritime Commission

The following delegation of authority is made to the Director, Bureau of Domestic Regulation, by amending Commission Order 1, section 9.04, as revised, *Specific Authorities Delegated to the Director, Bureau of Domestic Regulation* to read as follows:

9.04 Authority to issue notices of intent to cancel inactive tariffs of carriers (in the foreign and domestic offshore trades) and marine terminal operators, after a diligent effort has been made to locate the carrier/marine terminal operator without success, or if the carrier/marine terminal operator has advised the Commission that it no longer offers a common carrier/marine terminal operator service but refuses to cancel its tariff upon written request; and to cancel such tariff if, within 30 days after publication, the carrier/marine terminal operator does not furnish reasons why such tariff should not be cancelled.

Edward J. Philbin,

Acting Chairman.

Dated: March 18, 1988.

[FR Doc. 88–6274 Filed 3–22–88; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

Departmental Grant Appeals Board; Hearing; State of California Disapproval

AGENCY: Family Support Administration, Department of Health and Human Services.

ACTION: Notice of Hearing.

SUMMARY: By designation of the Family Support Administration, a member of the Departmental Grant Appeals Board will hold a hearing pursuant to 45 CFR Part 213 concerning the Family Support Administration's disapproval of a State plan amendment submitted by the State of California.

DATE: May 10 and 11, 1988.

Place: San Francisco, California

Requests to Participate: Requests to participate as a party or as an amicus curiae must be submitted to the Departmental Grant Appeals Board in the form specified at 45 CFR 213.15 by April 7, 1988, (for a party) or before the commencement of the hearing (for an amicus curiae). A copy of a petition to participate as a party shold be served on each party of record at that time. The petition must explain how the issues to be considered at the hearing have

caused them injury and how their interest is within the zone of interests to be protected by the governing Federal statute. 45 CFR 213.15(b)(1). In addition, the petition must concisely state (i) petitioner's interest in the proceeding, (ii) who will appear for petitioner, (iii) the issues on which petitioner wishes to participate, and (iv) whether petitioner intends to present witnesses. 45 CFR 213.15(b)(2). Any party may, within 5 days of receipt of such petition, file comments thereon; the presiding officer will subsequently issue a ruling on whether and on what basis participation will be permitted. A petition to participate as an amicus curiae shall conform to the requirements at 45 CFR 213.15(c).

FOR FURTHER INFORMATION CONTACT: Andrea M. Selzer, Staff Attorney, Departmental Grant Appeals Board, Department of Health and Human Services, Room 451–F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, Telephone Number (202) 475–0012.

SUPPLEMENTARY INFORMATION: Notice of hearing is hereby given as set forth in the following letter, which has been sent to the California Department of Social Services.

Washington, DC, March 18, 1988

John Davidson, Supervisory Deputy Attorney General, Office of the Attorney General, 6000 State Building, 350 McAlister Street, San Francisco, California 94102

and

Kenneth Manoff, Attorney, Office of General Counsel, Family Support and Human Development Services Division, Room 411–D, HHH Building, 200 Independence Avenue, SW., Washington, DC 20201

Counsel: This letter is in response to the February 11, 1988 petition for review filed by the California Department of Social Services (State) requesting reconsideration of the Family Support Administration's (FSA) disapproval of California's State Plan Amendment (Transmittal No. 87–01) regarding the Emergency Assistance program under Title IV–A of the Social Security Act (section 406(e)).

On December 14, 1987, the Regional Administrator of the Family Support Administration notified the California Department of Social Services that it disapproved three provisions of the proposed plan amendment. The plan provisions disapproved:

(1) Authorize county social workers to routinely sign applications for emergency assistance without the authorization or request of the family on whose behalf assistance is applied for;

(2) Limit consideration of income and resources to a ten-day period for purposes of determining eligibility; and

(3) Do not state the standard of need and resource limit to be used in determining eligibility.

Pursuant to 45 CFR 213.21, I have designated Cecilia Sparks Ford, member, Departmental Grant Appeals Board, to preside at the hearing, which will be conducted under the procedures in 45 CFR Part 213. Pursuant to 45 CFR 201.4, a hearing has been scheduled to be held on May 10 and 11, 1988 in San Francisco, California. 45 CFR 213.13. The exact time and location for the hearing will be set after further consultation with the counsel. A verbatim transcript will be taken.

This proceeding under 45 CFR Part 213 is not intended to preclude or limit negotiations between FSA and the State; they may negotiate at any time in an effort to resolve the issues to be considered at the hearing.

The issues to be considered at the hearing include: WHETHER COUNTY SOCIAL WORKERS CAN SIGN APPLICATIONS FOR EMERGENCY ASSISTANCE?

1. Whether 45 CFR 234.120(f) and/or 45 CFR 206.10(a)(1) preclude a county social worker from signing an application for emergency assistance?

2. Whether the above regulations clearly contemplate that applications will be submitted by someone "outside the agency"?

3. Whether an approvable state plan can designate a county social worker as an applicant's authorized representative or as a party acting responsibly for the applicant in order to assure that each individual has the opportunity to apply (45 CFR 206. 10(a)(1))?

4. Whether a county social worker can be an authorized representative or responsible party by virtue of either section 306 of the California Welfare and Institutions Code or of the proposed state regulation to so designate the worker?

5. Whether the proposed plan amendment is approvable under 45 CFR 233.120(a)(5) as a more liberal procedure which furthers that regulation's requirement for "emergency assistance * * * forthwith"?

6. Whether the disapproval is inconsistent with a California plan provision, approved under Title IV–A, Aid to Families with Dependent Children, for application by a "representative of a public agency"?

7. Whether the proposed plan amendment is approvable, consistent with the requirements of 45 CFR 233.10(a)(1) (vi) and (vii)?

8. Whether the disapproval results in an arbitrary, unreasonable, or inequitable exclusion from assistance of a child whose parent(s) cannot or will not sign an application (45 CFR 233.10(a)(1) and 233.120(b)(1))?

WHETHER CONSIDERATION OF INCOME AND RESOURCES CAN BE LIMITED TO A TEN-DAY PERIOD IN DETERMINING ELIGIBILITY?

9. Whether eligibility for emergency assistance can be determined considering the applicant's income and resources over a ten-day period?

10. Whether an applicant's need must be determined on a monthly basis, as is done in the other assistance programs under the Social Security Act?

11. Whether the proposed ten-day period is approvable as a more liberal eligibility condition under 45 CFR 233.120(a)(1)?

12. Whether the proposed ten-day period is approvable as a proper implementation of 45 CFR 233.120(b)(1)(ii), which provides for emergency assistance if "[s]uch child is without resources immediately accessible to meet his needs"?

13. Whether it is clear that, by providing for "emergency assistance to needy families with children" (section 406(e)), Congress used the term "needy" as that term is used in other assistance programs and thus intended to reflect a concept of need as determined on a monthly basis.

14. Whether a requirement to consider income and resources on a monthly basis improperly restricts California's ability to implement an emergency assistance program under section 406(e)?

WHETHER AN APPROVED STATE PLAN MUST CONTAIN THE STANDARD OF NEED AND RESOURCE LIMIT?

15. Whether a state plan must itself state the standard of need against which to measure income and a dollar limit on resources in order to meet the requirement at 45 CFR 233.120(a)(1) that the state plan "[s]pecify the eligibility conditions imposed"?

16. Whether an approvable plan provision may use a standard of need/resource limit stated in a state statute or regulation?

FSA and the State are now parties in this matter. 45 CFR 213.15(a). However, a copy of this letter will appear as a Notice in the **Federal Register** and any other individual or group wishing to request recognition as a party will be entitled to file a petition pursuant to 45 CFR 213.15(b) with the Departmental Grant Appeals Board within 15 days after that Notice has been published. Any interested person or organization wishing to participate as amicus curiae may also file a petition with the Board, which shall conform to the requirements at 45 CFR 213.15(c). This petition should be filed before the hearing, in time to permit the presiding officer an adequate opportunity to consider and rule upon it.

Any further inquiries, submissions, or correspondence regarding this matter should be filed in an original and two copies with Ms. Ford at the Departmental Grant Appeals Board, Room 451–F, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, where the record in this matter will be kept. Each submission must include a statement that a copy of the material has been sent to the other party, identifying when and to whom the copy was sent. For convenience please refer to Board Docket No. 88–42.

Wayne A. Stanton,

Administrator.

March 18, 1988.

Wayne A. Stanton,

Administrator, Family Support Administration.

[FR Doc. 88–6304 Filed 3–22–88; 8:45 am]

BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 88N-0040]

Sulfamethazine; Availability of NCTR Technical Report

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a technical report from its National Center for Toxicological Research (NCTR) on sulfamethazine entitled "Chronic Toxicity and Carcinogenesis Study of Sulfamethazine in B6C3F$_1$ Mice."

ADDRESS: Written requests for copies of the technical report to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857. (Send two self-addressed adhesive labels to assist the Branch in processing your request). The technical report is available for public examination in the Dockets Management Branch, from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Max Crandall, Center for Veterinary Medicine (HFV-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3450.

SUPPLEMENTARY INFORMATION: FDA has received from NCTR and is making available a technical report of a chronic toxicity study conducted by NCTR in which mice were fed a diet containing sulfamethazine over a 24-month period. Sulfamethazine is an animal drug widely used in food-producing species. FDA's Center for Veterinary Medicine (CVM) is reviewing the report, and is performing a risk assessment. Interested parties may receive a copy of the NCTR technical report "Chronic Toxicity and Carcinogenesis Study of Sulfamethazine in B6C3F$_1$ Mice" by writing to the Dockets Management Branch (address above).

Dated: March 11, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-6265 Filed 3-22-88; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0391; DESI 6514]

Oral Prescription Drugs Offered for Relief of Symptoms of Cough, Cold, or Allergy; Drug Efficacy Study Implementation; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of the new drug application for Tussionex Tablets and Suspension ("Tussionex") containing hydrocodone and phenyltoloxamine. The basis of the withdrawal is that these combination drug products lack substantial evidence of effectiveness for their labeled indications. A reformulation of the suspension product has been approved as safe and effective.

EFFECTIVE DATE: April 22, 1988.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 6514 and directed to the Division of Drug Labeling Compliance (HFN-310), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John H. Hazard, Jr., Center for Drug Evaluation and Research (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8041.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 25, 1982 (47 FR 22606), the Director of the Bureau of Drugs (now the Center for Drug Evaluation and Research) evaluated fixed-combination drug products containing hydrocodone and phenyltoloxamine as lacking substantial evidence of effectiveness for their labeled indications. The Director also proposed to withdraw approval of the new drug application for these products and offered an opportunity for a hearing on the proposal.

In response, a hearing request was submitted for NDA 10-768, Tussionex Tablets and Suspension, each containing hydrocodone and phenyltoloxamine dihydrogen sulfate (both as cation exhange resin complexes of sulfonated polystyrene), held by Pennwalt Corp., Pharmaceutical Division, 753 Jefferson Rd., Rochester, NY 14623.

FDA subsequently approved a new drug application (NDA 19-111) submitted by Pennwalt for a reformulation of the suspension product (hydrocodone and chlorpheniramine). The firm has withdrawn its hearing request for the old formulations. Accordingly, the Director of the Center for Drug Evaluation and Research is withdrawing approval of the new drug application (NDA 10-768) for Tussionex Tablets and Suspension.

Any drug product that is identical, related, or similar to these products and is not the subject of an approved new drug application is covered by NDA 10-768 and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the Center for Drug Evaluation and Research, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to these products, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that these products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing findings, approval of NDA 10-768 and all its amendments and supplements is withdrawn effective April 22, 1988.

Shipment in interstate commerce of the above products or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: March 17, 1988.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 88-6308 Filed 3-22-88; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-030-08-4410-02]

Dickinson District Advisory Council; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of meeting.

SUMMARY: The District Advisory Council for the Bureau of Land Management's Dickinson District will meet April 20, 1988, in Dickinson, North Dakota.

Major topics to be discussed at the council meeting include: (1) Status of the protest on the North Dakota RMP, (2) recent wild horse events, (3) Leasing Reform Act, (4) Fiscal Year 1987 summary, and (5) inclusion of appropriate material in the Dickinson District Advisory Council Charter regarding the Designated Federal Officer.

The Council is chartered by the Secretary of Interior to give citizen

advice to the Dickinson District Manager regarding planning and management of public lands and resources.

The meeting is open to the public, and members of the public will be given the opportunity to make statements before the Council. Persons wishing to submit a written statement to the Council should send it to the Dickinson District Manager.

Location, Date, and Time: April 20, 1988, from 8:30 a.m. to approximately 3:00 p.m. Mountain Standard Time, Conference Room, Bureau of Land Management, 202 East Villard, Dickinson, North Dakota.

FOR FURTHER INFORMATION CONTACT: William F. Krech, District Manager, P.O. Box 1229, Dickinson, North Dakota, 58602; Telephone (701) 225-9148.

William F. Krech,

District Manager.

Date: March 11, 1988.

[FR Doc. 88-6283 Filed 3-22-88; 8:45 am]

BILLING CODE 4310-DN-M

[CO-070-08-4212-13; C-46594]

Exchange of Lands in Garfield and Grand Counties, CO

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Exchange of Lands.

SUMMARY: Pursuant to sections 205, 206, 302(b) and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), the Bureau of Land Management, Glenwood Springs Resource Area, has identified parcels of public and private land as preliminarily suitable for exchange.

FOR FURTHER INFORMATION: Additional information concerning this proposed exchange, including the planning documents and environmental assessment, is available for review in the Glenwood Springs Resource Area Office at 50629 Highway 6 and 24, P.O. Box 1009, Glenwood Springs, Colorado 81602, or the Kremmling Resource Area Office, 116 Park Avenue, P.O. Box 68, Kremmling, Colorado 80459.

For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Grand Junction District, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81506. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this Notice of Realty Action will become the final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: The following-described lands have been determined to be preliminarily suitable for exchange under sections 205, 206, 302(b) and 310 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Selected Public Land—Grand County

Parcel 1—147.69 acres

T. 1 S., R. 78 W.,
Sec. 17: Lots 1, 2, 4, 6, 8, 11, 12, 13, 14, 16, 17, 18, 20, and 21, NE¼NE¼, N½SE¼NE¼, SE¼SE¼NE¼, N½SW¼SE¼NE¼.

Offered Private Land—Garfield County

Parcel A—22.66 Acres

* T. 7 S., R. 87 W.,
Sec. 32: Portion of Lots 9 and 17;
Sec. 33: Portion of Lots 7 and 8.

Note. Asterisk (*) denotes metes and bounds description.

Any adjustments to selected public land to equalize values would be made in T. 1 S., R. 78 W., Sec. 17, NE¼NE¼.

These 147.69 acres of public land under the jurisdiction of the Bureau of Land Management have been identified as preliminarily suitable for exchange. The determination has been made in response to a Bureau-benefiting exchange proposal developed cooperatively between the Bureau and Shepard & Assoc.

In the proposal, 22.66 acres of offered private land with public values would be exchanged for 147.69 acres of public land which have been identified for disposal. The exchange proposal has been made to facilitate the consolidation of public land holdings. The consolidation would increase managerial efficiency and provide public access to natural resources on public lands being managed by the Bureau.

The values of the lands to be exchanged have been determined to be approximately equal. Upon completion of the final appraisal of the lands, the acreages will be adjusted or money will be used to equalize the exchange values.

Terms and Conditions

The following reservations would be made in patent issued for public land:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. A reservation to the United States of all mineral deposits of known value.

3. A reservation for all existing and valid land uses, including grazing leases, unless waived.

4. A reservation for public access on Grand County Road 34.

5. Reservations for roads and public utilities as shown on the Bureau's 1960 plat for the Williams Fork Small Tract Area on file in the Kremmling Resource Area office.

6. A reservation for 50' irrigation ditch right-of-way C-0124151.

7. A reservation to the United States for power development purposes under section 24 of the Federal Power Act of June 10, 1920, as amended (16 U.S.C. 791a, 818).

The publication of the notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws and the mineral leasing laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be considered as filed and shall be returned to the applicant.

Richard M. Arcand,

Acting District Manager, Grand Junction District.

[FR Doc. 88-6261 Filed 3-22-88; 8:45 am]

BILLING CODE 4310-JB-M

[NV-930-08-4212-11; N-46761]

Realty Action; Lease of Public Land for Recreation and Public Purposes; Lyon County, NV

The following described public land has been identified as suitable for classification for lease under the Recreation and Public Purposes Act as amended (43 U.S.C. 869, *et seq.*):

Mount Diablo Meridian, Nevada

T. 13 N., R. 25 E.,
Sec. 6, W½W½ of Lot 3, Lot 4, Lot 5, W½ W½SE¼NW¼.

Containing 68.83 acres.

A 5-year lease with option to renew for the subject 68.83 acres of public land to be used as an archery range will be offered to Lyon County. The land is not required for federal purposes. This lease is consistent with Bureau planning for this area and would be in the public interest.

The lease, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will be subject to:

1. Those rights for transmission line purposes granted to Sierra Pacific Power Company by Right-of-Way Grant NEV-010060.

Detailed information concerning this action is available for review at the Bureau of Land Management Carson City District Office.

Upon publication of this notice in the Federal Register, the above described land will be segregated from all forms of appropriation under the public land laws, including location under the general mining laws, but not the Recreation and Public Purposes Act, the mineral leasing laws, and material sales. The segregative effect will terminate as specified in an opening order to be published in the **Federal Register.**

For a period of 45 days from the date of publication of this Notice in the **Federal Register,** interested parties may submit comments to the District Manager, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89706. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this notice will become effective 60 days from the date of publication in the **Federal Register.**

James W. Elliott,

District Manager.

Date: March 11, 1988.

[FR Doc. 88-6260 Filed 3-22-88; 8:45am]

BILLING CODE 4310-HC-M

Minerals Management Service

Development Operations Coordination Document; Santa Fe International Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Santa Fe International Corporation has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 6200 and 6201, Blocks 166 and 167, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on March 14, 1988.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Joseph; Minerals Management Service, Gulf of Mexico OCS Region Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: March 15, 1988.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-6259 Filed 3-22-88; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

General Management Plan; Eugene O'Neill National Historic Site, CA; Intent To Prepare an Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act, Pub. L. 91-190, the National Park Service, Department of the Interior will prepare an Environmental Impact Statement (EIS) to assess the potential impacts of future development and management options in conjunction with the General Management Plan for the Eugene O'Neill National Historic Site, California.

Scoping for the plan has included extensive public review of a draft General Management Plan and Environmental Assessment which was circulated for public comment in May and June of 1982, meetings with agencies and organizations having an interest in the project, contact with Historic Site visitors, and interdisciplinary team meetings within the Park Service. The scoping indicates that the proposals being considered have the potential for significant impacts and would constitute a major Federal action significantly affecting the quality of the human environment. Therefore, preparation of an EIS in conjunction with the Plan is appropriate.

The General Management Plan and EIS will investigate alternatives ranging from protection, to a variety of development and management proposals designed to enhance visitor use and resource protection. Federal, state, and local agencies, and other individuals or organziations who may be interested in or affected by the future development and management of Eugene O'Neill National Historic Site, are further invited to participate in refining or identifying issues to be considered. Written comments and suggestions concerning preparation of the EIS should be sent to: Chief, Division of Planning, Grants, and Environmental Quality, Western Regional Office, National Park Service, P.O. Box 36063, San Francisco, CA. 94102, by May 6, 1988. Questions on this matter may be sent to the same address. Stanley T. Albright, Regional Director for the Western Region in San Francisco, California, is the responsible official.

Preparation of the Plan and EIS is expected to take about 8 months. The draft Plan and EIS should be available for public review in mid-summer 1988 with the final Plan and EIS and Record of Decision expected to be completed by the end of 1988.

Stanley T. Albright,

Regional Director, Western Region, National Park Service.

Date: March 15, 1988.

[FR Doc. 88-6369 Filed 3-22-88; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Voluntary Foreign Aid Advisory Committee; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on the theme: "Cost Effectiveness." This is the final discussion session in a four part series exploring various aspects of PVO Effectiveness delineating cases and strategies for enhancing PVOs' work as agents of development. The meeting will be one day: Wednesday, March 30 from 9:00 a.m. to 4:00 in the Loy Henderson Auditorium at the State Department. To enter the building use C Street (Diplomatic Entrance) between 21st and 23rd Streets, NW., Washington, DC.

The meeting is free and open to the public. However, notification by March 25, 1988 through Advisory Committee Headquarters is required by the Department of State for security reasons.

Theme: PVO Cost Effectiveness

Objectives: To examine PVO Cost Effectiveness from a comprehensive institutional point of view.

PVO Cost Effectiveness

March 30, 1988—9:00 a.m. to 3:45 p.m., Loy Henderson Auditorium
The Department of State, Washington, DC.

Purpose: To examine PVO Cost Effectiveness from a comprehensive institutional point of view.

Agenda

Wednesday, March 30, 1988

9:00 a.m.
Opening Remarks
Randal Teague, ACVFA Chairman
Thomas McKay, A.I.D. Deputy Assistant Administrator
Keynote Speaker
Edward Bullard, Technoserve
Panel Discussion: The Donor's Perspective Panel members:
George Hill—AID/PPC
Larry Salmen—The World Bank
12:30 p.m.
Lunch
2:00 p.m.
Panel Discussion: The U.S. PVO Perspective Panel members:
John Palmer—Helen Keller International
(additional speakers to be confirmed).
3:45 p.m.
Adjournment of Public Session
Randal Teague, ACVFA Chairman
4:00 p.m.
Executive Wrap-up Session (Members & Staff only)

There will be A.I.D. representatives at the meeting. Any interested person may attend, request to appear before, or file statements with the Advisory Committee. Written statements should be filed prior to the meeting and should be available in twenty-five (25) copies.

Persons wishing to attend the meeting must call (703) 875–4407, or write, not later than March 25 to arrange entrance to the Department of State Building. The address is: The Advisory Committee on Voluntary Foreign Aid, Room 250, SA–8, Agency for International Development, Washington, DC 20523.

Date: March 15, 1988

Thomas A. McKay,

Deputy Assistant Administrator, Office of Private and Voluntary Cooperation, Bureau for Food, Peace and Voluntary Assistance.

[FR Doc. 88–6264 Filed 3–22–88; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–266]

Certain Reclosable Plastic Bags and Tubing; Commission Determination Not To Review Initial Determination and Schedule for Filing of Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of initial determination finding a violation of section 337 of the Tariff Act of 1930 and request for submission of written comments.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) finding a violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation. The parties to the investigation are requested to file written submissions on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–252–1102.

SUPPLEMENTARY INFORMATION: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 U.S.C. 1337a, and in § 210.53 of the Commission's Rules of Practice and Procedure (19 CFR 210.53).

On January 29, 1988, the presiding administrative law judge (ALJ) issued an ID finding a violation of section 337 in the alleged unauthorized importation and sale of certain reclosable plastic bags and tubing with the tendency to destroy or substantially injure industries, efficiently and economically operated, in the United States. No petitions for review or Government agency comments have been received.

Having examined the record, the Commission has concluded that the ID does not warrant review.

Since the Commission has found that a violation of section 337 has occurred, the Commission may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of relief, if any, which should be ordered.

If the Commission concludes that relief is appropriate, it must also consider the effect of that relief upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submission concerning the effect, if any, that granting relief would have on the enumerated public interest factors.

If the Commission orders relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond which should be imposed.

Written Submissions

The parties to the investigation and interested government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions on the issues of remedy, the public interest, and bonding must be filed no later than the close of business on Monday, March 28, 1988. Reply submissions on these issues must be filed no later than the close of business on Monday, April 4, 1988. Persons other than the parties and government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Such submissions must be filed not later than the close of business on Monday, March 28, 1988. No further submissions will be permitted.

Commission Hearing

The Commission does not plan to hold a public hearing in connection with final disposition of this matter.

Additional Information

Persons filing written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any portion desiring to submit a document (or a person thereof) to the Commission in confidence must

request confidential treatment unless the information has already been granted such treatment during the investigation. All such request should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** on April 29, 1987 (52 FR 15568).

Copies of the nonconfidential version of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.), in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: March 16, 1988.

[FR Doc. 88–6342 Filed 3–22–88; 8:45 am]

BILLING CODE 7020–02–M

Natural Bristle Paint Brushes From the People's Republic of China; Request for Comments Concerning the Institution of a Section 751(b) Review Investigation

AGENCY: United States International Trade Commission .

ACTION: Request for comments regarding the institution of a section 751(b) review investigation concerning the Commission's affirmative determination in investigation No. 731–TA–244 (Final), Natural Bristle Paint Brushes from the People's Republic of China.

SUMMARY: The Commission invites comments from the public on whether changed circumstances exist sufficient to warrant the institution of an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) to review the Commission's affirmative determination in investigation No. 731–TA–244 (Final), regarding natural bristle paint brushes from the People's Republic of China. The purpose of the proposed 751(b) review investigation, if instituted, would be to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of natural bristle paint brushes from the People's Republic of China if the antidumping duty order regarding such merchandise were to be modified or revoked. Natural bristle paint brushes are provided for in item 750.65 of the Tariff Schedules of the United States.[1]

FOR FURTHER INFORMATION CONTACT: Jim McClure, (202–252–1191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-Impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION: On February 6, 1986, the Commission issued its determination in investigation No. 731–TA–244 (Final), Natural Bristle Paint Brushes from the People's Republic of China (51 FR. 4662). The Commission determined that an industry in the United States was threatened with material injury by reason of imports from the People's Republic of China of natural bristle paint brushes, except artists' brushes, which had been found by the Department of Commerce to be sold at less than fair value (LTFV). On February 14, 1986, the Department of Commerce issued an antidumping duty order, notice of which was published in the **Federal Register** (51 FR 5580).

On February 24, 1988, the Commission received a request, pursuant to section 751(b) of the Act, to review its affirmative determination in investigation No. 731–TA–244 (Final). This request was filed by counsel on behalf of A. Hirsh, Inc., an importer of natural bristle paint brushes from the People's Republic of China.

Written Comments Requested

Pursuant to § 207.45(b)(2) of the Commission's Rules of Practices and Procedure (19 CFR 207.45(b)(2)), the Commission requests comments concerning whether the following alleged changed circumstances are sufficient to warrant institution of a review investigation: The domestic industry is currently in strong condition and has not experienced the threatened material injury found by the Commission. Also, as a consequence of the imposition of the antidumping duty order, shipments of natural bristle paint brushes from the People's Republic of China have been brought to a virtual halt and have been replaced by other imports, not by domestic paint brushes. Thus the domestic industry is not vulnerable to injury and would not suffer material injury if the antidumping duty order with respect to the People's Republic of China were revoked.

Written submission:

In accordance with § 201.8 of the Commission's rules (19 CFR 201.8), the signed original and 14 copies of all written submission must be filed with the Secretary to the Commission, 500 E Street SW., Washington, DC 20436. All comments must be filed no later than 30 days after the date of publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request business confidential treatment under § 201.6 of the Commission's rules (19 CFR 201.6). Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Each sheet must be clearly marked at the top "Confidential Business Data." The Commission will either accept the submission in confidence or return it. All nonconfidential written submission will be available for public inspection in the Office of the Secretary.

Copies of the request for review of the injury determination and any other documents in this matter are available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission; telephone 202–252–1000.

By order of the Commission.

Issued: March 18, 1988.

Kenneth R. Mason,

Secretary.

[FR Doc. 88–6341 Filed 3–22–88; 8:45 am]

BILLING CODE 7020–02–M

[1] The articles covered by the antidumpming duty order are provided for in item 9603.40.40 of the proposed Harmonized Tariff Schedule of the United States (USITC Pub. 2030).

DEPARTMENT OF JUSTICE

[Civil Action No. 86-3359]

Lodging of Consent Decree Pursuant to Clean Air Act; Central Illinois Public Service Co.

In accordance with Departmental policy, 28 CFR 50.57, notice is hereby given that a proposed consent decree in *United States v. Central Illinois Public Service Co.*, Civil Action No. 86-3359, was lodged with the United States District Court for the Central District of Illinois. The Complaint filed by the United States alleged violation of section 113 of the Clean Air Act for failure by defendant to comply with applicable provisions of the Illinois State Implementation Plan ("SIP"), relating to sulfur dioxide emissions, at defendant's Coffeen Generating Station.

The proposed Decree requires defendant to comply with the Clean Air Act by not exceeding the sulfur dioxide emission limitations of the SIP. In addition, defendant must install and operate a system to continuously monitor the sulfur dioxide emission levels of the plant, and also pay a civil penalty of $75,000.

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. *Central Illinois Public Service Co.*, D.J. Reference No. 90-5-2-1-1044.

The proposed consent decree may be examined at the office of the United States Attorney, Central District of Illinois, U.S. Courthouse, 600 E. Monroe Street, Springfield, Illinois 62705, and at the Office of Regional Counsel, United States Environmental Protection Agency, Region V, 111 West Jackson Street, Chicago, Illinois 60604. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC. A copy of the proposed consent decree may be obtained in person from the above address or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. P.O. Box 7611, Washington, DC 20044. When requesting a copy, please enclose a check in the amount of $1.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-6256 Filed 3-22-88; 8:45 am]

BILLING CODE 4410-01-M

[Civil Action No. H86-295]

Lodging of Consent Order Pursuant to Clean Water Act; Inland Steel Co.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on March 9, 1988, a proposed Consent Order in *United States v. Inland Steel Company*, Civil Action No. H86-295, was lodged with the United States District Court for the Northern District of Indiana. The proposed Consent Order concerns laboratory practices at, and the discharge of wastewater from, Inland Steel Company's plant in East Chicago, Indiana, in compliance with the Clean Water Act and Inland's National Pollutant Discharge Elimination System permit issued thereunder.

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 Order. 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. Inland Steel Company*, D.J. reference # 90-5-1-1-2320.

The proposed Consent Order may be examined at the office of the United States Attorney, Northern District of Indiana, 507 State Street, Hammond, Indiana 46320, at the Region V office of the United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, 9th Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Order may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.00 payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88-6257 Filed 3-22-88; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefit Plans; Work Group Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group on Reporting and Disclosure of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 10:00 a.m., Monday, April 18, 1988, in Room N-5437B, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

This seven member work group was formed by the Advisory Council to study issues relating to the reporting and disclosure for employee welfare plans covered by ERISA.

The purpose of the April 18 meeting is to solicit comment from individuals and organizations on the cost and utility of reporting and disclosure requirements, of the Department of Labor and ERISA, with specific emphasis on the following forms:

1. Form 5500
2. Summary Plan Description
3. Summary Annual Report
4. Summary of Material Modification.

The work group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations, wishing to address the work group should submit written requests on or before April 12, 1988 to Charles W. Lee, Jr., Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before April 12, 1988.

Signed at Washington, DC, this 18th day of March, 1988.

David M. Walker,

CPA, Assistant Secretary for Pension and Welfare Benefits Administration.

[FR Doc. 88-6281 Filed 3-22-88; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATE: Requests for copies must be received in writing on or before May 9, 1988. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifiying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. The Army and Air Force Exchange Service (N1-334-88-2). Records relating to miscellaneous personnel matters, such as testing, promotions and retirement.

2. Department of the Navy, Chief of Naval Operations, Naval Air Forces US Atlantic Fleet (N1-313-86-3). Routine administrative correspondence and housekeeping records of various units of the Naval Air Forces Atlantic Fleet for the period 1951-56.

3. Federal Deposit Insurance Corporation, Division of Liquidation, (N1-34-88-3). Records created by the now defunct Franklin National Bank that became the property of the FDIC as a result of liquidation proceedings in 1974.

4. Federal Deposit Insurance Corporation, Division of Liquidation, (N1-34-88-4). Records created by a closed bank that became the property of the FDIC as a result of liquidation proceedings.

5. Federal Energy Regulatory Commission, Office of Pipeline and Producer Regulation (N1-138-88-1). Well Determination Files.

6. Department of Health and Human Services (N1-102-88-1). Facilitative records relating to the activities of the Childrens' Bureau.

7. Department of Justice, Federal Bureau of Investigation, Records Management Division (N1-65-88-6). Documentation containing personal information of insufficient historical or other value to warrant archival retention. Expunction of the information has been requested by the individual to whom it relates.

8. Department of State, Bureau of Personnel (N1-59-88-15 and -16). Automated systems pertaining to routine personnel transactions.

Dated: March 15, 1988.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 88-6286 Filed 3-22-88; 8:45 am]

BILLING CODE 7515-01-M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 29, 1988 through March 11, 1988. The last biweekly notice was published on March 9, 1988.

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 April 22, 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 (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-White Flint, 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.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: February 9, 1988

Description of amendment request: The proposed changes to Technical Specification Table 3.22-2 will: (1) add one Halon storage cylinder in the Switchgear Room; (2) increase the number of smoke detectors in the Switchgear Room from 32 to 35; and 3) require 8 or 9 smoke detectors within the Screenwell Building to be in service. In addition, Table 3.22-2 will be revised to reflect new fire areas in the Primary Auxiliary Building and Screenwell Building that agree with the current Fire Hazards Analysis.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated 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 an accident previously analyzed. The proposed changes will have no impact on the probability or consequences of an accident. The proposed changes will increase the required number of operable smoke detectors and Halon bottles for the Switchgear Room and increase the number of operable smoke detectors for the Screenwell Building. The proposed revisions to the Primary Auxiliary Building and Screenwell Building fire areas are an update to the current Fire Hazards Analysis. This will have no affect on any design basis accident. Thus, the addition to the operability requirements for smoke detectors and Halon bottles does not increase the probability or consequences of an accident.

2. Create the possibility of a new or different kind of accident from any previously evaluated. The hardware modifications in the Switchgear Room and Screenwell Building were implemented to upgrade the fire detection and suppression systems in those fire areas. These changes propose to increase the number of smoke detectors from 32 to 35 in the Switchgear Room, and increase the number of operable smoke detectors in the Screenwell Building from 2/3 to 8/9. Also, an additional Halon storage cylinder has been added to the seven (7) storage cylinders associated with the original system design. The modified Detection System/Halon Suppression System offers more detection coverage [thirty-five (35) detectors versus thirty-two (32) for the Switchgear Room, and 8/9 versus 2/3 operable detectors for the Screenwell Building] and provides additional Halon to extinguish postulated fires. These changes increase CYAPCO's capability to detect, control and extinguish fires. Administrative, testing, and inspection procedures were revised to maintain the modified detection and suppression systems.

In addition, the revisions to Table 3.22-2 will update the Technical Specifications to reflect new fire areas in the Primary Auxiliary Building and Screenwell Building. These revisions will agree with the current Fire Hazards Analysis.

The modifications do not affect safety systems or components and, therefore, do not affect any design basis accident. No other systems or components are affected by the change, thus, there can be no impact on the consequences of any design basis accident.

There are no failure modes introduced by the modifications that can be an initiating event for any design basis accident. The proposed changes have no impact on the probability of occurrence of any design basis accident. Since no safety systems are affected by the proposed changes, there can be no affect on the probability of failure of any safety system. Therefore, the proposed Technical Specification changes so not create the probability of an accident or malfunction of a new or different type than any evaluated previously in the safety analysis report.

3. Involve a significant reduction in a margin of safety. Since the proposed changes do not have any impact on any design basis accident, there can be no impact on any protective boundary. Since there is no impact on any protective boundary as a result of the proposed changes, there can be no impact on any safety limit. The proposed changes have no impact on the basis of any Technical Specification. The proposed changes maintain the basis of the Technical Specifications in assuring adequate smoke detection and fire suppression.

Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Russel Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: February 25, 1988

Description of amendment request: The proposed changes renumber the manual high pressure safety injection (HPSI) throttle valves in Specification 3.6.B.2 to be consistent with the plant loop numbering scheme. The applicability statement for Specification 3.6.B.2 has also been changed from "Prior to startup from cold shutdown (MODE 5)" to "On startup prior to entering MODE 4" in order to be more concise and MODE specific. In addition, the Basis for Specification 3.6 has been clarified.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated 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 an accident previously evaluated. The probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the Safety Analysis Report is not increased since the proposed changes only renumber the valves and clarify the action statement.

2. Create the possibility of a new or different kind of accident from any previously evaluated. The possibility for an accident or malfunction of a different type than any evaluated previously in the Safety Analysis Report is not created since the normal operating conditions of the plant are unaffected. The change to the action statement clarifies that the core deluge valve and HPSI throttle valves are properly positioned and secured before they are required to be operable.

Since no physical plant changes are planned and since the ECCS performance will not be adversely affected, there is not adverse effect on plant response. There are not failure modes associated with the proposed changes which could represent a new unanalyzed accident. The proposed changes do not adversely impact the probability of any accident.

3. Involve a significant reduction in a margin of safety. The margin of safety, as defined in the basis for any technical

specification is not reduced since the proposed changes do not diminish the ECCS accident mitigation capability and thereby do not impact the consequences to the protective boundaries.

Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Russel Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of amendment request: February 5, 1988

Description of amendment request: The proposed amendment would delete Specification 3.6.4.3, regarding the hydrogen purge system, from the Technical Specifications. This specification was originally included at the time of licensing, since the licensee expected to employ two portable hydrogen recombiners between Units 1 and 2. If such was indeed the case, there would not be redundancy of hydrogen recombining capability at either unit, and the hydrogen purge system would be required as backup, in accordance with the staff's position as documented in the Standard Westinghouse Technical Specifications. Since that time, the licensee has provided a fully dedicated second recombiner at Unit 1, and has similarly provided Unit 2 with two dedicated recombiners. Thus, there is now full redundancy at each unit, and Specification 3.6.4.3 may be deleted as the hydrogen purge system is no longer needed as backup.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The installed hydrogen recombiners provide the needed capacity and redundancy to handle the hydrogen generated after a LOCA. The elimination of the subject specification would eliminate one post-LOCA radioactivity release route (i.e., hydrogen purge), resulting in a reduced calculated LOCA dose. There is no associated hardware changes. An administrative control will be imposed by the licensee to isolate the hydrogen purge system. Thus, the proposed change would not have any effect on the probability of any accident, and would not increase (actually, it decreases) the consequences of previously analyzed accidents. Since there is no change in design, no modification of plant components or operating procedures, no new accidents can be created. Finally, since post-LOCA hydrogen concentration would be kept low by the fully redundant recombiner system, the proposed amendment would not reduce the margin of safety.

Therefore, the staff proposes to determine the amendment as involving no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of amendment request: February 11, 1988

Description of amendment request: The proposed amendment would revise the steam generator water level low-low reactor trip setpoint and the steam generator water level low-low auxiliary feedwater actuation setpoint from greater than or equal to 15.5% narrow range level span to greater than or equal to 11.5% narrow range level span. This change removes a 4% environmental allowance that was added in to the steam generator low-low level setpoint calculation to account for radiation effects on the steam generator level transmitters.

The mitigation of the consequences of several postulated accidents (Chapter 15 of the Final Safety Analysis Report) depends on the above setpoints. However, none of these accidents would result in a radiation environment to the transmitters that would need to be accounted for by the 4% environmental allowance. This added value, therefore, is an unnecessary conservatism, does not contribute to added safety and is a potential contributor to unneeded reactor trips and auxiliary feedwater actuations.

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 considera tion 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 proposed amendment would eliminate an unnecessary conservatism. There is no hardware or operational procedure change, except resetting of the setpoints as stated above. There is no decrease in the capability of the reactor system to scram, or for engineered safety features to actuate should the needs arise. Thus, the answers to the first two questions are negative.

The proposed change would not affect the assumptions of any safety analysis in the Final Safety Analysis Report. No safety margin is relaxed, and the answer to the third question is also negative.

Therefore, the staff proposes to determine the amendment as involving no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: January 25, 1988

Description of amendment request: The amendments would incorporate the changes to Section 3.0 and 4.0 of the Beaver Valley Unit 1 and Unit 2 Technical Specifications, as recommended in NRC's Generic Letter 87-09. The NRC has determined that specifications 3.0.4, 4.0.3 and 4.0.4 may be modified to clarify the intent and resolve the following three problems associated with these requirements: (1) unnecessary restrictions on mode

changes provided by specification 3.0.4; (2) unnecessary shutdowns caused by specification 4.0.3 when surveillance intervals are inadvertently exceeded; and (3) conflicts between specifications 4.0.3 and 4.0.4. Generic Letter 87-09 provides an in-depth discussion of the identified problems and the solutions recommended by the NRC. The licensee's proposed amendments follow those recommendations.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

As stated above, and as described in detail in Generic Letter 87-09, the current Technical Specifications are overly restrictive on mode changes and on requirements to shutdown. Such restrictions do not enhance safety but do pose problems for plant operation. Removal of these restrictions does not necessitate plant hardware changes, and does not relax all the other Technical Specifications that govern plant parameters and operation. Consequently, the answer to the first question is negative.

In the absence of hardware and operational procedure changes, the answer to the second question is also negative.

The proposed amendment would not necessitate revision of any analysis in the Final Safety Analysis Report. No margins of safety are relaxed. The answer to the third question is similarly negative.

The staff therefore proposes to determine that the amendments involve no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Duquesne Light Company, Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: February 5, 1988

Description of amendment request: The Technical Specifications for Beaver Valley Units 1 and 2 would be amended as follows:

(1) Surveillance requirement 4.2.1.2 currently does not specify the lower limit to which the ½T-minute penalty for the axial flux difference is to be applied. The licensee proposed to specify the lower limit as 15% of rated thermal power, thus, conforming Section 4.2.1.2 to 4.2.1.1, and correcting an internal discrepancy between the two sections.

(2) Page 3/4 3-16a (Unit 1 only) would be renumbered to 3/4 3-16, and the current page 3/4 3-16, a blank page, would be deleted. This is an editorial change.

(3) Section 4.4.5.5 would be modified to clearly say that a Special Report will be needed to document steam generator tube inspection results. This is an administrative change.

(4) Section 6.9.2 (Unit 1 only) will be revised by adding Steam Generator Tube Inservice Inspection Report to the list of Special Reports. This is an administrative change.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (51 FR 7751). One of these, Example (i), involving no significant hazards considerations is "A purely administrative change to technical specifications." The requested changes all match this example. On such basis, the staff proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts, & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendments request: February 22, 1988

Description of amendments request: The proposed amendments would change the general limiting conditions for operation (LCO) Technical Specifications (TS) [TS 3.0] and the general surveillance requirements (SR) TS [TS 4.0]. The changes would be applicable to both St. Lucie units, and are in response to the Commission's Generic Letter 87-09 on this subject entitled "Sections 3.0 and 4.0 of the Standard Technical Specifications (STS) on the Applicability of Limiting Conditions for Operation and Surveillance Requirements." Some changes are also proposed for Unit 1 that are not associated with the Generic Letter. These changes upgrade the Unit 1 TS to the content of the standard TS.

Specifically, the Generic Letter suggested changing TS 3.0.4, TS 4.0.3, and TS 4.0.4. TS 3.0.4 deals with entry into an operational mode when the LCO's associated with a particular operational mode are not met. The present specification has caused confusion; the proposed specification of the Generic Letter will end this confusion. The licensee proposes the same TS 3.0.4 changes as suggested in the Generic Letter for both St. Lucie unit TS.

TS 4.0.3 deals with failure to perform a surveillance requirement. Failure to perform a surveillance requirement results in the licensee's failure to demonstrate that a structure, system, or component is operable. A licensee can, on occasion, miss a surveillance requirement and a literal interpretation of this TS would require plant shutdown. If the licensee immediately performs the surveillance to abort a shutdown, the plant could be put into jeopardy. Thus, the Generic Letter provides some flexibility to permit the licensee to perform the surveillance in a reasonable period of time. The flexibility in this case is a 24-hour grace period. The licensee proposes the same TS 4.0.3 changes as suggested in the Generic Letter for both St. Lucie unit TS.

TS 4.0.4 deals with entry into an operational mode and satisfaction of the surveillance requirements associated with the LCOs for a given mode. The present specification has also caused confusion; the proposed specification of the Generic Letter will end this confusion. The licensee proposes the same TS 4.0.4 changes as suggested in the Generic Letter for both St. Lucie unit TS.

The Generic Letter also recommended upgrading the bases statements associated with the general LCO and general SR requirements. The purpose of the upgrade was to end confusion and further delineate the background associated with a particular general

LCO and particular general SR. The licensee proposes the same changes to the bases statements as suggested in the Generic Letter for both St. Lucie unit TS.

The licensee also proposes upgrading a number of general LCO requirements to standard TS content. These changes would also make the Unit 1 TS identical to Unit 2 TS. Specifically, TS 3.0.1, 3.0.2, and 3.0.3 will be deleted and the standard TS/Unit 2 TS 3.0.1, 3.0.2, and 3.0.3 will be added.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the first standard, the licensee provided the following analysis.

Operation of the facility in accordance with the proposed amendment[s] would not involve a significant increase in the probability or consequences of an accident previously evaluated.

For the changes intended to achieve consistency with the recommendations of Generic Letter 87-09 "Sections 3.0 and 4.0 of the Standard Technical Specifications (STS) on the Applicability of Limiting Conditions for Operation and Surveillance Requirements," the staff has previously evaluated these changes in the generic letter and determined that the modifications will result in improved technical specifications.

Specification 3.0.4 unduly restricts facility operation when conformance to the ACTION requirements provides an acceptable level of safety for continued operation. For an LCO that has ACTION requirements permitting continued operation for an unlimited period of time, entry into an operational mode or other specified condition of operation should be permitted in accordance with those ACTION requirements. This is consistent with the NRC's regulatory requirements for an LCO.

It is overly conservative to assume that systems or components are inoperable when a surveillance requirement has not been performed. A 24-hour time limit has been included in Specification 4.0.3 allowing a delay of the required actions to permit the performance of the missed surveillance. The NRC has concluded that the 24-hour time limit would balance the risks associated with an allowance for completing the surveillance within this period against the risks associated with the potential for a plant upset and challenge to safety systems when the alternative is a shutdown to comply with ACTION requirements before the surveillance can be completed.

The NRC has concluded that the potential for a plant upset and challenge to safety systems is heightened if surveillances are performed during a shutdown to comply with ACTION requirements. Specification 4.0.4 has been modified to note that its provisions shall not prevent passage through or to operational modes as required to comply with ACTION requirements.

For the changes intended to achieve consistency with the Combustion Engineering - Standard Technical Specifications (CE-STS), the intent of the Specifications will not be changed nor will operating limitations of the Technical Specifications be changed.

Therefore, the proposed changes will not significantly affect the probability or consequences of accidents previously analyzed.

In connection with the second standard:

Use of the modified specifications would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes being proposed by FPL to achieve consistency with Generic Letter 87-09 and the CE-STS will not lead to material procedure changes or to physical modifications. Therefore, the proposed changes do not create the possibility of a new or different kind of accident [from any accident previously evaluated].

The licensee provided the following analysis for the third standard.

Use of the modified specification would not involve a significant reduction in a margin of safety.

For the changes intended to achieve consistency with the recommendations of Generic Letter 87-09 "Sections 3.0 and 4.0 of the Standard Technical Specifications (STS) on the Applicability of Limiting Conditions for Operation and Surveillance Requirements," the staff has previously evaluated these changes in the generic letter and determined that the modifications will result in improved Technical Specifications.

Specification 3.0.4 unduly restricts facility operation when conformance to the ACTION requirements provides an acceptable level of safety for continued operation. For an LCO that has ACTION requirements permitting continued operation for an unlimited period of time, entry into an operational mode or other specified condition of operation should be permitted in accordance with those ACTION requirements. This is consistent with the NRC's regulatory requirements for an LCO.

It is overly conservative to assume that systems or components are inoperable when a surveillance requirement has not been performed. A 24-hour time limit has been included in Specification 4.0.3 allowing a delay of the required actions to permit the performance of the missed surveillance. The NRC has concluded that the 24-hour time limit would balance the risks associated with an allowance for completing the surveillance within this period against the risks associated with the potential for a plant upset and challenge to safety systems when the alternative is a shutdown to comply with ACTION requirements before the surveillance can be completed.

The NRC has concluded that the potential for a plant upset and challenge to safety systems is heightened if surveillances are performed during a shutdown to comply with ACTION requirements. Specification 4.0.4 has been modified to note that its provisions shall not prevent passage through or to operational modes as required to comply with ACTION requirements.

For the changes intended to achieve consistency with the Combustion Engineering - Standard Technical Specifications (CE-STS), the intent of the Specifications will not be changed nor will operating limitations of the Technical Specifications be changed.

Therefore, use of the modified specification would not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff believes that the licensee has met the three standards. The licensee is proposing TS changes consistent with the Generic Letter TS. The licensee is also proposing TS changes for Unit 1 that are identical to the Unit 2 TS and the Standard TS.

Based upon the above discussion, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036

NRC Project Director: Herbert N. Berkow

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendments request: February 22, 1988

Description of amendments request: The proposed amendments would make a number of changes to the administrative controls section of the Technical Specifications (TS). The figures showing the onsite organizational structure and the offsite organizational structure would be deleted. General organizational requirements are proposed to be added to reflect the significant organizational features currently presented in the figures. The figures themselves would be located in a licensee-controlled document, the Topical Quality Assurance Report. A licensee cannot

unilaterally change this report if the change reduces the commitments previously accepted by the Commission. The governing regulation in this matter is 10 CFR 50.54(a)(3). Therefore, the figures would remain a controlled document.

The title "Vice President - Nuclear Operations" and "Group Vice President - Nuclear Energy" are used in various locations of the administrative controls section of the TS. The amendments would delete these particular titles, and use the general title "senior corporate nuclear officer" in their place. This change would give the licensee more flexibility in making management changes.

Three title changes to the membership of the Company Nuclear Review Board (CNBR) would be made. Two of the three individuals occupying those positions on the CNBR would also change. There will be no changes in collective talents on the CNBR and the quality and scope of independent review will be maintained.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application. In regard to the first standard, the licensee provided the following analysis.

Operation of the facility in accordance with the proposed amendment[s] would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes being proposed are administrative in nature and do not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, nor do they affect Technical Specifications that preserve safety analysis assumptions. Therefore, the proposed changes do not affect the probability or consequences of accidents previously analyzed.

In connection to the second standard, the licensee stated the following.

Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes being proposed are administrative in nature and will not lead to material procedure changes or to physical modifications. Therefore, the proposed changes do not create the possibility of a new or different kind of accident [from any accident previously analyzed].

Lastly, the licensee provides the following analysis to address the third standard.

Use of the modified specification would not involve a significant reduction in a margin of safety.

The changes being proposed are administrative in nature and do not relate to or modify the safety margins defined in and maintained by, the Technical Specifications.

Deletion of the figures displaying offsite and onsite organizational structures and other organizational changes will not decrease the effectiveness of the offsite and onsite organizations to manage the St. Lucie Plant. These organizations will continue to operate, manage and provide technical support to the St. Lucie Plant.

The NRC will continue to be informed of organizational changes through other controlled mechanisms. The Topical Quality Assurance Report provides a detailed description of organization and responsibilities as well as detailed organizational charts. Changes to the Topical Quality Assurance Report are governed by 10 CFR 50.54(a)(3). Changes to the Topical Quality Assurance Report description that reduce commitments previously accepted by the NRC require NRC approval prior to implementation. FPL will continue to inform the NRC of organizational changes affecting St. Lucie Plant.

Changes to the composition of the Company Nuclear Review Board (CNRB) reflect only title changes and are administrative in nature. There is no change in the collective talents on the CNRB and the scope of independent review conducted by the CNRB will be unchanged from the current high quality.

Therefore, the proposed changes do not involve any [significant] reduction in a margin of safety.

The staff reviewed the licensee's no significant hazards consideration determination analysis. Based upon this review, the staff believes that the licensee has met the three standards.

The figures will remain as controlled documents. The two title changes to "senior corporate nuclear officer" will still require appropriate corporate oversight of all nuclear activities. The CNBR changes will not change the collective talents on the CNBR and the quality and scope of independent review will be maintained.

Based upon the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: Herbert N. Berkow

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendments request: February 19, 1988

Description of amendments request: The proposed amendments would make a number of changes to the administrative controls section of the Technical Specifications (TS). The figures showing the onsite organizational structure (Figure 6.2-2) and the offsite organizational structure (Figure 6.2-1) would be deleted. General organizational requirements are proposed to be added to reflect the significant organizational features currently presented in the figures. The figures themselves would be located in a licensee-controlled document, the Topical Quality Assurance Report. A licensee cannot unilaterally change this report if the change reduces the commitments previously accepted by the Commission. The governing regulation in this matter is 10 CFR 50.54(a)(3). Therefore, the figures would remain a controlled document.

Current Figure 6.2-1 entitled "Plant Organization Chart" requires both the Operations Supervisor and the Operations Superintendent to hold Senior Operator Licenses (SROs). A TS is proposed to require the Operations Supervisor to hold an SRO; however, the licensee is requesting the deletion of that requirement for the Operations Superintendent. The licensee does not believe that both individuals need to hold current SRO licenses.

The title "Vice President - Nuclear Operations" and "Group Vice President - Nuclear Energy" are used in various locations of the administrative controls section of the TS. The amendments would delete these particular titles, and use the general title "senior corporate nuclear officer" in their place. This change would give the licensee more flexibility in making management changes.

Three title changes to the membership of the Company Nuclear Review Board (CNBR) would be made. In addition, the Chairman would not be specified. Instead, TS 6.5.2.2 would be modified to require only that the Chairman be a member of the CNRB and that he be specified in writing. There will be no

changes in collective talents on the CNBR and the quality and scope of independent review will be maintained.

Finally, the amendments would change the written notification time period that the Plant Nuclear Safety Committee has to notify the CNBR when disagreements arise. The present time is "immediately"; the licensee is requesting 24 hours per the Westinghouse Standard Technical Specifications.

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 hazard considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change in accordance with the standards of 10 CFR 50.92 and has determined that operation of Turkey Point Units 3 and 4 in accordance with the proposed amendment would not:

(1)&(2) Involve a significant increase in the probability or consequences of an accident previously evaluated, or create the possibility of a new or different kind of accident than previously evaluated. This change [is] administrative in nature, and does not involve a change in the operation, the physical configuration of the power plant, or affect the accident analysis.

(3) Involve a significant reduction in a margin of safety.

Deletion of Figures 6.2-1 and 6.2-2 and the other organization changes discussed above will not decrease the effectiveness of the onsite and offsite organization to manage the Turkey Point Plant or provide technical support to ensure continued safe operation.

The NRC will continue to be informed of organizational changes through other required controls. The Quality Assurance Program provides detailed descriptions of organization and responsibilities and detailed organization changes. Changes to the Quality Assurance Program description that reduce commitments previously accepted by the NRC require NRC approval prior to implementation. FPL will continue to inform the NRC of organization changes affecting its nuclear facilities.

The proposed change deleting the requirement that the Operations Superintendent hold an SRO is consistent with the requirements of TS 6.3.1. Plant supervisors are directly supervised by the Operations Supervisor who meets the qualifications of the "Operations Manager" in ANSI Standard N18.1 1971. Therefore, not including the SRO requirement for the Operations Superintendent will not impact safe plant operation.

The changes from "Vice President-Nuclear Operation," and/or 'Group Vice President-Nuclear Energy" to "senior corporate nuclear officer" and the changes relating to the CNRB are administrative and do not affect plant operation.

The increase in time allowed to provide written notification (TS 6.5.1.7.c) regarding disagreement between the PNSC and the Plant Manager-Nuclear is consistent with industry practice and allows time for a written report to be prepared. Since the Plant Manager is responsible for resolving such disagreements, and also for safe operation of the plant, no decrease in any margin [of] safety will result.

The staff agrees with the licensee's determination above, and therefore proposes to determine that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: Herbert N. Berkow

GPU Nuclear Corporation, et al, Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: January 12, 1988 (TSCR No. 180)

Description of amendment request: The proposed amendment would revise Technical Specification 5.4.1 and the corresponding bases and surveillance requirements to allow receipt, storage and transfer of new (unirradiated) fuel assemblies containing as high as 4.3 weight percent U-235 enrichment. Presently, the maximum enrichment provided for is 3.5 weight percent.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

GPU Nuclear has provided an assessment of how the proposed amendment meets the standards of 10 CFR 50.92 in making a determination that an action involves no significant hazards consideration. The discussion of this determination is as follows:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated. There are no design basis events in TMI-1 FSAR Chapter 14 or elsewhere which are affected by this proposed amendment. Also, an analysis has been performed and has demonstrated that the NRC criticality requirements for the storage of new fuel would be met under both normal and abnormal conditions.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. The only event of concern with respect to storage of new fuel is criticality and as mentioned in item (1) above, an analysis has demonstrated that the proposed amendment would not result in any kind of criticality event.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. The safety criteria contained in the Technical Specification Bases are not impacted by this proposed amendment.

The Commission has provided guidelines pertaining to the application of three (3) standards by listing specific examples in (51 FR 7744). The proposed amendment is considered to be in the same category as example (vi) of amendments that are considered not likely to involve significant hazards considerations in that the results of this proposed amendment is clearly within all acceptance criteria with respect to the Standard Review Plan. The staff agrees with this proposed amendment and proposes to determine that the amendment would involve no significant hazards consideration.

Local Public Document Room location: Government Publications

Section, State Library of Pennsylvania, Walnut Street and Commonwealth Avenue Box 1601, Harrisburg, Pennsylvania 17105

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

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: February 4, 1988

Description of amendment request: Technical Specification 4.7.1.2.1, "Auxiliary Feedwater System," requires verification at least once every 31 days that each motor driven auxiliary feedwater pump develops a discharge pressure of greater than or equal to 1605 psig at a flow of greater than or equal to 175 gpm. The proposed change revises the flow criterion to "greater than or equal to 150 gpm."

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 Part 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. The change does not involve any modification to the auxiliary feedwater pumps and has no effect on operation of the system. Since the auxiliary feedwater system will respond to a manual or automatic actuation and operate in the same manner as before the change, the probability and consequences of previously analyzed accidents would not be affected.

2. The proposed change does not create the the possibility of a new or different kind of accident than any accident previously evaluated. The change does not involve any physical alteration to the auxiliary feedwater system or to any other plant system or structure. The change does not affect the operation of any plant system. The change therefore does not create the possibility of a new failure mode or malfunction and a new or different kind of accident could not result.

3. The proposed change does not significantly reduce a margin of safety. The proposed change assures adequate flow for pump protection during surveillance testing. The proposed surveillance acceptance criterion is equivalent to the existing criterion in terms of demonstrating pump operability, since both criteria show operation on the pump's head vs. flow curve. The Vogtle In-Service Testing program requires that corrective action be taken if quarterly test data exhibit a significant adverse trend. 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 consideration.

Local Public Document Room location: Burke County Public Library, 4th 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: Kahtan Jabbour, Acting

Gulf States Utilities Company, Docket No. 50-498, River Bend Station, Unit 1 West Feliciana Parish, Louisiana

Date of amendment request: November 11, 1986 and November 6, 1987

Brief description of amendment: In accordance with the requirements of 10 CFR 73.55, the licensee submitted an amendment to the Physical Security Plan for the River Bend Station, Unit 1 to reflect recent changes to that regulation. The proposed amendment would modify paragraph 2.D of Facility Operating License No. NPF-47 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 on November 11, 1986, with additional information on November 6, 1987, to satisfy the requirements of the amended regulations. The Commission proposes to amend the license 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 amendment 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." For the foregoing reasons, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803

Attorney for licensee: Troy B. Conner, Jr., Esq., Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Jose A. Calvo

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: January 13, 1988

Description of amendment request: The proposed amendment will revise Technical Specification Table 3.6-2, Containment Isolation Valves, and Table 3.6-1, Containment Leakage Paths.

For the containment isolation valves listed in Table 3.6-2, Technical Specification 3.6.3 ensures that the containment atmosphere will be isolated from the outside environment in the event of a release of radioactive material to the containment atmosphere or pressurization of the containment, as required by 10 CFR Part 50 Appendix A, GDC 54 through GDC 57. Containment isolation within the time limits specified for isolation valves designed to close

automatically ensures that the release of radioactive material to the environment will be consistent with the LOCA analyses assumptions. The proposed change will add a new containment isolation valve to the automatic isolation section of Table 3.6-2, and move an existing valve from the manual isolation section of Table 3.6-2 to the automatic isolation section while changing its valve identification number.

Similarly, Table 3.6-1 of Technical Specification 3.6.1.2 lists the containment penetrations and valves subject to Type B and C leak rate testing. The proposed change will add a new containment isolation valve for Type C testing to the Table and change the valve identification number of an existing valve.

The Containment Atmosphere Release System (CARS), described in Section 6.2.5.2.3 of the FSAR, serves as a dual train backup to the Hydrogen Recombiner System for post-LOCA hydrogen control. Motor operated containment isolation valves inside containment (valves CAR 201A/B) are presently provided for each train of the CARS exhaust and included in the automatic isolation (CIAS) section of Technical Specification Table 3.6-2. Locked closed manual isolation valves outside containment (valves CAR 202A/B) are included for each exhaust train in the manual isolation valve section of Table 3.6-2.

To provide a means for intermittent containment pressure control, a station modification will be implemented during the upcoming second refueling outage to cross-connect the CARS train B exhaust with the RAB Normal Ventilation System. The tie-in occurs between the CARS outside containment isolation valve and the CARS exhaust fan. In the course of the modification a new inside containment air-operated and fail-closed isolation valve (CAR 200B) will be added in parallel with the existing CAR 201B motor-operated valve; the outside containment isolation valve (CAR 202B) will be changed from a manual valve to an air-operated and fail-closed valve.

Two design constraints are relevant to the proposed Technical specification change: (1) the containment pressure control line must be capable of isolation within 5 seconds following a containment isolation or high radiation signal (and valves must fail in the safe (closed) position), and (2) CARS train B must remain capable of performing its post-LOCA hydrogen removal function. Because air-operated valves are faster acting than motor-operated valves, the first constraint is met by adding the inside containment air-operated isolation valve, CAR 200B, and changing the outside containment isolation valve, CAR 202B, from a manual valve to an air-operator. The second constraint is met by retaining the motor-operated inside containment isolation valve, CAR 201B, so that post-LOCA credit for the instrument air system is not necessary to ensure that CARS train B can be unisolated when needed. In effect, CAR 201B is dedicated for hydrogen removal post-LOCA and CAR 200B is available for containment pressure control.

The proposed change, therefore, involves: (1) the addition of CAR 200B to Tables 3.6-1 and 3.6-2 as a new valve to automatically isolate on CIAS or high containment radiation, and 2) shifting CAR 202B from the manual isolation section of Table 3.6-2 to the automatic isolation section. Both valves must meet a five second closure criterion during testing. Because the actual valve for CAR 202B is being replaced, the valve-specific identification number used internally by Waterford 3 will also be change from 2HV-B192B to 2HV-F229B.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes that the proposed changes do not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in the margin of safety. The basis for this proposed finding is given below.

(1) As a post-accident system, the CARS is not credited in the safety analyses for Waterford 3, but is assumed to function to maintain containment hydrogen concentration below 4%. The proposed change preserves this function. When controlling pressure, five second automatic isolation of the inside (CAR 200B) and outside (CAR 202B) containment isolation valves ensures that the large break LOCA analysis assumption remain bounding. The combination of automatic isolation and the small CARS pipe diameter (4 inches) limits the total volume released from containment to well below that assumed for other analyzed releases. Type C leak rate testing of the valves in question ensures that the total containment leakage volume will not exceed safety analysis assumptions at peak accident pressure. Therefore, the proposed change will not involve an increase in the probability or consequences of any accident previously evaluated.

(2) The proposed change adds a new inside containment automatic isolation valve in parallel with an existing system and changes the existing outside containment manual isolation valve to an automatic valve. The combination of automatic inside/outside containment isolation valves is a standard design implicitly analyzed and accepted over a wide range of systems and conditions. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

(3) The CARs provides added assurance that a hydrogen burn or explosion would not occur following a LOCA. The proposed change will preserve the safety function of the CARS. Similarly, the five second closure criterion for the inside/outside containment isolation valves and appropriate leak rate testing preserves the assumptions of the limiting LOCA evaluation to ensure that off-site dose consequences are not increased. Therefore, the proposed change does not involve a reduction in safety margin.

The staff has reviewed the licensee's no significant hazards consideration analysis. Based on the review and above discussions the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N St., NW., Washington, DC 20037

NRC Project Director: Jose A. Calvo

Maine Yankee Atomic Power Company, Docket No. 50-309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: March 1, 1988

Description of amendment request: The proposed amendment would modify the Technical Specifications to update Figure 5.2.-1 and Figure 5.2-2 in Technical Specification 5.2 "Organization" to reflect a successional change in the offsite corporate organization and associated changes in the functional reporting structure.

Basis for proposed no significant hazards consideration determination: The proposed changes to the Technical Specifications to reflect a successional change in the offsite corporate organization and associated changes in the functional reporting structure have been evaluated against the standards of 10 CFR 50.92 and have been determined

to not involve a significant hazards consideration. These proposed changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. This proposed change to the organizational charts in TS 5.2 are administrative in nature and have no effect on the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously evaluated. Since there are no changes in plant design or operation, inclusion of the proposed changes in the technical specifications would not create the possibility of a new or different kind of accident from any previously evaluated.

3. Involve a significant reduction in a margin of safety. For the reasons previously stated, adoption of the proposed change would not involve a significant reduction in safety margin for the plant.

Maine Yankee has concluded that the proposed changes to the Technical Specifications do not involve a significant hazards consideration as defined by 10 CFR 50.92. We have reviewed the licensee's analysis and have agreed with it. Accordingly, the Commission proposes to determine that this change does not involve a significant hazard.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 267, Wiscasset, Maine 04578.

Attorney for licensee: J.A. Ritscher, Esq., Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02210.

NRC Project Director: Richard H. Wessman, Acting Director

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 16, 1987, November 3, 1987, and January 18, 1988.

Brief description of amendment: In accordance with the requirements of 10 CFR 73.55, the licensee submitted an amendment to the Physical Security Plan for the Cooper Nuclear Station to reflect recent changes to that regulation. The proposed amendment would modify paragraph 2.C.3 of Facility Operating License No. NPF-46 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 on April 16, 1987, with additional information on November 3, 1987 and January 18, 1988, to satisfy the requirements of the amended regulations. The Commission proposes to amend the license 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 amendment 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." For the foregoing reasons, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

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: September 29, 1987.

Description of amendment request: This amendment to the Technical Specifications will incorporate requirements for a halon system in the control room. This halon system is the fulfillment of a commitment made by the licensee and was documented by the staff in a safety evaluation report issued on November 6, 1985 in support of an exemption to 10 CFR 50, Appendix R.

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 an accident previously analyzed. Operation of the control room halon system is not assumed in any of the design basis accidents, since a fire is not assumed either as an initiating event or as a result of a design basis accident. Thus, adding a specification for operability of the new halon system or changing the required number of fire detectors has no impact on the design basis accidents.

2. Create the possibility of a new or different kind of accident from any previously analyzed. The new halon system may create the possibility of an inadvertent discharge of Halon 1301 due to failure of two smoke detectors or as a result of surveillance of the new halon system. However, even if this were to occur, the design halon concentration is well below toxic limits for halon concentration. Thus, this assures that inadvertent activation does not affect the ability of the control room operators to remain in the control room to take appropriate action for orderly plant shutdown. Hence, there is no significant impact on control room habitability, and this change does not represent a new unanalyzed accident.

3. Involve a significant reduction in a margin of safety. The operational and surveillance requirements of the new halon system represent more restrictive criteria. Hence, the margin of safety is increased.

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. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: December 18, 1987

Description of amendment request: The proposed amendment to the Technical Specifications will revise Section 3.7.A.3, "Primary Containment", and Basis 3.7.A.1 by removing the explicit permission to perform open reactor vessel criticality or low power physics testing.

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 of occurrence or consequences of an accident previously analyzed. The proposed change would in fact reduce the probability of an inadvertent criticality while the reactor vessel is open by removing permission to conduct reactivity tests with the reactor vessel head off.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Making technical specifications more restrictive by discontinuing the performance of open vessel criticality and low power physics testing does not modify plant response to any transient or accident.

3. Involve a significant reduction in a margin of safety. The effects of these changes will not adversely impact plant protective boundaries. Also, the proposed basis revision represents additional conservatism, in that an inadvertent criticality due to criticality or l.p.p. testing will be prevented from occurring without containment integrity. Accordingly, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Accordingly, the staff has made a proposed determination that the application for amendment invloves 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

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: February 8, 1988

Description of amendment request: The proposed amendment consists of a number of proposed changes to the Technical Specifications (Appendix A to Facility Operating License No. DPR-40) in Sections 2 and 5. The specification proposed changes are indicated below.

(1) The objective of Section 2.9.1 is changed to relate the criteria for regulatory compliance to annual radiation doses from effluents rather than to radionuclide concentrations in the effluents.

(a) Specification 2.9.1(1)a(i) is changed to correct a typographical error in the units for the concentrations of dissolved or entrained noble gases in liquid effluents.

(b) Specification 2.9.1(2)a(i) is changed to delete the word "instantaneous" in reference to radionuclide concentrations and to use the annual x/Q value for determination of nuclide concentrations.

(c) Specification 2.9.1(2)b the word "cumulative" is changed to "radiation" and the words "to each of the 16 cardinal sectors" are deleted in reference to quarterly calculations to ensure compliance with the annual dose design objectives of Specification 2.9.1 of the Basis.

(d) Section 2.9.1 of the Basis is changed to replace the word "concentration" with the words "annual dose" for consistency with the specification of this section.

(2) Specification 5.9.4a is changed to add a reference to 10 CFR 50.36a for the semi-annual reporting of radioactive effluents and deletes reference to Regulatory Guide 1.21, Revision 1, for the reporting format.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident from 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 a discussion regarding the above criteria which proposes to determine that the requested change does not involve a significant hazards consideration.

(1) Will the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The subject changes do not involve a material alteration of equipment or a change in the method of monitoring routine radioactive gas releases. The proposed changes do not alter any inputs or methodologies utilized in safety analyses for the Fort Calhoun Station. The change in the requirements for report format has no impact on plant safety.

(2) Will the change create the possibility of new or different kind of accident from any accident previously evaluated?

No. The change involves no alteration of equipment, no change in gaseous release quantities and no change in release pathway. The change will simplify the gas releases for the operations staff and, therefore, reduce the possibility of human error. The proposed changes do not alter any inputs or methodologies utilized in safety analyses for the Fort Calhoun Station. The change in the requirements for report format has no impact on plant safety.

(3) Will the change involve a significant reduction in a margin of safety?

No. The annual exposure to a member of the public will not increase because the quantity of gas released annually will not increase. The proposed changes are expected to reduce the overall uncertainty in regulating radioactive gases during routine releases to unrestricted areas. The submittal meets the intent of NUREG-0472 for annual doses from gaseous effluents. The annual dose limits are the doses associated with the concentrations of 10 CFR Part 20, Appendix B, Table II, Column 1. These limits provide reasonable assurance that radioactive material discharged in gaseous effluents will not result in the exposure of a member of the public in an unrestricted area outside the site boundary to annual average concentrations exceeding the limits specified in Appendix B, Table II of 10 CFR Part 20. The specified release rate limits in accordance with NUREG-0472, restrict the corresponding gamma and beta dose rates above background to a member of the public at or beyond the site boundary, to less than or equal to 500 mRem/year to the total body and less than or equal to 3,000 mRem to the skin. These release rate limits also restrict the corresponding thyroid dose rate above background to a child via the inhalation pathway to less than or equal to 1500 mRem/year. The 10 CFR Part 50 annual exposure objectives are more restrictive than the 10 CFR Part 20 annual dose rates. The Fort Calhoun Station has never exceeded the more restrictive 10 CFR Part 50 annual exposure ojectives. Quarterly calculations will be done to track the status of the 10 CFR Part 50 annual exposure objective as per the Technical Specification 2.9.2B (1), (2), and (3).

If the quarterly dose calculation results exceed one-half the design objects, an investigation will be done, action will be taken to reduce the doses to the objectives and a special report will be submitted to the Commission in accordance with Technical

Specification 2.9.1(2)b. The proposed changes do not alter any inputs or methodologies utilized in safety analyses for the Fort Calhoun Station.

The proposed deletion of Regulatory Guide 1.21, Revision 1, from the Technical Specification and the addition of 10 CFR 50.36a does not involve a reduction in the margin of safety. The deletion of the Reg. Guide commitment will allow the report to reflect a comprehensive assessment of compliance to the Radiological Environmental Technical Specification.

The staff has reviewed the licensee's no significant hazards consideration determiniation and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed change to the Technical Specifications involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, NW., Washington, DC 20036

NRC Project Director: Jose A. Calvo

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: February 19, 1988

Description of amendment request: The proposed amendment revises the thermal shock analysis in the Technical Specifications (Appendix A to Facility Operating License No. DPR-40). The specification proposed changes are in Section 2 and includes the change to the labels of the heatup and cooldown curves (Figures 2-1A and 2-1B) from 15.0 to 14.0 effective full power years (EFPY). Figure 2.3 is corrected to reflect the more conservative shift prediction equation associated with the limiting weld wire heat in the lower longitudinal weld seams. The predicted 40 year integrated flux was revised to be consistent with the fluence prediction equation used in this assessment and using the Draft Regulatory Guide 1.99 Revision 2 methodology Reference to 15.0 EFPY in the Basis Section is revised to 14.0 EFPY and the corresponding change from Cycle 16 to Cycle 15 is also made.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident from 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 a discussion regarding the above criteria which proposes to determine that the requested changes do not involve a significant hazards consideration because the proposed changes would not:

(1) Increase the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report. The proposed revision to the Technical Specification heatup and cooldown limit curves imposes more conservative limits on operation by revising the valid operating life of the existing curves from 15 EFPY to 14 EFPY. There has been no challenge to the reactor coolant system associated with using the previous curves since the Fort Calhoun Station has currently been operating for less than 10 EFPY. Therefore this amendment would not increase the probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report.

(2) Create the possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report. This amendment only revises the label defining the lifetime in EFPY of the Technical Specification heatup and cooldown limit curves. These curves are bounded by the existing Safety Analysis Report. There are no anticipated changes to the current operating practices. Therefore, the possibility of an accident or malfunction of a different type than any evaluated previously in the safety analysis report would not be created.

(3) Reduce the margin of safety as defined in the basis for any Technical Specification. The revised operating life for the existing curves was determined using a more conservative chemistry factor along with the shift prediction equation, including the appropriate 2 sigma margin, as presented in Regulatory Guide 1.99, Revision 2. Therefore, the margin of safety as defined in the basis for any Technical Specification is not reduced.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, NW., Washington, DC 20036

NRC Project Director: Jose A. Calvo

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: December 15, 1987

Description of amendment request: The proposed amendment would revise the Susquehanna Steam Electric Station Units 1 and 2 Technical Specifications to revise Table 3.3.7.10-1, "Radioactive Liquid Effluent Monitoring Instrumentation."

There are two problems being addressed by this proposed change to the Technical Specifications:

1. Technical Specification Table 3.3.7.10-1, footnote *, currently requires that if any discharge valve interlock is in an off-normal condition or is not functioning, the monitor, including the sample pump, must be in operation. As a result, during periods when no releases are being made, the monitor and the sample pump may be required to operate for extended periods without liquid flow to pump. Operation in this mode could jeopardize the operability of the radiation monitoring system.

2. A modification to the Unit 1 and Unit 2 Cooling Tower Blowdown flow instrumentation is being installed during the Unit 2 Second Refueling and Inspection Outage. It revises the operation of the cooling tower blowdown low flow interlocks described in Technical Specification Table 3.3.7.10-1 such that their current description requires clarification.

For item 1 above, the footnoted information is rewritten to associate the blowdown flow interlocks with Instrument 3b (which has been renamed for clarity) instead of Instrument 1a, and revise Actions 100 and 102 to incorporate proper remedial requirements when effluent releases do not occur and discharge valve interlock malfunctions. These actions replace the inappropriate actions previously required via footnote *.

Specifically, the following changes are proposed under item 1.

Item 1a: Cooling tower blowdown low flow interlock should support instrument

3b instead of current interlock with sample pump and radiation monitor. The proposed change would force Action 102 instead of the current Action 100.

Item 1b: Removes a remedial action statement from footnote * to the appropriate locations in Actions 100 and 102.

Item 1c: Makes an editorial change renaming instrument 3b.

Item 1d: Deletes footnote * because the remedial action is being moved to Actions 100 and 102.

For item 2, the reference to "Unit 1 cooling tower blowdown low flow or Unit 2 cooling tower blowdown low flow", previously provided in footnote* is revised to read simply "cooling tower blowdown low flow" under new footnote **.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's request and concurs with the following basis and conclusions provided by the licensee in its December 15, 1987 submittal.

The proposed changes do not:

I. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Item 1a: This change couples the blowdown flow interlocks with its associated flow instrumentation rather than with the radiation monitor. This allows Action 102 to be taken instead of Action 100 when the flow interlock is malfunctioning. Given the unmonitored release of liquid effluents as the event of concern, neither its probability nor its consequences will increase significantly because the interlocks on radiation will prevent any unacceptable release from occurring during operation under Action 102 - if any of these interlocks are inoperable, Action 100 must be in affect.

Item 1b: This change removes an inappropriate requirement (i.e., that the sample pump be operated under dry conditions), and replaces it with actions which will provide assurance that an inadvertent release will not occur (based on single failure criteria). This more positive action lessens the probability of an inadvertent release. Any adverse effect on the consequences of the event would have to result from the single failure criterion being violated; this is not considered credible.

Item 1c: This change involves renaming an instrument based on a plant-specific convention. Such an action is wholly editorial in nature and poses no impact on previous safety analyses.

Item 1d: ..... This item is directly tied to Item 1b. I.e., it is only required because the operation of the sample pump and monitor is being replaced by the redundant isolation requirement. Therefore, the answer to Item 1b applies here as well.

Item 2: This change is the result of the correction of an overly conservative design deficiency. The requirement to monitor for 5000 gpm dilution flow has not changed, and although the change will describe a single interlock instead of two, monitors on blowdown flow from each unit still exist; their inputs are simply combined to remove unnecessary conservatism. This action will not result in an increase in the probability or consequences of any previous accident evaluation.

II. Create the possibility of a new or different kind of accident from any accident previously evaluated.

Item 1a: This change involves the use of a different action statement for an equipment malfunction. This action will allow effluent releases with this malfunction for a longer time, but will not cause any new events because no hardware changes or new operational actions result (see Item 1b for discussion of revision of operational actions in new actions 100 and 102).

Item 1b: For the cases where effluent releases are not occurring, an operational change is proposed in both Actions 100 and 102. The Actions are revised to ensure redundant isolation rather than continuous monitoring. The redundant isolation is being accomplished by existing valves, and therefore no new events are postulated. The lack of continuous monitoring does not create a new concern because of the redundant isolation; i.e., based on single failure criteria, the redundant valve precludes the need for continuous monitoring to prevent an inadvertent release.

Item 1c: This change involves renaming an instrument based on a plant-specific convention. Such an action is wholly editorial in nature and will not create any new concerns.

Item 1d: As discussed previously, this item is a direct result of the change in 1b; therefore the answer to 1b applies here.

Item 2: This change, which replaces unit specific flow interlocks with a common interlock, does not create any new failure modes because there is no interdependence between the two interlocks now. Therefore, two independent functions are being replaced by a single function with the same potential failure modes.

III. Involve a significant reduction in a margin of safety.

Item 1a: This change allows a less restrictive action to be taken if the flow instrumentation is inoperable. This does not result in a significant reduction in safety margin because:

a. As mentioned previously, evidence exists that Action 102 was intended to be associated with the flow instrumentation, and

b. The flow instrumentation is less important than the radiation instrumentation in guarding against an unacceptable release.

Item 1b: This change improves safety in the following ways:

a. it removes an action requirement from a footnote;

b. it deletes an action that could jeopardize equipment integrity; and

c. it ensures positive protection against an inadvertent release.

Item 1c: This change involves renaming an instrument based on a plant-specific convention. Such an action is wholly editorial in nature and has no impact on safety margin.

Item 1d: As discussed previously, this item is a direct result of the change in 1b; therefore the answer to 1b applies here.

Item 2: The current design of SSES is overly conservative in that it may require greater than the minimum dilution flow necessary to the requirements specified in the ODCM. The ODCM requirement of 5000 gpm ensures all necessary safety margin. This change will continue to provide this safety margin and therefore, no significant reduction is being proposed.

Based on the above considerations, the Commission proposes to determine that the proposed changes involve no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: Walter R. Butler

Portland General Electric Company et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: February 4, 1988

Description of amendment request: The proposed amendment would revise Trojan Technical Specification (TS) Section 3/4.7.3, "Component Cooling Water System (CCW)," and associated bases, to be consistent with the "Split Train" mode of operation of the CCW System. It is proposed that one train solely serve safety-related cooling loads, and be isolated from the other train which will serve nonsafety-related nonseismic loads, as well as safety-related cooling loads. This amendment is proposed in order to assure the operability of the CCW system following a seismic event.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

1. The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

The accident scenario of concern is a loss of all CCW due to a seismic-induced rupture of the non-seismic category I CCW piping. With the CCW flow paths in their original configuration, the probability of loss of all CCW would be higher than with the system in a split-train configuration. Isolating one train of CCW from the non-seismic category I flow path during Modes 1 through 4 provides greater assurance of CCW supply to safe shutdown loads following a seismic event.

Maintaining the spare CCW pump operable in Modes 1 through 4 assures that a CCW loop can be made available even if a single-failure is assumed to occur concurrent with a seismic event. This provides greater assurance of CCW availability than the current Technical Specification requirement.

During Modes 5 and 6, the proposed change will require that at least two CCW trains, or at least one CCW train and the spare CCW pump, be operable. This provision is an enhancement over the current provisions in the Technical Specifications and therefore will provide greater assurance of CCW restoration following a seismic event. Also, because the plant is in at least a cold shutdown condition during these modes and timely recovery actions can be expected, the consequences of a seismically induced failure are bounded by current FSAR accident analyses.

Since the proposed changes enhance the availability of CCW following a seismic event, the probability and consequences of an accident previously evaluated are not increased.

2. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Operating the CCW System in a split-train configuration during Modes 1 through 4, as previously described, ensures that there will be a continuous supply of cooling water to safe shutdown equipment following a seismic event. In the event of an earthquake and single active failure, the spare CCW pump will be available to supply CCW to safe shutdown equipment.

A design basis accident (DBA) is not assumed to occur simultaneously with a seismic event that ruptures the non-seismic category I CCW piping. Therefore, at least one train of ESF equipment would be available to respond to accident demands assuming a single-failure in the other train with the CCW System aligned in a split-train configuration.

During Modes 5 and 6, the proposed change will require that at least two CCW trains, or at least one CCW train and the spare CCW pump, be operable. This provision is an enhancement over the current provisions in the Technical Specifications. Since this change provides greater assurance of CCW System restoration following any seismic-induced failures in the non-seismic category I portion of the system, an accident of a new or different kind from any previously evaluated will not be created.

The changes proposed provide greater assurance that CCW will be available to serve safe shutdown equipment than does operation in the original lineup. Therefore, the proposed changes will not result in the creation of an accident of a new or different kind than previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

Changing the operation of the CCW System to a split-train configuration during plant operating modes provides greater assurance that CCW will be available in the event of a seismically induced rupture in the non-seismic category I CCW piping than does operation in the original lineup. Providing additional controls on maintaining operability of the spare CCW pump also provides greater assurance of CCW System availability assuming a single-failure occurs concurrent with the seismic event. Therefore, no margins of safety are reduced.

The staff has reviewed the licensee's no significant hazards analysis and concurs with their conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207

Attorney for licensee: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRC Project Director: George W. Knighton

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: December 2, 1986 and September 4, 1987

Description of amendment request: In accordance with the requirements of 10 CFR 73.55, the licensees submitted an amendment to the Physical Security Plan for the Hope Creek Generating Station to reflect recent changes to that regulation. The proposed amendment would modify paragraph 2.E of Facility Operating License No. NPF-57 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 on December 2, 1986, and September 4, 1987, to satisfy the requirements of the amended regulations. The Commission proposes to amend the license 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 amendment involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Rochester Gas and Electric Corporation, Docket No. 50-244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: March 10, 1987 as supplemented by letter dated January 26, 1988

Description of amendment request: The proposed changes incorporate on-line reactor trip breaker testing into the Technical Specification.

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). 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 an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

This change in Technical Specifications is in accordance with the Generic Letter 85-09 testing requirements of the reactor trip breakers within the plant. A possible consequence of this change is that over a period of time, additional plant trips may occur through actions taken during monthly testing of the reactor trip breakers. Occasional trips are considered within the normal operating conditions at a power plant.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610

Attorney for licensee: Harry Voigt, LeBoeuf, Lamb, Leiby and McRae, Suite 1100, 1333 New Hampshire, NW. Washington, DC 20036

NRC Project Director: Richard H. Wessman, Director

Rochester Gas and Electric Corporation, Docket No. 50-244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: January 19, 1988

Description of amendment request: The proposed amendment would change the expiration date for the R.E. Ginna Nuclear Power Plant Operating License, DPR-18, from April 25, 2006 to September 18, 2009. The Technical Specifications for the plant would not be affected. The current term of the Operating License is 40 years, commencing with the April 25, 1966 issuance of the Construction Permit. This represents an effective Operating License (OL) term of approximately 37 years and 7 months. Current NRC practice as stated in 10 CFR 50.51 is to issue an Operating License with a term of 40 years from date of OL issuance. This amendment proposes to extend the OL in accordance with current practice.

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). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; (3) involve a significant reduction in a margin of safety.

The licensee's analyses contained in the January 19, 1988, letter states the following:

The proposed amendment to the Ginna operating license does not involve any changes in the design, operation or Technical Specifications of the facility, but instead, only requests a change to the expiration date of the current license. This extension is within the range permissible by the Commission's regulations, specifically 10 CFR 50.51. In addition, a finding of no significant hazards consideration is consistent with recent NRC actions on applications of this type. The proposed extension will have no significant impact on the safe operation of the plant or present an undue risk to the health and safety of the public.

The proposed license amendment to permit the 40-year operating life does not constitute a significant hazards consideration as defined in 10 CFR 50.92 for the following reasons:

The R.E. Ginna Nuclear Power Plant was designed and constructed primarily on the basis of 40 years of plant operation. For example, the reactor vessel was designed and fabricated for a 40-year life. A comprehensive vessel materials surveillance program is maintained in accordance with 10 CFR Part 50, Appendix H. Analyses were performed to demonstrate compliance with the NRC pressurized thermal shock screening criteria. All of the RT_{pts} values remain below the NRC screening values for PTS using the projected fluence exposure through 32 EFPY. At the projected capacity factor of 80% this corresponds to the 40-year life of the plant. This information was contained in WCAP-11026 which was transmitted to the NRC on January 13, 1986 as an attachment to a letter from R. Kober of RG&E to G. Lear.

The analyses contained in the R.E. Ginna Nuclear Power Plant Final Safety Analysis Report were performed on the basis of not less than 40 years of expected plant life.

Analyses and information presented in the R.E. Ginna Nuclear Power Plant Environmental Report, in general, were not dependent on any specific period of plant operation.

Procedures and programs are in place to detect abnormal deterioration and aging of critical plant components. Examples include:

a. Plant pressure retaining vessels, piping, and support systems are inspected in accordance with Section XI of the ASME Boiler and Pressure Vessel Code and 10 CFR Part 50, Section 50.55a(g), except where specific written relief has been granted by the NRC

pursuant to 10CFR50, Section 50.55a(g)(6)(i). Safety-related pumps and valves are included in a test program meeting the requirements of Section XI of the Code and the plant Technical Specifications.

b. Safety-related electrical equipment has been environmentally qualified in accordance with the requirements of 10 CFR Part 50, Section 50.49. Aging analyses establish required intervals for equipment replacement. No items would be affected by the extension.

c. A number of special inspections and investigations have been performed by the R.E. Ginna Nuclear Power Plant technical staff providing additional assurance that abnormal or unanticipated degradation will not occur in components required for safe and reliable plant operation. These inspections have included such items as pipe, valve, and fitting wall thickness measurements in steam, feedwater and condensate lines subject to erosion. As an example of this ongoing effort, a motor operated valve diagnostic program is being implemented at Ginna. This program is providing valuable data to insure continued reliability and performance of the motor operated valves. Additional inspections of this nature will be identified as part of the R.E. Ginna plant-specific PLEX Program.

The requested extension on the R.E. Ginna Nuclear Power Plant license will allow the plant to operate for the length of time contemplated during the design process. The station has programs and procedures in place to monitor the power plant to give reasonable assurance that equipment and systems will continue to meet their design parameters. The extension of the licensed operating period, therefore, will not significantly increase the probability or consequences of accidents that have been previously evaluated.

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 consideration 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 amendment involves no significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Harry Voigt, Le Boeuf, Lamb, Leiby and McRae, Suite 1100, 1133 New Hampshire Avenue, NW., Washington, DC 20036.

NRC Project Director: Richard H. Wessman

Rochester Gas and Electric Corporation, Docket No. 50-244 R.E.Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: February 8, 1988

Description of Amendment: To correct an inconsistency associated with the monitoring of the containment mini-purge releases, and to clarify actions following inoperability for 31 days of the monitoring instruments.

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). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The proposed revisions clarify the tables associated with the monitoring of the containment purge releases and the action statements following the inoperability for 31 days of the monitoring instruments. The changes are administrative in nature because they do not change the physical aspects of the plant, equipment, or previously approved operations.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Harry Voigt, Le Boeuf, Lamb, Leiby and McRae, Suite 1100, 1133 New Hampshire Avenue, NW., Washington, DC 20036.

NRC Project Director: Richard H. Wessman

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station Unit 1, Fairfield County, South Carolina

Dates of amendment request: December 12, 1986, October 14, 1987, November 13, 1987, and December 15, 1987

Description of amendment request: In accordance with the requirements of 10 CFR 73.55, the licensee has submitted a proposed amendment to the Physical Security Plan for the Virgil C. Summer Nuclear Station to reflect recent changes to that regulation. The proposed amendment would modify paragraph 2.E of Facility Operating License No. NPF-12 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 on December 12, 1986, October 14, 1987, November 13, 1987, and December 15, 1987 to satisfy the requirements of the amended regulations. The Commission proposes to amend the license 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 [sic] appropriate because they afford an increased assurance of plant safety."

The Commission has provided guidance concerning the application of the criteria for determining whether or not a no significant hazards consideration exists by providing certain examples of actions not likely to involve significant hazards considerations and examples of actions likely to involve significant hazards considerations (51 FR 7750). One of the examples of actions not likely to involve 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 amendment

involves no significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Street, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station Unit 1, Fairfield County, South Carolina

Date of amendment request: February 10, 1988

Description of amendment request: On February 10, 1988, an amendment was proposed to revise Section 6.0 of the Technical Specifications (TS). The purpose of the proposed revision is to establish a clear and independent access to senior management regarding matters of nuclear safety. Specifically Section 6.5.2, "NUCLEAR SAFETY REVIEW COMMITTEE", is proposed to be modified to indicate that the Executive Vice President, Operations now has an integral role in the NSRC. Under 6.5.2.2, "COMPOSITION", and 6.5.2.3, "ALTERNATES", it is now proposed that the Executive Vice President, Operations, in consultation with the Vice President, Nuclear Operations shall appoint the Chairman and the other members of the NSRC and their alternates. Presently these individuals are appointed by the Vice President, Nuclear Operations. Under 6.5.2.8, "AUDITS", the Executive Vice President, Operations is proposed to be added to the list of entities with the authority for determining any area of unit operation appropriate for an audit for which NSRC shall have cognizance. Under 6.5.2.9, "AUTHORITY", it is now proposed that the NSRC report to the Executive Vice President, Operations rather than to the Vice President, Nuclear Operations as in the present TS. It is also proposed under 6.6.2.10, "RECORDS", that the records of NSRC activities be forwarded to the Executive Vice President, Operations in addition to the Vice President, Nuclear Operations.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined that the proposed amendment does not involve a significant hazards consideration as follows.

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the amendment affects administrative controls which do not affect the physical operation of the plant. Clear independent access to senior management will be further established in matters of nuclear safety.

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. The proposed amendment concerns changes to the management oversight of the Nuclear Safety Review Committee (NSRC) which will not reduce the margin of safety in any way. The level of NSRC member expertise in the designated areas, as specified in Section 6.5.2.1 of the Technical Specifications, will be maintained with the proposed amendment.

The NRC staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that these changes do not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218

NRC Project Director: Elinor G. Adensam

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 15, 1986

Description of amendment request: The proposed amendment would revise the control rod drop time from 2.7 seconds to 2.44 seconds to be consistent with the safety analysis for the facility.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91, the licensee has provided its analysis as to whether or not the proposed amendment involves a significant hazards consideration, as follows:

The proposed change discussed above shall be deemed to constitute a significant hazards consideration if a positive finding is made in any of the following areas: (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. This proposed change would revise the current technical specification acceptance criterion to conform with the design basis for the FSA accident analyses. The acceptance criterion for control rod drop time as used in the previously evaluated accident analyses in the FSA will not be impacted by this proposed change. Therefore, under no circumstances 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. (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. Measurement of control rod drop time provides a mechanism for detection of potential deterioration of function. This proposed change will not impact the ability or the method of performing this task. This change will incorporate the appropriate acceptance criterion into the Technical Specifications, and in doing so, will provide consistent acceptance criterion with the FSA accident analyses. As a result, under no circumstances 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. (3) Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety? *Response:* No. The margin of safety for this Technical Specification is defined by the ability to insert negative reactivity into the reactor by control rod insertion in a timely manner. This change will reduce the maximum allowable time for control rod insertion in the technical specifications. In actuality, however, the proposed change will have no impact on the margin of safety since the reduced acceptance criterion will be consistent with the design basis for the FSA accident analyses. Based on this consideration, the proposed specification will

ensure the ability to insert negative reactivity into the reactor by control rod insertion in a timely manner. Therefore, it is concluded that under no circumstances will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. This proposed change to the specifications is most similar to example (ii) related to a change that constitutes a more stringent surveillance requirement.

The NRC staff has reviewed this analysis and agrees that the criteria appear to be satisfied. The NRC staff therefore proposes to determine that the amendment request 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 Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of amendment request: May 12, 1987 (Reference PCN-197)

Description of amendment request: The proposed change will revise Technical Specification 3.1.3.6, "Regulating CEA Insertion Limits," 3.1.3.7, "Part Length CEA Insertion Limits," and 3.10.2, "Group Height, Insertion and Power Distribution Limits," as well as Bases 3/4.1.3, "Movable Control Assemblies."

Technical Specification 3.1.3.6 currently provides restrictions on control element assembly (CEA) insertion limits to periods less than or equal to 14 effective full power days (EFPD) per calendar year. The proposed change would replace "calendar year" with "365 EFPD interval."

The part length CEA (PLCEA) insertion limits of Technical Specification 3.1.3.7 are intended to ensure that adverse power shapes and rapid local power changes which affect radial peaking factors and departure from nucleate boiling (DNB) considerations do not occur as a result of a part length CEA group covering the same axial segment of the fuel assemblies for an extended period of time during operation. However, the Specification does not clearly specify the allowable duration within the transient insertion limit nor does it clearly address operation within the long term steady state insertion limit. The long term steady state limit is based on the expected variation of the steady state radial peaking factors with burnup. It serves to limit the behavior of the radial peaking factors within acceptable bounds determined from analyses. The transient insertion limit aids in ensuring that the minimum shutdown margin is maintained and that the potential effects of a CEA ejection accident are limited to acceptable levels. Long term operation at the transient insertion limit is not permitted since such operation could have effects on the core power distribution which could invalidate assumptions used to determine the behavior of the radial peaking factors. The proposed change would restrict the part length CEA group insertion to the insertion limits of Figure 3.1-3 with insertion between the long term steady state insertion limit and the transient insertion limit restricted to intervals less than or equal to 7 EFPD per 30 EFPD interval and intervals less than or equal to 14 EFPD per 365 EFPD interval. The proposed would change also revise the actions to be taken if part length CEA groups are inserted beyond the transient limit or between the long term steady state insertion limit and the transient insertion limit for excessive periods of time. The applicability of Specification 3.1.3.7 has been revised frome Modes 1 and 2 to Mode 1 above 20% of rated power. In addition the proposed change to Specification 4.1.3.7 would revise the Surveillance Requirement so that part length CEA group position is determined every 12 hours to be within the transient insertion limit and the accumulated time for insertion beyond the long term steady state insertion limit but within the transient insertion limit is determined every 24 hours.

The proposed change would also revise Specification 3.10.7 to allow suspension of the insertion limits of Specification 3.1.3.7 during special physics tests.

The proposed change would revise the Bases to Specifications 3.1.3.6 and 3.1.3.7 to clarify the extreme limits of CEA travel (fully withdrawn and fully inserted CEA positions). The terms upper electrical limit and lower electrical limit are used to describe the fully withdrawn and fully inserted CEA positions. Furthermore, the CEA fully withdrawn position would be defined as greater than or equal to 145 inches.

Basis for proposed no significant hazards consideration determination: The NRC staff proposes to determine that the proposed amendment does not involve a significant hazards consideration because, as required by the criteria of 10 CFR 50.92(c), operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (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 maintains the required shutdown margins in the facility, thus avoiding any increase in the probability or consequences of an accident previously evaluated. The PLCEA insertion limits are included in the ground rules for the reload analyses for each cycle of operation. This change clarifies the Technical Specification for the plant operators to clearly describe the use of the insertion limits. Therefore, operation of the facility in accordance with this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change would not alter operation of the facility or the manner in which it is operated. The purpose of the proposed change is to clarify the Technical Specifications. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Insertion limits remain unchanged, therefore, operation of the facility in accordance with this proposed change does not involve a significant reduction in a margin of safety.

Local Public Document Room location: General Library, University of California at Irvine, Irvine, California 92713.

Attorneys for licensee: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P. O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Project Director: George W. Knighton

The Cleveland Electric Illuminating Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50-440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: November 19, 1987

Description of amendment request: The proposed amendment would add a surveillance requirement to include verification of trip setpoints during weekly channel functional tests of the Intermediate Range Neutron Monitors (IRM's). It would also change the frequency for channel calibration of the control rod block function from semi-annual to once per refueling interval.

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 licenese 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 licensees have stated that the IRM control rod block function is not relied upon in any of the accident or transient analyses of Final Safety Analysis Report Chapter 15. Therefore, changes related to the surveillance frequency for this instrumentation function would not affect any previously evaluated accident.

The licensees have also stated that the extension of the frequency of an existing surveillance requirement would not create the possibility of a new or different kind of accident from any previously evaluated. The staff agrees that the extension of frequency of a surveillance interval cannot, by itself, create the possibility of a new or different kind of accident from any previously evaluated. The addition of a new surveillance requirement to perform weekly trip setpoint checks matches example (ii) of previously published Commission guidance on actions not likely to involve a significant hazards consideration (51 FR 7751).

The licensee has also stated that the proposed amendment would not involve a significant reduction in a margin of safety. This is due to the fact that the safety-related IRM input for the reactor protection system (RPS) is on an approved 18-month calibration frequency and, therefore, extending the calibration frequency from 6 to 18 months for the rod block IRM input should not present a significant reduction in a margin of safety. The staff agrees that, while the acceptability of extending the calibration frequency for the IRM rod block function from 6 to 18 months is dependent on other considerations besides maintaining consistency with the calibration frequency of the RPS input from the same IRM, granting the proposed amendment would not significantly decrease a margin of safety due the peripheral safety significance of the IRM rod block function as compared to the IRM RPS input.

Therefore, the staff proposes to determine that the amendment involves no significant hazards considerations.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Kenneth E. Perkins.

Tennessee Valley Authority, Dockets Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment requests: January 14, 1988 (TS 237)

Description of amendment requests: The proposed amendment involves two changes:

1. The first change is applicable to Browns Ferry Units 1 and 2 only. The proposed change corrects a footnote referenced in Table 3.2.B, Instrumentation that Initiates or Controls the Core and Containment Cooling Systems. The table entry is changed to reference note 16 instead of 14.

2. The second change applies to Browns Ferry Units 1, 2, and 3. The proposed change will delete the reference to footnote 4 in Table 4.2.K, Radioactive Gaseous Effluent Instrumentation Surveillance, for entry number 5.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because they do not result in a change in the current plant configuration. Rather, they correct table entries in the Technical Specifications (TS) consistent with the present plant design and function of the instruments involved.

The proposed changes do not create the possibility of a new or different kind of accident than previously evaluated because they only correct typographical errors and make the technical specifications consistent with industry standards. The proposed amendment will not eliminate or modify any protective functions currently installed at the plant, nor will it permit any new operational conditions.

The proposed changes do not involve a significant reduction in a margin of safety because the changes are administrative in nature and only correct typographical errors and inconsistencies in the TS.

Based on our review of the proposed amendment the Commission proposes to determine that the proposed change to the Browns Ferry TS involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902.

NRC Assistant Director: Gary G. Zech

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: June 17, 1985, and letters dated November 22, 1985 and March 20, 1986.

Description of amendment request: The proposed change would revise the Technical Specifications (TS) Action Statement concerning the Limiting Condition for Operation for the main steam line code safety valves. The revision would require the plant to go to Mode 4 (hot shutdown) within 12 hours following Mode 3 (hot standby) rather than to Mode 5 (cold shutdown) during valve inoperability. This change would correct an inconsistency between the

Applicability requirement and the Action Statement. The safety valves are required to be operable in Modes 1, 2 and 3, and a transition to Mode 5 is required during valve inoperability. Since applicability is not required in Mode 4, the Action Statement should require the plant to go to Mode 4. This notice was previously published July 2, 1986 (51 FR 24264) and is being republished to correct the omission of the time change to reach Mode 4.

Basis for proposed no significant hazards consideration determination: The Commission had provided guidance concerning the application of the standards for determining no significant hazards considerations by providing certain examples (51 FR 7751). Example (i) of amendments not likely to involve significant hazards considerations is an administrative change to technical specifications, such as a change to achieve consistency throughout the TS's, or correction of an error. The proposed amendment meets administrative change standards since the revision corrects an inconsistency within the Limiting Condition for Operation. On this basis, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20036.

NRC Project Director: Kenneth E. Perkins.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: January 4, 1988

Description of amendment request: The proposed amendment would revise the provisions in the Technical Specifications (TS's) relating to the Reactor Coolant System boron concentration requirement during refueling conditions as specified in TS Section 3.9.1. Specifically, the proposed amendment would: (1) delete a footnote that specifies that the reactor shall be maintained in Mode 6 whenever the reactor vessel head is unbolted or removed; and (2) delete the opening phrase, "With the reactor vessel head unbolted or removed," from Specification 3.9.1.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the proposed amendment would involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.59, this means that the 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 change against the above standards as required by 10 CFR 50.91(a). The Commission has reviewed the licensee's evaluation and agrees with it. The licensee concluded that:

A. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change does not modify the basis for reactivity control nor does it change the requirement to maintain adequate shutdown margin. The proposed change merely clarifies that the boration requirement for the Reactor Coolant System is not applicable when the reactor does not contain any fuel.

B. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change does not affect any system, equipment, or procedure, and the requirement to maintain adequate shutdown control remains unchanged. When the reactor does not contain any fuel, there is no reactor core criticality concern, and, therefore, there is no need for boron concentration control in the Reactor Coolant System.

C. The change does not involve a significant reduction in a margin of safety because boron concentration control requirements are still effective when there is fuel in the reactor.

The Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Kenneth E Perkins.

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: March 3, 1988

Description of amendment request: The proposed changes would modify the Limiting Condition for Operation (LCO) and the surveillance requirements of Technical Specification (TS) 3/4.7.14 as follows:

a. A new action statement "b" would be added which requires the establishment and demonstration of operability of the backup fire suppression system when the diesel-driven fire pump is inoperable for performance of the 18-month inspection. (TS 4.7.14.1.2.c).

b. Surveillance requirement 4.7.14.1.2.c would be changed by deleting the phrase "during shutdown," and adding a reference to the new action statement "b" as specified above.

c. A footnote would be added to surveillance requirements 4.7.14.1.1, 4.7.14.1.2, and 4.7.14.1.3 for Unit 2 which provides clarification that the fire suppression system is common to Unit 1 and therefore the surveillance need only be performed once per defined interval.

d. Correct a typographical error in action statement "a".

The fire suppression system for the North Anna Power Station includes two high pressure fire water pumps, one motor-driven and the other diesel engine-driven. This suppression system is shared by both units. Currently, TS 4.7.14.1.2.c requires that an inspection of the diesel engine be performed at least once per 18 months, during shutdown, in accordance with procedures prepared in conjunction with the engine manufacturer's recommendations. The proposed changes would continue to require an inspection at least once per 18 months, but would eliminate the restriction that the inspection be performed "during shutdown." Instead, the proposed changes would allow the 18-month inspection to be carried out with both units operating, but would require that a backup fire suppression water system be established and demonstrated operable within 24 hours of removing the diesel engine-driven fire pump from service for the purpose of performing this inspection. In the event that the diesel engine is not returned to operable status within 7 days, the proposed changes impose the requirement to submit a Special Report as called for by TS 3.7.14.1 Action "a".

The proposed changes are requested in order to eliminate the ambiguity of

the "during shutdown" clause which is not specific as to whether one or both units must be shut down, and to allow flexibility with respect to the timing of the 18-month inspection while retaining the degree of fire suppression system redundancy appropriate for the operational status of the units. Although the 18-month inspection of the fire pump diesel engine will normally be performed during a unit outage, the flexibility afforded by the proposed changes would eliminate the need to (1) extend the surveillance interval beyond that allowed by the TS, or (2) shut down one or both units in the event of unforeseen changes to the outage schedules for both units.

To date, the licensee has interpreted the clause "during shutdown" to mean that only one unit is required to be shut down during the performance of the 18-month diesel engine inspection. This interpretation was based on the licensee's understanding that the purpose of the shutdown clause was to reduce the nuclear safety risk associated with a fire, while the diesel fire pump was unavailable, to the extent practical, given the NRC-approved fire suppression system design. That is, the increased risk associated with removing the diesel-driven fire pump from service for the purpose of performing a comprehensive inspection was balanced by the decrease in risk associated with having one unit in a shutdown condition. Furthermore, when the diesel-driven fire pump was removed from service for the purpose of performing the 18-month inspection, Action Statement "a" of TS 3.7.14.1 was applied. This Action Statement required that the inoperable equipment (in this case, the diesel-driven fire pump) be restored to operable status within 7 days or the licensee would be required to submit a Special Report to the NRC within the next 30 days outlining the plans and procedures to be used to provide the loss of redundancy in this system.

With the proposed changes, the increased risk associated with removing the diesel-driven fire pump from service to perform the 18-month inspection while both units are operating would be offset by requiring the restoration of the same degree of redundancy that exists when both the motor- and diesel-driven fire pumps are operable. This is accomplished by the proposed requirement to have the motor-driven fire pump and a backup fire suppression system (which includes pumps) operable. Also, a Special Report to the Commission would be required if the diesel-driven fire pump is not restored to operable status within 7 days. The proposed changes allow the diesel-driven fire pump to be removed from service for the 18-month surveillance only if the motor-driven fire pump is operable. With the diesel-driven pump removed from service for the 18-month inspection, Action Statement "c" of LCO 3.7.14.1 would apply in the event that the motor-driven fire pump became inoperable.

Footnotes are being added to the surveillance requirements for the Unit 2 Specifications 4.7.14.1.1, 4.7.14.1.2, and 4.7.14.1.3 to clarify that the surveillances need only to be performed once per interval to satisfy both units' surveillance requirements since the fire suppression system is common to both units. Presently, both units' specifications include the same requirements. Finally, a typo is being corrected in Action "a" of 3.7.14.1 for both units.

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 Part 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 proposed changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will maintain the same balance-of-risk associated with removing the diesel-driven fire pump from service for the 18-month engine inspection that is maintained by the current TS 3/4.7.14. Accordingly, the probability of previously evaluated accidents will remain unchanged. Similarly, the consequences of previously evaluated accidents will remain unchanged since the proposed changes result in the same degree of fire suppression system capability as is currently required. Therefore, the proposed changes do not involve any 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.

The proposed changes deal with the establishment of the degree of fire suppression system redundancy (and therefore capability) appropriate for the operating status of the units during those periods when the diesel-driven fire pump is removed from service for a specific inspection. The proposed changes do not add or delete equipment which could cause a fire or be used to mitigate the effects of a fire. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Involve a significant reduction in a margin of safety.

The existing margin of safety is defined by the current requirement to have at least one unit shutdown and an operable electric motor-driven fire pump when performing the 18-month fire pump diesel engine inspection. The proposed changes would maintain this same margin of safety by requiring that both the motor-driven fire pump and a backup fire suppression system be operable whenever the 18-month diesel engine inspection is performed. Therefore, the proposed changes do not involve any reduction in a margin of safety.

Therefore, the proposed changes meet the criteria specified in 10 CFR 50.92(c) and, thus, the NRC staff proposes to determine that the proposed changes involve no significant hazards considerations, and that operation of the facility in accordance with the proposed changes would not involve a significant hazards consideration.

Local Public Document Room location: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

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: March 1, 1988

Description of amendment requests: The proposed amendments would modify Section 4.4, "Containment Tests" of the Surry Units 1 and 2 Technical Specifications to reflect the use of the Mass-Point method for calculating containment leakage rates which is

described in ANSI/ANS-56.8-1981, "Containment System Leakage Testing Requirements." The Mass-Point method is considered to be superior to the other methods used for determining the containment leakage rates. Also, the Bases would be changed to reflect the use of the ANSI 56.8-1981 standard.

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 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. Virginia Electric and Power Company (the licensee) has evaluated the change request against the standards provided above and has determined that:

(1) The proposed amendment [would] not involve an increase in the probability or consequences of an accident previously evaluated. The [Mass-Point] technique for calculation of the containment leakage rate is a newer, more accurate and NRC staff-endorsed method. It, or any other calculated method used to determine containment leakage rates during testing, is not considered to be an initiator of any accident previously evaluated.

The [Mass-Point] technique is judged to be a superior method for calculating containment leakage rates, and thereby a better method of verifying that leakage from the containment is maintained within allowable limits. By employing a more reliable calculational technique, the assessment of containment integrity, through integrated leak rate testing, is enhanced. As such, the consequences of previously evaluated accidents are not negatively impacted.

(2) The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed amendment provides for the use of a newer, more accurate technique for calculation of the leakage rate during a containment integrated leak rate test. No possibility of a new or different kind of accident is created since the technique used to calculate leak rates in itself is not considered to be an initiator of any accident, transient, incident, or event.

(3) The proposed amendment does not involve a reduction in a margin of safety. The proposed change allows the use of the [Mass-Point] technique to calculate the leakage rate from the containment when performing a containment integrated leak rate test. The [Mass-Point] technique is a newer, more accurate method which has been endorsed by the NRC staff. By adopting this technique, [the licensee] will be able to make a more reliable determination of containment leakage during an integrated leak rate test. As such, the degree of confidence in containment integrity would be enhanced. Therefore, this proposed revision does not impact the margin of safety.

Based on the above evaluation, the licensee has determined that the proposed change involves no significant hazards considerations.

The NRC staff has made a preliminary review of the licensee's analyses of the proposed change and agrees with licensee's conclusion that the three standards in 10 CFR 50.92(c) are met. Therefore, the staff proposes to determine that the proposed amendments do not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Herbert N. Berkow

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.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Unit 1 and 2, Houston County, Alabama.

Date of applications of amendments: December 9, 1987

Description of amendments: The amendments change TS 6.9.1.9, Administrative Controls, to amend the Semiannual Radioactive Effluent Release Report requirements to allow the use of historical annual average meteorological data to determine the doses due to the routine release of radioactive gaseous effluents. This is an option that is provided for in NUREG-0133 and is consistent with the TS Bases and the Final Safety Analysis Report. An administrative correction to the spelling of the word "or" is also made in the same paragraph.

Date of issuance: March 8, 1988

Effective date: March 8, 1988

Amendment Nos.: 75 and 67

Facility Operating License Nos. NPF-2 and NPF-8. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1987 (52 FR 49219) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303

Arizona Public Service Company, et al, Docket No. STN 50-528 Palo Verde Nuclear Generating Station, Unit 1, Maricopa County, Arizona

Date of application for amendment: December 4, 1987

Brief description of amendment: The amendment revises Technical Specification 3/4.5.1, "Safety Injection Tanks", and its associated Bases by (1) raising the lower limit of boron concentration, (2) changing the surveillance requirement for boron concentration, and (3) lowering the RCS pressure at which surveillance is performed for the isolation valve operator.

Date of issuance: March 4, 1988

Effective date: March 4, 1988

Amendment No.: 28

Facility Operating License No. NPF-41: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register:** January 27, 1988 (53 FR 2306). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 4, 1988

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2 and 3, Maricopa County, Arizona

Date of application for amendments: December 4, 1987

Brief description of amendments: The amendments revise Section 6 of the Technical Specifications to incorporate changes reflecting a revised organizational structure.

Date of issuance: March 7, 1988

Effective date: March 7, 1988

Amendment Nos.: 29, 16 and 4

Facility Operating License Nos. NPF-41, NPF-51 and NPF-74: Amendments changed the Technical Specifications.

Date of initial notice in **Federal Register:** January 27, 1988 (53 FR 2308). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 7, 1988

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2 and 3, Maricopa County, Arizona

Date of application for amendments: December 22, 1987

Brief description of amendment: The amendments revise Section 6 of the Technical Specifications for each unit by changing the due date for the annual radiological reports.

Date of issuance: March 7, 1988

Effective date: March 7, 1988

Amendment Nos.: 30, 17 and 5

Facility Operating License No. NPF-41, NPF-51 and NPF-74: Amendments change the Technical Specifications.

Date of initial notice in **Federal Register:** January 27, 1988 (53 FR 2309) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 7, 1988

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004

Boston Edison Company Docket No. 50-293, Pilgrim Nuclear Power Station Plymouth County, Massachusetts

Date of application for amendment: May 22, 1987 supplemented on July 28, September 21 and December 17, 1987.

Brief Description of amendment: Change the Technical Specifications to comply with specific technical provisions of Appendix R to 10 CFR 50; to clarify language, and to correct numbering and references to specific sections of the technical specifications.

Date of issuance: March 8, 1988

Effective date: 30 days from date of issuance

Amendment No.: 114

Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 26, 1987 (52 FR 32193). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02350.

Commonwealth Edison Company, Docket No. 50-373, LaSalle County Station, Unit 1, LaSalle County, Illinois

Date of application for amendment: August 25 and November 17, 1987

Brief description of amendment: The amendment revises the LaSalle County Station, Unit 1 Technical Specifications by changing the identification of the compartment in which the normal and emergency supply breakers for the shutdown cooling isolation valve are located.

Date of issuance: March 1, 1988

Effective date: Fifteen days following date of issuance.

Amendment No. 54

Facility Operating License No. NPF-11: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1987 (52 FR 49220). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Public Library of Illinois, Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: August 24, 1987

Brief description of amendments: These amendments involve administrative changes which clarify the conditions necessary to perform the Technical Specifications jet pump operability surveillance and correct typographical errors.

Date of issuance: March 4, 1988

Effective date: Fifteen days following date of issuance.

Amendment Nos.: 55 and 36

Facility Operating License Nos. NPF-11 and NPF-18: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1987 (52 FR 49220) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 4, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1., Oglesby, Illinois 61348.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: September 9, 1987

Brief description of amendment: The license amendment revises Technical Specification 5.4, "Containment," by

deleting Section 5.4.B., "Penetrations," which references the design information concerning the containment penetrations and their associated bases. Specific design information concerning penetrations is currently discussed in Section 3.8 and 8.3 of the Haddam Neck Plant Updated Final Safety Analysis Report (UFSAR).

Date of Issuance: February 22, 1988
Effective date: February 22, 1988
Amendment No.: 99
Facility Operating License No. DPR-61. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** November 4, 1987 (52 FR 42360) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated February 22, 1988.
Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: September 1, 1987.
Brief description of amendment: This amendment revised the Technical Specifications to permit movement of heavy loads into the cask laydown area of the spent fuel pool, consolidate Technical Specification requirements regarding heavy loads, and require compliance with the guidelines of NUREG-0612.
Date of issuance: March 1, 1988
Effective date: March 1, 1988
Amendment No.: 111
Provisional Operating License No. DPR-20. The amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** October 7, 1987 (52 FR 37544). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 1988.
No significant hazards consideration comments received: No.
Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: November 13, 1987, as supplemented December 11, 1987 and January 15 and 20, 1988.
Brief description of amendments: The amendments modified the Technical Specifications to ensure that plant operation is consistent with the design and safety evaluation conclusions of the Unit 2 cycle 2 reload safety evaluation, and to reflect the addition of the Boron Dilution Mitigation System for Unit 2.
Date of issuance: February 16, 1988
Effective date: February 16, 1988
Amendment Nos. 39 and 31
Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 30, 1987 (52 FR 49225) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 16, 1988.
No significant hazards consideration comments received: No
Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: December 3, 1987
Brief description of amendments: The amendments modified the Technical Specifications to increase by 50% the allowed containment overall integrated leakage rate.
Date of issuance: February 29, 1988
Effective date: February 29, 1988
Amendment Nos.: 41 and 34
Facility Operating License Nos. NPF-35 and NPF-52. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** January 27, 1988 (53 FR 2311) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 29, 1988.
No significant hazards consideration comments received: No
Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of applications of amendment: August 17, 1987 and November 16, 1987, as supplemented December 30, 1987
Brief description of amendment: The amendment upgraded the technical specifications dealing with the inservice inspection of ASME Code Class 1, 2, and 3 components and inservice testing of ASME Code Class 1, 2, and 3 pumps and valves.
Date of Issuance: March 7, 1988
Effective Date: March 7, 1988
Amendment No.: 90
Facility Operating License No. DPR-67: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 9, 1987 (52 FR 34005) and January 27, 1988 (53 FR 2312) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 7, 1988.
No significant hazards consideration comments received: No.
Local Public Document Room location: Indian River Junior College Library, 3209 Virgina Avenue, Ft. Pierce, Florida.

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: December 18, 1987
Brief description of amendment: The amendment revises Technical Specification 3.7.B to allow out of service time for the 125 VDC Motor Control Center "DC-2" to 7 days. The current Technical Specification requires that the plant be shut down within 30 hours if the 125 VDC Motor Control Center "DC-2" becomes unavailable.
Date of Issuance: March 7, 1988
Effective date: March 7, 1988
Amendment No.: 119
Provisional Operating License No. DPR-50. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** January 27, 1988 (53 FR 2316) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated March 7, 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.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 11, 1987, as supplemented by letter dated December 22, 1987.
Brief description of amendment: The amendment revised the Technical Specifications by changing the method of fire detection in the containment annulus.
Date of issuance: March 4, 1988
Effective date: March 4, 1988
Amendment No.: 31
Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** January 27, 1988 (53 FR 2321) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 4, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of application for amendment: November 16, 1987

Brief description of amendment: The amendment revises the allowable value and the isolation trip setpoint for the reactor core isolation cooling (RCIC) high steam line flow. The changes are based on system testing during the startup test program.

Date of issuance: February 26, 1988

Effective date: February 26, 1988

Amendment No.: 2

Facility Operating License No. NPF-54: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 13, 1988 (53 FR 829). The Commission's related evaluation of the amendment is contained in a letter dated February 26, 1988.

Significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

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 amendments: February 12, 1987 as supplemented on October 20, 1987. The October 20, 1987 letter transmitted additional requested information and did not change the original application.

Brief description of amendments: The amendments revised the Technical Specifications with changes related to implementation of a Hydrogen Water Chemistry (HWC) program to improve reactor water chemistry and thus to reduce the potential for intergranular stress corrosion cracking.

Date of issuance: March 3, 1988

Effective date: March 3, 1988

Amendments Nos.: 129 and 132

Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 4, 1987 (52 FR 42368) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 3, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

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 application for amendments: October 16, 1987 (TS 236)

Brief description of amendments: The proposed amendment would modify the Technical Specification (TS) of Browns Ferry Nuclear Plant Units 1, 2 and 3 to:

A. Require that primary containment isolation valves be operable whenever primary containment integrity is required to be maintained.

B. Permit a primary containment isolation valve(s) to be inoperable for up to four hours without placing a redundant valve in the isolated position provided that at least one isolation valve in the same line is operable.

C. Revise the definition 1.0.0.3, Primary Containment Integrity, to be consistent with Item B.

Date of issuance: February 29, 1988

Effective date: February 29, 1988, and shall be implemented within 60 days

Amendments Nos.: 145, 141, 116

Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 27, 1988 (53 FR 2324) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 29, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: May 15, 1987 (TS 229)

Brief description of amendments: The amendments delete the requirement to perform a partial closure test of the main steam isolation valves (MSIVs) denoted in Surveillance Requirement 4.7.D.1.c. Deletion of the test requirement allows the partial closure test to be performed quarterly, consistent with the requirement denoted in Table 4.1.A for the Reactor Protection System (RPS) scram on MSIV closure, rather than the twice per week test currently specified.

Date of issuance: March 1, 1988

Effective date March 1, 1988, and shall be implemented within 60 days

Amendments Nos.: 146, 142, 117

Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 27, 1988 (53 FR 2324) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 1, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

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 application for amendments: April 3, 1987, as clarified January 22, 1987 (TS 228)

Brief description of amendments: The amendments clarify conflicts between notes in the Technical Specifications (TS) and make various administrative corrections. More specifically, the amendments change the TS as follows:

1. Section 3.5.M, Reporting Requirements, the bases for it, and its reference in the index have been deleted.

2. Note 7.d for Table 3.2.C has been revised.

3. Limiting Condition for Operation (LCO), 3.6.H.1, has been revised to reflect the correct Surveillance Instruction (SI) number for the safety-related snubber list.

4. Section 2.1.C has been revised to show the correct reference of specification 4.5.L for the Surveillance Requirement for Average Power Range Monitor (APRM) setpoints.

5. Table 4.2.A note (14) has been deleted.

Date of Issuance: March 3, 1988

Effective date: March 3, 1988, and shall be implemented within 60 days

Amendments Nos.: 147, 144 and 118

Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 17, 1987 (52 FR 23107) The January 22, 1988, submittal provided clarifying information. This information made no substantive changes to the original application and did not change the staff's initial no significant hazards

consideration determination. Therefore, renoticing was not warranted. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 3, 1988.

No significant hazards consideration comments received: No

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: January 20, 1988

Brief description of amendment: The amendment revised the TS's to permit an extension of the next due date for performing the tests and inspections required by Surveillance Requirement 4.8.1.1.1 b from March 1, 1988, to April 1, 1988.

Date of issuance: February 29, 1988

Effective date: February 29, 1988

Amendment No. 107

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 27, 1988 (53 FR 2303)

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: March 27, 1987

Brief description of amendment: The amendment revised TS Section 3/4.3.1, Tables 3.3-1 and 4.3-1, to address Action and Surveillance Requirements relating to reactor trip breaker diverse trip devices.

Date of issuance: March 2, 1988

Effective date: March 2, 1988

Amendment No. 108

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 17, 1987 (52 FR 23108) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 2, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: January 22, 1986 (clarified by letters dated August 25, 1987, December 28, 1987, January 15, 1988 and February 17, 1988).

Brief description of amendment: This amendment revises the responsibilities and authority of the Station Review Board and adds a section to the Technical Specifications on Technical Review and Control. This amendment involves Technical Specification Sections 6.5.1.3, 6.5.1.6, 6.5.1.7, 6.5.3, 6.8.2, and 6.8.3. A portion of the amendment request has been denied by the Commission. A Notice of Denial is being published separately in the **Federal Register.**

Date of issuance: March 9, 1988

Effective date: March 9, 1988

Amendment No. 109

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 2, 1986 (51 FR 24265) Since the date of the initial notice, the licensee has provided clarifying information, dated August 25, 1987, and December 28, 1987, January 15, 1988, and February 17, 1988, which does not warrant renoticing. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 9, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: November 30, 1987, as supplemented January 29 and February 23, 1988

Brief description of amendment: The amendment added a license condition and modified the Kewaunee Technical Specifications to permit sleeving of defective steam generator tubes.

Date of issuance: March 1, 1988

Effective date: March 1, 1988

Amendment No.: 76

Facility Operating License No. NPF-30. Amendment revised the license and the Technical Specifications.

Date of initial notice in **Federal Register:** January 27, 1988 (53 FR 2305 at 2326). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 1, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: January 8, 1987, as supplemented by letters dated June 8 and October 16, 1987.

Brief description of amendments: The amendments consist of modifications to Technical Specification Tables 15.3.5-2 and 15.3.5-5 to eliminate ambiguity and to accurately reflect facility configuration.

Date of issuance: March 2, 1988

Effective date: March 2, 1988

Amendment Nos.: 112 and 115

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1987 (52 FR 13353). In a letter dated June 8, 1987, the licensee withdrew the proposed modification to the wording for the setpoints for Items 9, 10a and 10b of Table 15.3.5-1. The licensee's June 8, 1987 letter does not change the staff's proposed no significant hazards consideration determination noticed April 22, 1987, because withdrawal of the proposed modification results in no changes to Items 9, 10a, and 10b of Table 15.3.5-1. Additionally, in a letter dated October 16, 1987, the licensee proposed revising the wording for Item 10 of Table 15.3.5-5 to remove ambiguity. The licensee's October 16, 1987 letter does not change the staff's proposed no significant hazards consideration determination noticed April 22, 1987 because the proposed revised wording was solely submitted to remove inherent ambiguity. No technical changes to the previously noticed action were involved.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 2, 1988.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION

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.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application of amendment: June 12, 1987

Brief description of amendment: The amendment increased the spent fuel pool storage capacity from 728 fuel assemblies to 1706 fuel assemblies.

Date of Issuance: March 11, 1988

Effective Date: March 11, 1988

Amendment No.: 91

Facility Operating License No. DPR-67: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 31, 1987 (52 FR 32852)

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By April 22, 1988 , the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition

should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (*Project Director*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-White Flint, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Dates of application for amendment: February 24, February 26, and March 1, 1988.

Brief description of amendment: The amendment revised the Technical Specifications to permit the plant to be operated with only two safety injection pumps operable. Power level is limited to 1380 MWt.

Date of issuance: March 7, 1988

Effective date: March 7, 1988

Amendment No. 115

Facility Operating License No. DPR-23. The amendment revises the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 7, 1988.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

NRC Project Director: Elinor G. Adensam

Indiana Michigan Power Company, Docket No. 50-316, D. C. Cook Nuclear Plant, Unit 2, Berrien County, Michigan

Date of application for amendment: January 11, 1988

Brief description of amendment: This amendment revises the Technical Specifications to allow a delay in the 18-month surveillances for the residual heat removal auto-closure interlock, steam generator snubbers and the Rod Position Indication System until the end of the next refueling outage currently scheduled to begin during the second quarter of 1988.

Date of Issuance: February 29, 1988

Effective date: February 29, 1988

Amendment No.: 99

Facility Operating License No. DPR-74: Amendment revises the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes, in the **Federal Register**, February 17, 1988 (53 FR 4796)

Comments received: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated February 29, 1988.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Local Public Document Room location: Maude Preston Palenski Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

NRC Project Director: Martin J. Virgilio.

Dated at Rockville, Maryland, this 17th day of March, 1988.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[Doc. 88-6200 Filed 3-22-88; 8:45 am]

BILLING CODE 7590-01-D

[Docket Nos. 50-528, DD 88-02]

Arizona Public Service Co. et al.; Palo Verde Nuclear Generating Station, Unit 1; Issuance of Director's Decision

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has denied a Petition under 10 CFR 2.206 filed by Mr. Myron L. Scott, on behalf of the Coalition For Responsible Energy Education, and Mr.

Jack Kauffman, on behalf of the Valley of the Sun Gray Panthers (Petitioners). The Petitioners asked the Nuclear Regulatory Commission (NRC) to provide relief by issuing an Order to Show Cause why a Notice of Violation (Severity Level III or higher) should not be issued and a Civil Penalty of not less than $100,000 ($50,000 escalated for repetitive nature of concerns) be assessed against the Arizona Public Service Company, et al. (Licensees) because of the Licensees' response to an event at the Palo Verde Nuclear Generating Station, Unit 1 and the number of licensee Event Report incidents at Palo Verde, Units 1 and 2.

The Petitioners' request has been denied for the reason fully described in the "Director's Decision Under 10 CFR 2.206," issued on this date, which is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and in the Local Public Document Room for Palo Verde located at the Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 14th day of March 1988.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 88-6301 Filed 3-22-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-354]

Public Service Electric & Gas Co. and Atlantic City Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 15 to Facility Operating License No. NPF-57, issued to Public Service Electric and Gas Company (the licensee), which revised the Technical Specifications for operation of the Hope Creek Generating Station (HCGS), located in Salem County, New Jersey. The amendment was effective as of the date of issuance.

The amendment modified the Technical Specifications to permit operation for Cycle 2 with the new fuel assemblies that were loaded during the first refueling outage. It also permitted use of extended load line operations and increased core flow operations.

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 Prior Hearing in connection with this action was published in the **Federal Register** on January 14, 1988 (53 FR 972). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility dated December 1984.

For further details with respect to the action see (1) the application for amendment dated December 14, 1987, (2) Amendment No. 15 to License No. NPF-57, and (3) the Commission's related Safety Evaluation and Environmental Assessement. 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 Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070. 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 I/II.

Dated at Rockville, Maryland, this 15th day of March 1988.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulator.

[FR Doc. 88-6302 Filed 3-22-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and The Cleveland Electric Illuminating Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-3, issued to the Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), for operation of the Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio.

The proposed amendment would revise the provisions in the Davis-Besse Nuclear Power Station, Unit No. 1, Technical Specifications (TS's) relating to response times for the Main Steam Isolation Valves in TS section 3/4.3.2, Table 3.3-5, Safety Features System Response Times, and Table 3.3-13, Steam and Feedwater Rupture Control System Response Times; section 3/4.6.3, Table 3.6-2, Containment Isolation Valves; and section 3/4.7.1, Surveillance Requirement 4.7.1.5, Main Steam Isolation Valves. The proposed changes would ensure consistent closure response time requirements throughout the Appendix A TS's, would delete redundant response time requirements, and would clarify the meaning of the response time requirement.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By April 22, 1988, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a 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.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 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 Kenneth E. Perkins: (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 Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its intent to make a no significant hazards consideration finding in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated July 27, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 16th day of March, 1988.

For The Nuclear Regulatory Commission.

Albert W. De Agazio,

Project Manager, Project Directorate III–3, Division of Reactor Projects—III, IV, V & Special Projects.

[FR Doc. 88–6303 Filed 3–22–88; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–25482; File No. SR–Amex–87–25]

Self-Regulatory Organization; Proposed Rule Change by American Stock Exchange, Inc.; Broad Market Index Option Contract Based on the International Market Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 2, 1987, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or "Exchange") proposes to introduce a new broad market index option contract based on the International Market Index—a group of 50 foreign stocks and American Depositary Receipts (ADRs) traded on the Amex, the New York Stock Exchange ("NYSE") or through the National Association of Securities Dealers Automated Quotations ("NASDAQ") system.

The text of the proposed rule change is available at the Office of the Secretary, Amex, and at 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 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 the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Amex has developed a new broad market international stock index, called the International Market Index ("Index"), based exclusively on the equity stocks of fifty leading foreign issuers located in a number of the major industrialized nations in the non-communist world, but not including any U.S. or Canadian issues. All of the securities to be used in calculating the Index are registered with the Commission under the Securities Exchange Act of 1934 ("the Act"), or are exempt from such registration under SEC Rule 12g3–2 or section 12(f) of the Act, and are traded on the Amex or the NYSE or through NASDAQ. Most of the securities are traded in the form of ADRs in this country and the few which are not traded as ADRs have transfer facilities located in the U.S. The Amex is

proposing to trade standardized European-style options based on this new Index.

The Exchange has joined with the Coffee, Sugar and Cocoa Exchange, Inc. ("CSCE"), a commodity exchange regulated by the Commodity Futures Trading Commission, in developing the Index. It is intended that the Amex trade options and the CSCE trade futures on the newly developed Index.

The Index will be calculated and maintained by the Amex. In maintaining the Index, the Exchange reserves the right to substitute stocks or to increase the number of stocks included in the Index, based on changing international conditions or newly available foreign equity securities traded in United States domestic markets. In selecting securities to be included in the Index, the Exchange will be guided by a number of factors, such as market value of outstanding shares, trading activity in the U.S. markets and, in the case of NASDAQ-traded stocks, the number of market makers making markets in the component stocks.

The proposed Index will be capitalization-weighted. It will be calculated during normal U.S. trading hours using ADR or foreign share prices in U.S. markets and total shares outstanding in the world markets. In calculating the Index, last sale price for exchange-traded securities, and the arithmetic mean between the highest bid price and the lowest offer price for NASDAQ securities, will be used. The Index value will be calculated continuously and displayed in a manner similar to other stock index options published by the Exchange. The information will be disseminated to vendors through the OPRA System. A benchmark Index value of 200.00 has been established for the Index as of January 2, 1987. On December 31, 1987, the Index value was approximately 244. The index multiplier will be 100.

Specific corporate actions or events, such as additional stock issuances or repurchases, stock splits, or stock dividends, will require adjustment to the component weight of affected stocks in the Index. The Exchange will re-adjust component weights of the stocks in the Index in accordance with updated capitalizations in their domestic markets, applying offsetting divisor adjustments to the Index to eliminate discontinuities. The Exchange proposes to use information available to ADR agent banks for this purpose, together with information to be obtained on a regular basis from international news services.

There are several important trading and regulatory advantages to basing the Index exclusively on foreign shares traded in U.S. markets. First, the problem of real-time pricing of a foreign stock index during normal U.S. trading hours is overcome through a vehicle that can be priced continuously, based on trading in U.S. markets.

Second, for an index to be meaningful and useful to investors, the prices used in calculating the index must be stated in a common currency. By using only foreign securities that are traded in the U.S. in U.S. dollars, the need for currency conversions is eliminated.

Third, as noted above, each component stock is a registered security under section 12 of the Act (as a result of which the issuer is subject to the reporting requirements of section 13 of the Act), or is relying on an exemption from such registration pursuant to paragraph (d) of SEC Rule 12g3–2 (in which event the issuer must comply with the information supplying requirements of paragraph (b) of such Rule).

Finally, each of the component stocks can be freely purchased and sold by U.S. investors in the form of foreign shares or ADRs using standard U.S. procedures for clearance and settlement.

Eligibility Standards for Index Components. The Exchange has established minimum criteria for selecting stocks to be included in the Index. Further, if component stocks in the Index should fail to continue to meet these criteria, the Exchange will take steps to select suitable replacements. In maintaining the Index, the Exchange will make an effort to ensure country dispersion within Europe and the Pacific Basin, and industry dispersion across major manufacturing and non-manufacturing sectors.

The criteria for index stocks include the following: 1. Each component security shall be issued by a foreign issuer (non-U.S. and non-Canadian) but shall have an active U.S. market, being traded on either the Amex or the NYSE, or through the NASDAQ system. Each component security will also be registered under section 12 of the Act or be eligible for exemption from such registration as a result of compliance with the information supplying provisions of SEC Rule 12g3–2.

2. The minimum market value in U.S. dollars of the foreign security as measured by total world shares outstanding shall be $100 million.

3. If a NASDAQ security, the minimum number of market makers actively posting markets on the NASDAQ system shall be 8. Moreover, the spreads between the bid and offer prices quoted shall be reasonable in relation to the spreads for other securities traded through the NASDAQ system having similar trading characteristics and selling in the same general price range.

4. Minimum monthly trading volume in the U.S. market for each component stock shall be 5,000 shares (or ADRs).

The above statistical criteria are minimum guidelines only; it is anticipated that the vast majority of the stocks included in the Index will substantially exceed these levels.

Procedures for Settlement. The Index value for purposes of settling specific International Market Index options will be established by the Exchange on the business day prior to the expiration date of such options, normally the Friday preceding expiration Saturday in each month. Trading in expiring options will normally cease at the close of business on the preceding Thursday. Such Index value will be calculated on the basis of opening prices (as defined below) of the component stocks in the U.S. markets on such business day.

A. For foreign shares or ADRs listed and/or traded on U.S. stock exchanges, the opening price on the Exchange which is the primary market for the security will be used.

B. In the case of securities traded through the NASDAQ system, the Exchange will use the arithmetic mean between the highest bid and lowest offer price at 9:30 a.m. New York City time as quoted on the NASDAQ inside market. The Exchange believes that the uncertainty of identifying opening transaction prices in NASDAQ securities (both because of sequencing problems in reporting securities and lack of transaction reporting in other securities) makes use of the mean of the best bid/ask quote at a particular time a more efficient method of pricing for settlement purposes. In addition, one criterion for including securities traded in the OTC market in the Index is that there be at least eight market makers actively making markets in the security, helping ensure competitive market quotes. The Exchange therefore believes that the mean of the best bid/ask quote taken at 9:30 a.m. will be a better determination of the then current market price than the first reported trade of the day.

The Exchange has selected opening market prices rather than closing market prices for establishing the settlement value of the Index for two principal reasons. First, since the principal markets for the Index component stocks are foreign markets, the Exchange believes that settlement prices determined either during active trading in such foreign markets or as soon after

the close of trading in those markets as possible, will provide more reliable price determinations for settlement purposes than if a substantial period of time has elapsed since the close of the foreign market.

The home market for most of the component issues is located either in Europe (where the closing of the markets generally occurs shortly before or shortly after the opening of trading in U.S. markets) or in the Far East (where the previous day's trading will have ceased only a few hours prior to the opening of the U.S. markets). In some cases, such as with the markets in the United Kingdom, trading will actually overlap the opening of the U.S. markets. Thus, by selecting the opening of the U.S. markets as the pivotal point for establishing the settlement value of the Index, the Exchange will be minimizing the period between lapse of trading in the home country and the time when such value is calculated.

The second reason for the use of opening prices is that the Exchange believes such procedure will make manipulation of the prices more difficult to accomplish. The more active and liquid the market, the more difficult it is to artificially influence prices. Since the home market in most of the component issues in the Index will normally be the most active, it is less likely to be susceptible to such artificial stimulus. It can also be expected that in most instances the opening prices in the U.S. markets will closely tract the prices in the home market, particularly if the home market is still trading or has only closed shortly prior to the commencement of trading in the U.S. Thus, the Exchange believes that the use of opening prices in the U.S. markets will provide an added measure of protection against attempts to artificially influence prices of component issues as a means of affecting the settlement value of the Index.

Exchange Rules Applicable to Stock Index Options. Amex Rules 900C through 980C will apply to option contracts based on the Index. The Index is deemed to be a Broad Stock Index Group under Rule 900C(b)(1). Options on the Index will be European-style (exercise at expiration only), and, under Rule 903C, the Exchange proposes to list the three near months and two additional cycle months of the March cycle. The position limits applicable to European style options on a broad stock index group are governed by Rule 904C(b). Under this provision, the Exchange proposes to establish a position limit of 15,000 contracts on the same side of the market.

Surveillance Procedures. The Exchange expects to apply its existing index options surveillance procedures to the new International Market Index option. It believes such procedures are adequate to enable the Exchange to fulfill its regulatory responsibilities.

In order to monitor corporate developments affecting shareholder interests, the Exchange will arrange with major ADR-sponsoring banks and various international financial news services to receive on a regular basis information concerning all of the issuers of the component securities.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)5 in particular in that it is designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 13, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 17, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-6350 Filed 3-22-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25478; File No. SR-DTC-88-2]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change of the Depository Trust Co.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") notice is hereby given that on February 22, 1988, the Depository Trust Company ("DTC") filed with the Commission a proposed rule change to include medium-term notes [1] as eligible securities in DTC's Same-Day Funds Settlement ("SDFS") service. The proposal also provides that DTC's mandatory book-entry receipt procedure applies to transactions in eligible medium-term notes. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The SDFS service provides full depository and transaction settlement services for certain securities transactions settling in same-day funds.[2] Initially, only transactions

[1] Medium-term notes are corporate debt securities issued with maturities ranging from 9 months to 12 years.

[2] *See* Securities Exchange Act Release No. 24689 (July 9, 1987), 52 FR 26613, which approved the SDFS

Continued

involving municipal notes with a maturity of one year more or less were eligible for the SDFS Service. Recently, DTC expanded the SDFS service to include zero-coupon bonds backed by U.S. government securities [3] and variable rate demand obligations.[4] DTC states in its filing that it has not experienced, nor is it aware that SDFS participants and settling banks have experienced, any significant operational problems in using the SDFS service. Based upon initial performance and participant requests, DTC has decided to expand the service to include medium-term corporate notes.

DTC represents in its filing that it has acted to ensure accurate collateralization of medium-term corporate note transactions.[5] DTC will rely primarily on "haircuts" set by its bank lenders, which are obligated under a line of credit to lend DTC funds on SDFS securities. DTC has contracted with a third-party vendor of securities valuation information to obtain daily information on the value of medium-term notes. According to DTC, SDFS settlement prices as well as quotations from SDFS participants would be additional information sources for determining the value of these securities.

The proposal also clarifies that DTC's mandatory book-entry receipt procedure applies to transactions in medium-term corporate notes.[6] Under DTC's book-entry receipt procedure, DTC facilities cannot be used to reclaim a book-entry delivery for the reason that the delivery has been by book-entry, except where the parties to the trade have agreed to settle the trade by a physical delivery and the trade confirmation so specified. According to DTC, this procedure has encouraged DTC participants to accept book-entry delivery of SDFS-eligible securities.

DTC believes the proposed rule change is consistent with the requirements of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions that settle in same-day funds. Furthermore, DTC believes the proposal effects a change in the SDFS service that (1) does not adversely affect the safeguarding of securities or funds in DTC's custody or control and (2) does not significantly affect the respective rights or obligtions of DTC or persons using the SDFS Service.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if is appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Reference should be made to File No. SR-DTC-88-2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of the filing (SR-DTC-88-2) and of any subsequent amendments also will be available for inspection and copying at DTC's principal office.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: March 17, 1988.

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service on a temporary basis. In Securities Exchange Act Release No. 25308 (February 4, 1988), 53 FR 6900, the Commission extended temporary approval of the SDFS service to June 30, 1988.

[3] *See* Securities Exchange Act Release No. 25031 (October 15, 1987), 52 FR 38982.

[4] *See* Securities Exchange Act Release No. 25317 (February 5, 1988), 53 FR 4249.

[5] DTC requires collateralization of each SDFS service transaction. DTC tracks continuously the value of each Participant's collateral by obtaining market value data from bank lenders, third-party vendors of that information, its participants, and from settlement values of SDFS securities transactions. On each SDFS service transaction, DTC will "haircut" (or discount the value of) SDFS securities coming into a participant's account. A receiving participant must have sufficient collateral to cover the difference between the value paid for the SDFS securities and their discounted value.

[6] DTC's mandatory book-entry receipt procedure applies to all transactions currently eligible for the SDFS service

[Release No. 34-25475; File No. SR-DTC-88-01]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Depository Trust Co.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C 78s(b)(1), notice is hereby given that on February 10, 1987, The Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of Proposed Rule Change

The Depository Trust Company ("DTC") is filing herewith the changes in the fee schedule for major DTC services which are listed on the Annex hereto.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The purpose of the proposed rule change, which will be effective for services provided after February 29, 1988, is to adjust the fees charged for various services to bring them closer to, or to, their respective estimated service costs for 1988.

Prior to 1985, DTC attempted to relate service fees to their respective service costs at intervals of several years. During these intervals, unit service costs could diverge substantially from current fees, necessitating large changes when service fees were realigned with their costs. To prevent such divergence after adopting major fee changes at its December 1985 meeting which moved

toward cost-based fees, the DTC Board then adopted and announced a new procedure, as follows:

> In adopting new fees, the Board also declared its belief and intention that DTC should revise its basic fee schedule each year so that, through modest changes gradually over approximately five years, DTC service fees will be based on service cost in the absence of policy considerations which would justify limited exceptions. Large changes in service fees after intervals of several years would thereby be avoided.

The present fee schedule for DTC services, which became effective in early 1987, resulted from the first of those annual revisions. Continuing to follow the procedure enunciated above, the depository's Board recently completed a review of DTC's estimated service costs for 1988 and has adopted modest changes in a number of major service fees designed to move those fees closer to estimated 1988 service costs. *See Exhibit A.*

The proposed rule change is consistent with the requirements of the Securities and Exchange Act of 1934 and the rules and regulations thereunder applicable to DTC because the fees will more equitably be allocated among DTC Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will 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

DTC informed Participants and other users of its services of the proposed rule change by a memorandum dated January 12, 1988 entitled "1988 Revisions of Major Service Fees". Because Participants have supported gradual moves toward cost-based fees in the past and because, overall, the subject fee changes are modest, a formal period for Participant comment was not considered necessary this year.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 13, 1988.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: March 16, 1988.

Jonathan G. Katz,

Secretary.

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1988 REVISED DTC SERVICE FEES

Service	Present Fee			Revised Fee		
A. Registered Securities						
I. Deposits						
. The fee for deposits of certificates in active issues is determined by the time of receipt by DTC: (1)						
Zone A - 4:00 PM to 8:00 PM (Prior PM)	$ 1.20	$1.35 includes certificate charge*	$1.63*	$ 1.50	$1.67 includes certificate charge*	$1.90*
Zone B - 7:30 AM to 10:00 AM	$ 2.00			$ 2.30		
Zone C - 10:00 AM to 11:00 AM	$ 4.20			$ 4.50		
Zone D - 11:00 AM to 12:00 Noon	$10.00			No Change		
Zone E - 12:00 Noon to 1:00 PM	$40.00			No Change		
. The fee for deposits of certificates in less-active issues** is determined by the time of receipt by DTC: (1)						
Zone A - 4:00 PM to 8:00 PM (Prior PM)	$ 1.90	$2.14 includes certificate charge*		$ 2.20	$2.36 includes certificate charge*	
Zone B - 7:30 AM to 10:00 AM	$ 2.70			$ 3.00		
Zone C - 10:00 AM to 11:00 AM	$ 4.90			$ 5.20		
Zone D - 11:00 AM to 12:00 Noon	$10.60			No Change		
Zone E - 12:00 Noon to 1:00 PM	$40.60			No Change		
. A certificate charge per deposit per group of 10 certificates beyond the first 10 certificates in addition to the Zone fee	$.30 per group of 10 certificates beyond the first 10 certificates			No Change		

All footnotes in this Annex are found on the last page.

1988 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee
. A record date deposit surcharge for bond interest, cash and stock dividends and proxy	$ 4.00 per record date deposit		No Change
. Rejects For each deposit corrected or returned to a Participant because of error:			
From 0 to 5%	$20.00 per reject	$21.77*	No Change
Over 5%	$30.00 per reject		
II. Withdrawals-by-Transfer (WT's)			
. For each assignment in an active issue submitted on PTS, API or CCF	$ 1.30 per assignment		$1.65 per assignment
. For each separate paper assignment in an active issue	$ 3.00 per assignment		$3.35 per assignment
. For each assignment in an active issue concluding in direct mail	$ .80 per assignment(2)		$1.15 per assignment(2)
. For each assignment in a less-active issue** submitted on PTS, API or CCF	$ 3.10 per assignment		$3.45 per assignment
. For each separate paper assignment in a less-active issue**	$ 4.80 per assignment		$5.15 per assignment
. For each assignment in a less-active issue** concluding in direct mail	$ 2.60 per assignment(2)		$2.95 per assignment(2)

All footnotes in this Annex are found on the last page.

Service	Present Fee		Revised Fee
. Rejects For each transfer corrected or returned to a Participant because of error:			
From 0 to 5%	$20.00 per reject	$20.98*	No Change
Over 5%	$30.00 per reject		
III. Urgent Withdrawals (COD's)			
. For each urgent withdrawal requested on an overnight basis:			
Submitted by PTS	$ 8.50 per withdrawal		$ 9.25 per withdrawal
Submitted by paper	$10.00 per withdrawal		$10.75 per withdrawal
. For each urgent withdrawal by PTS requested on a same-day basis	$14.50 per withdrawal		$15.25 per withdrawal
. For each urgent withdrawal submitted by paper requested on a same-day basis	$16.00 per withdrawal		$16.75 per withdrawal
. Rejects For each urgent withdrawal returned to a Participant because of error:			
From 0 to 5%	$20.00 per reject	$24.28*	No Change
Over 5%	$30.00 per reject		
IV. Collateral Loans (Pledges/Releases)			
. For each security (line item) pledged, released or substituted via PTS	$ .22 per line item payable by both the pledgee and pledgor in each transaction		No Change
. For each security (line item) pledged, released or substituted via paper	$ .54 per line item payable by both the pledgee and pledgor in each transaction		No Change

All footnotes in this Annex are found on the last page.

1988 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
. Rejects For each pledge or release corrected or returned to a Participant because of error:				
From 0 to 5%	$20.00 per reject	$22.59*	No Change	
Over 5%	$30.00 per reject			
V. Deliveries				
. Deliver orders via CNS	$ .09 for each item delivered or received		No Change	
. Deliver orders via ID System	$ .21 for each item delivered or received		No Change	
. Deliver orders via PTS, API or CCF For each deliver item presented				
Prior PM	$ .25 to the deliverer	$ .40*	$.20 to the deliverer	$.35*
AM opening to 1:15 PM	$ .50 to the deliverer		$.45 to the deliverer	
	$ .35 for each item received (regardless of time)		$.30 for each item received (regardless of time)	

All footnotes in this Annex are found on the last page.

1988 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
VI. ID Service				
. For each confirm distributed by paper, tape, PTS, CCF or dial-in terminal	$.22 to broker (and $.22 for any interested party), $.22 to clearing agent if agent requests confirm; $.22 to investment manager **** for each confirm received, whether or not affirmed	$.36 includes reports*	$.18 to broker (and $.18 for any interested party), $.18 to clearing agent if agent requests confirm; $.18 to investment manager **** for each confirm received, whether or not affirmed	$.27 includes reports*
. For each confirm transmitted in magnetic tape form	$.37 per confirm, plus telephone line costs		$.33 per confirm, plus telephone line costs	
. For each confirm transmitted by fascimile device	$.42 per confirm, plus telephone line costs		$.38 per confirm, plus telephone line costs	
. For each Pre-Authorized Delivery Quantity (PDQ) Delivered/Not Delivered and Received Report line item	$.09 to the deliverer and $.09 to the receiver		$.07 to the deliverer and $.07 to the receiver	
. For each Unaffirmed Report line item	$.09 to the broker		$.07 to the broker	
. For each Cumulative and Daily Eligible Trade Report line item	$.09 to broker and clearing agent		$.07 to broker and clearing agent	
. For each Daily Eligible Trade Report line item	$.09 to broker for reports received by any interested party		$.07 to broker for reports received by any interested party	
. For each Ineligible Trade Report line item	$.09 to broker and clearing agent		$.07 to broker and clearing agent	

All footnotes in this Annex are found on the last page.

1988 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
VII. Long Position				
. For each active issue monthly (for registered corporate issues when a daily average of more than 15 Participants have position; and for registered municipal issues when a daily average of more than 2 Participants have position)	$ .55 per issue		$ .53 per issue	
. For each less-active registered corporate issue monthly (when a daily average of 15 or fewer Participants have position)	$ .80 per issue		$ .78 per issue	
. For each less-active registered municipal issue monthly (when a daily average of 1 or 2 Participants have position)	$1.30 per issue		$1.28 per issue	
		$.96*		$.94*
. For each 100 shares or $4,000 bonds (monthly) based on the average daily number of shares or bonds:				
- 0-25 million shares	$ .0052		No Change	
- Excess over 25 million up to 200 million shares	$ .0013		No Change	
- Excess over 200 million up to 300 million shares	$ .000652		No Change	
- Excess over 300 million shares	$ .00005			
. For each book-entry-only issue (monthly)	$ .40 per issue; no per bond/per share charge		No Change	

All footnotes in this Annex are found on the last page.

1988 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee
VIII. Reorganization			
. Conversions and Warrant Subscriptions For each common stock resulting from the conversion of bonds or preferred stocks/for each instruction submitted			
- From 1 to 400 common shares	Two DO fees, plus: $ 20.00 per transaction minimum; $ .05 per share from 401 to 2,000 shares; $100.00 per transaction maximum	$ 63.31*	No Change
- 401 to 2,000 common shares			
- 2,001 and over common shares			
. Unit Swingovers	$ 11.00 per swingover instruction plus 3 DO fees		No Change
. Mandatory Exchanges/Redemptions	$ 21.00 per Participant position		$22.00 per Participant position
. Voluntary Exchanges/Tender Offers	$ 28.00 per letter of transmittal		$30.00 per letter of transmittal
IX. Underwritings			
. Corporate issues	$205.00 plus $3.00 per million with a total maximum fee of $2,000 and any unusual expenses	$255.63*	No Change
	Any book-entry-only issue: $205.00 and any unusual expenses		No Change
	Certificates of deposit: $105.00 and any unusual expenses		No Change
. Registered municipal issues	$405.00 plus $ 3.00 per million with a maximum of $2,000 (3) and any unusual expenses		No Change
	Any book-entry-only issue: $405.00 (3) and any unusual expenses		No Change

All footnotes in this Annex are found on the last page.

1988 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
X. Dividends		
. For each cash dividend or interest payment: Corporate issues	$ 1.40 per credit (excluding deduction from monthly dividends refund)	No Change
Registered municipal issues	$ 1.60 per credit	$ 1.70 per credit
. For each stock dividend payment	$8.00 per credit	$13.00 per credit
. For each Dividend Reinvestment Service instruction to receive stock in lieu of a cash dividend	$23.00 per instruction	$28.00 per instruction

1988 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee
XI. PTS Reports			
. Inquiries, Unsolicitated Messages and Messages Participant inquiries about security eligibility, aged WT instructions, and money settlement figures; messages about activities affecting a Participant's securities, etc.	$ .06 per inquiry or message		No Change
. Reports Dropped Deliveries Report Dropped COD's Report Cash Dividend Report	$ 30.00 per month per report series plus $ .06 per line		No Change
. Pre-Updated Edits Allows a Participant to edit a DO or WT instruction prior to update by DTC's system	$ .06 per edit		No Change
. Broadcast To send messages to other Participants in the DTC terminal network	$ .15 per 300 character message per addressee		No Change
XII. Usage Charge			
. For each Participant account	$460.00 per month each account up to 5 $140.00 per month each account over 5	$371.29*	No Change
. For each non-Participant Pledgee Bank account	$320.00 per month		No Change
. For each Pledgee Bank that is also a Participant	$140.00 per month		No Change

All footnotes in this Annex are found on the last page.

1988 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
XIII. Inter-Depository Interface Fees		
. RIO delivery	$ .30 to NSCC	$ .28 to NSCC
. Third-party delivery	$ .70 surcharge for each item delivered, received or reclaimed on the regular DO fee to a Participant	$ .42 surcharge for each item delivered, received or reclaimed on the regular DU fee to a Participant
XIV. Use of DTC Interface Department		
. Participant usage		
Basic services:		
Settlement	$25.00 per month	$30.00 per month
Sorting	$75.00 per month	$90.00 per month
Shipping	$75.00 per month	No Change
Physical certificate forwarding fees:		
Deposit	$ .22	$ .25
Withdrawal-by-Transfer	$ .22	$ .25
Urgent Withdrawal	$ 1.05	$ 1.25

1988 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
. Depository Facility usage Facility usage	To the Facility, $.60 per deposit with a $100 minimum per month plus telephone costs	To the Facility, $.65 per deposit with a $100 minimum per month plus telephone costs
Facility deposit	$.35 per deposit chargeable to the Participant, plus the regular Deposit fee (Zone A) and certificate charge	$.40 per deposit chargeable to the Participant, plus the regular Deposit fee (Zone A) and certificate charge
XV. DTC Eligible Securities Booklets Corporate securities	For the primary booklet (corporate or municipal): -$7.50 each for the first 30 booklets -$5.00 each for the next 470 -$3.50 each for quantities over 500	-$7.50 each for the first 30 booklets -$5.00 each for the next 470 -$3.50 each for quantities over 500
Municipal securities	For the secondary booklet: -$5.00 each for the first 30 booklets -$4.00 each for the next 470 -$3.50 each for quantities over 500	-$15.00 each for the first 30 booklets -$10.00 each for the next 470 -$7.00 each for quantities over 500

1988 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
XVI. Charges to DTC Passed Through to Users		
. Transfer agent fee-bearing issues:		
When the transfer agent fee is $3.50 or less per certificate		
Deposits	$2.15 surcharge per deposit plus a Zone and certificate charges	$3.25 surcharge per deposit plus the Zone and certificate charges
Urgent Withdrawals (COD's)	$7.55 surcharge per withdrawal in addition to COD fee	No Change
Withdrawals-by-Transfer (WT's)	$4.90 surcharge per assignment in addition to WT fee	No Change
When the transfer agent fee is $3.51 or more per certificate		
Deposits	$4.30 surcharge per deposit plus the Zone and certificate charge	$7.50 surcharge per deposit plus the Zone and certificate charge
Urgent Withdrawals (COD's)	$14.15 surcharge per withdrawal in addition to COD fee	$16.20 surcharge per withdrawal in addition to COD fee
Withdrawals-by-Transfer (WT's)	$9.25 surcharge per assignment in addition to WT fee	No Change

1988 REVISED DTC SERVICE FEES

Service	Present Fee	Revised Fee
. Participant Terminal System (PTS)		
PTS Terminal: A basic configuration comprised of 1 CRT and 1 printer at a Participant's site	$865.00 per month, plus line charge and applicable sales tax	$865.00 per month, plus line charge and applicable sales tax
Installation Charges: One-time vendor charges to install telephone lines, ship equipment and provide DTC training:		
Dedicated and dial back-up lines in NYC	$450.00 total	Out-of-pocket expenses
Dedicated and dial back-up lines outside NYC	$300.00 total	Out-of-pocket expenses
Basic PTS configuration	$165.00	Out-of-pocket expenses
Additional CRT	$ 40.00	Out-of-pocket expenses
Additional printer	$ 75.00	Out-of-pocket expenses
Modem	$175.00	Out-of-pocket expenses
Shipping of equipment	Out-of-pocket expenses	No Change
Training by DTC on site	Out-of-pocket travel expenses	No Change
. Mainframe Dual Host	No Charge (pilot program)	Monthly charge of $900.00 for modem and related equipment plus applicable line charges. For CCF, PTS, and Mainframe Dual Host installations, a monthly charge of $85.00 for connection to DTC contingency site in Philadelphia.

1988 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
B. Bearer Bond Securities				
I. Deposits (by issue)	$ 4.70 plus a charge after the first 10 certificates of $ 2.00 per group of 10 certificates with a maximum total deposit charge of $12.70.*** Deposits between 12:00 noon and 1 p.m. for same day credit $40.00. A bulk deposit is available under certain conditions.	$ 5.82*	$ 4.40 plus a charge after the first 10 certificates of $ 2.00 per group of 10 certificates with a maximum total deposit charge of $12.40.***Deposits between 12:00 noon and 1 p.m. for same day credit $40.00. A bulk deposit is available under certain conditions.	$ 5.69*
. A surcharge per deposit of certificates without CUSIP numbers	$ .65 per deposit		No Change	
. Rejects For each deposit corrected or returned to a Participant because of error: From 0 to 5%	$20.00 per reject	$22.38*	No Change	
Over 5%	$30.00 per reject			
II. Withdrawals (COD's) . Overnight COD's submitted by PTS	$ 8.75 plus a charge after the first ten certificates of $ 4.00 per group of 10 certificates with a maximum total withdrawal charge of $24.75.***	$ 9.71*	$ 9.10 plus a charge after the first ten certificates of $ 4.00 per group of 10 certificates with a maximum total withdrawal charge of $25.10.***	$10.10*

All footnotes in this Annex are found on the last page.

1988 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
. Same-day COD's submitted by PTS	$17.00 plus a charge after the first 10 certificates of $ 4.00 per group of 10 certificates, with a maximum total withdrawal charge of $33.00.***	$17.96*	$17.35 plus a charge after the first 10 certificates of $ 4.00 per group of 10 certificates, with a maximum total withdrawal charge of $33.35.***	$18.35*
III. Long Position				
. For each active issue per month (held by more than 2 Participants)	$ 1.10 per issue		$ .96 per issue	
. For each less-active issue per month (held by 1 or 2 Participants)	$ 1.85 per issue		$ 1.71 per issue	
. Monthly charge on face value				
$0 - $.5 billion	$ .000011		No Change	
Excess over $.5 billion up to $1 billion	$ .00000275	$ 2.41*	No Change	$ 2.35*
Excess over $1 billion up to $8 billion	$ .000001375		No Change	
Excess over $8 billion	$ .0000006875		No Change	
. A monthly surcharge on all positions in Book Bond issues	$ 1.05 per issue		No Change	
. A monthly surcharge on all positions requiring coupon collection from paying agents located outside Metropolitan New York area	$ .25 per issue		No Change	
. A monthly surcharge on all positions in multiple purpose issues	None		$ .50 per issue	
. A monthly surcharge on all positions in issues denominated in units of $1,000	None		$ .50 per issue	

All footnotes in this Annex are found on the last page.

1988 REVISED DTC SERVICE FEES

Service	Present Fee		Revised Fee	
IV. Interest Payments	$ 4.00 per credit plus $ .03 per $1,000	$ 4.17*	$ 4.20 per credit plus $ .03 per $1,000	$ 4.40*
V. Maturities/Redemptions (Full or Partial)	$25.00 per Participant position plus $ .05 per $1,000 with an $80.00 maximum transaction fee	$28.44*	$26.00 per Participant position plus $ .15 per $1,000 with a $62.00 maximum transaction fee	$36.71*
VI. Deliver Orders (Bearer Issues) . ID	$ .21 for each item delivered or received		No Change	
. PTS, API or CCF	$ .45 for each item delivered, $ .35 for each item received		$ .40 for each item delivered, $ .30 for each item received	

Notes to Annex

* Weighted rate based on current mix of transactions in this service.

** A less-active issue fee applies to certain issues each calendar quarter based on prior period of activity averaging 2 or fewer transactions on days when activity occurred.

*** In a deposit or withdrawal of more than 150 certificates, each group of 150 certificates is charged as a separate deposit or withdrawal.

**** This fee is shared equally by the broker and clearing agent for investment manager trades made by other than a trust department of direct and indirect depository Participants.

(1) All deposits shipped to DTC from outside the NYC area are regarded as Zone A deposits.

(2) An additional $1.35 charge is added to this fee for each assignment resulting in direct mail by DTC.

(3) A surcharge of $350.00 applies to issues with a put option feature to cover the costs associated with reviewing the official statement and establishing a data base through which put periods are monitored. Issues requiring consultation and special development efforts will be charged an additional surcharge of $500.00. The impact of these surcharges is not included in the weighted rates.

[FR Doc. 88-6355 Filed 3-22-88; 8:45 am]

BILLING CODE 8010-01-C

[Release No. 34-25480; File No. SR-MSE-88-1]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Stock Exchange; Listing Fee Schedule in Respect to Stock Purchase Rights ("Poison Pills")

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 22, 1988, as modified by a letter dated March 16, 1988, the Midwest Stock Exchange, Incorporated ("MSE" or "Exchange") 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

The Midwest Stock Exchange, Incorporated proposes to amend its Listing Fee Schedule in respect to the listing of purchase rights as follows:

Any company that lists a purchase right (commonly referred to as a "Poison Pill") will be allowed to apply to $5,000 original listing fees paid in that calendar year and under certain conditions for three (3) years thereafter, for purposes of determining the $7,500 maximum. To the extent a company derives no financial benefit in the year a Poison Pill is listed, then to that extent a carryover shall occur until the earlier to occur of either the realization of the full $5,000 credit or the passing of three (3) years. For the purposes hereof, such three (3) year period shall not include the year in which the Poison Pill is listed. This provision will apply to all Poison Pills listed on or after June 1, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

The Midwest Stock Exchange, Incorporated in an attempt to equitably allocate listing fees in respect to Poison Pills, is proposing a modification to its Listing Fee Schedule. The current listing fees are as follows:

1. Original listings are $5,000 regardless of the size of the issue to be listed. This is currently also the amount assessed for the listing of Poison Pills.

2. Additional listings are $.005 per share for the first 100,000 shares, $.0025 per share for the balance, with a $2,500 maximum charge per application and a $250 minimum charge per application, with an annual maximum of $7,500.

Under the current schedule, a company wishing to list two original issues, one Poison Pill and three additional listings of 1,000,000 shares each, would incur the following fees:

2 original listings at $5.000 each	$10.000
1 Poison Pill at $5.000	5.000
3 additional listings at $2.500 each	7.500
	$22.500

The proposed revision to the Listing Fee Schedule in request to Poison Pills would to some degree lessen the burden on companies who regularly list additional shares. The proposal would provide that any company that lists a Poison Pill, would be allowed to have the $5,000 original listing fee assessment added to all additional listing fees paid in a given calendar year, for purposes of determining the $7,500 maximum. The proposal would further provide that to the extent a company derives no financial benefit in the year a Poison Pill is listed, then to that extent a carryover shall occur until such time as the full $5,000 credit is attained within a three-year maximum carryover term. Under the proposal, the fees assessed in the above example would be as follows:

2 original listings	$10.000
1 Poison Pill	5.000
3 additional listings	7,500
	$22.500
($7,500 + $5.000 = $12.500 which exceeds the $7,500 maximum by $5.000)	
	−(5.000)
	$17.500

In this example, the company realized the full economic benefit in the same year that the Poison Pill was listed. The following example will show the application of the proposed Fee Schedule where the economic benefit is realized over a three year period:

1987—Company A lists one original listing in 1987, one Poison Pill listing in 1987 and two one-million share additional listings. Under the proposed fee, the company would pay the following:

1 original listing	$5.000
1 Poison Pill listing	5.000
2 additional listings	5.000
	$15.000
($5.000 + $5.000 = $10.000 which exceeds the $7.500 maximum by $2.500)	
	−(2.500)
	$12.500

Since a $2,500 benefit only was realized, Company A continues to have a $2,500 carryover for 1988.

1988—Company A lists one original listing in 1988 and one-million share additional listings.

Under the proposed fee the company would pay the following:

1 original listing	$5.000
1 Additional listings	2.500
	$7.500

No economic benefit was realized in 1988 since Company A did not exceed the $7,500 maximum for additional listings. Company A, however, continues to have a $2,500 carryover.

1989—Company A lists one original listing and four additional listings of one-million shares each in 1989. Under the proposed fee the company would pay the following:

1 original listing	$5.000
4 additional listings	10.000
	$15.000
$2.500 carryover from 1986 [1]	−(2.500)
	$12.500

[1] Company A was able to utilize the $2.500 carryover from 1987 and deduct it from its total outstanding listing because fees for the 1989 calendar year because its additional listing fees in 1989 ($10.000) exceeds the annual maximum additional listing fee of $7.500.

Under this example, Company A was able to realize the full economic benefit of the proposed revision within the three-year time period. This enabled Company A to receive the full $5,000 credit for the Poison Pill listing.

The original rule proposal would make the change effective as of June 1, 1987. The MSE has agreed to an effective date of January 1, 1988.[1]

The Exchange believes the proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of dues, fees and other charges among Exchange members, issuers, and other persons using the Exchange's facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Member, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Act

After careful review, the Commisison has decided that, effective January 1, 1988, the MSE's proposal to provide a $5,000 listing fee credit to companies who list stock purchase rights should be approved. In particular, the Commission believes that the proposal should, as the Exchange anticipates, lessen to some extent the financial burden experience by issuers who, in addition to listing poison pills, lists additional issues on a fairly frequent basis. In addition, the Exchange indicates that the statutory basis for the proposed rule change is section 6(b)(4) of the Act [2] in that the proposal will more equitably allocate purchase rights listing fees among companies who list such rights and additional share on the Exchange.

As noted above, originally the MSE would have made the rule change effective retroactive until June, 1987. The Commission, however, has decided, and the MSE has agreed, to make the change effective as of January 1, 1988. The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act and paragraph (e) of Rule 19b-4 thereunder. At any time within 60 days of March 16, 1988, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW, Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the MSE. All submissions should refer to the file number in the caption above and should be submitted by April 13, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: March 17, 1988.

[FR Doc. 88-6356 Filed 3-22-88; 8:45 am]

Billing Code 8010-01-M

[Release No. 34-25483; File No. SR-MSRB-88-1]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change of the Municipal Securities Rulemaking Board; Compensation and Expenses for Board Members and Election of Officers

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 15, 1988, the Municipal Securities Rulemaking Board ("Board") filed with the Securities and Exchange Commission a proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

A. The Municipal Securities Rulemaking Board (the "Board") is filing amendments to Board rules A-3 on compensation and expenses for Board members, and A-5 on the election of officers of the Board. The proposed rule change to rule A-3 codifies the Board's policy to pay a per diem to Board members when participating in additional designated activities of the Board. The proposed rule change to rule A-5 would delete the requirement that the Board elect its officers at the penultimate meeting of the Board and state that the officers will be elected at a meeting of the Board held prior to October 1 of each year.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Recently, the Board reviewed certain of its internal procedures. The proposed rule change relates to revised procedures regarding the payment of per diem to Board members and the timing of the election of Board officers.

Board rule A-3(f) contains provisions for the payment of a per diem and a travel allowance to Board members for those days in which the Board meets, and it contains provisions for the reimbursement for actual and necessary expenses incurred in connection with any other official business of the Board. It is the Board's policy to pay a per diem to Board members when participating in additional designated activities of the Board. These designated activities include attendance at committee meetings not held in conjunction with Board meetings and attendance at dealer meetings. Board members who participate in other official Board business are reimbursed for actual and necessary expenses. The proposed rule change codifies this policy.

Board rule A-5(b) contains procedures for the election of officers of the Board. Under the current rule A-5(b), officers of the Board are elected annually from among the Board members at the penultimate meeting of the Board held prior to October 1 of each year according to procedures adopted by the Board.

In the past, the penultimate meeting of the Board generally has been held in the summer and the last meeting of the

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[1] *See* letter from Pat Conroy, Counsel, MSE, to Sharon Lawson, Branch Chief, SEC, dated March 16, 1988.

[2] 15 U.S.C. section 78f(b)(4).

Board has been held in September just prior to the expiration of the terms of the outgoing Board members. The Board recently revised its meeting schedule. As a result, the last Board meeting of the year will be held in the summer. The Board plans to elect new Board members at the last Board meeting of the year and the election of its officers would be held at the same time. The proposed rule change would delete the requirement that the Board elect its officers at the penultimate meeting of the Board and state that the officers will be elected at a meeting of the Board held prior to October 1 of each year.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(I) of the Securities Exchange Act of 1934, as amended (the "Act"). Section 15B(b)(2)(I) authorizes and directs the Board to adopt rules providing for the operation and administration of the Board.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change is concerned solely with the operation of the Board and does not affect the conduct of business by any broker, dealer, or municipal securities dealer. The Board therefore believes that the proposed rule change would not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 13, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: March 17, 1988.

[FR Doc. 88–6357 Filed 3–22–88; 8:45 am]

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[Release No. 34–25477; File No. SR–NASD–88–6]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.; Amendment to the Interpretation of the Board of Governors—Review of Corporate Financing, Article III, Section 1 of the Rules of Fair Practice to Require a Qualified Independent Underwriter When Offering Proceeds Are Directed to Underwriters

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 February 16, 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 NASD. 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

Set forth below is the text of the proposed rule change to the Interpretation of the Board of Governors—Review of Corporate Financing, Article III, Section 1 ("Corporate Financing Interpretation") of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. The new provision is proposed to follow the section titled "Venture Capital Restrictions" at page 2035 of the *NASD Manual*. New language follows:

Proceeds Directed to a Member

No member shall participate in a public offering of an issuer's securities where more than 10 percent of the net offering proceeds, not including underwriting compensation, are intended to be paid to members participating in the distribution of the offering or associated or affiliated persons of such members, or members of the immediate family of such persons, unless the price at which an equity issue or the yield at which a debt issue is to be distributed to the public is established at a price no higher or yield no lower than that recommended by a qualified independent underwriter as defined in section 2(k) of Schedule E to the By-Laws, who shall participate in the preparation of the registration statement and the prospectus, offering circular, or similar document and who shall exercise the usual standards of "due diligence" in respect thereto; provided, however, this paragraph shall not apply to (1) an offering of a class of equity securities for which a bona fide independent market as defined in section 2(b) of Schedule E to the By-Laws exists as of the date of the filing of the registration statement and as of the effective date thereof; (2) an offering of a class of securities rated Baa or better by Moody's rating service or Bbb or better by Standard & Poor's rating service or rated in a comparable category by another rating service acceptable to the Association; (3) an offering otherwise subject to the provisions of Schedule E to the By-Laws; (4) an offering of securities exempt from registration with the Securities and Exchange Commission under section 3(a)(4) of the Securities Act of 1933; (5) an offering of a real estate investment trust as defined in section 856 of the Internal Revenue Code; or (6) an offering of securities subject to Appendix F to Article III, section 34 of the Rules of Fair Practice unless the net proceeds of such offering are intended to be paid to the above persons for the purpose of repaying loans, advances or other types of financing utilized to acquire an interest in a pre-existing company. For purposes of this paragraph, the term "net offering proceeds" means the gross offering proceeds less all expenses of issuance and distribution and the term "immediate family" has the meaning set

forth in the Interpretation of the Board of Governors—"Free-Riding and Withholding", Article III, section 1 of the NASD Rules of Fair Practice.

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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD has been engaged in a case-by-case review of public debt offerings where a member firm which assists in structuring a leveraged buy-out transaction has provided a "bridge" loan to facilitate the leveraged buy-out transaction.[1] Subsequently, generally within less than six months, the newly formed entity will make a public offering of long-term high-yield debt securities for the purpose of repaying the member-lender, which also acts as managing or sole underwriter of the debt offering. The NASD and the SEC [2] reviewed the issues surrounding such offerings and have determined that when a portion of the proceeds of a public offering is directed to a member that is responsible for pricing and due diligence, the member is subject to a potential conflict of interest. Particularly in the area of due diligence, the NASD believes that the responsibility of the member to ensure disclosure of material facts adverse to the issuer may be influenced by the significant financial interest of the member in the offering and the incentive for the offering to be successful. In addition, the NASD is concerned regarding the potential conflict of interest faced by a member when establishing an appropriate offering price, since a successful distribution of the issuer's securities directly benefits the member.

The NASD has become concerned that a member may experience a similar conflict of interest where the proceeds of an offering are being directed to the member, or its associated or affiliated persons, in contexts other than that of a leveraged buy-out transaction. In certain cases, all or a substantial portion of the proceeds of an offering may be directed to the managing underwriter to repurchase securities of the issuer owned by the underwriter. In addition, a substantial portion of the proceeds of an offering may be applied to a joint venture with the member that underwrites the issuer's offering of securities. Finally, although leveraged buy-outs were initially structured with a "bridge loan" by a member, a number of transactions have occurred where the member has acquired equity or debt securities of the issuer, which are intended to be repurchased with the proceeds of a subsequent public offering of debt underwritten by the member.

Therefore, the NASD is proposing to amend the Corporate Financing Interpretation to require the participation of a qualified independent underwriter in public offerings in which 10% or more of the net proceeds of the offering will be directed to NASD members participating in the distribution of the offering, or to affiliated or associated persons of such members, or to members of the immediate family of such persons. The proposed rule change states that fees or commissions paid to members for underwriting services performed in connection with the distribution of the offering would not be included within the 10% calculation. Further, the 10% calculation would be based on "net offering proceeds," which is defined as gross offering proceeds less the issuer's and underwriter's expenses of issuance and distribution.

The term "immediate family" is defined by reference to the definition in the Interpretation of the Board of Governors—"Free-Riding and Withholding", Article III, Section 1 of the NASD Rules of Fair Practice ("Free-Riding Interpretation"). The same term is similarly defined in "Venture Capital Restrictions" provision contained in the Corporate Financing Interpretation. The NASD currently has pending at the SEC proposed amendments to Schedule E of the NASD By-Laws ("Schedule E"), which include amendments to the term "immediate family" at current subsection 2(f) thereof. See SR-NASD-87-21. When the SEC approves the pending amendments to Schedule E, the NASD proposes to amend the definition of "immediate family" in the "Venture Capital Restrictions" and in the new provision "Proceeds Directed to a Member" proposed herein to reference the definition of the term in Schedule E.

The proposed rule change would require that the qualified independent underwriter participate in the preparation of the offering document and exercise the usual standards of due diligence in the preparation of the offering document. Further, members would be prohibited from distributing the offering at a yield that is lower (in a debt offering) or at a price that is higher (in an equity offering) than the qualified independent underwriter would recommend.

To act as a qualified independent underwriter, an NASD member must meet the definition of that term contained in section 2(l) of Schedule E to the NASD By-Laws, which is the NASD's conflict-of-interest rule applicable to offerings by a member of its own securities or those of an affiliate.[3] Under the definition, a member must have been, and continue to be, actively engaged in the investment banking and securities business and the underwriting of public offerings for at least five years preceding the offering; must have had net income from operations in at least 3 of the 5 years preceding the offering; and must have had a majority of its board of directors (if a corporation) a majority of its general partners (if a partnership), or its proprietor (if a sole proprietorship) actively engaged in the investment banking or securities business for the 5-year period immediately preceding the offering. In addition, the member must not be an affiliate of the issuer and must have agreed to undertake the legal responsibilities and liabilities of an underwriter under section 11 of the Securities Act of 1933.

[1] The term "leveraged buy-out" generally refers to an acquisition accomplished primarily with borrowed funds from bank lenders or an investing group, where the acquirer is not an operating entity but is created by a group of lenders and investors solely for the purpose of the acquisition. A "bridge" loan is a short-term loan made to the issuer intended to be repaid from the proceeds of a public offering in less than six months, which is for the purpose of facilitating the speedy closing of the leveraged buyout transaction.

[2] *See* letter from Richard G. Ketchum, Director, Division of Market Regulation, Securities and Exchange Commission dated March 10, 1987 to Gordon S. Macklin, then President, National Association of Securities Dealers, Inc.

[3] The NASD has published for comment in Notice to Members 87-87 (December 30, 1987) a proposed amendment to the definition of qualified independent underwriter in Schedule E. The proposed amendment would prohibit a member from acting as qualified independent underwriter if the member owned 5% or more of the equity securities of the issuer or had been or was currently subject to certain disciplinary action. In addition, the proposed amendment would clarify that the member must have been actively engaged as a manager or co-manager of public offerings of a similar type and size to the offering being distributed in the 5-year period immediately preceding the filing of the offering.

The proposed rule change provides exemptions from the requirements of the proposed new provision for: (1) An offering already subject to Schedule E of the NASD By-Laws; (2) an offering of a class of equity securities for which a bona fide independent market exists as of the filing of the offering as defined in section 2(b) of Schedule E; (3) an offering of a class of securities rated by a nationally recognized statistical rating organization in one of its four highest generic rating categories; (4) an offering of securities by a charitable organization exempt from SEC registration under section 3(a)(4) of the Securities Act of 1933; (5) an offering by a real estate investment trust as defined in section 856 of the Internal Revenue Code; and (6) an offering of securities subject to Appendix F to Article III, section 34 of the NASD Rules of Fair Practice ("Appendix F"), unless the net proceeds of an offering subject to Appendix F are for the purpose of repaying loans, advances or other types of financing utilized to acquire an interest in a pre-existing company. Appendix F regulates public offerings of securities by a direct participation program, which is defined in section 34 as any entity with flow-through tax characteristics. Thus, Appendix F is most often applied to offerings of limited partnership interests. The exemption would cover traditional offerings subject to Appendix F, such as real estate or oil and gas offerings.

The NASD has historically relied on the participation of a qualified independent underwriter to resolve potential conflicts of interest on behalf of an underwriter of a public offering of securities. Qualified independent underwriters have been used to resolve conflicts of interest in offerings by members of their own securities and of their affiliates since the adoption of Schedule E to the NASD By-Laws in 1972, in the absence of a bona fide independent market for equity securities and in the absence of an investment grade rating for debt securities. In addition, in 1984, the NASD amended the "Venture Capital Restrictions" under the Corporate Financing Interpretation to provide an exemption from the restrictions if a qualified underwriter participated in the offering.[4] The NASD believes that the proposed rule change appropriately addresses the concerns raised by the SEC.

The proposed amendment is consistent with the provisions of section 15A(b)(6) of the Act, which requires *inter alia*, that the rules of registered securities associations promote just and equitable principles of trade, protect investors and the public interest, in that the amendment will provide protection for investors with respect to a member's potential conflict of interest where the proceeds of an offering are directed to a member or members underwriting the offering.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed amendment will result in any burden on competition that is 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

The proposed amendment was published for comment in NASD Notice to Members 87–52 on August 12, 1987. Nine comment letters were received regarding the proposed amendment. Three commentators, generally opposed to the amendment, questioned whether it would resolve the problem it was designed to address and asserted that regulatory and market safeguards are already in existence that make the amendment unnecessary. The remaining six commentators, while not objecting to the amendment, believed that it was overly broad and encompassed situations it was not intended to address.

Those commentators that objected to the amendment generally indicated that a member's concerns for the statutory liability incurred as a result of participating in the public underwriting makes the amendment unnecessary. It was pointed out that the underwriter has a strong incentive to insulate itself from potential liability under the Securities Act of 1933 by performing a particularly thorough review of the offering document, as the types of offerings that would be affected by the amendment generally involve a high degree of risk for investors. The NASD reviewed this comment and determined that where a member is distributing an offering, the proceeds of which will be directed to the member, the member may experience a significant conflict of interest in evaluating the issuer objectively, since the successful distribution of the issuer's securities directly benefits the member.

Commentators also pointed out that the potential conflict of interest present in pricing the securities to be offered to the public where the proceeds are to be directed to the member is not the same conflict addressed by the pricing recommendations provisions of subsection 3(c)(1) of Schedule E. Specifically, where an issuer and a member are affiliates, the member has an incentive to lower the yield of debt securities or raise the price of equity securities of the issuer to reduce interest costs or raise additional capital. However, where a member is not an affiliate of the issuer, it has a strong incentive to price the securities at a level which will ensure a successful distribution. The NASD believes that the primary function of a qualified independent underwriter in the context of an offering subject to the proposed new provision is to exercise the usual standards of due diligence with respect to the offering document to insure that all material facts regarding the issuer and its relationship with bridge lenders is adequately and accurately disclosed. However, the NASD believes that there may be situations where the price or yield of the security being distributed would be relevant. Therefore, the proposed rule change includes a provision providing that members may not participate in an offering subject to the provision unless the price of an equity issue or the yield at which a debt issue is to be distributed to the public is established at a price no higher or a yield no lower than that recommended by a qualified independent underwriter.

The NASD has modified the proposed rule change in response to a number of comments that the proposed new provision should not be applicable to an offering already subject to the provisions of Schedule E to the NASD By-Laws, or where the offering is of equity securities for which a bona fide independent market exists as of the date of the filing of the offering as defined in section 2(b) of Schedule E, or where the offering is of a class of securities rated by a nationally recognized statistical rating organization in one of its four highest generic rating categories.

A number of the commentators indicated that the minimum threshold level at which a qualified independent underwriter must be retained was too low a percentage of the net offering proceeds. Commentators also indicated that a 10% threshold might trigger application of the amendment in the ordinary course of corporate restructurings of debt. The NASD has clarified that the language of the proposed rule change to provide that application of the proposed rule change would not be triggered by that amount of the offering proceeds being paid to members as underwriting compensation.

[4] "The Venture Capital Restrictions" apply to initial public offerings in which members participating in the offering own securities of the issuer.

Further, the NASD believes that the potential conflict of interest intended to be addressed by the rule would exist at the level where 10% of the net offering proceeds were proposed to be directed to NASD member firms participating in the offering.

In this connection, one commentator requested that the proposed rule change be modified to clarify that the application of the amendment was explicitly restricted to repayments of borrowings incurred for the purpose of acquiring an equity interest in another business. The NASD believes, as indicated above, that the proposed rule change should not only be applicable in the context of leveraged buy-outs but also where the proceeds of the offering are being directed to members participating in the underwriting for the purpose of funding a joint venture, to repurchase equity securities of the issuer, to repurchase debt securities of the issuer or to repay a line of credit extended by an NASD member.

Three commentators pointed out that the language of the proposed amendment could be interpreted to include offerings of direct participation programs where the net proceeds from the offering are paid to a limited partnership which is affiliated with the NASD member distributing the offering. It was not the intention of the proposed amendment to encompass traditional direct participation program offerings subject to Appendix F to Article III, section 34 of the NASD Rules of Fair Practice. However, in one instance the proceeds of an offering of master limited partnership interests were directed to the managing underwriter of the distribution to repay bridge financing incurred in a leveraged buy-out transaction. Therefore, the NASD determined to clarify that the proposed rule change would not be applicable to offerings subject to Appendix F to Article III, section 34 of NASD Rules of Fair Practice unless more than 10% of the proceeds of the offering were to be used by the issuer to repay loans, advances, or other types of financing to a member to acquire an interest in a pre-existing company.

Finally, in response to one comment, the proposed rule change has been amended to provide an exemption for church bond and other charitable offerings that qualify for exemption from SEC registration under section 3(a)(4) of the Securities Act of 1933.

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 NASD 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 such 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-88-6 and should be submitted by April 13, 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: March 17, 1988.

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[Release No. 34-25481; File No. SR-NYSE-87-45]

Self-Regulatory Organizations; Filing of Proposed Rule Change by New York Stock Exchange, Inc., Permanent Approval of Policy for Reviewing Combinations Among Specialist Units and Proposed Amendment to the Policy and Order Granting Accelerated Approval to That Portion of the Filing Requesting an Extension of the Effectiveness of the Policy

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 17, 1987, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") 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

The proposed rule change amends the Exchange's specialist concentration policy by: [1]

(A) Amending its sixth "Guideline for Applying Consideration 2(c) to read in full as follows (italics indicates *additions;* brackets indicates [deletions]):

• Efforts to streamline *the efficiency of* its own operations *and its competitive posture* [so as to reduce its own costs, enabling it to pass on savings to its cutomers].

(B) Seeking permanent approval for the policy.

(C) Extending the interim effectiveness of the policy until the earlier of (1) June 30, 1988 or (2) the Commission's approval or disapproval of the request for permanency. The Exchange characterizes the policy as a Rule of the Board of Directors of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in section A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

(a) Purpose of the amendment. The purpose of the proposed rule change is (i) to make a minor amendment to the Exchange's specialist concentration policy, (ii) to make the policy permanent and (iii) to extend the interim

[1] *See,* Securities Exchange Act Rel. Nos. 24411 (April 29, 1987), 52 FR 17870 (SR-NYSE-86-37) and 25077 (October 29, 1987) 52 FR 42488 (SR-NYSE-87-39).

effectiveness of the policy in order to afford time for the Commission to consider the Exchange's request for permanent approval. The minor amendment is to one of the guidelines for applying the policy's criterion regarding the constituent units' commitment to the Exchange. The amendment forecloses an unintended implication that the guideline mandates a particular method of pricing by specialists of their services. It does so by deleting a specific reference to passing through costs and substituting a generic reference to competitiveness, thereby causing the guidelines to encompass all competitive means and not just pricing.

(b) *Purpose of the amended policies: Role of the thresholds.* The purpose of the amended policy is to provide the Exchange with a mechanism for reviewing proposed mergers, acquisitions and other combinations between or among specialist units that may lead to a level of concentration within the specialist community that is detrimental to the Exchange and the quality of its markets. SR–NYSE–86–37 provided a detailed explanation of this purpose. This statement expands on that purpose statement by responding to the statement in the Commission's order approving SR–NYSE–86–37 anticipating that this proposed rule change would:

> [C]ontain a thorough analysis of the basis for the chosen threshold levels and for the use of a presumption against a combination at the higher threshold level.

SR–NYSE–87–39 reiterated the expectation and added that the Commission expected in particular that the Exchange's analysis would take into account "the capital needs of specialists highlighted during [October's] market volatility * * *." [2]

(i) *Policy overview.* The specialist concentration policy requires that, in reviewing a proposed combination among specialist units, the Quality of Markets Committee of the Board of Directors ("QOMC") must analyze the increased concentration resulting from the proposed combination. The significance of the concentration analysis in the review process increases in accordance with the number and volume of the specialty stocks assigned to the combining units as calculated under four "concentration measures".[3] If a proposed combination would result in a unit falling at or below five percent of the concentration measures, the concentration analysis plays no role. If a proposed combination involves or would result in a unit falling above five percent, but at or below ten percent, the concentration analysis becomes one of several factors that the QOMC must consider. Above ten percent, the concentration analysis takes on primary significance. At that level, the constitutent specialist units must carry the burden of showing that the proposed combination:

- Does not create or foster detrimental concentration;
- Does foster specialist competition;
- Does enhance market quality; and
- Is otherwise in the public interest.

Our explanation of the appropriateness of the thresholds and the shift of the burden of proof begins with a brief analysis of the nature of competition in the specialist community.[4]

(ii) Specialist competition. Competition among Exchange specialist units generally occurs not for market share *within* a stock, but rather for market share *of* stocks; *i.e.*, specialists compete for allocations. Thus, central to the Exchange's concern about specialist concentration is the vigor with which units compete for the constant stream of new listings that come to the Exchange (more than 140 common stocks in 1987, which is nearly ten percent of the list). In allocating new listings among units, great weight is given to the quality of the markets in the units' specialty stocks. Thus, today's vigorous competition for new allocations directly benefits public investors by enhancing the quality of the markets that specialist units make. The vigor of that internal competition also promotes vigorous intermarket competition by enhancing the Exchange's competitiveness relative to its long-time competitors in the National Market System and its emerging competitors worldwide.

Undue concentration in the specialist community would sap that vigor. To illustrate this point, imagine a specialist system composed of two units.

Consider now what would happen as new companies list. Even if one unit were markedly superior to the other in terms of the quality of the markets it maintains, the inferior unit's incentives to maintain markets of the highest quality would be reduced. It would know that the Exchange would be in a quandary: with every allocation to the superior unit in recognition of the superior quality of its market making, the Exchange would be reducing the competitive counterweight offered by the weaker firm and enhancing the dominance of the stronger firm in the Exchange's business.

Our hypothetical two-unit system would also increase the barriers to entering the specialist business. Inherent in the specialist business are significant entry barriers—large capital needs and expertise. The second factor has meant that, historically, new entrants have come principally from within the community as individuals left existing units to strike out on their own. A two-unit system would greatly inhibit this source of new competition. Proponents of creating a break-away unit would face the prospect of carrying on an uphill battle against entrenched units for new allocations. Moreover, since it could only expect to receive a portion of new allocations and would soon have its share of delistings as well, it would have no prospect of reaching a comparable market share.

To try to level the playing field, the Exchange could funnel all or a disproportionate number of new listings to the break-away unit or re-allocate stocks to it. But such intervention is far more difficult and disruptive than that which the Exchange proposes, which is to create a mechanism designed to prevent the situation from arising in the first place.

The barriers erected by a two-unit system would also deter new entrants from outside the specialist community. The Exchange's adoption of its functional regulation rules enabling diversified firms to enter the business through subsidiaries enhances the possibility of creating new entrants by tapping expertise developed off the Floor. But these potential entrants, faced with fighting the same uphill battle against entrenched units, might very well determine that making competing markets off the Exchange would be a better use of their capital and expertise. Thus, a two-unit system would likely frustrate the purposes of those rules by driving away sources of additional capital for the specialist system.

Finally, the way in which a two-unit system would deter potential new entrants would also negatively impact public confidence in the Exchange as a market place. It would raise questions in the minds of investors and other members of the public as to the fairness and openness of the Exchange's marketplace.

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[2] *See*, Securities Exchange Act Rel. No. 25077 (October 29, 1987) 52 FR 42488.

[3] The concentration measures determine the specialist units' share of:

- Listed common stocks;
- The 250 most active listed stocks;
- The total share volume of stock trading on the Exchange; and
- The total dollar value of stock trading on the Exchange.

[4] *See*, Securities Exchange Act Release No. 24411 (April 29, 1987) 52 FR 17870, the Exchange's "Statement on Burden on Competition."

(iii) Thresholds: When to Say "Enough". Obviously, none of these dire consequences attach when the combination of two or more of today's more than 50 units first exceeds either of the two thresholds. Yet, no one would argue that we have to wait until our hypothetical two-unit system emerges before we can intervene. So the question becomes, "When does concentration become 'undue'?"

The Exchange cannot say for sure. That is why the Exchange did not flatly prohibit combinations above a specified level. Rather, the Exchange only assured that it could assess them for their concentration effects.

The numbers do have a basis, however. They derive from the simple recognition that (1) the present, relatively low level of concentration does not generate the adverse effects noted above and (2) as concentration increases, we do not know the point at which such adverse effects will begin to appear. In other words, the appropriateness of the thresholds derives from the goal of the policy: if warranted, to permit the Exchange to intervene *before* concentration in the specialist community increases to a point where it interferes with the vigor of specialist competition and the quality of the Exchange's markets.

As SR–NYSE–86–37 describes at some length, we believe that the stage may have been set for such an increase. Two factors led to the policy: (1) A long-term trend towards concentration in the specialist community and (2) more importantly, the occurrence of several changes in the nature and structure of the markets that may lead to a sudden acceleration of that trend.[5]

The convergence of these two factors caused the Exchange to decide that the time to begin analyzing the concentration effects of proposed combinations was *now*.

"Now" translates into 10 percent simply because, today, market shares array up to 8.5 percent. The Exchange set the thresholds by referring to the current level of concentration and targeting for special scrutiny concentration at a level slightly higher than that with which the Exchange is familiar today.[6] The NYSE reached the conclusion only through a consultative and deliberative process that caused it to carefully balance the desire to leave some room for combinations against the potential for accelerated concentration and the adverse effects that would follow. It is the NYSE's move from certain competitive vigor to uncertainty, coupled with the knowledge that competitive imperfections will begin to be felt at some higher level, that militate for setting the special scrutiny threshold above the current level by a conservative margin.

Conservatism is in order because the Exchange seeks an opportunity to visit the concentration issue at the very moment the structure of the specialist community begins to shift away from its present, relatively low level of concentration.

And that is precisely what the Exchange should be doing. The NYSE is charged with protecting the interest that the public has in maintaining and promoting the quality of its markets. The present market structure serves that public interest by fostering vigorous competition for new allocations and creating real incentives for market quality. Economic theory and common sense indicates that increases in concentration will at some point interfere with that vigor and undermine the perception of fair and open markets.

The NYSE does not know where that point is. The economic literature on industries in which firms compete for a regulatory allocation of market share offers no consensus as to the level of concentration that should be permitted. But it does teach that increasing concentration eventually reaches a level where the imperfections in that competition begin to dominate. The Exchange policy permits it to continually reassess the competitive effects as each combination proposal comes forth.

(iv) Presumptions—(A) A Yellow Light. The Exchange's thresholds may err on the side of caution. But its prudence imposes only a procedural cost: The Exchange has not prohibited combinations above ten percent, but only subjected them to special scrutiny.

This makes the approach elastic. It permits evolutionary change in the specialist system—and abrupt change if a case can be made for it. It scrutinizes, rather than caps, combinations. And it permits the Exchange to assess a proposed combination under the conditions of the time; *e.g.*, to take into account the contemporaneous distribution of market shares across firms.

October's extraordinary volatility underscores the importance of this elasticity. The NYSE formulated the policy with volatility (although not a market break) in mind: as the NYSE noted above, one of the factors that led to the Exchange's adoption of the policy was its recognition that growing capital demands on specialist units from the increasing risk to capital created by increased market volatility would create pressure for combinations.

The NYSE can demonstrate this elasticity by asking how the policy might have worked in October. Suppose a need for an immediate infusion of capital into one or more specialist units had brought forth a combination that fell under the policy. The policy would have permitted the Exchange to give extraordinary weight to the need for capital under the "conditions of the time"—the need to assure that the constituent specialist units could continue to make markets in a fair and orderly way under the unprecedented circumstances. In addressing the concentration effects, the constituent units could have analogized to the well-accepted "failing firm" doctrine of antitrust analysis, which holds that preventing the loss of productive capacity within a market due to insolvency of a competitor justifies a combination that might otherwise be viewed as anticompetitive.

(B) Analytical Rigor. But like all yellow lights, the Exchange's approach risks a crossing when a full stop is necessary. The NYSE addresses this risk by shifting to the proponent of a combination that may lead to detrimental concentration the burden of proving the benefits and the absence of detriment. Just as the elasticity of the Exchange's approach balances the conservatism of the Exchange's thresholds, so too the shifting of the burden balances the risk from that elasticity.

The balance to that risk is created by the rigor of the analysis. By making the analysis a prerequisite for approval, the Exchange harnesses the proponents' strong economic interest in the consummation of the proposed combination: they have a strong economic incentive to rigorously analyze the concentration issues and the countervailing economies of scale in areas such as capital, manpower and operations in order to win approval. Therefore, the NYSE expects that the shift in the burden of proof will yield a more meaningful grappling with the

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[5] These changes include the increasing capital demands on specialist units from the growing size and continued institutionalization of the market, the increasing risk to capital from increased market volatility, the adoption of rules making it possible for diversified firms to enter the specialist business, and increasing competition from domestic and overseas markets.

[6] Note that simply focusing on the 1.5 percent difference between the 10 perent threshold and the largest firms's market share underestimates the margin for increased concentration, since combinations among smaller firms can increase concentration without exceeding the 10 percent threshold.

concentration issue then would otherwise be the case. Requiring the proponents to carry the burden of proof allows it to peer into the unknown using all the illumination the NYSE can muster.

(C) A Conventional Approach. Both the Exchange in SR–NYSE–86–37 and the Commission in its approval order have called this shift of burden a "rebuttable presumption". This characterization may obscure the nature of the burden that the proposing units must carry. The NYSE has not created a rebuttable presumption as it is used in the law of evidence, where, absent rebuttal, the trier of fact presumes from the proof of one fact (*e.g.*, the mailing of the letter) that another is true (*e.g.*, the receipt of the letter). Rather, the policy simply requires the constituent units to make affirmative showings that the combination is not harmful and is beneficial—albeit by "clear and convincing" evidence on three of the four points.

Shifting the burden to the proposing units is hardly extraordinary. The NYSE has borrowed our approach from the Act. As the Exchange has shown above, at some point, concentration creates a burden on competition among specialist units. The Act itself creates a rebuttable presumption against burdens on competition: the Commission may not adopt a rule or approve a rule proposal of a self-regulatory organization ("SRO") unless it finds that any burden on competition created by the proposed rule is necessary or appropriate in furtherance of the purposes of the Act. When an SRO proposal raises issues as to competitive burdens, the Commission looks to the SRO to make the showing necessary to support the required finding.

The thresholds and procedures of the specialist concentration policy give the Exchange flexibility to approve a combination that will strengthen the specialist system, yet affords an opportunity to carefully assess concentration if and as it develops at levels low enough to permit us to intervene if intervention is warranted. They enable it to manage evolution, rather than to have to cope with crises. They embody an orderly, deliberative and internally coherent approach to assuring that the specialist community does not drift into concentration so high that it impedes the competition among existing specialist units for new allocations, deters potential new entrants into the business and creates a perception that undermines investor confidence.

(2) Statutory Basis. The basis under the Act for the proposed rule change is section 6(b)(5): the Exchange will be able to monitor tendencies towards concentration in the specialist community and intervene to prevent undue concentration. This serves to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest. The proposed rule change also comports with section 11A(a)(1)(C), which states Congress's finding that fair competition among brokers and dealers serves and fosters the public interest, investor protection and fair and orderly markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

As more fully described in SR–NYSE–86–37, the Exchange believes that the proposed rule change will not impose any burden on competition and, in fact, creates a mechanism that will help assure competition among specialist units. (See Item 3(a)).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties. (See SR-NYSE–86–37 as to comments received during the policy's development.)

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the portion of the proposed rule change that extends the amended policy's interim effectiveness be given accelerated effectiveness pursuant to section 19(b)(2) of the Act. The Exchange believes there is good cause for accelerated effectiveness in order to avoid a hiatus in the effectiveness of the policy during the Commission's consideration of permanent approval.

The Exchange well recognizes that concentration in the specialist community raises important market structure issues, and that the Commission may wish to withhold action on the Exchange's request for permanent approval of the policy until it can consider any new comments that may be elicited by this **Federal Register** notice. Thus, the Exchange is only asking the Commission to grant expedited approval to an extension of its temporary approval. Accelerated effectinvess of the extension will not require the Commission to forego thorough consideration of, and additional public comment on, the request for permanent approval.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the file number in the caption above and should be submitted by April 13, 1988.

V. Conclusion

The Commission finds that the portion of the proposed rule change requesting an extension of the interim effectiveness of the Exchange's current concentration policy until such time as the Commission makes a final determination on whether it should approve or disapprove the pilot program on a permanent basis is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and the requirements of section 6. In particular, the Commission views an extension of the interim effectiveness of the current concentration policy as furthering investor protection and the public interest as the extension will enable the Exchange to continue to monitor tendencies toward concentration in the specialist community while its proposal for permanent approval of the policy is considered by the Commission.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in that an extension of the effectiveness of the policy will permit the Exchange to continue to assess proposed combinations between and among specialist units on an uninterrupted basis while the Commission completes its review of the Exchange's request for

permanent approval. In addition, the Commission has not received any comments criticizing the policy since its interim approval last year. Accordingly, the Commission believes that the portion of the proposed rule change relating to an extension of the effectiveness of the current concentration policy should be approved as submitted.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 17, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-6359 Filed 3-22-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25479; File No. SR-NYSE-88-06]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc.; Auxiliary Closing Procedures for Orders Relating to Expiring Stock Index Contracts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 16, 1988, the New York Stock Exchange ("NYSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change adds auxiliary closing procedures for assisting in handling the order flow associated with the concurrent expiration of stock index futures, stock index options and options on stock index futures on March 18, 1988. It specifies procedures substantively identical to those used on December 18, 1987, and on several earlier expiration Fridays. Only the dates and the list of pilot stocks (due to name changes and the substitution of stock as a consequence of changes in market weighting) has changed.

Specifically, the auxiliary procedures provide that market-at-the-close stock orders in 50 pilot stocks relating to index arbitrage positions must be received by 3:30 p.m. on March 18. The Exchange will promptly disseminate the size of substantial market order imbalances (50,000 shares or more) as of 3:30 in the pilot stocks. The procedures also ban entry of market-at-the-close orders in the pilot stocks after 3:30 p.m. unless orders (A) offset the imbalances and (B) are not for the purpose of liquidating an index arbitrage position.

The Exchange characterizes the proposed rule change as a Rule of the Board of Directors of the Exchange. The proposed rule change supersedes all other Exchange rules and policies inconsistent with it.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to comply with the request of the Commission that the Exchange repeat the June 18, 1987 closing procedures on subsequent concurrent expirations of stock index futures, stock index options and options on stock index futures. (9/16/87 Letter to Robert J. Birnbaum, President, NYSE, from Richard G. Ketchum, Director, SEC.) The proposed rule change will make the procedures a rule of the Exchange.

2. Statutory Basis

The basis under the 1934 Act for the proposed rule change is section 6(b)(5), which requires that rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The propsed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the 1934 Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the 1934 Act. Confirmation to the industry of the Exchange's intention to comply with the Commission's request that the Exchange repeat the closing procedures specified by the proposed rule change should occur as soon as possible to permit investors and firms to plan accordingly. Moreover, the procedures contain no substantive changes from the procedures used on previous expiration Fridays. Accordingly, the Exchange seeks action by the commission in time to permit notification of interested parties well in advance of the March 18 expiration.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder. The market-on-close procedures described herein have been utilized on the prior six Expiration Fridays (the quarterly expiration when stock index futures, stock index options and options on stock index futures have simultaneous expirations). These procedures were part of efforts by the Commission and the self-regulatory organizations to address stock market volatility that has been associated with certain index arbitrage trading strategies on Expiration Fridays. By requiring submission of market-at-close

orders early and disseminating imbalances, the NYSE could attrract contra-side interest to alleviate imbalances caused by the closing of index arbitrage positions. The procedures have proven to be operational successes, and have significantly contributed to the smooth handling of the increased order flow associated with these expirations.

The Commission finds good cause for approving this rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the Commission desires to notify market participants as soon as possible of the Exchange's intention to repeat these procedures on the upcoming March 18, 1988 expiration. Moreover, the procedures contain no substantive changes from the procedures utlized by the NYSE on December 18 and several earlier Expiration Fridays.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the NYSE. All submissions should refer to the file number in caption above and should be submitted by April 13, 1988.

It therefore is ordered, pursuant to section 19(b)(2) of the 1934 Act,[1] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 17, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-6352 Filed 3-22-88; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(2) (1982).

[Release No. 34-25476; File No. SR-NYSE-88-04]

Self-Regulatory Organizations; Filing and Order Granting Limited Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc.; Auxiliary Opening Procedures for Orders Relating to Expiring Stock Index Contracts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice hereby is given that on March 14, 1988, the New York Stock Exchange ("NYSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change adds auxiliary opening procedures for assisting in handling the order flow on those days on which there is concurrent expiration of stock index futures, stock index options and options on stock index futures ("Expiration Fridays"). It specifies procedures identical to those used on December 18, 1987 (SR-NYSE-87-43; Release No. 34-25202 (December 16, 1987)) and on several previous Expiration Fridays. The procedures now are being proposed as permanent rule changes.

Specifically, the auxiliary procedures provide that stock orders relating to opening-price settling contracts must be received by 9:00 a.m. on an Expiration Friday.[1] The Exchange promptly will disseminate the size of substantial market order imbalances (50,000 shares or more) as of 9:00 in the affected stocks.

The Exchange will make SuperDot available to accept orders at 7:30. The Exchange will also raise the order size eligibility for the Opening Automation Reporting Service ("OARS") to 30,099 shares—in effect, raising SuperDot's pre-opening order size parameters. The procedures confine orders relating to opening-price settling contracts to market orders and require them to be appropriately identified. The procedures also ban "limit-at-the-opening" orders and apply the reduced waiting periods for second and subsequent price indications that the Commission previously approved.

The Exchange characterizes the proposed rule change as a Rule of the Board of Directors of the Exchange. The proposed rule change supersedes all Exchange rules and policies inconsistent with it.

[1] As to each Expiration Friday, the Exchange will adjust the list of stocks subject to the procedures in response to changes in market weighting.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish procedures to augment the NYSE's regular opening procedures on Expiration Fridays. The auxiliary procedures will assist in integrating stock orders relating to expiring contracts into the Exchange's opening procedures in a manner that will assure an efficient market opening in each stock as close to 9:30 a.m. as possible.

The Exchange believes that settling index contracts based upon the opening prices of the constituent stocks, and thereby permitting use of the Exchange's time-tested opening procedures, provides the best mechanism for handling the accompanying stock volume. Previously, the Exchange, the Chicago Mercantile Exchange, Inc. and the New York Futures Exchange, Inc. altered or added index contracts specifying that settlement pricing will occur based upon the opening prices on Expiration Fridays. They also have provided that trading in opening-price settling contracts will cease at the close on the preceding day. The Exchange anticipates that these changes will divert to the opening approximately 75 percent of the stock order flow related to expiring index contracts. The proposed rule change establishes auxiliary procedures to help accommodate the diverted order flow.

The special dissemination of a picture of substantial market order imbalances in the affected stocks as of 9:00 will

provide off-Floor participants with a picture of the unique impact of the index-related orders, and will allow ample opportunity for them to react to it. Because the regular opening procedures will otherwise operate, an off-Floor participant will, as always, be able to obtain a minute-to-minute Floor picture through his Floor broker. Similarly, the pre-opening application of the Intermarket Trading System Plan will be in effect. Moreover, if it becomes evident that a significant change from the preceding day's closing price is in the offing, the specialist can, with the approval of a Floor Official, disseminate regular price indications over the tape as needed.

The particular purposes of several of the procedures deserves elaboration.

9:00 Cut-Off. The 9:00 cut-off for entry of stock orders relating to opening-price settling contracts assures that the upper limit of the order flow created by unwinding index-related positions is known at 9:00. The specialist can retrieve the orders in OARS at 9:00 and combine them with the manual orders, creating a complete picture of all the orders. If the picture shows a substantial imbalance, he will notify off-Floor participants of the imbalance within the first several minutes after 9:00. This allows a half hour or more to react.

Preclusion of Limit-at-the-Opening Orders. Preclusion of limit-at-the-opening orders simplifies the specialist's task in opening his market. These orders cannot be entered into the electronic display book. Consequently, their acceptance would complicate the specialist's task by requiring him to keep a separate, manual tally. Customers are free to enter regular limit orders.

Applicability of Revised Price Indications Waiting Period. SR–NYSE–87–14 (Release No. 34–24880 (September 4, 1987)) describes the purpose of reducing the waiting period following second and subsequent price indications.

2. Statutory Basis

The basis under the Act for the proposed rule change is section 6(b)(5), which requires that rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the 1934 Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange created an ad hoc Expiration procedures Committee consisting of its Floor Directors, other representatives from the Floor, upstairs trades and institutional brokers. The proposed rule change reflects the consensus reached by the committee. The Exchange received no written comments following the previous expirations concerning the procedures.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given limited accelerated effectiveness pursuant to section 19(b)(2) of the Act solely with respect to the March 18, 1988 Expiration Friday. Confirmation to the industry of the Exchange's intention to repeat those procedures should occur as soon as possible to permit investors and firms to plan accordingly. Moreover, the procedures contain no substantive changes from previously-used procedures, on which there has been ample opportunity for comment. Accordingly, the Exchange seeks action by the Commission in time to permit notification of interested parties well in advance of the March 18 expiration.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of section 6 and the rules and regulations thereunder. The Commission believes that basing the settlement of index products on spending, as opposed to closing prices, on March 18 may help to accommodate index-related share volume. The proposed auxiliary procedures are intended to ensure that the Exchange may efficiently process sizeable order flow at the open. The Commisson believes that these procedures should work to reduce order imbalances at the open, and thus dampen potential volatility. In this regard, the procedures worked well during the previous three expirations and the March expiration should provide the Commission with another opportunity to assess whether these procedures are sufficient in dampening expiration volatility at the opening, or whether additional measures are necessary.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because the proposed rule change will enable the Exchange to quickly implement and notify market participants about procedures that it believes will appropriately address any index-related heightened share volume at the open on March 18.

The Exchange, at this time, is not seeking permanent accelerated effectiveness of the proposed rule change as it applies to subsequent Expiration Fridays. This rule filing, in addition, to seeking accelerated approval of the Exchange's opening Expiration Friday procedures for March 18, is designed to provide notice of those procedures for permanent approval.

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 published its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should

be submitted by April 13, 1988. *It therefore is ordered,* pursuant to section 19(b)(2) of the Act,[2] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: March 17, 1988.

Exhibit A—Special Notice, Expiration Procedures for [Insert Date of Expiration Friday]

[Notice Date]

The New York Stock Exchange, Inc. ("NYSE"), has altered procedures in accordance with changes in certain index contracts.[1] Settlements in these contracts will be based upon the opening stock prices on expiration Friday ([Insert Date]), and trading in these contracts will cease at the close on the previous day ([Insert Date]). The Exchange has taken these steps because it believes that the volume often associated with the concurrent expiration of futures and options contracts on stock indices can best be accommodated by using NYSE's opening procedures.

The Exchange has created special procedures applicable on [Insert Date]. For convenience, a copy of its special procedures is attached to this notice.

[NYSE Officer Name]
[NYSE Officer Title]

New York Stock Exchange

Expiration Procedures for [Insert Date of Expiration Friday]

Several auxiliary procedures are necessary to integrate stock orders relating to expiring contracts into NYSE's opening procedures in a manner that assures an efficient market opening in each stock as close to 9:30 a.m. as possible. The auxiliary opening procedures applicable on [Insert Date] are:

Order Entry

• Stock orders relating to index contracts whose settlement pricing is based upon the [Insert Date] *opening* prices must be received by SuperDot or by the specialist by 9:00 a.m.

—These orders may be cancelled or reduced in size.[1]

—Stock orders relating to index contracts whose settlement pricing is *not* based upon the [Insert Date] opening prices may be entered after 9:00 a.m.

• Stock orders relating to opening-price settling contracts may only be entered as market orders.

• To facilitate early order entry, SuperDot (1) will begin accepting orders at 7:30 am.m and (2) will accept orders of 30,099 shares or less.

• No "limit at the opening" ("limit OPG") order are permitted, whether or not they relate to index contracts.

—Ordinary limit orders may be entered.

Order Identification

• Stock orders relating to opening-price settling contracts must be identified "OPG."

—Firms entering these orders through SuperDot, but unable to identify orders as "OPG," may use a unique branch code or firm identifier (mnemonic) to identify these orders. The NYSE Market Surveillance Division (11 Wall Street, 11th Floor) must be advised of the branch code or identifier by [Insert Last Date to Notify Exchange Staff, Currently the Following Monday].

—Firms unable to identify these orders in either way, and firms not using SuperDot, must submit a list of all these orders and related details to the NYSE Market Surveillance Division by [Insert Last Date to Notify Exchange Staff, Currently the Following Monday].

Dissemination of Order Imbalances

• For any fo the affected stocks having a *market* order imbalance of *50,000* shares or more at 9:00 a.m., the NYSE will disseminate the size of the order imbalance via the low-speed ticker and the news services as promptly as practicable after 9:00 a.m.

Except for the auxiliary procedures described above, all stocks are subject to the regular NYSE opening procedures, including price indications where a substantial price change is anticipated. Fifteen minutes must elapse between a first indication and a stock's opening. However, when more than one indication is necessary, a stock may open (1) five minutes after the last indication when it overlaps the prior indication (e.g., 51–53 overlaps 50–52, but does not over 53–55) and (2) ten minutes after the last indication when it does *not* overlap the prior indication, provided that 15 minutes must have elapsed from the dissemination of the first indication.

Any questions may be directed to [Insert Appropriate NYSE Staff Names and Phone Numbers].

Attachment A—50 Stocks

[Insert Date]—"Expiration Friday"

Symbol *Stock*

[Insert List of Current Stocks and Appropriate Notes]

[FR Doc. 88–6353 Filed 3–22–88; 8:45 am]

BILLING CODE 8010-01-M

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[2] 15 U.S.C. 78s(b)(2) (1982).

[1] NYSE: NYSE Composite Index Options
CME: S&P 500 Index Futures/S&P 500 Index Futures Options
NYSE: NYSE Composite Index Futures/NYSE Composite Index Futures Options.
[The List of Index Contracts Will be Updated Each Expiration Friday as Necessary.]

[1] Firms cancelling these orders or reducing them in size shall prepare contemporaneously a written record describing the rationale for the change and shall preserve it as Rule 410 provides.

[Release No. 35–24602]

Filings Under the Public Utility Holding Company Act of 1935 ("Act"); Eastern Utilities Associates et al.

March 17, 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 April 11, 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.

Eastern Utilities Associates, et al. 70–7287

Eastern Utilities Associates ("EUA"), P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, and EUA Cogenex Corporation ("EUA

Cogenex"), P.O. Box 2333, Boston, Massachusetts 02107, its wholly owned subsidiary, have filed a post-effective amendment to EUA's application-declaration pursuant to sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rule 45(a) thereunder.

By order dated December 19, 1986 (HCAR No. 24273), EUA was authorized to make capital contributions and/or short-term loans to EUA Cogenex in an aggregate amount not to exceed $7 million and EUA Cogenex was authorized to effect short-term borrowings from lending institutions in an aggregate amount not to exceed $7 million. The interest rate on the borrowings from EUA and the lending institutions was required to be no greater than the commercial base rate of The National Bank of Boston.

EUA proposes to increase the maximum amount of capital contributions and/or short-term loans which EUA is permitted to make to EUA Cogenex ("Obligations") evidenced by notes bearing interest at a rate equal to EUA's effective cost of funds from commercial lenders, as adjusted from time-to-time, the aggregate amount of such capital contributions and notes outstanding to EUA at any one time not to exceed $15 million. EUA proposes to finance these Obligations by short-term borrowings under its existing bank lines of credit. The principal amount outstanding at any one time will not exceed $15 million and will be evidenced by notes which may be issued and renewed from time-to-time during the period ending December 31, 1989. Based on the current prime rate of 8½% and a commitment fee of ¼ of 1% of the credit line, the effective borrowing rate would be 8.75%.

EUA Cogenex proposes to increase the maximum amount of short-term borrowings from lending institutions through December 31, 1989, to be evidenced by notes bearing interest either at the commercial bank base rate as adjusted from time-to-time or at available money market rates, the aggregate amount of such borrowings not to exceed $15 million.

Eastern Utilities Associates, et al. (70–7486)

Eastern Utilities Associates ("EUA"), P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, and its electric utility subsidiary, EUA Power Corporation ("EUA Power"), One Eagle Square, P.O. Box 709, Concord, New Hampshire 03002–0709, have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10 and 12 of the Act and Rules 42, 43, 50(a)(5) and 62 thereunder.

By order dated November 21, 1986 (HCAR No. 24245) ("November 21st Order"), EUA Power was authorized to purchase joint ownership interests aggregating 12.1324% in Seabrook Nuclear Power Project ("Seabrook"), a two unit ("Unit 1" and "Unit 2") nuclear facility located in Seabrook, New Hampshire. Construction of Unit No. 1 has been completed, but its commercial operation has been delayed by licensing proceedings before the Nuclear Regulatory Commission. Commencement of commercial operation of Unit No. 1 is not anticipated before 1989 at the earliest. Construction of Unit No. 2 has been cancelled.

Also pursuant to the November 21st Order, EUA Power issued and sold for cash: (1) 10,000 shares of its common stock, $.01 per share, to EUA for a purchase price of $10,000; (2) 449,900 shares of its Class A 25% cumulative Convertible Preferred Stock, par value $100 per share ("Class A Preferred Stock") to EUA for a total purchase price of $44,990,000; and (3) $180 million aggregate principal amount of its 17½% Series A Secured Notes due November 15, 1991 ("Series A Notes"), purchased at their face value by institutional and other investors at private sale.

EUA Power states that it will not have significant amounts of income to meet its expenses, including monthly payments representing its share of the cost of maintianing Unit No. 1 and continuing the licensing process related to Seabrook, and interest payments on the Series A Notes. In order to meet its interest obligations under its Series A Notes and its share of Seabrook Unit 1 costs, EUA Power proposes to issue and sell, pursuant to an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5): (1) Up to $180 million aggregate principal amount of 17½% Series B Secured Notes due 1993 ("Series B Notes"), only in exchange for up to $180 million of 17½% Series A Secured Notes ("Series A Notes") now outstanding, and up to 180,000 Contigent Interest Certificates ("CICs"), one of which will be issued with each $1,000 principal amount of Series B Notes in exchange for Series A Notes; and (2) up to $100 million aggregate principal amount of 17½% Series C Notes ("Series C Notes") to the Series B Noteholders and the Series C Noteholders in lieu of the payment of cash interest on the Series B and Series C Notes.

EUA Power will offer the Series B Notes to Series A Noteholders (together with the CICs) in exchange for their Series A Notes ("Exchange Offer"). The Series B Notes will provide that, at EUA Power's option, interest may, in lieu of payment in cash, be paid "in kind" by the issuance of Series C Notes to each Series B Noteholder in a principal amount which will be a fixed percentage not exceeding 133% of the amount of the cash interest payment to which the Noteholder would otherwise be entitled. Interest on the Series C Notes will similarly be payable in kind, at EUA Power's option, in lieu of payment in cash, by the issuance of additional Series C Notes in a principal amount up to the same percentage not exceeding 133% of the cash otherwise payable.

The Series B Notes and the Series C Notes (as well as the CIDs) will be issued under a supplement to the Indenture. The Series B Notes and the Series C Notes will rank equally with any Series A Notes that may remain outstanding. The terms and provisions of the Series B Notes and the Series C Notes will be identical to those of the Series A Notes to the fullest extent possible except with regard to the redemption provisions and the interest payment provisions (including, in the case of the Series B Notes, the CICs) and: (1) That the Series B Notes and the Series C Notes will mature on May 15, 1993 and November 15, 1992, respectively; (2) the Series B Notes will be non-redeemdable prior to November 15, 1991 and thereafter will be redeemable at par value plus a premium which will be 0.500% during the 6-month period ending May 14, 1992, 0.250% during the 6-month period ending November 14, 1992, and 0.125% during the remaining period to maturity; and (3) that no provision is made for optional redemption of the Series C Notes. The Series B Notes will be issued only upon exchanges of Series A Notes in equal principal amounts pursuant to the Exchange Offer, and Series C Notes will be issued only by delivery to Noteholders, in amounts as stated above, in payment of interest on Series B Notes and Series C Notes.

To encourage exchanges of the existing Series A Notes for the proposed Series B Notes, EUA Power will offer the Series A Noteholders the right to receive additional interest payments on Series B Notes contingent upon the income after interest charges of EUA Power exceeding certain amounts in each of EUA Power's full fiscal years beginning on the first day of the month following the commercial operation date of Unit No. 1 and continuing to and including (but not beyond) the date when the conversion of all of EUA Power's Preferred Stock into common stock is completed. The right to receive such contingent interest payments will be evidenced by CICs.

As soon as possible after commercial operation of Unit No 1 has commenced, EUA Power expects to resume payment of interest on, and eventually payment of principal when due at maturity or upon redemption of, the Series B Notes

and Series C Notes from the proceeds of sales of electricity generated by Unit No. 1 and from the sale of additional securities.

EUA Power also seeks authorization, if such authorization is required, under the provisions of Rule 62 to make the Exchange Offer to its Series A Noteholders at the earliest possible time.

EUA Power further proposes to amend its Certificate of Incorporation to increase its capital stock by 250,000 additional shares of Class A Preferred Stock ("Additional Preferred Stock") and to issue and sell, and EUA to acquire, up to 250,000 shares of Additional Preferred Stock at a purchase price of $25 million. The Additional Preferred Stock will be converted into common stock on a schedule which depends upon the rate at which EUA Power refinances (at an interest rate not exceeding 175% of the then existing prime rate) its long-term debt outstanding at the date of commercial operation of Unit No. 1. All Additional Preferred Stock must be converted no later than 12 years after the commercial operation date of Unit No. 1. Under certain conditions, EUA may purchase all or a portion of the Additional Preferred Stock before any Series B Notes are issued. The proceeds from the sale of the Additional Preferred Stock will be applied to the payment of commitments of EUA Power other than interest on its Secured Notes, including expenses related to the proposed Exchange Offer and expenses required for the funding of EUA Power's share of the cost of operating, maintaining and protecting Unit No. 1 and the dismantling of Unit No. 2. EUA seeks authorization to finance its purchase of the Additional Preferred Stock by short-term bank borrowings under its existing bank lines of credit of up to $25 million. EUA may refinance all or part of such borrowings by means of a term loan or other credit arrangement with banks or other financial institutions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-6354 Filed 3-22-88; 8:45 am]

BILLING CODE 8010-01-M-M

SMALL BUSINESS ADMINISTRATION

Region III Advisory Council; Public Meeting

The U.S. Small Business Administration, Region III Advisory Council, located in the geographical area of Philadelphia, Pennsylvania, will hold a public meeting at 9:30 a.m. Wednesday, April 27, 1988 at the Holiday Inn, 260 Goddard Boulevard, King of Prussia, Pennsylvania, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call William T. Gennetti, District Director, U.S. Small Business Administration, 475 Allendale Road, Suite 201, King of Prussia, Pennsylvania 19406, (215) 962-3801.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 17, 1988.

[FR Doc. 88-6267 Filed 3-22-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flight Service Station at Lovelock, NV; Closing

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Flight Service Station at Lovelock, Nevada, Notice of closing.

SUMMARY: Notice is hereby given that on or about March 10, 1988, the Flight Service Station at Lovelock, Nevada, will be closed. Services to the general aviation public of Lovelock, formerly provided by this office, will be provided by the Flight Service Station in Reno, Nevada. This information will be reflected in the next reissuance of the FAA Organization Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Arlene B. Feldman,

Acting Director, Western-Pacific Region.

Issued in Lawndale, California, on March 14, 1988.

[FR Doc. 88-6250 Filed 3-22-88; 8:45 am]

BILLING CODE 4910-13-M

Urban Mass Transportation Administration

Intent To Prepare an Alternatives Analysis/Environmental Impact Statement on Alternative Transit Improvements in the Atlanta Region of the State of Georgia

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent to prepare an Alternatives Analysis/Environmental Impact Statement.

SUMMARY: This notice announces that the Urban Mass Transportation Administration (UMTA) and the Metropolitan Atlanta Rapid Transit Authority (MARTA) are undertaking the preparation of an Alternatives Analysis/Environmental Impact Statement (AA/EIS) for alternative transit improvements in the North Atlanta Corridor: Northside Hospital area to the vicinity of Spalding Drive and GA. 400 of the Atlanta Region. The AA/EIS is being prepared in conformance with 40 CFR Parts 1500 through 1508, Council on Environmental Quality (CEQ), Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended; 23 CFR Part 771, Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures, Final Rule.

FOR FURTHER INFORMATION CONTACT: Alex McNeil, Transportation Representative, UMTA Region IV Office, 1720 Peachtree Road NW., Suite 400, Atlanta, GA 30309, Telephone (404) 347-7875.

SUPPLEMENTARY INFORMATION:

Scoping Meeting

A public scoping meeting will be held on April 13, 1988 at 7:00 p.m., in the auditorium of the North Fulton Annex, 1741 Roswell Road, NE. (Sandy Springs) to help establish the purpose, scope, framework and approach for the analysis. At the scoping meeting, staff will present a description of the proposed scope of the study using maps and visual aids as well as a plan for an active citizen involvement program, and a projected work schedule. Members of the public and interested Federal, state, and local agencies are invited to

comment on the proposed scope of work, alternatives to be assessed, impacts to be analyzed, and evaluation criteria to be used to arrive at a decision. Comments may be made either orally at the meeting or in writing no later than April 28, 1988 to Metropolitan Atlanta Rapid Transit Authority, Engineering Division, Attention: Gloria Gaines, 4th Floor, 2424 Piedmont Road, NE., Atlanta, GA., 30324, (404) 848-5465.

Corridor Description

The North Atlanta Corridor, Northside Hospital area to the vicinity of Spalding Drive and GA. 400, is a major travel corridor which includes Northside, St. Joseph's and Scottish Rite Hospitals, Perimeter Center mixed use office/retail center (DeKalb County), the North Park mixed use complex, and the North Springs Commercial/residential area. Its boundaries are generally described as the Sandy Springs/Perimeter Mall area and more particularly as Glenridge Drive, Roswell Road, and Trimble Road on the west, Powers Branch Creek on the north, Chamblee Dunwoody Road/Nancy Creek (north fork) on the east and Nancy Creek on the south.

MARTA is presently planning to extend the existing North Rail Line in the vicinity of the Lenox Station north to the Northside Hospital area where a station will be located. This study will analyze transit alternatives north of the Northside Hospital/Medical Center Station.

Description of Alternatives

Transportation alternatives proposed for consideration in the corridor are the following:

Alternative 1: No Build

The no build option includes the existing and committed rail system and the Medical Center (Northside Hospital area) Station as an on-line station, designed with busbays, kiss and ride spaces, and feeder bus service. No on-site parking will be provided. In addition to an expanded Abernathy Road Park and Ride (P&R) lot, additional P&R lots would be located at Mansell Road and State Bridge Road.

Alternative 2: TSM—Minimum

The Transportation System Management (TSM)—Minimum alternative, assumes the Medical Center Station as a permanent end of line station. Service will be improved by providing additional buses, bus routes, busbays, kiss and ride spaces, and increased emergency exiting capacity. Improvements to local roadways would be studied in an effort to mitigate the anticipated increase in transit system related traffic in the area. P&R lot improvements would be the same as the no build option.

Alternative 3: TSM—Maximum

The Transportation System Management (TSM)—Maximum alternative, also assumes the Medical Center Station as a permanent end of line station with the same station improvements proposed in the TSM (minimum) alternatives, except the addition of parking spaces at the station, with a percentage reserved for High Occupancy Vehicle (HOV) users. This alternative also proposes HOV lanes along GA. 400 from Spalding Drive to the Glenridge Connector or other viable locations. Satellite parking would be the same as the TSM (Minimum) with the addition of another P&R lot located at GA. 400/Spalding Drive area. Service will be improved as stated in Alternative 2.

Alternative 4: Busway

The grade separated busway alternative would provide an exclusive or semi-exclusive right of way from the Medical Center Station to an area located approximately at GA. 400/Abernathy Road with stations at Perimeter Center (Dunwoody) and North Park (Sandy Springs). Local bus access would be provided at the Perimeter Center (Dunwoody) Station and Abernathy Road. This proposal calls for the same satellite P&R lots as the TSM (Maximum). Service will be improved as stated in Alternative 2 using the busway as appropriate.

The Busway Alternative would begin with a barrier-free interface with the rail system at Medical Center Station. It would follow generally the same alignment as the rail extension to a station at Perimeter Center (See Alternative 5). Ramps would be located north of the station to allow some bus routes to continue north and east on surface streets to serve the Dunwoody area. The busway would continue northwest to the vicinity of th GA. 400/Abernathy Road interchange. Several design options will be considered in that area:

—Tie into the existing Abernathy Park/Ride Lot
—Direct ramps to GA. 400
—HOV lanes on Ga. 400 north of the connection

Alternative 5: Rail

The rapid rail alternative would be an extension of the currently-committed line beyond Medical Center Station. The line from the Lindbergh junction through Medical Center is currently under preliminary design. The proposed extension would be 3.1 miles long with three stations, Dunwoody, Sandy Springs and North Springs.

The extension would transition from open cut at Medical Center Station to aerial structure just east of the station and turn to the northeast and then north. It would cross over I-285 approximately 0.3 miles west of Ashford-Dunwoody Road. The line would continue on aerial structure to the Dunwoody Station at Hammond Drive.

The Dunwoody Station would be an aerial station located on the west side of Perimeter Mall. The station would have feeder bus access and possibly some parking spaces. The aerial line would continue north of the station and turn to the northwest. As the terrain rises quickly, the line would transition to a cut and cover subway section generally along Perimeter Center West.

The Sandy Springs Station would be located at the intersection of Perimeter Center West, Abernathy Road, and Mount Vernon Highway. The station would include bus access and approximately 1400 parking spaces. The subway line would continue northwest alongside the northbound ramp to GA. 400. It would transition to at grade construction and turn north along the east side of GA. 400.

The North Springs Station would be located ¾ mile north of Abernathy Road. It would be linked to GA. 400 with new ramps; feeder bus access and approximately 3000 parking spaces would be provided. This alternative also provides satellite parking at Mansell Road and State Bridge Road.

Comments at the scoping meeting should focus on the appropriateness of these and other options for consideration in the study, not on individual preferences for a particular alternative as most desirable for implementation.

Probable Effects

Impacts proposed for analysis include changes in the natural environment (air quality, noise, water quality, aesthetics) changes in the social environmental (land use, development, neighborhoods), impacts on parklands and historic sites, changes in transit service and patronage, associated changes in highway congestion, capital costs, operating and maintenance costs, and financial implications. Impacts will be identified both for the construction period and for the construction period and for the long term operation of the alternatives.

The proposed evaluation criteria include transportation, environmental, social, economic and financial measures as required by current Federal laws and current CEQ and UMTA guidelines.

Mitigating measures will be explored for any adverse impacts that are identified.

Comments at the scoping meeting should focus on the completeness of the proposed sets of impacts and evaluation criteria. Other impacts or criteria judged relevant to local decisionmaking should be identified.

Issued on: March 16, 1988.

Peter N. Stowell,

Regional Manager.

[FR Doc. 88-6253 Filed 3-22-88; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: March 17, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0295

Form Number: IRS Form 5064, Notice 210

Type of Review: Revision

Title: Prepared Instructions for Media Label

Description: 26 U.S.C. 6041 and 6042 require that all persons engaged in a trade or business and making payments of taxable income must file reports of this income with IRS. Payers wishing to file these returns on magnetic media must complete Form 5064 to label their media with pertinent information essential to the processing of their data. Notice 210 provides instructions to the filers for filling out the label

Respondents: State or Local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations

Estimated Burden: 5,106 hours

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88-6337 Filed 3-22-88; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

[Dept. Circ.—Public Debt Series—No. 7-88]

Treasury Notes of March 31, 1990, Series Y-1990

March 17, 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 $8,500,000,000 of United States securities, designated Treasury Notes of March 31, 1990, Series Y-1990 (CUSIP) No. 912827 VZ 2), 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.

1.2. If the interest rate determined in accordance with this circular is identical to the rate on an outstanding issue of United States notes, and the terms and conditions of such outstanding issue are otherwise identical to terms and conditions of the securities offered by this circular, this shall be considered an invitation for an additional amount of the outstanding securites and this circular will be amended accordingly. Payment for the securities in that event will be calculated on the basis of the auction price determined in accordance with this circular.

2. Description of Securities

2.1. The Notes will be dated March 31, 1988, and will accrue interest from that date, payable on a semiannual basis on September 30, 1988, and each subsequent 6 months on March 31 and September 30 through the date that the principal becomes payable. They will mature March 31, 1990, 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 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 $5,000, $10,000, $100,000 and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Standard time, Wednesday, March 23, 1988. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, March 22, 1988, and received no later than Thursday, March 31, 1988.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or

otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customer if the names of the customers and the amount for each customers are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions 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 for 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 1/8 of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised on 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 Thrusday, March 31, 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 Tuesday, March 29, 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 Thursday, March 31, 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 announcment 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. 88-6432 Filed 3-21-88; 2:43 pm]

BILLING CODE 4810-40-M

[Dept. Cir.—Public Debt Series—No. 8-88]

Treasury Notes of March 31, 1992, Series M-1992

March 17, 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 March 31, 1992, Series M–1992 (CUSIP No. 912827 WA 6), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated March 31, 1988, and will accrue interest from that date, payable on a semiannual basis on September 30, 1988, and each subsequent 6 months on March 31 and September 30 through the date that the principal becomes payable. They will mature March 31, 1992, 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 to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exemp 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, and $1,000,000 and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Standard time, Thursday, March 24, 1988. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, March 23, 1988, and received no later than Thursday, March 31, 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 dead-line 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 hold 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 99.000. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the

Public Debt, 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 Thursday, March 31, 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 Tuesday, March 29, 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 Thursday, March 31, 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 announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 88-6433 Filed 3-21-88; 2:43 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 56
Wednesday, March 23, 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).

UNITED STATES INSTITUTE OF PEACE

TIME AND DATE: 9:00 a.m.–5:00 p.m., Thursday and Friday, March 31–April 1, 1988.

PLACE: American Chemical Society, 1155 16th Street, NW., Washington, DC 20036. Conference Rooms B and C, First Floor.

STATUS: Open (portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. L. 98–525).

AGENDA (TENTATIVE): Meeting of the Board of Directors convened. Chairman's Report. President's Report. Committee Reports. Consideration of individual grant applications.

CONTACT: Mrs. Olympia Diniak. Telephone: (202) 457–1700.

Dated: March 20, 1988.

Samuel W. Lewis,

President, United States Institute of Peace.

[FR Doc. 88–6416 Filed 3–21–88; 2:15 pm]

BILLING CODE 3155–01–M

UNITED STATES INSTITUTE OF PEACE

TIME AND DATE: 9:00 a.m.–5:00 p.m., Thursday, March 24, 1988.

PLACE: National Trust for Historic Preservation, 1785 Massachusetts Avenue, NW., Washington, DC.

STATUS: Open.

PURPOSE AND AGENDA: The Seventh Colloquium of the intellectual mapping project focusing on new approaches to securing and maintaining peace among nations. Invited participants include Dr. Vamik Volkan, Dr. James Laue, Mr. Joseph Montville, Dr. J. David Singer, Dr. Richard Ned Lebow, Dr. Edward Azar.

CONTACT: Mr. Richard N. Smith Telephone: (202) 457–1700.

Dated: March 20, 1988.

Samuel W. Lewis,

President, United States Institute of Peace.

[FR Doc. 88–6417 Filed 3–21–88; 2:15 pm]

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federal register

Wednesday
March 23, 1988

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Vouchers; Notice of Funding Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-88-1745; FR-2420]

Section 8 Housing Vouchers

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

ACTION: Notice of funding availability.

SUMMARY: This Notice of Funding Availability (NOFA) announces the availability of fiscal year 1988 funding authority for HUD's Housing Voucher Program authorized by section 8(o) of the United States Housing Act of 1937. Funding for the Program is provided in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988, and includes carryover funding authority from previous fiscal years. The funding authority is made available, subject to the program requirements set out in Part III of this NOFA. These requirements are based on the program requirements contained in Part III of the NOFA published on February 19, 1987, at 52 FR 5250, as revised to conform to recent statutory amendments to the Housing Voucher Program. This NOFA also advises PHAs that they must implement the Federal preferences for the Housing Voucher Program at the same time that they implement the Federal preferences for the Certificate Program.

EFFECTIVE DATE: March 23, 1988.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Housing Voucher Division, Room 6122, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755-6477. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION:

Housing Voucher Program

I. Background

The purpose of this Notice of Funding Availability (NOFA) is to announce the availability of budget authority for housing vouchers appropriated by the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1988 (section 1(f) of Pub. L. 100-202, approved December 22, 1987) (the 1988 Appropriations Act).

On October 29, 1987, the Department published a NOFA announcing the availability of fiscal year 1988 funding authority for the Housing Voucher Program provided in Continuing Resolution, Pub. L. 100-120, approved September 30, 1987, including any extensions of that Continuing Resolution. (The Continuing Resolution and extenders [1] were stopgap measures pending enactment of the the 1988 Appropriations Act.) That NOFA also advised the public that, pending completion of the Housing Voucher Program final rule, the Department intended to continue to administer the Program under the policies in effect in fiscal year 1987. (See NOFA published on February 19, 1987, at 52 FR 5250.) The Department is still developing the Housing Voucher Program final rule, including consideration of the 273 public comments received in response to the proposed rule. It remains the Department's policy that, pending publication of an effective rule, the Housing Voucher Program continue to operate under the program requirements that were contained in the February 1987 NOFA. This document revises these requirements, however, to implement certain recent statutory amendments, discussed below.

On February 5, 1988, the President approved the Housing and Community Development Act of 1987 (Pub. L. 100-242) (HCD Act of 1987). The Act made several changes in the Housing Voucher Program that are of immediate effect and require no prior public comment in order to be implemented. Section II.C. of this NOFA describes the revisions made to the program requirements, as they existed in Part III of the February 1987 NOFA, to implement these statutory amendments, as well as the provisions of the 1988 Appropriations Act concerning the use of budget authority for additional housing voucher units.

II. This Document

A. Fund Availability

Accordingly, this NOFA announces the availability of the budget authority for housing vouchers appropriated by the 1988 Appropriations Act, as well as authority carried from previous fiscal years. Pending publication of final effective Housing Voucher Program regulations, the authority must be used for the purposes provided in, and under the requirements of, Part III of this NOFA. This NOFA does not implement any of the policies described in Section II.B.2., *Anticipated Changes in the Housing Voucher Program*, of the February 1987 NOFA. Action on those proposed changes, including modifications set out in the proposed rule, will be dealt with in the Housing Voucher Program final rule.

1. Headquarters Reserve

The Secretary is retaining a number of housing vouchers in a Headquarters reserve, and, subject to the availability of sufficient budget authority, these housing vouchers will be used for emergencies, special housing needs, and for the following specific uses:

(a) A set-aside to assist public housing desegregation, when other methods have failed (see III.D.(c) of this NOFA).

(b) A set-aside to assist families living in one of the following types of "opt-out" or prepayment projects:

(1) For families living in a Section 8 New Construction or Substantial Rehabilitation project, where the owner has sole discretion to "opt-out" of an additional term of assistance under the Section 8 Housing Assistance Payments Contract and does so;

(2) For families living in a Section 8 Loan Management Set-Aside project,

[1] See, Pub. L. 100-120 (November 10, 1987), Pub. L. 100-193 (December 16, 1987), and Pub. L. 100-197 (December 20, 1987).

where the project-based housing assistance payments contract ends; or

(3) For families living in a below-market interest rate project insured under section 221(d)(3) of the National Housing Act or in a project insured under section 236 of the National Housing Act, when the owner prepays the mortgage and prior HUD approval is not required.

2. Housing Vouchers Distributed by Formula Allocation

The Department will allocate most of the carryover authority and fiscal year 1988 housing voucher funding authority made available under the 1988 Appropriations Act to its Regional Offices, using an allocation procedure patterned on the "fair share" procedures in 24 CFR Part 791. The Department will, to the extent necessary, allocate additional housing vouchers to a PHA, to ensure that it can provide housing vouchers to eligible applicant families that, as a result of rental rehabilitation activities, are forced to vacate their respective units because of physical construction, housing overcrowding, or a change in use of the units, or that would have to pay more than 50 percent of their respective adjusted income as rent. (See section II.C.5. of this NOFA for a description of the new requirements concerning the use of formula allocation housing vouchers for rental rehabilitation families.)

B. Applicability of this NOFA

The Housing Voucher Program requirements contained in Part III of this NOFA apply to the Housing Voucher Program, including budget authority made available in fiscal year 1988 under this NOFA and the October 29, 1987 NOFA.

C. Revisions to the Program Requirements Caused by the HCD Act of 1987 and the 1988 Appropriations Act

1. Implementation of Section 143(b)(1) of the HCD Act of 1987

Section 143(b)(1) of the HCD Act of 1987 amends section 8(o)(6)(A) (previously section 8(o)(7)(A)) of the United States Housing Act of 1937 (1937 Act) to give PHAs the discretion to make annual affordability adjustments to the payment standard. (This section previously permitted no more than two affordability adjustments in any five-year period.) In order to implement this amendment, section III.J. of this NOFA contains the following revisions: Paragraph (e)(1) has been revised to permit PHAs to make annual affordability adjustments and paragraph (f) has been revised to remove the reference to the two-in-five-year limitation.

2. Implementation of Section 143(b)(2) of the HCD Act of 1987

Section 143(b)(2) of the HCD Act of 1987 strikes section 8(o)(6)(D) (previously section 8(o)(7)(D)) of the 1937 Act, which had required PHAs to consult with the public and units of general local government before making affordability adjustments. Paragraph (e)(4) of section III.J. of the February 1987 NOFA (see 52 FR 5263, column 2), contained the consultation requirement. Paragraph (e)(4) has been omitted from section III.J. of this NOFA. A PHA may adopt an affordability adjustment *without* consulting the public or the unit of general local government in the PHA's jurisdiction concerning the impact of the adjustment on the number of families that can be assisted.

3. Implementation of Section 143(c) of the HCD Act of 1987

Section 143(c) of HCD Act of 1987 amends section 8(o)(7) (previously section 8(o)(8)) of the 1937 Act by striking the five-percent limit on the amount of authority that may be used to provide assistance with respect to cooperative or mutual housing. Paragraph (a)(4) in section III.M. of the February 1987 NOFA (see 52 FR 5266, column 2) contained the five-percent limit; the parallel paragraph (a)(4) of this NOFA does not contain a five-percent limit.

4. Implementation of Section 144 of the HCD Act of 1987

Section 144 of the HCD Act of 1987 added a new section 8(q), which establishes administrative fee requirements for both the Housing Voucher Program and the Certificate Program. Section 8(q)(1) requires the Secretary to establish a monthly fee (ongoing fee) equal to 8.2 percent of the two-bedroom fair market rent (FMR) and authorizes the Secretary to increase the fee if necessary to reflect higher costs of administering small programs and programs operating over large geographic areas. Section 8(q)(2)(A) requires the Secretary to establish reasonable fees for (1) preliminary expenses (not to exceed $275) incurred by a PHA in connection with a new allocation of assistance, (2) costs incurred in assisting families who experience difficulty in obtaining appropriate housing, and (3) extraordinary costs approved by the Secretary. Section 8(q)(2)(B) requires that the same method be used to calculate fees under the Housing Voucher Program and the Certificate Program. Section 8(q)(3) contains the following overall limitation: "The Secretary may establish or increase a fee in accordance with this subsection only to such extent or in such amounts as are provided in appropriations Acts."

The Department's 1988 appropriation for the Housing Voucher Program, as reflected in the table at page 838 of the Conference Report (H. Rept. No. 198, 100th Cong., 1st Sess., (1987)), is based on an administrative fee structure as provided in Part III.U. of the February 1987 NOFA (see 52 FR 5268). This system includes an ongoing administrative fee equal to 6.5 percent per month of the two-bedroom FMR, a preliminary fee not to exceed $215, and a "hard-to-house" fee of $45 for each qualified family. Because there is a fixed amount of budget authority for the Housing Voucher Program, any increase in the amount of budget authority available for administrative fees necessarily causes a concommitant decrease in the amount of budget authority available for program purposes, including for free-standing housing vouchers, and would decrease the number of housing vouchers available for eligible families below the level reflected in the Conference Report. This NOFA is based on the current Housing Voucher Program administrative fees, as reflected in the revised operating plan submitted to, and accepted by, the Committees on Appropriations of the Senate and House of Representatives.

5. Implementation of the Statutory Amendments Affecting the Relationship Between the Housing Voucher Program and the Rental Rehabilitation Program

Section 143(a)(2) of the HCD Act of 1987 strikes section 8(o)(4) of the 1937 Act, which required that HUD use "substantially all" housing voucher authority for families residing in dwellings to be rehabilitated with assistance under the Rental Rehabilitation Program and for families displaced as a result of rental rehabilitation assisted under that program or under section 533 of the Housing Act of 1949.

Section 149 of the HCD Act of 1987 added a new subsection (u) to section 8 of the 1937 Act, which reads as follows:

(u) In the case of lower income families living in rental projects rehabilitated under section 17 of this Act or section 533 of the Housing Act of 1949 before rehabilitation—

(1) Certificates or vouchers under this section shall be made [available] for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding; and

(2) At the discretion of each public housing agency or other agency administering the allocation of assistance, certificates or vouchers under this section may be made [available] for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or move from, the project.

In addition, the 1988 Appropriations Act provides:

[O]f that portion of such [Housing Voucher Program] budget authority to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families who are involuntarily displaced, or who are or would be displaced in consequence of increased rents, as a result of rental rehabilitation program activities.

It should be noted that while both section 8(u) of the 1937 Act and the above-quoted proviso in HUD's 1988 Appropriations Act concern the interrelationship between the Housing Voucher Program and the Rental Rehabilitation Program, there are several substantive differences. The 1988 Appropriations Act proviso applies only to FY 1988 housing voucher budget authority appropriated in FY 1988 for additional housing voucher units, while section 8(u) is not limited to funding for any fiscal year and applies to both housing vouchers and certificates. The 1988 Appropriations Act proviso *requires* that highest priority in the use of FY 1988 new unit funding be given to families who "are or would be displaced in consequence of increased rent as a result of rental rehabilitation actions." Section 8(u) of the 1937 Act, however, gives the PHA *discretion* to provide housing vouchers or certificates to families "who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or move from, the project."

In this NOFA, the appropriation proviso is met by *directing* the PHA to issue housing vouchers: (1) To eligible families that are forced, by rental rehabilitation activities, to vacate a unit because of physical construction, housing overcrowding, or a change in use of the unit, and (2) to eligible families that would have to pay more than 50% of their adjusted income for rent after rehabilitation. Since section 8(o)(3) of the 1937 Act requires that families with a rent burden in excess of 50 percent of adjusted income be given a preference, HUD has adopted the 50 percent standard as the threshold of displacement. This approach ensures the availability of housing vouchers for the same class of rent-burdened families that are giver a preference to housing vouchers under section 8(o)(3) of the 1937 Act. It also gives effect to section 8(u), by providing PHAs discretionary authority to provide housing vouchers to families with rent burdens between 30 and 50 percent of their adjusted income.

The following briefly describes the changes in the program requirements for use of housing vouchers in connection with the Rental Rehabilitation Program:

- In using its housing vouchers, a PHA must issue a housing voucher to any eligible applicant family that is forced to vacate a unit because of physical construction, housing overcrowding, or a change in use of the unit, or whose rent would exceed 50 percent of its adjusted income, as a result of rental rehabilitation activities. HUD will allocate additional housing vouchers to a PHA, to the extent necessary, to ensure that PHAs can meet this obligation; and
- The PHA, in its discretion, may establish a preference for selecting eligible families whose rent would exceed 30 percent, but would not exceed 50 percent, of their adjusted income as a result of rental rehabilitation activities. A PHA must exercise this discretionary authority in a manner that is consistent with its obligations with respect to the Federal preferences, once it has implemented the Federal preference rule (see 24 CFR 882.219, as added by 53 FR 1122, 1152, January 15, 1988). If a PHA provides a housing voucher to a family that falls within this category, but is not eligible for a Federal preference, the family must be counted as part of the not more than 10 percent of applicants who do not qualify for a Federal preference, but may be issued housing vouchers before other applicants who do. There is no obstacle to a PHA employing its 10 percent exception to adopt a local preference for eligible families who encounter increased rent burdens in their rental rehabilitation units, but whose rent burden doesn't reach the level to qualify the families for a Federal preference.

To implement these policies, the Department is making the following changes in the February 1987 NOFA:

a. Paragraphs III.D.(a), *Invitations for Application for Housing Voucher Assistance in Connection with the Rental Rehabilitation Program*, and III.D.(b), *Procedures for State Rental Rehabilitation Programs* (see 52 FR 5258), have been removed from Part III. of this NOFA and paragraphs (c), (d) and (e) of section III.D. of the February 1987 NOFA have been relettered as paragraphs (a), (b), and (c), respectively, of section III.D. of this NOFA. A new paragraph (e) has teen added to section III.E. of this NOFA to give PHAs involved in State-administered rental rehabilitation programs until August 31, 1988 to submit their applications for housing vouchers so that the State rental rehabilitation agencies can have sufficient time to identify the PHAs that need additional housing vouchers and the amount needed.

b. Paragraph (3) in section III.D.(b), *Invitations for Applications for Formula Allocation Housing Vouchers—Contents of Invitation*, of this NOFA is new. It requires HUD field offices to ensure that a PHA is provided sufficient housing vouchers to ensure that the PHA can comply with its obligations to rental rehabilitation families under section III.I.(e)(1)(i) of this NOFA.

c. Sections III.H., *Procedures in Connection with the Rental Rehabilitation Program*, and III.X., *Deobligation of Rental Rehabilitation Grants and Effect on Housing Voucher Budget Authority Provided in Connection with the Rental Rehabilitation Grants*, of the February 1987 NOFA have been removed. These are reserved in this NOFA to keep the lettering of sections consistent with the lettering in the February 1987 NOFA.

d. Section III.I.(e) of this NOFA is a revision of section III.I.(e) of the February 1987 NOFA (see 52 FR 5261–62). It contains the requirements, discussed above, concerning the PHA's obligation to provide housing vouchers to displaced and to 50 percent rent-burdened rental rehabilitation families and also the discretionary authority for PHA's to provide a preference to 30 to 50 percent rent-burdened rental rehabilitation families.

e. Section III.I.(f) has been revised in this NOFA to conform to the policies discussed above. (*Compare* section III.I.(f) of the February 1987 NOFA, 52 FR 5262, columns 1 and 2).

f. Paragraphs (c) and (d) in Section III.F. and paragraph (a) in section III.G. have been revised in this NOFA to conform to the policies discussed above (compare 52 FR 5259, columns 2 and 3 of the February 1987 NOFA).

6. Implementation of Section 103(b) of the HCD Act of 1987

Section 16(b) of the 1937 Act provides that no more than 5 percent of the dwelling units that become available under public housing annual contributions contracts and under Section 8 housing assistance payments contracts may be available for leasing to lower income families other than very low-income families. Section 103(b) of the HCD Act of 1987 amends section 16 to exempt from the percentage limitations in section 16(b) dwelling

units made available under Section 8 housing assistance contracts for the purpose of preventing displacement or ameliorating the effects of displacement, including displacement caused by rents exceeding 30 percent of monthly adjusted family income, of lower income families from projects being assisted with rental rehabilitation grants. In order to implement this amendment, paragraphs (a) (2) and (3) and paragraphs (b) (1) and (2) of section III.I. have been revised to conform to this statutory amendment. (*Compare* sections III.I. (a) and (b) of the February 1987 NOFA at 52 FR 5260–62.)

7. Implementation of Federal Preferences Under Section 8(o)(3) of the 1937 Act

On January 15, 1988, the Department published a final rule implementing the statutory Federal preferences for the Public and Indian Housing and Section 8 Programs under the 1937 Act, and the Rent Supplement Program under section 101 of the Housing and Urban Development Act of 1965 (53 FR 1122). That final rule provided that the Department would publish a notice of effective date following expiration of the 30-session-day waiting period and that PHAs and owners must implement that rule for the affected programs no later than July 13, 1988.

The January 15, 1988 final rule did not contain implementing rule text for the Housing Voucher Program. Rather, it noted that the Department was developing a Housing Voucher Program final rule, which would include provisions to implement the Federal preferences that would be substantially similar to the implementation of the Certificate Program. As previously noted, the Department has not completed development of the Housing Voucher Program final rule. Paragraph (d)(1) of section III.I. of both the February 1987 NOFA and this NOFA incorporate 24 CFR 882.209(a). Section 882.209(a) was revised by the Federal Preference rule to require a PHA under the Certificate Program to implement the Federal preferences contained in § 882.216, which was added by the Preference rule. Paragraph (d)(1) of section III.I. of this NOFA, accordingly, has been revised to make it explicit that a PHA, when it implements the Federal preferences under its certificate program, must also implement the Federal preferences under its housing voucher program.

III. Housing Voucher Program Requirements

A. Definitions

For purposes of the Housing Voucher Program, the following definitions apply.

Act (1937 Act). The United States Housing Act of 1937.

Annual Contributions Contract (ACC). A written agreement between HUD and a PHA to provide annual contributions to the PHA for housing assistance payments and administrative fees.

Annual Income. See 24 CFR 813.106.

Congregate Housing. See section III.M.(b) of this Notice.

Decent, Safe, and Sanitary Housing. Housing that meets the housing quality standards of § 882.109.

Demolition/Disposition. The demolition of public housing buildings or disposition of public housing units. The PHA must obtain HUD approval for demolition or disposition under 24 CFR Part 970.

Eligible Family (Family). A family as defined in 24 CFR Part 812 that, at the time it initially receives assistance under the Housing Voucher Program, (1) qualifies as a very low-income family or as a lower income family displaced by rental rehabilitation program activity under 24 CFR Part 511 (see section III.I. of this Notice); or (2) has been continuously assisted under the 1937 Act.

Housing Assistance Payment. The monthly payment by the PHA to an owner on behalf of a family participating in the Housing Voucher Program. Generally, the amount of the housing assistance payment is determined by subtracting 30 percent of a family's monthly adjusted income from the payment standard that applies to the family. For additional details see section III.J. of this NOFA.

Housing Voucher. A document issued by a PHA declaring a family to be eligible for participation in the Housing Voucher Program and stating the terms and conditions for the family's participation.

Housing Voucher Contract (Contract). A written contract between a PHA and an owner, in the form prescribed by HUD for the Housing Voucher Program, in which the PHA agrees to make housing assistance payments to the owner on behalf of an eligible family.

HUD. The Department of Housing and Urban Development or its designee.

Independent Group Residence (IGR). See section III.M.(b) of this Notice.

Initial PHA. A PHA administering a Housing Voucher Program with a housing voucher holder or housing voucher participant who desires to move, or who has moved, to another area under the portability procedures in section III.L.(d).

Lease. A written agreement between an owner and a family for the leasing of a dwelling unit by the owner to the family, with assistance payments under a housing voucher contract between the owner and the PHA.

Lower Income Family. A family whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

Occupancy Standards. Standards established by the PHA for determining the appropriate number of bedrooms for families of different sizes and compositions.

Opt Out. (1) A Section 8 New Construction (Part 880) or Substantial Rehabilitation (Part 881) project, where the owner has the sole option to renew for an additional term of assistance under the Section 8 Housing Assistance Payments Program, but elects not to renew; or (2) a Section 8 Loan Management Set-Aside project (Part 886, Subpart A) where the project-based housing assistance payments contract ends.

Owner. Any person or entity having the legal right to lease or sublease decent, safe, and sanitary housing.

Participant. A family becomes a participant in the PHA's Housing Voucher Program when the PHA executes a housing voucher contract with an owner for housing assistance payments on behalf of the family.

Payment Standard. (See section III.J. of this Notice.)

PHA Jurisdiction. The area in which the PHA is not legally barred from entering into housing voucher contracts.

Public Housing Agency (PHA). Any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of lower income housing.

Receiving PHA. A PHA administering a Section 8 Certificate or Housing Voucher Program that accepts a housing voucher holder or housing voucher participant from another PHA under the portability procedures of section III.L.(d) of this Notice.

Rent to Owner. The sum of the amount that will be paid by the PHA to

the owner on behalf of a family under the housing voucher contract and the amount that will be paid by the family to the owner to cover the balance of the rent payable to the owner under the lease.

Single Room Occupancy (SRO) Housing. A unit which contains no sanitary facilities or food preparation facilities, or which contains one but not both types of facilities (as those facilities are defined in 24 CFR 882.109 (a) and (b)), and which is suitable for occupancy by a single eligible individual capable of independent living. (See also section III.M.(c) of this Notice.)

Targeted Housing Voucher. Circumstances in which HUD provides housing voucher funding specifically for families living in certain types of projects. These types of projects include: demolition/disposition projects, opt out projects, rental rehabilitation projects, transitional housing, and public housing units for desegregation purposes.

Unit Size. The number of bedrooms in a dwelling unit.

Utility Allowance. An amount that applies when the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the rent to owner, but is the responsibility of the family. The allowance is an amount equaling the estimate made or approved by the PHA of the monthly costs of a reasonable consumption of these utilities and other services for the unit by an energy-conservative household of modest circumstances, consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility Reimbursement. Concept applies when the rent to the owner does not include some or all of the utilities and the family is responsible for them. The utility reimbursement is the excess of the housing assistance payment over the amount payable to the owner by the PHA.

Very Low-Income Family. A lower income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes.

Voucher. See Housing Voucher.

Voucher Contract (Contract). See Housing Voucher Contract.

B. Applicability and Purpose

(a) *Applicability.* The provisions of this Part III apply to the use of budget authority for all housing voucher assistance authorized by Section 8(o) of the 1937 Act. Requirements that apply to some, but not all, Housing Voucher Program components also are contained in Part III, but are distinguished from the generally applicable requirements. By cross reference, provisions of the regulations for the Section 8 Existing Housing (Certificate) Program (24 CFR Parts 812, 813 and 882, Subparts A and B) are incorporated in this Notice and also apply to the Housing Voucher Program. Unless otherwise specified, references to particular section numbers (e.g., § 882.110) are to regulations in Title 24 of the Code of Federal Regulations. Provisions that apply only to a limited number of components of the Housing Voucher Program are noted within the generally applicable provisions.

(b) *Purpose.* The purpose of the Housing Voucher Program is to assist eligible families in affording rents for decent, safe, and sanitary housing.

C. Equal Opportunity Requirements

Participation in the Housing Voucher Program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all related rules, regulations and other requirements. In addition, failure to comply with these equal opportunity requirements will result in the imposition of sanctions under applicable civil rights law.

D. Allocations of Funding and Invitations for Applications

(a) Invitations for Applications for Formula Allocation Housing Vouchers—Allocation of Funding

The Department will allocate a portion of the current year's housing voucher funding to its Regional Offices, using a formula allocation that is patterned after 24 CFR Part 791. Each Regional Office may determine the amounts of housing voucher funding to be used for individual PHAs or it may delegate these decisions to its Field Offices.

(b) Invitations for Applications for Formula Allocation Housing Vouchers—Contents of Invitation

(1) Upon receipt of their funding allocation, the Regional or Field Offices will invite PHAs to submit applications to the appropriate Field Office.

(2) The Department generally considers 50 housing vouchers to be the minimum program size for cost-effective administration of a Housing Voucher Program. For this reason, HUD will not approve an initial application for fewer than 50 housing vouchers, unless a PHA specifically requests fewer housing vouchers. (This initial minimum need only be met once, and does not apply to additional allocations. This minimum does not apply to any of the special use allocations made by Headquarters.) Every effort will be made to provide sufficiently large allocations of housing vouchers to individual PHAs to facilitate program administration and economies of scale.

(3) In determining which PHAs will be invited to submit applications and the number of housing vouchers to be approved, the Field Office must consider the extent to which the PHA has housing vouchers or certificates available for use by rental rehabilitation families. If a PHA does not have sufficient housing vouchers or certificates available for families that will be physically displaced or will have an after-rehabilitation rent burden in excess of 50 percent of adjusted income, the Field Office shall provide sufficient housing vouchers to ensure that the PHA can comply with its obligations under section III.I.(e)(1)(i) of this NOFA.

(c) Allocations for Desegregation of Public Housing

HUD may provide housing voucher funding to a PHA for desegregation of public housing projects. The funding must be used in accordance with the PHA's HUD-approved administrative plan, modified to reflect revisions required by HUD to provide housing vouchers for families living in public housing projects or applicants on the PHA's public housing waiting list. The funding may be provided if HUD determines the following criteria have been met:

(1) The PHA has been found in preliminary noncompliance with Title VI of the Civil Rights Act of 1964 because of discriminatory practices or policies that resulted in segregated public housing projects, and, consistent with that finding—

(i) The PHA has entered into a compliance agreement and has carried out its obligations under the agreement but, because of circumstances beyond the PHA's control, has not succeeded in desegregating its projects; or

(ii) It is determined during the course of compliance agreement negotiations that the PHA could not develop and implement a meaningful plan to desegregate its project(s) without housing vouchers; and

(2) The racial characteristics of the PHA's public housing project occupants and the length and racial composition of

the public housing waiting list is such that providing housing vouchers to a limited number of public housing tenants or applicants would facilitate the desegregation of public housing projects.

E. Submission of Applications

(a) The PHA must submit its application for the Housing Voucher Program in accordance with § 882.204, with the following exceptions:

(1) Equal Opportunity Housing Plan

Each PHA must submit an equal opportunity housing plan as required under § 882.204(b)(1), except that it must be a combined plan covering the PHA's entire Certificate Program and Housing Voucher Program. The plan must include any special rules for use of housing vouchers in connection with any program component identified in this Notice.

(2) Administrative Plan

Each PHA must submit an administrative plan as required under § 882.204(b)(3), except it must be a combined plan covering the PHA's Certificate Program and Housing Voucher Program. Applicable special functions related to housing vouchers—such as special procedures for selection of families in connection with the Rental Rehabilitation Program, targeted, freestanding, or small/rural components—must be covered. (Some functions, such as computation of the family rent in accordance with section 3(a) of the 1937 Act, and contract rent adjustments, do not apply to the Housing Voucher Program.)

(b) For all components of the Housing Voucher Program, the application must include estimates of gross family income of families to be assisted.

(c) For targeted housing vouchers only, the application must identify the size and composition of families to be assisted.

(d) If applicable, the PHA must describe its local housing initiatives in support of its Section 8 Certificate and Housing Voucher Programs. The application should specify the size of its combined Section 8 Existing Certificate and Housing Voucher Programs and what local services, facilities, or funding are provided in support of the program. If the PHA operates a Section 8 Program that currently does not receive local support, but there are plans for locally generated support in fiscal year 1988 (and beyond), the PHA should describe these plans, including a schedule for implementation.

(e) A PHA that is submitting an application for housing vouchers, based in whole or part on a need to assist families in a State-administered rental rehabilitation program, must submit its application by August 31, 1988.

F. Processing of Housing Voucher Applications

(a) Processing of Applications

(1) HUD will send applications for more than 12 units to the appropriate chief executive officer of the unit of general local government for review and comment. This submission will be in accordance with 24 CFR Part 791, as required by section 213 of the Housing and Community Development Act of 1974.

(2) HUD will evaluate each application on the basis of the requirements of this Notice and other program requirements, and will consider any comments received from the unit of general local government. HUD also will take into account the PHA's ability to administer the Housing Voucher Program, as evidenced, in part, by its performance in operating the Certificate Program, where applicable.

(b) Application Preferences

(1) Preference will be given to an application from a PHA that demonstrates locally initiated efforts in support of its Section 8 Certificate and Housing Voucher Programs. This preference takes precedence over the other two preferences listed, and Field Offices will attempt to fund applications which demonstrate these locally-generated efforts before evaluating applications indicating eligibility only for the other preferences. Evaluation of a locality's contribution will be measured competitively—that is, by the extent to which a locality is able to provide services or cash contributions, or to demonstrate its intention to provide this kind of support in the future, as compared to services or contributions provided by other localities of like program size.

(2) Preference may be given to applications from PHAs that provide families with the broadest geographical choice of housing, including interjurisdictional and interstate housing choice.

(3) Preference may be given to applications from PHAs whose needs previously have been underfunded in relation to the needs of other localities within the allocation area.

(c) Approval or Disapproval of Applications

HUD will notify the PHA, whether HUD has approved or disapproved the PHA's application. Where HUD has disapproved an application, HUD will include a statement of the reasons and, where applicable, the changes required to make the application approvable.

(d) Processing of Applications: Procedures (Memorandum of Understanding) for the Rental Rehabilitation Program

In processing applications for housing vouchers, HUD requires that the PHA in an area covered by the Rental Rehabilitation Program and the grantee under the Rental Rehabilitation Program execute a memorandum of understanding setting forth the responsibilities of each party and the procedures to be followed in coordinating the use of authority for housing vouchers for eligible applicant families in rental rehabilitation projects. Where a State is distributing the Rental Rehabilitation grant amounts to units of general local government (State recipients), the PHA and the State recipient must execute the memorandum of understanding. Before HUD and the PHA execute an ACC for the housing vouchers, the memorandum must be executed by both parties and the PHA must submit a certification to HUD that both parties have executed the memorandum and it is consistent with the PHA's HUD-approved administrative and equal opportunity plans. If there is any inconsistency between the PHA's administrative plan and the memorandum of understanding, the administrative plan prevails.

G. Annual Contributions Contract

(a) ACC Execution

HUD will execute the ACC with the PHA, in a form prescribed by HUD, in accordance with § 882.206, after HUD approves the application for housing voucher assistance. HUD will not execute the ACC, unless it also has received the PHA certification that the PHA and the grantee under the Rental Rehabilitation Program have executed a memorandum of understanding as required under section III.F.(d) of this Notice.

(b) Term of ACC for Funding Increment

The ACC term for each funding increment under the ACC is five years.

(c) ACC

HUD and the PHA will execute one ACC document covering all of the funding increments for the PHA's Housing Voucher Program. However, where (as in the case of some statewide PHAs) the area for which the PHA may execute housing voucher contracts is within the jurisdiction of more than one

HUD Field Office, HUD may require one ACC for each Office.

(d) Amount of Annual Contributions

(1) The total amount of annual contributions contracted for in the ACC for the five-year ACC term for each funding increment will be five times the total of (i) the average HUD-estimated annual PHA administrative fee plus (ii) 115 percent of the amount that HUD estimates would be required in the first year of the ACC for housing assistance payments to owners, assuming a full year of occupancy.

(2) The PHA must plan administration of its Housing Voucher Program in a manner that will ensure its operation within the amounts originally contracted for under the ACC, taking into account (i) the amounts available from reserving 15 percent more than the estimated housing assistance payments for the first year and (ii) the number of families that may be assisted (including consideration of the effect of a revised payment standard under section III.J., to assure continued affordability; changes in family income and composition; and portability of housing vouchers). HUD does not intend to make any ACC amendments to provide additional funding for the purpose of maintaining a particular number of assisted families.

H. [Reserved]

I. Selecting Families and Issuing Housing Vouchers

(a) Eligible Families

(1) A family is eligible for assistance under the Housing Voucher Program if, at the time it initially receives assistance under the program, the family:

(i) Qualifies as a very low-income family;

(ii) Qualifies as a lower income family (other than very low-income) and is displaced by rental rehabilitation activity under 24 CFR Part 511; or

(iii) Has been continuously assisted under the U.S. Housing Act of 1937.

(2) In interpreting paragraph (a)(1)(ii) of this section, the following rules apply. A lower income family in a rental rehabilitation project that is forced to vacate a unit because of physical construction, housing overcrowding, or a change in use of the unit, is considered "displaced". A lower income family that lives in a project undergoing rental rehabilitation activities whose post-rehabilitation rent would not be affordable is not considered "displaced" for this reason alone, for purposes of determining housing voucher eligibility. (Such a family may be issued a certificate to assist in paying the higher rent or in finding another unit; unlike housing vouchers, certificates are not subject to the statutory requirement for actual displacement as a condition of eligibility for a lower income family that is not a very low-income family.)

(b) Compliance With Section 16 of the U.S. Housing Act of 1937

Section 16 restricts to five percent nationally the number of lower income families with incomes above 50 percent of median income that may be assisted under the 1937 Act (both Section 8 and public housing). The only families with incomes above 50 percent of median income who are eligible for housing vouchers are: (i) Families that have been continuously assisted under the 1937 Act and (ii) lower income families who are displaced by Rental Rehabilitation activities. All other families must be very low-income families to be eligible for housing vouchers. Section 103(b) of the HCD Act of 1987 amended section 16 of the 1937 Act to exempt from the percentage limitation dwelling units made available under Section 8 housing assistance contracts for the purpose of preventing displacement, or ameliorating the effects of displacement, including displacement caused by rents exceeding 30 percent of monthly adjusted income, of lower income families from projects being rehabilitated with assistance under the Rental Rehabilitation Program. Thus, as a result of the section 103(b) amendment to section 16, the only units made available under the Housing Voucher Program that are subject to the section 16 percentage limitation are units made available to families with incomes above 50 percent of median income that are continuously assisted families under the 1937 Act. (Certificates made available under the program for the purpose of preventing displacement, or ameliorating the effects of displacement, including displacement caused by rents exceeding 30 percent of monthly adjusted income, of lower income families from projects being rehabilitated with assistance under the Rental Rehabilitation Program are not subject to the section 16 percentage limitation.)

(c) Activities to Encourage Participation by Owners and Others

The PHA must encourage participation by owners and others in the Housing Voucher Program, as required under § 882.208 for the Section 8 Certificate Program.

(d) Selecting Families; Issuing Housing Vouchers: Generally Applicable Procedures

(1) The PHA must select eligible families for participation in accordance with § 882.209(a), except for the provisions in § 882.209(a)(4)(ii), which are specifically modified by paragraphs (e) and (f) of this section. Section 882.209(a)(2), as revised by 53 FR 1122, at 1152, January 15, 1988, requires a PHA to give a Federal preference in selecting applicants for participation in accordance with § 882.219, which was added by the same rulemaking. As noted above, a PHA must implement the Federal preferences for its housing voucher program at the same time that it implements those preferences for its certificate program.

(2) The PHA must verify the sources of income and other information concerning the family necessary to determine eligibility and the amount of the housing assistance payment.

(3) The PHA must issue housing vouchers in accordance with its occupancy standards established under § 882.209(b) and this Notice; however, if a family rents a unit with a larger or smaller number of bedrooms than stated on the housing voucher, section III.N.(c) of this Notice applies. The PHA must issue a housing voucher for a particular number of bedrooms, consistent with its occupancy standards and consistently for all families of like composition.

(4)(i) If an applicant on the PHA's waiting list is offered a housing voucher (except the offer of assistance in paragraph (4)(ii) or (4)(iii) of this section) the family will not lose its place for refusing the housing voucher, if it desires to wait for a certificate. Conversely, the family will not lose its place on the waiting list for refusing a certificate, if it desires to wait for a housing voucher. However, if the family refuses the second form of assistance when it is offered, the family must be taken off the waiting list. If the family so requests, it will be reinstated on the waiting list, but only in conformance with the PHA's HUD-approved administrative plan and equal opportunity housing plan.

(ii) In selecting applicants for participation in the Freestanding Demonstration, the PHA must offer an available certificate and housing voucher to a pair of families on the waiting list that qualify for the same size unit under the PHA's occupancy policy.

(iii) In selecting applicants for participation in the Small/Rural Demonstration, the PHA must offer an available housing voucher to the next

family on the waiting list that qualifies for the unit size of the available housing voucher under the PHA's occupancy standards.

(iv) If an applicant is offered a housing voucher on the condition that the applicant initially must use the housing voucher in a Part 511 rental rehabilitation project, the refusal of the applicant to accept the housing voucher will not be counted as refusal to accept one form of assistance under paragraph (d)(4)(i) of this section.

(e) Selecting Families—Targeting Assistance to Applicants Living in Certain Projects

(1) In selecting families for participation:

(i) A PHA must issue a housing voucher to any eligible applicant family that is forced to vacate a unit because of physical construction, housing overcrowding, or a change in use of the unit, or whose rent would exceed 50 percent of its adjusted income, as a result of rental rehabilitation activities under Part 511 of this title; and

(ii) In its discretion, a PHA may provide a selection preference to an eligible family whose rent would be between 30 and 50 percent of its adjusted income as a result of rental rehabilitation activities under Part 511 of this title. A PHA must exercise this discretionary authority in a manner that is consistent with its obligations with respect to the Federal preferences once it has implemented the Federal Preference rule (see 24 CFR 882.219, as added by 53 FR 1122, 1152, January 15, 1988). If a PHA provides a housing voucher to a family who falls within this category but is not eligible for a Federal preference, the family must be counted as part of the not more than 10 percent of applicants that may be issued housing vouchers before applicants who qualify for a Federal preference. After the grantee approves a rental rehabilitation project, the PHA must issue any needed housing vouchers to families living in the project to be rehabilitated. The housing vouchers must be issued so as to give families sufficient time to decide whether to move (where they are not required to move) and to give them time to locate other units (where they are required to move or choose to move).

(2) Except as provided in paragraph (e)(1) of this section and in this paragraph (e)(2), the PHA may not otherwise establish a selection preference based on the identity or location of the housing which is occupied by the applicant. If HUD provides housing voucher funding to a PHA for families living in any of the following types of projects, the PHA must use the housing vouchers initially to assist families living in the projects:

(i) Public housing units that are being demolished or disposed of with HUD approval;

(ii) Section 8 New Construction (Part 880) or Substantial Rehabilitation (Part 881) projects where the owner has sole discretion to opt-out of an additional term of assistant under the Section 8 Housing Assistance Payment Program and does so;

(iii) Section 8 Loan Management Set-Aside projects (Part 886, Subpart A) where the project-based housing assistance payments contract ends;

(iv) Section 221(d)(3) below market interest rate insured projects or Section 236 insured projects where the owner prepays the mortgage and prior HUD approval is not required;

(v) Public housing units, where HUD has made a determination under section III.D.(c) of this Notice that housing voucher funding is necessary for the desegregation of the PHA's public housing (but, see also paragraph (f)(1) of this section, which describes a concurrent use authorized for these housing vouchers); and

(vi) Transitional housing developed under the Department's Transitional Housing Demonstration Program involving applications submitted in response to the August 7, 1987 deadline (see 52 FR 21743, June 9, 1987). A PHA may use housing voucher authority for general program purposes provided it can ensure, to the extent of funding provided for this purpose, the availability of housing vouchers to eligible homeless persons upon their departure from transitional housing.

(3) If the PHA issues a housing voucher to a family living in any of the projects identified in paragraph (e)(1) or (e)(2) of this section, the family may use the assistance for an eligible unit located anywhere in the PHA's jurisdiction, consistent with the "finders-keepers" policy described in section III.K. of this Notice.

(f) Selecting Families—Targeting Assistance to Families on the PHA's Waiting List

The following rules also apply to the PHA in selecting families to assist.

(1) If HUD has provided housing voucher assistance based on a determination under section III.D.(c) of this Notice, to assist in the desegregation of the PHA's public housing, the PHA must issue housing vouchers to eligible families on the PHA's public housing waiting list (or to families living in public housing in accordance with paragraph (e)(2)(v) of this section). The family may use the assistance for an eligible unit located anywhere in the PHA's jurisdiction, consistent with the "finders-keepers" policy described in section III.K. of this Notice.

(2) If a rental rehabilitation grantee so requests and subject to its obligation to issue housing vouchers to rental rehabilitation families under section III.I.(e)(1)(i), the PHA may offer housing vouchers to families from its Section 8 waiting list who agree to move initially into a rehabilitated project. The following rules apply:

(i) In using the housing vouchers for the families selected from the PHA's waiting list, the PHA is limited to the total number of housing vouchers allocated in connection with rental rehabilitation in fiscal years 1984, 1985, and 1986. (For example, if the PHA received 15 housing vouchers in connection with a fiscal year 1984 rental rehabilitation project; and 50 in connection with a fiscal year 1986 rental rehabilitation project the PHA may target no more than 65 housing vouchers to families on its waiting list.)

(ii) A family who accepts a housing voucher under this paragraph (f)(2) must first use the housing voucher to occupy a dwelling unit rehabilitated under the Part 511 Rental Rehabilitation Program and specifically identified by the PHA when the housing voucher was offered.

(iii) Any housing vouchers issued under this paragraph must be issued to the families selected from the PHA's waiting list approximately 60 days before the estimated completion date for the rehabilitation work.

(g) PHA Briefing of Families

The PHA must brief each family in accordance with § 882.209(c), and must include information on the range of neighborhoods in which the family may find units meeting program requirements and information on possibilities for participating in available portability programs, as described in section III.L. of this Notice. Section 882.209(c)(7) does not apply. Instead, the PHA must brief the family on the function of the payment standard, determination of the housing assistance payment the incentive for selecting a unit renting for less than the payment standard, and the minimum rent the family must pay. In jurisdictions in which the PHA is administering both a Section 8 Certificate Program and a Housing Voucher Program, the PHA also must explain how the principal features of the Housing Voucher Program differ from the Section 8 Existing Certificate Program.

(h) Housing Voucher Packet

The PHA must give each family a housing voucher packet in accordance with § 882.209(b)(4), except that instead of information on the Total Tenant Payment and the Tenant Rent, the PHA must give the family information on how the PHA computes the housing assistance payments. The PHA also must provide to the family as complete information as possible about available rental rehabilitation projects as possible places for the family to find housing.

(i) Term of Housing Voucher

Section 882.209(d), Expiration and Extension of Certificate, applies to housing vouchers issued in the Housing Voucher Program.

J. Housing Voucher Payments

(a) Overview

The determination of the amount of assistance provided a family in the Housing Voucher Program is based on the concept of the payment standard. Each PHA adopts a schedule of payment standard amounts, broken down by unit size and Fair Market Rent area. The amount of housing assistance paid on behalf of a family is determined by subtracting 30 percent of a family's monthly adjusted income (as determined under Part 813) from the payment standard amount applicable to the family (and subject to the minimum rent calculation in paragraph (d)(3) of this section.) To assure affordability, the PHA, at its discretion, may revise its payment standard amounts no more frequently than annually. The family's housing assistance payment also may change if the family's income or composition changes. This section J. explains how the housing assistance payments system works.

(b) Definition

(1) *General.* A payment standard is an amount used to calculate the housing assistance a family will receive in the PHA's Housing Voucher Program. The PHA must establish a schedule of payment standard amounts by unit size (single room occupancy, zero-bedroom, one-bedroom, etc.) and Fair Market Rent area. There is only one payment standard schedule in effect at any given time.

(2) *Single Room Occupancy Payment Standard.* Any PHA that wishes to utilize SRO housing must propose for HUD approval an SRO payment standard for the PHA's jurisdiction. The PHA may propose a payment standard amount that is within the range of 75 to 100 percent of the applicable published 0-bedroom Fair Market Rent or the HUD-approved, community-wide exception rent. Within this range, the proposed payment standard must reflect the presence of sanitary facilities or food preparation facilities, or the absence of both and what must be paid to obtain privately owned, existing, decent, safe, and sanitary rental SRO housing of modest (non-luxury) nature with suitable amenities.

(3) *Independent Group Residence Payment Standard.* The payment standard for a participant in an IGR is determined by dividing the dollar amount of the payment standard for the entire residence (for example, the 4-bedroom payment standard for a 4-bedroom residence) by the total number of potential occupants (assisted or unassisted), excluding a resident assistant (if any) occupying no more than one bedroom.

(c) Adoption of Payment Standard

Each PHA administering a Housing Voucher Program must adopt a schedule of payment standard. The following apply:

(1) For a PHA that receives its first increment of funding in fiscal year 1988, or a PHA that had its first increment of funding reserved in a previous year, but does not yet have an executed ACC, the payment standard schedule amounts must be the same as the Fair Market Rents published for effect or the HUD-approved community-wide exception rents at the time the ACC is executed by HUD.

(2) For a PHA that executed an ACC for its first increment of funding in fiscal year 1987 on or after February 19, 1987, the payment standard amounts must be the same as the Fair Market Rents published for effect or the HUD-approved community-wide exception rents at the time the ACC was executed by HUD, as modified by any changes in the payment standard amounts that have been made in accordance with program requirements in effect when the payment standard changes were made.

(3) For a PHA that received a previous increment of funding for which the ACC was executed before February 19, 1987, the payment standard schedule amounts must be amounts that have been adopted by the PHA, which are anywhere between (i) its initial payment standard (*i.e.*, the Fair Market Rents in effect when the ACC was executed for the first funding increment) and (ii) the Fair Market Rents published for effect or the HUD-approved community-wide exception rents at the time of adoption of the payment standard schedule, as modified by any changes in the payment standard amounts made in accordance with program requirements in effect when the payment standard changes were made.

(4) A payment standard may never exceed the applicable Fair Market Rent published for effect or the HUD-approved community-wide exception rent.

(d) How to Use the Payment Standard

(1) The PHA uses the payment standard schedule to determine what payment standard amount applies to a particular family's circumstances. The appropriate amount is determined by the family size and composition and the PHA's occupancy standards. Once the payment standard amount is determined from the schedule, the PHA subtracts 30 percent of the family's monthly adjusted income (as computed under Part 813) to arrive at the amount of assistance the PHA will provide to the owner on behalf of the family. (For example, if a family qualifies for a four-bedroom housing voucher and has a monthly adjusted income of $500, and the payment standard for a four-bedroom housing voucher is $600, the housing assistance payment for the family is the payment standard ($600) minus 30 percent of the family's monthly adjusted income ($150) or $450.) Before entering into a housing voucher contract with the owner for this amount, the PHA must complete the "minimum rent" calculation in paragraph (d)(3) of this section to ensure that the family is paying at least the minimum amount required by law.

(2) If a unit rents for more than the payment standard, the housing assistance payment is not increased, nor, as in the Certificate Program, is the family told it must find another unit. Instead, the family may pay the entire difference between the rent to the owner and the housing voucher assistance. If the unit rents for less than the payment standard, the family benefits by paying less than 30 percent of its monthly adjusted income toward rent, subject to the minimum rent calculation.

(3) The family must contribute at least 10 percent of its monthly gross income for rent. The PHA must ensure that the housing assistance is not greater than the difference between the rent to owner, plus any applicable utility allowance, and 10 percent of the family's monthly gross income, determined in accordance with Part 813. (This is the only time that actual rent for a unit is used to make a housing assistance payment calculation.)

(4) The payment standard schedule adopted by a PHA is the payment standard schedule the PHA uses to determine all housing assistance payments for all families in the PHA's

Housing Voucher Program, until the payment standard schedule is amended by an affordability adjustment under the procedures of paragraph (e) of this section.

(e) Changing the Payment Standard: Affordability Adjustments

(1) *General.* To assure continued affordability, the PHA may, in its discretion adopt annual affordability adjustments for each unit size and each FMR area, using the funds available under the current ACC.

(2) *Previously adopted affordability adjustments.* Affordability adjustments may be adopted for a single unit size. Any previous adjustment standard schedules that adjusted the payment standard amounts for particular unit sizes are counted only as affordability adjustments for the particular unit size(s) for which the payment standard amount was increased, but not as an affordability adjustment for the PHA's entire Housing Voucher Program.

(3) *Affordability cap.* An affordability adjustment may not cause the payment standard amount for the unit size to exceed the dollar amounts of the published FMRs or the HUD-approved community-wide exception rent for the unit size in effect at the time of the adjustment.

(f) Changing the Payment Standard Schedule: Lower FMRs

When FMRs are published for effect in the **Federal Register** and the FMRs are lower than the amounts in the PHA's payment standard schedule (as amended by any affordability adjustments), the PHA must adopt new payment standards, using the lower, effective FMRs or the HUD-approved, community-wide exception rents.

(g) When a Family's Payment Standard May Change

The only times the payment standard that is applied to a family may change are:

(1) At regular reexamination (see rules for regular reexamination in paragraph (h) of this section); or

(2) At the time a family moves to another unit (see paragraph (i) of this section for additional details).

(h) Rules at Regular Reexamination

(1) The payment standard that applied to a family at the time of initial lease approval for the unit or at its most recent regular reexamination continues to be used to determine the amount of housing assistance to be paid on behalf of the family unless one of the following circumstances applies:

(i) The PHA has adopted an affordability adjustment revising the payment standard applicable to the family;

(ii) The PHA has adopted new occupancy standards. In this case, the payment standard for the appropriate unit size under the PHA's new occupancy standards is used;

(iii) The family's size or composition has changed. In this case, the payment standard for the appropriate unit size is used.

(2) Unless there has been a change in family size or composition or a change in the PHA's occupancy standards, the payment standard for a particular family at the time of reexamination may not be determined to be less than the payment standard previously used for the family.

(i) Rule When a Family Moves

The payment standard that applied to a family at the time of initial lease approval for the unit or at its most recent regular reexamination continues to be used to determine the amount of housing assistance to be paid on behalf of the family, unless one of the following circumstances applies:

(1) The PHA has adopted a new payment standard or an affordability adjustment revising the payment standard applicable to the family;

(2) The PHA has adopted new occupancy standards. In this case, the payment standard for the appropriate size under the PHA's new occupancy standards is used;

(3) The family's size or composition has changed. In this case, the payment standard for the appropriate unit size is used.

(j) Request for Interim Reexamination

A family may request an interim reexamination of income, as provided for in section III.Q. of this Notice, which may result in a change in family income or adjusted income, but not in the payment standard applicable to the family.

(k) Prohibition Against Double Subsidy

In no event may any family receive the benefit of housing voucher assistance while receiving one of the following: Other section 8 or section 23 housing assistance; section 101 rent supplements; section 236 rental assistance payments; or other duplicative Federal, State or local housing subsidy, as determined by HUD. In the case of section 236 units having only interest reduction subsidy (insured or noninsured) the duplicative subsidy must be prevented by the owner's setting the unit rent to owner for a housing voucher participant at the lesser of the market rent for the unit, as approved by HUD, or the payment standard, but not less than basic rent.

(l) No Payments for Vacancies

If a family moves from the unit, the owner must notify the PHA promptly, and the PHA may not make any additional housing assistance payments to the owner for any month after the month in which the family moves. The owner may retain the housing assistance payment for the month during which the family moves.

(m) Utility Reimbursement

(1) Where the rent to the owner does not include some or all utilities and the family pays the utility company directly, occasionally the housing assistance payment will exceed the rent to the owner for the unit. In such a case, the PHA must pay to the family as a utility reimbursement the excess of the housing assistance payment over the rent payable to the owner. (Without this reimbursement, the family's housing assistance payment would be less than the amount for which the family is eligible under the subsidy formula.) For example, if the payment standard amount is $500, and $120 is 30 percent of a family's monthly adjusted income, the housing assistance payment would be $380. If the rent to owner is $350, and the utility allowance is $150, the PHA pays $350 to the owner and the remaining $30 of the housing voucher payment to the family as a utility reimbursement.

(2) If the family and the utility company consent, the PHA may pay the utility reimbursement jointly to the family and the utility company or directly to the utility company.

(n) Assisting More Families

If a PHA determines that some or all of the available annual contributions under its ACC are not needed for participating families, including future adjustments of housing assistance payments and portability moves, it may assist more families.

K. Finders-Keepers Policy

Except as described in paragraph K.(c) below, this section sets forth the same policy that applies to the Certificate Program.

(a) A family with a housing voucher is responsible for finding a housing unit suitable to the family's needs and desires in any area where the PHA (including the receiving PHA when the family is participating under the portability procedures in section III.L. of this Notice) determines that it is not legally barred from entering into

contracts. A family may select the dwelling unit that it already occupies, if the unit is approvable. Upon request, the PHA must assist a family in finding a unit in circumstances where, because of age, handicap, large family size or other reasons, the family is unable to locate an approvable unit. The PHA also must provide assistance where the family alleges that illegal discrimination on grounds of race, color, religion, sex, national origin, age, or handicap is preventing it from finding a suitable unit, and in appropriate cases must provide the family with a copy of a Form HUD–903 for use in filing a housing discrimination complaint. This assistance must be in accordance with the PHA's approved equal opportunity housing plan.

(b) Neither in assisting a family in finding a unit nor by any other action may the PHA directly or indirectly reduce the family's opportunity to choose among the available units in the housing market.

(c) This section III.K. applies to any family to which a housing voucher is issued by a PHA. The finders-keepers policy does not apply to the first occupancy by a family on the PHA's waiting list that is issued a housing voucher because the family agrees to move initially into a project rehabilitated under the Rental Rehabilitation Program, when applicable (see section III.I.(f)(2) of this Notice). However, after initial use of the housing voucher in the rehabilitated project, the family is free to move to any other approvable unit in the PHA's jurisdiction, consistent with the Finders-Keepers policy, or to move to another PHA's jurisdiction under section III.L. of this Notice.

L. Portability of Housing Vouchers

(a) General Introduction

(1) This section III.L. describes portability procedures for families participating in the Housing Voucher Program. Housing voucher portability procedures are not intended to supplant current voluntary mobility programs for the Section 8 Certificate Program that PHAs may determine to extend to housing voucher participants.

(2) If a PHA is administering a Housing Voucher Program in the location to which a family (housing voucher holder or participant) wishes to move, the PHA must accept the family and provide services to the family as if the family were a participant in its Housing Voucher Program. Where a PHA is not administering a Housing Voucher Program, the PHA is encouraged to administer the housing voucher assistance on behalf of the family or to issue the family one of the receiving PHA's available Section 8 certificates. The details of the housing voucher portability program are discussed in paragraph (d) of this section.

(b) Mobility Under Current Section 8 Procedures

Current § 882.103(c) of the regulations for the Section 8 Certificate Program encourages PHAs to promote greater choice of housing opportunities for eligible families by:

(1) Seeking participation of owners within the PHA's jurisdiction;

(2) Advising families of their opportunities to lease housing throughout the PHA's jurisdiction;

(3) Cooperating with other PHAs by issuing certificates to families already receiving the benefit of Section 8 housing assistance payments who wish to move from the operating area of one PHA to another; and

(4) Entering into administrative arrangements with other PHAs in order to permit certificate holders to seek housing in the broadest range of areas.

(c) Applicability of Current Mobility Procedures

Current procedures for the Section 8 Existing Housing Certificate Program designed to facilitate mobility of assisted families, discussed in paragraph (b) of this section, apply to the Housing Voucher Program, wherever feasible to increase the opportunities of families participating in the Housing Voucher Program. If the family desires to move and can move with the opportunity for continued housing voucher or certificate assistance under a voluntary mobility program described in paragraph (b) of this section, the PHA is not required to use the portability procedures described in paragragh (d) of this section.

(d) Portability Under the Housing Voucher Program

(1) *Scope.* The procedures in this paragraph (d) are to be used only for the Housing Voucher Program.

(2) *General.* The purpose of this paragraph (d) is to establish procedures to be used in the Housing Voucher Program when a family desires to stay in the program, but wishes to move outside its current PHA's jurisdiction.

(i) Portability will provide an opportunity to a housing voucher holder or participant to move to any other housing voucher jurisdiction, by requiring the receiving PHA to accept the family, subject to the limitations identified in this paragraph (d). The receiving PHA may choose to bill the initial PHA for assistance payments made on behalf of the family, or it may decide to provide housing voucher assistance to the family under its own ACC.

(ii) This portability feature also promotes moves of housing voucher holders or participants to non-housing voucher jurisdictions by encouraging PHAs with certificate programs to participate on a voluntary basis. If the family chooses to move to an area without a Housing Voucher Program, the receiving PHA is not required to accept the family. The receiving PHA may administer the housing voucher and bill the initial PHA, or it may issue the family one of its certificates.

(3) *Eligibility for portability.* A family is eligible for portability if it lives in the initial PHA's jurisdiction and holds a current housing voucher, or if the family is a current participant (see § 882.209(a)) in the initial PHA's Housing Voucher Program.

(4) *Determination to deny or terminate assistance.* Either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance to the family in accordance with § 882.210, as modified by section III.S. of this Notice.

(5) *Responsibilities of the Initial PHA.*

(i) The initial PHA must manage its Housing Voucher Program in a manner that will assure that it has the financial ability to provide continued housing voucher assistance in accordance with these portability procedures.

(ii) The initial PHA may deny the request to move if the number of families assisted under these portability procedures would constitute more than 15 percent of units under lease in the initial PHA's Housing Voucher Program.

(iii) If a family eligible for portability notifies the initial PHA that it wants to move under these procedures and informs the PHA concerning the area to which the family wants to move, the initial PHA must determine whether the PHA in the new area administers a Housing Voucher Program and, if it does not, but operates a Certificate Program, whether the receiving PHA is willing to accept the family under paragraph (d)(ii) of this section III.L.

(iv) If the family is going to move under the portability provisions above, the initial PHA must notify the receiving PHA to expect the family. The initial PHA must verify to the receiving PHA that the family met income-eligibility requirements for admission to the program, and that the initial PHA issued the family a housing voucher consistent with section III.I. of this Notice, and

must state the date (as determined in accordance with § 882.209(d)) by which the family must submit a request for lease approval in the jurisdiction of the receiving PHA.

(v) When the family moves out of the initial PHA's jurisdiction, the initial PHA retains funding for the housing voucher under its ACC.

(vi) The initial PHA must reimburse the receiving PHA for the full amount of the housing assistance payments made by the receiving PHA on behalf of the family. The amount of housing assistance is based on the payment standard in effect at the receiving PHA. If the receiving PHA elects to provide assistance to the family utilizing funding under the ACC for its own Certificate or Housing Voucher Program, the initial PHA is not required to reimburse the receiving PHA.

(vii) The initial PHA must reimburse the receiving PHA in the amount of 80 percent of the initial PHA's ongoing administrative fee for each unit month that the family under a housing voucher contract is receiving housing assistance in the receiving PHA's jurisdiction.

(viii) The initial PHA also may receive the preliminary fee for any new unit (limited by cost-justified expenses submitted up to the maximum amount allowed for this purpose), if the portable housing voucher qualified for the preliminary fee and a hard-to-house fee, if the family housed with the portable housing voucher qualified for the hard-to-house fee.

(ix) If the portability family leaves the Housing Voucher Program, or if the receiving PHA elects to provide assistance to the family utilizing funding under the ACC for its own Housing Voucher or Certificate Program, the initial PHA may use for other families the funding previously needed to support payment of subsidy for the portable housing voucher.

(6) *Responsibility of the Receiving PHA.* (i) A receiving PHA that administers a Housing Voucher Program must issue a housing voucher to a family moving from the Housing Voucher Program of another PHA. (But see paragraphs (c) and (d)(4) of this section L.) A receiving PHA that administers a Housing Voucher Program may not limit the number of housing vouchers issued to such families. The receiving PHA may either bill the initial PHA for the housing assistance payments on behalf of the family or may provide assistance to the family utilizing funding under the ACC for its own Housing Voucher or Certificate Program.

(ii) A receiving PHA that does not administer a Housing Voucher Program, but does administer a Certificate Program may:

(A) Refer the initial PHA to a Statewide or other multi-jurisdictional PHA that administers a Housing Voucher Program in its jurisdiction;

(B) Administer the housing voucher assistance on behalf of the family and bill the initial PHA for amounts authorized in this paragraph (d); or

(C) Issue a certificate to the family, utilizing funding under the ACC for its own Certificate Program.

(iii) The receiving PHA must recertify the family's income initially and at least annually thereafter for purposes of determining the housing assistance payments. The receiving PHA may not deny the family a housing voucher on the ground that the family's income exceeds the income limits for housing voucher eligibility in the receiving PHA's jurisdiction.

(iv) The receiving PHA promptly must notify the initial PHA if a family fails to submit a request for lease approval by the date specified by the initial PHA.

(v) The amount of housing assistance payments to be made on behalf of the family is determined in accordance with section III.J. of this Notice. A non-housing voucher PHA must adopt a payment standard based on the appropriate Fair Market Rent or HUD-approved community-wide exception rent in effect in the receiving PHA's jurisdiction at the time of the family's initial lease approval, and must use all other applicable procedures in section III.J. of this Notice in determining assistance payments.

(vi) The receiving PHA must perform all of the functions normally associated with providing assistance to a family in a Housing Voucher Program, including lease approval, annual recertification of income and annual inspection of the unit.

(vii) The receiving PHA may bill the initial PHA for an amount equal to 80 percent of the initial PHA's administrative fee, unless it elects to provide assistance to the family utilizing funding under the ACC for its own Certificate or Housing Voucher Program. The receiving PHA also may bill the initial PHA for up to the preliminary fee for housing vouchers for cost-justified expenses and for the hard-to-house fee.

(viii) The receiving PHA is responsible for making payments on behalf of the family to the owner. If the receiving PHA does not elect to provide assistance to the family utilizing funding under the ACC for its own Housing Voucher or Certificate Program, the receiving PHA bills the initial PHA for the amount of the housing assistance payments. The receiving PHA should notify the HUD Headquarters' Office of Elderly and Assisted Housing if the initial PHA neglects to respond to timely billing by the receiving PHA.

(ix) The receiving PHA must notify the initial PHA promptly if the family ceases to be a current participant in the initial PHA's Housing Voucher Program.

(7) *Subsequent moves.* (i) A family may move more than once using the portability procedures in this paragraph (d), although the initial PHA may limit family moves to not more than once in any twelve-month period.

(ii) When the family wishes to move from an area in which the receiving PHA has been billing the initial PHA, the PHA in the new jurisdiction to which the family moves becomes the receiving PHA. It then has all of the choices and obligations of a receiving PHA as described in this section. The first receiving PHA is no longer involved, because the initial PHA retains funding authority for the housing voucher.

(iii) When a family wishes to move from an area in which the receiving PHA has elected to provide assistance to the family utilizing funding under the ACC for its own Housing Voucher Program, this receiving PHA becomes the new initial PHA. It has all of the choices and obligations of an initial PHA as described in this section. The PHA in the new jurisdiction to which the family moves becomes the receiving PHA and has all of the choices and obligations of a receiving PHA as described in this section. In this situation, the initial PHA that originally selected the family is no longer involved.

M. Eligible and Ineligible Housing

(a) Housing that is eligible for use in the Housing Voucher Program is any existing dwelling unit determined by the PHA to be decent, safe, and sanitary (meeting the housing quality standards in § 882.109, except § 882.109(q)), except for the following types of housing:

(1) A unit that is owned by the PHA administering the ACC under this Notice, including both the receiving PHA and initial PHA under the portability provisions of section III.L. of this Notice;

(2) A unit that is receiving other assistance under the 1937 Act, other than assistance under section 17;

(3) Nursing homes, units within the grounds of penal, reformatory, medical, mental and similar public or private institutions, or facilities that provide continual psychiatric, medical, or nursing services;

(4) A housing unit that is occupied by its owner (including the owner of a manufactured home leasing a manufactured home space). However, a

PHA may use housing voucher authority to provide assistance with respect to cooperative or mutual housing that has a resale structure that maintains affordability for lower income families, if the PHA determines that such assistance will assist in maintaining affordability of such housing for lower income families; and

(5) A housing unit used as transitional housing in the Department's Transitional Housing Demonstration Program.

(b) Elderly, handicapped, disabled, or displaced families and individuals may use congregate housing. Eligible elderly, handicapped, or disabled families and individuals who require a planned program of continual supportive services may use independent group residences. The definitions of and relating to congregate housing and independent group residences in § 882.102 and the housing quality standards for independent group residences and congregate housing under § 882.109 apply to the Housing Voucher Program.

(c) SRO housing may be used only if: (1) The property is located in an area in which there is a significant demand for SRO units, as determined by the HUD Field Office; (2) the PHA and the unit of general local government in which the property is located approve the use of SRO units for such purpose; and (3) the unit of general local government and the local PHA certify to HUD that the property meets applicable local health and safety standards for SRO housing. Specific housing quality standards for SRO housing are in § 882.109, and they apply to the Housing Voucher Program.

(d) The 40 percent limitation under § 882.110(c) on the number of certain subsidized units in specified types of federally assisted housing shall apply. The PHA must count housing voucher units in determining compliance with the 40 percent limitation.

N. Approving Units and Executing Leases and Housing Voucher Contracts

(a) Information to Owners and Requests to PHA for Lease Approval

(1) The PHA must respond to inquiries from owners who have been approached by housing voucher holders by explaining the major program procedures, including lease provisions, lease approval procedures, housing quality inspections, contract provisions and payment procedures, and by furnishing copies of pertinent forms.

(2) When a family has found a unit it wants and the owner is willing to lease, the family must submit to the PHA a request for lease approval signed by the owner of the unit and the family. At the same time, the family must submit a copy of the proposed lease for the unit, which must include the lease provisions prescribed by HUD for the Housing Voucher Program. At the time of submission of the lease, it must be complete except for execution.

(b) Decent, Safe, and Sanitary Condition of the Unit

In accordance with § 882.209(h), the PHA must inspect a unit to determine whether the unit meets the housing quality standards before the housing voucher contract is executed.

(c) Unit Sizes That Vary From Housing Voucher

(1) Regardless of the number of bedrooms stated on a housing voucher, the PHA may not prohibit a family from renting an otherwise acceptable unit on the ground that it is too large for the family.

(2) The PHA may not prevent a family from renting a unit with fewer bedrooms than stated on the housing voucher. However, the unit must meet the space requirements of the housing quality standards under § 882.109(c), or such variation as HUD may have approved.

(3) If the PHA determines that the assisted unit occupied by a participant family does not meet the space requirements of the housing quality standards under § 882.109(c) because of an increase in family size or a change in family composition, the PHA must issue the participant family a new housing voucher, and the family and the PHA must try to find an acceptable unit as soon as possible.

(4) The policies stated in paragraphs (c)(1)–(3) of this section are similar to policies applied in the Certificate Program (see §§ 882.209(i) and 882.213). References to compliance with maximum rent restrictions are not included, since there are no maximum rents in the Housing Voucher Program.

(d) Lease Requirements

(1) *General.* (i) The lease between the owner and the family must be in accordance with section III.P. of this Notice and any applicable HUD requirements. The lease must include all provisions required by HUD and may not contain any provisions prohibited by HUD.

(ii) In addition to the requirements identified in this paragraph (d), a lease for an independent group residence must comply with § 882.209(j)(2).

(2) *Term of Lease.* (i) The term of the lease begins on a date stated in the lease and continues until:

(A) A termination of the lease by the owner in accordance with section III.P. of this Notice.

(B) A termination of the lease by the family in accordance with the lease or by mutual agreement during the term of the lease. The lease must permit a termination of the lease by the family without cause, at any time after the first year of the term of the lease, on not more than 60 days' written notice by the family to the owner (with a copy to the PHA); or

(C) A termination of the housing voucher contract by the PHA.

(ii) The term of the lease must begin at least one year before the end of the term of the last funding increment under the ACC. The contract and the lease shall end if the PHA determines, in accordance with procedures prescribed by HUD, that funding under the ACC is insufficient to support continued assistance.

(iii) The owner may offer the family a new lease for execution by the family after approval by the PHA for a term beginning at any time after the first year of the term of the lease. The owner must give the tenant written notice of the offer, with a copy to the PHA, at least 60 days before the proposed beginning date of the new lease term. The offer may specify a reasonable time limit for acceptance by the family.

(e) Approval and Disapproval of Leases and Execution of Housing Voucher Contracts and Related Documents

The PHA must approve or disapprove leases and provide for execution of HUD-prescribed forms of housing voucher contracts and related documents in accordance with § 882.209 (k) and (*l*) and § 882.215(b). References to approving the amount of rent payable to the owner and the rent reasonableness certification under § 882.106(b) do not apply, since there is no maximum rent payable to the owner under the Housing Voucher Program.

O. Maintenance, Operation and Inspections; Security Deposits

(a) Maintenance, Operation, and Inspections

The requirements of § 882.211 concerning maintenance, operation, and inspections of units apply. In addition, the PHA may not make any housing assistance payments for a unit that fails to meet the housing quality standards, unless the owner promptly corrects the defect and the PHA verifies the correction.

(b) Security Deposits and Utility Deposits

(1) If at the time of the initial execution of the lease, the owner wishes to collect a security deposit, the amount

shall be the greater of $50 or 30 percent of the family's monthly adjusted income. The amount of the security deposit also is limited by any applicable limitation under State or local law. If a housing voucher family rents its pre-program unit, a security deposit collected in excess of the maximum amount that was collected before PHA approval of a lease under the Housing Voucher Program does not have to be refunded until the family vacates the unit subject to the lease terms. The family is expected to pay security deposits and utility deposits from its own resources or from other public or private sources.

(2) Subject to State and local law, the owner may use the security deposit, including any interest on the deposit, in accordance with the housing voucher lease, as reimbursement for any unpaid rent payable by the family or for other amounts the family owes under the lease. The owner must give the family a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must refund promptly the full amount of the unused balance to the family.

(3) If the family moves from the unit, the owner may claim reimbursement from the PHA for the amount the family owes under the lease (but not more than one month's rent to the owner), minus the greater of—

(i) The security deposit actually collected, or

(ii) The maximum security deposit the Owner could have collected at initial lease execution in accordance with paragraph (b)(1) of this section.

(4) Any reimbursement under this section must be applied, first, toward any unpaid rent due under the lease, and then to any other amounts owed. No reimbursement may be claimed from the PHA for unpaid rent for the period after the family vacates the unit.

P. Termination of Tenancy by Owners

(a) The owner may not terminate the tenancy except for:

(1) Serious or repeated violation of the terms and conditions of the lease;

(2) Violation of Federal, State, or local law which imposes obligations on a tenant in connection with the occupancy or use of the dwelling unit and surrounding premises; or

(3) Other good cause. However, during the first year of the term of the lease, the owner may not terminate the tenancy for "other good cause", unless the termination is based on malfeasance or nonfeasance by the family.

(b) The following are some examples of "other good cause" for termination of tenancy by the owner:

(1) Failure by the family to accept the offer of a new lease in accordance with section III.N.(d)(iii) of this Notice;

(2) A family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or property;

(3) Criminal activity by family members involving crimes of physical violence to persons or property;

(4) The owner's desire to utilize the unit for personal or family use or for a purpose other than use as a residential rental unit; or

(5) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to rent the unit at a higher rental).

(c) The list of examples in paragraph (b) of this section is intended as a non-exclusive statement of some situations included in "other good cause", but may in no way be construed as a limitation on the application of "other good cause" to situations not included in the list. The owner may not terminate tenancy during the first year of the term of the lease for "other good cause" (see paragraph (a)(3) of this section) for the grounds stated in paragraph (b)(1), (b)(4), or (b)(5) of this section.

(d) Any notice required under this section III.P. or section III.N.(d) of this Notice may run concurrently with any notice required under State or local law.

Q. Reexamination of Family Income and Composition

(a) The PHA must reexamine family income and family size and composition at least annually, and in accordance with 24 CFR Part 813.

(b) After reexamination, the PHA must adjust the amount of the housing assistance to reflect any changes in family monthly adjusted income or monthly income, using the payment standard provisions in section III.J. of this Notice.

(c) If one year has elapsed since the date of the last housing assistance payment in accordance with section III.J. of this Notice, the housing assistance payments contract will terminate automatically.

(d) At any time, a family may request a redetermination of the housing assistance payment on the basis of a change in family income or adjusted income.

R. Family Obligations

(a) A family must:

(1) Supply any certification, release, information, or documentation that the PHA or HUD determines to be necessary in the administration of the program, including information required for use by the PHA in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements;

(2) Allow the PHA to inspect the dwelling unit at reasonable times and after reasonable notice;

(3) Notify the PHA before vacating the dwelling unit; and

(4) Use the dwelling unit solely for residence by the family, and as the family's principal place of residence.

(b) A family may not:

(1) Sublease or assign the lease or transfer the unit;

(2) Own or have any interest in the dwelling unit, except as provided in section III.M.(a)(4) of this Notice;

(3) Commit any fraud in connection with the Housing Voucher Program; or

(4) Receive duplicative assistance under the Housing Voucher Program while occupying, or receiving assistance for occupancy of, any other unit assisted under any other Federal, State, or local housing assistance program (including any Section 8 program).

S. Grounds for Denial or Termination of Assistance

Section 882.210 applies to the Housing Voucher Program. However, the applicable family obligations are covered in section III.R. of this Notice, not in § 882.118.

T. Informal Review or Hearing

(a) The informal review or hearing requirements of § 882.216 apply to applicants and participating families. References to a participant's right to an informal hearing in cases involving the amount of the total tenant payment or tenant rent under § 882.216(b)(i) should be considered to be references to computation of the amount of housing assistance payment for the family. Section 882.216(b)(1)(iii), concerning hearings where the PHA determines a family is residing in a unit with a larger number of bedrooms than appropriate, does not apply.

(b) If the housing voucher holder or participant wants to move with continued assistance under the Housing Voucher Program using the portability procedures in section III.L.(d) of this Notice, the family must be given the opportunity for an informal hearing in accordance with § 882.216(b) if the initial PHA or the receiving PHA decides to deny or terminate such continuing assistance. However, a receiving PHA that does not administer a Housing Voucher Program is not required to give the opportunity for an informal hearing on the PHA's election

not to administer housing voucher assistance on behalf of the family.

U. Administrative Fees Paid to the PHA

(a) General

The ACC authorizes three types of fees to be paid to the PHA for HUD-approved costs associated with administering the Housing Voucher Program. The three types of fees are discussed below.

(b) Preliminary Fee: Use

HUD pays the PHA a preliminary fee for cost-certified tasks involved in taking families into the program to lease the number of units that can be supported with a new increment of housing voucher funding authority. This fee is intended to cover expenses incurred in helping families who inquire about or apply for the program (but never receive housing assistance for whatever reason), as well as all of the intake functions associated with achieving utilization of newly authorized funds. Examples of eligible costs include the following:

(1) The PHA's cost of preparing its Section 8 Housing Voucher Program application;

(2) The PHA's administrative overhead during initial lease-up, including rent, staff salaries, equipment, and supplies;

(3) Publicizing the program;

(4) Briefing applicants and landlords;

(5) Reviewing applicants for assistance;

(6) Determining eligibility, including initial determination and verification of income;

(7) Conducting initial unit inspections;

(8) Reviewing leases; and

(9) Preparing housing voucher contracts.

(c) Preliminary Fee: Amount

For each funding increment, a PHA will receive a preliminary fee to cover actual expenses incurred before the housing voucher contract is executed. The preliminary fee equals the lesser of actual expenses approved by HUD or $215 for each housing voucher that results in an initial lease or housing voucher contract.

(d) Preliminary Fee: Portable Housing Vouchers

HUD will pay the initial PHA an additional preliminary fee when the initial PHA is billed for such a fee by a receiving PHA for one of the initial PHA's portable housing vouchers. All requirements of paragraphs (b) and (c) of this section apply. (For procedures on portable housing vouchers, see section III.L. of this Notice.)

(e) Ongoing Administrative Fee: Use

The PHA earns the ongoing fee based on the number of units under housing voucher contracts on the first day of each month. The ongoing administrative fee is designed to cover the PHA's cost of administering assistance on behalf of the program participants. Examples of tasks include the following:

(1) Making housing assistance payments to owners;

(2) Reexamining family income;

(3) Conducting annual and special unit inspections;

(4) Maintaining continued occupancy after initial lease-up; and

(5) The PHA's administrative overhead after initial lease-up.

(f) Ongoing Administrative Fee: Amount

The ongoing administrative fee equals 6.5 percent per month of the current Section 8 Existing Housing Fair Market Rent for the PHA's two-bedroom unit, published in the **Federal Register** in accordance with § 888.115 of this chapter.

(g) Hard-to-House Fee: Use

A hard-to-house fee is provided to cover the cost of special assistance given to a family with three or more minors to enable the family to find suitable housing. Special assistance includes the following:

(1) Maintaining up-to-date lists of owners with large units;

(2) Increasing outreach efforts to owners, real estate organizations, and property management firms;

(3) Taking applications at home; and

(4) Following up weekly with housing voucher holders.

(h) Hard-to-House Fee: Amount

The PHA will receive a hard-to-house fee of $45 for special assistance provided to each family with three or more minors that results in a unit coming under lease in the Section 8 Housing Voucher Program. A family that rents in place does not qualify the PHA to receive a hard-to-house fee. The PHA qualifies for a hard-to-house fee each time an eligible family moves and a new housing voucher contract is signed for a different unit.

(i) Hard-to-House Fee: Portable Housing Vouchers

HUD will pay the initial PHA an additional hard-to-house fee when the initial PHA is billed for such a fee by a receiving PHA for one of the initial PHA's portable housing vouchers. All requirements of paragraphs (g) and (h) of this section apply. (For procedures on portable housing vouchers, see section III.L. of this Notice.)

V. Reporting Requirements for the Freestanding Component and the Small Rural Component

In addition to reporting required for all components of the Housing Voucher Program, a PHA administering the freestanding or small/rural component of the Housing Voucher Program must collect complete and accurate records, as required by HUD, on certificates and housing vouchers issued under the component. The PHA must send such copies of required forms to HUD or its designee, as HUD may specify for each certificate or housing voucher.

W. Subsequent Use of Housing Voucher Authority Targeted for Specific Uses

If HUD provides housing voucher funding for families living in particular kinds of projects (see section III.I.(e)(2) of this Notice for a complete list), or for desegregation of public housing projects (see section III.D.(e) of this Notice), the PHA must use the funding initially for the specified purpose. A housing voucher is considered as initially used for the purpose provided where the PHA has approved a lease and executed a housing voucher contract for that purpose. Once this initial use is achieved, the PHA may use the authority for any purpose in furtherance of its approved Housing Voucher Program.

X. [Reserved]

Y. Waivers

Upon determination of good cause, the Assistant Secretary for Housing-Federal Housing Commissioner may, subject to statutory limitations, waive any provision of this Notice. Each such waiver will be in writing and will be supported by documentation of the pertinent facts and grounds.

IV. Findings and Other Matters

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary since the Certificate Program and the Housing Voucher Program are part of the Section 8 Existing Housing Program, which is categorically excluded under HUD regulations at 24 CFR 50.20(d).

The information collection requirements contained in this Notice and in the February 1987 NOFA have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. Currently approved requirements have been assigned the following OMB Control Numbers: 2502–0123; 2502–0154; 2502–0161; 2502–0185; 2502–0348; 2502–

0350; 2502–0362; 2577–0067; and 2577–0083.

Authority: Sec. 8(o) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(o)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Date: March 14, 1988.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 88-6287 Filed 3-22-88; 8:45 am]

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Federal Register

Wednesday
March 23, 1988

Part III

Environmental Protection Agency

2,4-D, 2,4-DB, and 2,4-DP; Notice of Proposed Decision Not To Initiate a Special Review

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/57; FRL-3353.3]

2,4-D, 2,4-DB, and 2,4-DP; Proposed Decision Not To Initiate a Special Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Proposed Decision Not To Initiate a Special Review.

SUMMARY: This document announces EPA's proposed decision not to initiate a Special Review of 2,4-D, 2,4-DB, and 2,4-DP based on carcinogenicity. The Agency's decision is based on a consensus of opinion from EPA scientists, national experts on epidemiology, and the FIFRA Scientific Advisory Panel, that existing epidemiologic data are inadequate to assess the carcinogenic potential of 2,4-D. In addition, the Agency has concluded that existing laboratory data provide insufficient evidence of carcinogenicity. Therefore, EPA has determined that a Special Review is not appropriate at this time.

DATE: Comments on this Notice must be received by May 23, 1988.

ADDRESS: Submit three sets of written comments, bearing the document control number [OPP-30000/57] by mail to:

Information Services Branch, Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington, DC 20460.

In person, bring comments to:

Rm. 236, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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

FOR FURTHER INFORMATION CONTACT: By mail:

W. Michael McDavit, Special Review Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St. SW, Washington, DC 20460. Office location and telephone number:

Rm. 1006, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1787).

SUPPLEMENTARY INFORMATION: This Notice announces EPA's proposed decision not to initiate a Special Review of 2,4-dichlorophenoxyacetic (2,4-D), 2-(2,4-dichlorophenoxy) butyric acid (2,4-DB), and 2-(2,4-dichlorophenoxy) propionic acid (2,4-DP), and sets forth the rationale for that proposed decision. In summary, EPA has re-evaluated the concerns raised in the September 22, 1986, and December 3, 1986, preliminary notifications to registrants and applicants in light of other relevant information that, in part, has become available since issuance of the preliminary notifications. Based on this review, EPA has determined that a Special Review of 2,4-D, 2,4-DB, and 2,4-DP is not warranted at this time.

I. Introduction

A. Regulatory Background

The common name for the herbicide 2,4-dichlorophenoxyacetic acid is 2,4-D. The herbicides 2,4-DB or 2-(2,4-dichlorophenoxy) butyric acid and 2,4-DP or 2-(2,4-dichlorophenoxy) propionic acid are structural analogs of 2,4-D. Including the various derivatives of these three chemicals (esters and salts), over 1500 registered pesticide products contain 2,4-D, 2,4-DB, or 2,4-DP as active ingredients.

The active ingredient 2,4-D, first registered in 1948, is a popular, systemic herbicide widely used for controlling broadleaf weeds on a large number of food and non-food crops.

It is also used as a growth regulator on citrus. The majority of 2,4-D is used to control weeds in wheat, field corn, grain sorghum, sugar cane, rice, barley, and range and pastureland. In addition, 2,4-D is used for aquatic weed and forest management, as well as weed control around the home.

The herbicide 2,4-DB is a selective, systemic herbicide used for postemergence weed control. The majority of 2,4-DB is used to control broadleaf weeds in soybeans, alfalfa, and peanuts.

The herbicide 2,4-DP is a selective, systemic herbicide used to control broadleaf weeds, annual grasses, and woody plants. The majority of 2,4-DP is used to control pest plants in turf (ornamental, golf course and lawn areas), non-bearing citrus fruit, rights-of-way (utility, railroads, highways, etc.), and forestry.

On August 28, 1980, after reviewing all available health effects information on 2,4-D and consulting with the Scientific Advisory Panel (SAP), the Agency issued a Data Call-In notice (DCI) pursuant to section 3(c)(2)(B) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to the registrants of 2,4-D. This notice required registrants to submit studies on the following areas: acute toxicity, oncogenicity in the rat and mouse, reproductive effects, teratogenicity (birth defects), neurotoxicity, and metabolism. Since that time, all of these required data have been received and reviewed by the Agency.

The Agency has also recently reviewed a number of epidemiology studies relevant to these pesticides, including a new study conducted by the National Cancer Institute and University of Kansas that found an association between farm herbicide use and non-Hodgkin's lymphoma. Published in the Journal of the American Medical Association on September 5, 1986, the authors of this study concluded that the use of phenoxy herbicides, including 2,4-D, was linked to an increased cancer risk among farmers handling such herbicides.

Based on this epidemiological evidence, on September 22, 1986, the Agency issued a preliminary notification of Special Review to the registrants of 2,4-D pursuant to 40 CFR 154.21. On December 3, 1986, the Agency issued a similar preliminary notification of Special Review to the registrants of 2,4-DB and 2,4-DP because the Agency believed that these compounds were toxicologically similar to 2,4-D and should be reviewed at the same time.

B. Legal Background

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 *et seq.*). Before a product can be registered it must be shown that it can be used without causing "unreasonable adverse effects on the environment," [FIFRA section 3(c)(5)]. The term "unreasonable adverse effects on the environment" is defined in FIFRA section 2(bb) as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." The burden of proving that a pesticide meets this standard for registration is, at all times, on the

proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard, the Administrator may cancel this registration under section 6 of FIFRA.

The Special Review process provides a mechanism to permit public participation in EPA's deliberations prior to issuance of any Notice of Final Determination describing the regulatory action which the Administrator has selected. The Special Review process, which was previously called the Rebuttable Presumption Against Registration (RPAR) process, is described in 40 CFR 154, published in the **Federal Register** of November 25, 1985 (50 FR 49015).

Prior to formal initiation of a Special Review, a preliminary notification is sent to registrants and applicants for registration pursuant to 40 CFR 154.21 announcing that the Agency is considering commencing a Special Review. In this case, that notification was issued on September 22, 1986 for 2,4-D, and on December 3, 1986 for 2,4-DB and 2,4DP. Registrants and applicants for registration were given 30 days to comment on the Agency's proposal to commence a Special Review. Most registrants responded to the notifications by concurring on one particular comment provided in response to the September 22, 1986, 2,4-D notification on behalf of the Industry Task Force on 2,4-D Research Data. A few unique comments were also received in response to the December 3, 1986 notification. These comments will be briefly addressed in Unit IV of this Notice.

If the Agency determines, after issuance of a notification pursuant to 40 CFR 154.21, that it will not conduct a Special Review, it is required under 40 CFR 154.23 to issue a proposed decision to be published in the **Federal Register.** This Notice is being issued under 40 CFR 154.23. That regulation requires that a period of not less than 30 days be provided for public comment on the Proposed Decision Not To Initiate a Special Review. Subsequent to receipt and evaluation of comments on the Proposed Decision Not To Initiate a Special Review, the Administrator is required by 40 CFR 154.25 to publish in the **Federal Register** his final decision regarding whether or not a Special Review will be conducted.

II. Risk Concerns Underlying 40 CFR 154.21 Notification

A. Epidemiologic Evidence

The preliminary notifications under 40 CFR 154.21 were issued as a result of Agency concerns raised by the findings of a new epidemological study of Kansas farmers. The researchers had found an association between farm herbicide use and non-Hodgkin's lymphomas in farmers based on a population-based case control study (Vol. 25, No. 9, Journal of the American Medical Association, pp. 1141–1147) conducted by the National Cancer Institute and the University of Kansas.

This study was performed to determine if there was any relationship between agricultural herbicide use and soft-tissue sarcoma, Hodgkin's disease, or non-Hodgkin's lymphoma. Newly diagnosed cases of the three diseases were taken from a population-based registry covering the State of Kansas and compared with control groups from the general population of Kansas using Medicare and mortality files. Telephone interviews were then conducted with living individuals (or next-of-kin for deceased individuals) belonging to case and control groups. Numerous questions were asked with respect to farming practices and the use of pesticides. An attempt was made to corrobate information from telephone interviews with records or knowledge of pesticide use by local suppliers of pesticides.

In summary, the study found that Kansas farmers who used certain types of herbicides had an excess risk for developing non-Hodgkin's lymphoma. No association was found between farm herbicide use and soft-tisse sarcoma and Hodgkin's disease. Farmers exposed to the herbicides for more than 20 days each year had six times the risk of developing non-Hodgkin's lymphomas when compared to controls. Among these frequent users, those who mixed or applied the herbicides themselves had eight time the risk. These excess risks were reportedly associated with the use of phenoxyacetic herbicides, including 2,4-D.

EPA scientisits and four epidemiology experts, requested by EPA to review the new evidence, generally agreed that the NCI/Kansas study was well conducted and that the study served as a good basis for a hypothesis of a non-Hodgkin's lymphoma and phenoxy herbicide association. Notwithstanding the lack of specificity for 2,4-D, the study was regarded by the reviewers as the most relevant epidemiological study of its kind that pertains to 2,4-D as a pesticide and provides a sound foundation for further inquiries.

A number of critical problem areas, common to many epidemiology studies, have been noted by reviewers. Some of the key areas of concern are the lack of appropriate controls, exposure to multiple chemicals, and insufficient information on actual exposure to 2,4-D and other pesticides.

In order to evaluate the occurrence of non-Hodgkin's lymphoma cases among farmers with exposure to 2,4-D, appropriate study controls should be used. Farmers have different lifestyles (e.g., diet, exposure to animal viruses) than the general population. Differences in habit and lifestyle may confound results when comparisons are made with controls from the general population. In this case, the study did not choose controls based on occupation and, therefore, it is quite possible that lifestyle factors other than herbicide use may have confounded the results.

Farmers are frequently exposed to other chemicals or potentially tumorigenic agents which could account for some or all of the non-Hodgkin's lymphoma cases. Researchers did report some positive associations with the use of other types of pesticides, such as fungicides and insecticides. In addition, before the phenoxy herbicide, 2,4,5-T, was suspended by the Agency in 1979 based on part on the risk posed by the presence of the carcinogenic impurity, 2,3,7,8-tetrachlorodibenzo-p-dioxin, farmers in Kansas used pesticide products containing 2,4,5-T. Fertilizers, fuel, and other environmental toxicants, as well as biological agents (e.g., viruses) may also present some risk of non-Hodgkin's lymphoma for farmers. Unless exposure variables associated with farming are better controlled, it is difficult to reach conclusions on any contribution of 2,4-D or other specific phenoxy herbicides to the onset of non-Hodgkin's lymphoma in farmers.

The information obtained on 2,4-D use and exposure is incomplete. Reported use, particularly when that use occurred many years previously, is not necessarily a good surrogate measure of exposure. This type of information is useful, but substantially less reliable than some quantitative measure of exposure. Information obtained from next-of-kin should be used with caution. Living farmers and next-of-kin frequently have incomplete recall with respect to specific pesticide names or work practices. Although researchers tried to verify the veracity of the information gathered from telephone interviews by contacting a sample of pesticide suppliers, only about half of the contacted suppliers were able to confirm respondents' answers concerning use of 2,4-D (personal communication, Blondell 1987).

Some reviewers noted an apparent underreporting of all herbicide use. U.S. Department of Agriculture records indicate that significantly more

pesticides were used in Kansas than was suggested by the results of the telephone survey. This discrepancy alone introduces substantial uncertainty in the pesticide use information obtained from and relied on in this study.

Taken together, these problem areas or uncertainties make it impossible to pinpoint 2,4-D alone as the causative agent in these particular non-Hodgkin's lymphoma cases. As previously mentioned, uncertainties of these kinds are typically present to some degree in all epidemiology studies. Nonetheless, findings of epidemiology studies are frequently insightful and, on occasion, such insight is sufficient for policy-making and regulation. In this case, the extent and degree of these weaknesses limit the usefulness of the study for regulatory purposes.

A number of other epidemiological studies pertaining to 2,4-D were also evaluated by the Agency. Some of the existing epidemiologic studies on 2,4-D and related compounds indicate an association with cancer in humans and others do not. Those studies finding a relationship with cancer in humans were determined to be inadequate for establishing a specific association between cancer risk and 2,4-D use. As mentioned above, the NCI/Kansas study, while relevant to farmers handling phenoxy herbicides, was also determined to be inadequate for establishing a specific association between 2,4-D and non-Hodgkin's lymphoma.

In addition, a recently published epidemiologic study designed to address the same issue at the NCI/Kansas study, that is, the relationship between occupational exposure to phenoxy herbicides and cancer in humans, did not confirm the NCI/Kansas study's conclusions with respect to non-Hodgkins lymphoma. Woods, *et al.* (Soft Tissue Sarcoma and Non-Hodgkins Lymphoma in Relation to Phenoxyherbicide and Chlorinated Phenol Exposure in Western Washington, *Journal of the National Cancer Institute* 1987; 78: 899–910) studied male farmers handling a variety of phenoxy herbicides and chlorinated phenols, including 2,4-D and found "small but significantly increased risks of developing [non-Hodgkins lymphoma] in association with some occupational activities where phenoxyherbicides have been used in combination with other types of chemicals, particularly for prolonged periods." However, the investigators did not find a positive association between increased cancer risks and exposure to 2,4-D.

B. Laboratory Evidence

In response to the Data Call-In notice issued in 1980, the Industry Task Force on 2,4-D Research Data sponsored, among other things, oncogenicity studies in the rat and mouse. The rat study found equivocal evidence of oncogenicity and the mouse study found no treatment-related oncogenic responses.

In the rat, 2,4-D (97.5 percent purity) was administered in the diet to male and female rats at levels of 0, 1, 5, 15, and 45 mg/kg/day for 24 months. At an interim sacrifice of 53 weeks, an apparent treatment-related increased incidence of brain tumors (astrocytomas) was observed in male animals. No tumor response related to 2,4-D administration was observed in female rats.

The results of the final rat study were subjected to two statistcal evaluations. Using the Fisher-Exact test, the increased incidence of tumors seen in male animals at the high dose level was not statistically significant when compared to control male animals. Using the Cochran-Armitage trend test, 2,4-D administration was found to be associated with a marginally statistically significant positive dose-related trend for astrocytomas in male rats. Thus, neither evaluation found strong statistical evidence of oncogenicity in the rat.

In the mouse, 2,4-D (97.5 percent purity) was administered in the diet to male and female animals at levels of 0, 1, 15, and 45 mg/kg/day for 24 months. No oncogenic effects attributable to 2,4-D administration were found in either male or female mice.

Although there were no oncogenic effects observed in either sex of the mouse and only marginally statistical oncogenic effects observed in the male rat, the Agency still does not believe there are adequate laboratory animal data to unequivocally assess the carcinogenic potential of 2,4-D. This is predicated on the Agency's conclusion that a Maximum Tolerated Dose (MTD) was apparently not achieved in either test animal. (A MTD, usually the highest dose tested in an oncogenicity study, is a level slightly below the level which resulted in significant life-threatening toxicity in a subchronic study. The level should not be selected too far below a life threatening level because the highest dose tested in an oncogenicity study should elicit significant toxicity without substantially altering the normal life-span of the test species from effects other than tumor formation.

Based on the Agency's most current review of the chronic studies and on the results of subchronic studies with 2,4-D, the highest dose tested (45 mg/kg) in both the rat and mouse oncogenicity studies did not achieve a MTD (45 mg/kg is estimated to be only one-third to one-half of the MTD).

In 1985, scientists from NIH's National Toxicology Program (NTP) questioned the dose levels selected for the oncogenicity studies based on their evaluation of tissue slides taken from the subchronic studies and an interim sacrifice of test animals in both two year oncogenicity studies. The NTP pathologists concluded unanimously that the various kidney lesions observed in the subchronic studies, which were used to estimate the MTD and to support the dose levels used in the oncogenicity studies, were minimal in severity and clearly not life-threatening even at the highest dose of 150 mg/kg. They also concluded that the interim sacrifice data from the oncogenicity studies showed only minimal toxicity at the highest dose tested (45 mg/kg). Their overall conclusion was that the oncogenicity studies on 2,4-D were probably not being conducted at a MTD.

Having now evaluated the two year oncogenicity studies and having considered the scientific opinion of the NTP scientists, the Agency has decided to require, under authority of FIFRA section 3(c)(2)(B), additional oncogenicity testing in the rat and mouse to ensure that a MTD is achieved.

Additional toxicological information, including more detailed reviews of the rat and mouse studies, is available in the 2,4-D public docket.

In April 1987 the Agency concluded that the rat evidence provided limited evidence of oncogenicity in animals. Furthermore, the Agency concluded that although the NCI/Kansas study was well conducted, it provided "inadequate" evidence of cancer in humans attributable specifically to 2,4-D. Given these two conclusions, the Agency tentatively classified 2,4-D as Interim Category C (possible human carcinogen), based on the Agency's "Guidelines for Carcinogen Risk Assessment", and subsequently presented its conclusions and all available information regarding 2,4-D's potential to cause cancer to the FIFRA Scientific Advisory Panel for consideration in June 1987.

III. Scientific Advisory Panel Review

On June 25, 1987, the FIFRA Scientific Advisory Panel (SAP) met to review the data base supporting EPA's preliminary decision to classify 2,4-D as an Interim Class C carcinogen. The Panel was asked, "Does the Panel agree with the

[Agency's Internal] Peer Review Committee's conclusion concerning the Interim Category C classification of the available 2,4-D oncogenicity data?."

On behalf of the Industry Task Force on 2,4-D Research Data, a number of expert witnesses provided written and oral comments to the Panel in an attempt to rebut the validity of the epidemiological and laboratory evidence. Comments concerning the epidemiological evidence were similar to those discussed in Units II.A. and IV of this notice. Regarding the laboratory evidence, one witness commented that the tumors noted in the rat study were not treatment-related because they failed to display certain commonly associated characteristics of this tumor type. The commentor also argued that the tumors in the high dose group were spontaneous in origin based on the presence of a brain tumor in one control animal.

In conclusion, the Panel issued the following written response on July 8, 1987:

> The SAP does not agree with the [Agency's Internal] Peer Review Committee's conclusion that the available 2,4-D oncogenicity data should be classified as an Interim Category C (Possible Human Carcinogen). The Panel believes that the rat and mouse oncogenicity studies are adequate in design and conduct. The data are negative for oncogenicity in female rats and both sexes of mice. The increased incidence of astrocytomas in male rats exposed to 45 mg/kg 2,4-D was considered equivocal evidence of oncogenicity. The Panel believes that additional testing is required to resolve this issue. This testing should specifically address the astrocytoma issue by repeating an oncogenicity study. The study design should include two male rat control groups of 50 each and two male rat groups of the same size exposed to 45 mg/kg 2,4-D.
>
> The Panel also believes that the human epidemiology studies represent well-designed and conducted investigations that present equivocal data on 2,4-D's oncogenicity for humans. Additional studies are underway that should help clarify the issue.
>
> The Panel notes that equivocal evidence is different from limited evidence and that until additional data are developed it is improper to label 2,4-D as a carcinogen or a noncarcinogen. The Panel therefore concludes that the present data for animals and humans are inadequate for determining oncogenicity and that 2,4-D should be classified in Group D (Not Classifiable as to Human Carcinogenicity).
>
> Dated: July 8, 1987
>
> Stephen L. Johnson,
>
> *Executive Secretary, FIFRA Scientific Advisory Panel.*

The Agency's Peer Review Committee has deliberated on the scientific issues involving 2,4-D since the SAP meeting. The Agency now concurs with SAP's conclusions regarding the classification of 2,4-D with respect to carcinogenicity. The human and animal evidence of carcinogenicity is insufficient and, therefore, 2,4-D should be considered unclassifiable with respect to carcinogenicity (Category D). The Agency agrees with the SAP that the absence of strong statistical evidence in the rat does not support a finding of "limited" evidence of carcinogenicity. The Agency also agrees with SAP that additional testing is necessary in the rat in order to assess accurately 2,4-D's oncogenic potential in that species. This need is further supported by the concern that a MTD was not reached in the rat and mouse studies. For that reason, the Agency will also require additional testing in the mouse.

IV. Comments Received on the Preliminary Notifications

Comments were received in response to the preliminary notifications on 2,4-D, 2,4-DB, and 2,4-DP from most registrants. The majority of these commentors concurred on a detailed comment received from the Industry Task Force on 2,4-D Research Data. In addition, several parties prepared comments on behalf of cetain registrants regarding the benefits of 2,4-D as a growth regulator on citrus crops.

Although the comment received from the Task Force focused primarily on the NCI/Kansas epidemiology study, it also provided comments on existing animal data and other human epidemiology studies. The Task Force's basic position was that, "the Kansas study does not demonstrate an association between 2,4-D and non-Hodgkin's Lymphoma." Criticisms given by the Industry Task Force were for the most part similar to those raised by the Agency and independent reviewers. These included, but were not limited to, limitations in information collection regarding exposure to 2,4-D, limitations on the general accuracy of next-of-kin information, and the fact that the authors did not adequately examine confounding factors or discuss other possible causative agents (such as viruses).

Upon closer examination, the Agency and most reviewers agree that the NCI/Kansas study provides the basis for additional research, but that on its own, it does not provide a conclusive argument for associating farmer exposure to 2,4-D and non-Hodgkin's lymphoma. Some additional research is now underway at NCI. This research will hopefully help resolve this issue and determine whether such an association exists for 2,4-D.

Most commentors on the 2,4-DB and 2,4-DP preliminary notifications generally argued that these compounds should not be included in a review of 2,4-D. They pointed out basic differences in metabolism and the ostensible absence of 2,4-DB and 2,4-DP use in the Kansas study area.

The Agency generally agrees that 2,4-DB and 2,4-DP are sufficiently dissimilar toxicologically from 2,4-D to allow for a chemical-by-chemical type of evaluation. Therefore, the Agency will review these compounds individually and evaluate 2,4-D, 2,4-DB, and 2,4-DP in the reregistration process as separate compounds. Separate guidance documents for the reregistration of these pesticides are scheduled to be issued in 1988. However, within these pending evaluations, the Agency will continue to group the esters and salts of each active ingredient with the parent chemical.

The decision to issue separate guidance documents does not preclude the Agency from conducting a joint review of these compounds if at a later time data suggest metabolic or toxicologic similarities which would warrant such a simultaneous review.

V. Agency's Decision Regarding Special Review

Subsequent to the issuance of the preliminary notifications pursuant to 40 CFR 154.21, the findings of a NCI/Kansas epidemiologic study reporting an association between exposure to 2,4-D and human cancer was reviewed, at the Agency's request, by four National experts on epidemiology. These experts concluded independently that the study did not implicate 2,4-D alone as the causative factor for the Non-Hodgkin's lymphoma observed in this study, but rather indicated an association with phenoxy herbicide use in general. In addition, the FIFRA Scientific Advisory Panel reviewed this study, as well as the entire oncogenicity data base and concluded that 2,4-D should not be classified as a carcinogen or noncarcinogen at this time. Instead, the Panel recommended that 2,4-D be classified in Category D, Not Classifiable as to Human Carcinogenicity.

The Agency agrees with the external reviewers and SAP that the epidemiologic evidence as provided in the NCI/Kansas study does not raise as great a concern regarding 2,4-D as originally thought. The available human evidence, now considered inadequate by EPA on the basis of confounding factors and bias, does not establish a credible, causal relationship between 2,4-D and non-Hodgkin's lymphoma among Kansas farmers. Based on this conclusion, the Agency has determined

that it will not conduct a Special Review of 2,4-D, or its structural analogs, 2,4-DB and 2,4-DP at this time.

The Agency now agrees with SAP that 2,4-D should be classified in Category D with respect to carcinogenicity (Not Classifiable as to carcinogenicity) based on the inadequate evidence of cancer in humans and laboratory animals.

Since the Agency is still interested in the results of further epidemiologic and laboratory studies on 2,4-D, the Agency may initiate a Special Review at a later time depending on the findings of such studies. In particular, NCI is currently evaluating human cancer cases and pesticide use in several other states in the U.S., which may have bearing on the continued registration of 2,4-D. In addition, the Agency will require additional testing in the rat and mouse. The Agency will also issue individual reregistration guidance documents on 2,4-D, 2,4-DB, and 2,4-DP in 1988, which will among other things involve intensive scrutiny of the entire available data bases and data deficiencies of these pesticides.

VI. Public Comment Opportunity and Public Docket

The Agency is providing a 60-day period to comment on this Notice. Comments must be submitted by May 23, 1988. All comments and information should be submitted in triplicate to the address given in this Notice under **ADDRESS**. The comments and information should bear the identifying notation OPP-30000/57. After receipt and evaluation of comments on this Notice, the Agency will publish a final decision in the **Federal Register** regarding whether or not a Special Review will be conducted.

The Agency has established a public docket (OPP-30000/57) for this proposal not to initiate a Special Review of 2,4-D, 2,4-DB, and 2,4-DP. This public docket will include this Notice; any other Notices pertinent to the Agency's decision regarding the Special Review of 2,4-D, 2,4-DB, and 2,4-DP; non-CBI documents and copies of written comments or other materials submitted to the Agency in response to the pre-Special Review registrant notifications and this Notice regarding Special Review of 2,4-D, 2,4-DB, and 2,4-DP; and a current index of materials in the public docket.

Dated: March 14, 1988.

John A. Moore,

Assistant Administrator, Office of Pesticides and Toxic Substances.

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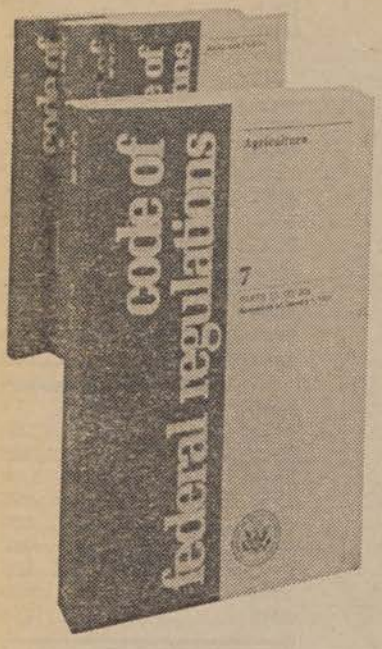

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